

CHAPTER 325.

[Published May 20, 1865.]

AN ACT to authorize Cornelia Burns, a minor, to transact business.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :

May convey real estate, &c.

SECTION 1. Cornelia Burns, of the city of La Crosse, in this state, is hereby authorized and empowered to grant, bargain, sell and convey real and personal estate and property, transact business, and bind herself by her contract, devise and bequeath real and personal property, sue and be sued, in all the courts of this state, the same and in the same manner, in all respects, as if she were of the full age of twenty-one years.

SECTION 2. This act shall take effect and be in full force from and after its passage.

Approved April 6, 1865.

CHAPTER 326.

[Published April 28, 1865.]

AN ACT to incorporate the village of Darlington.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows :

Village of Darlington—boundaries.

SECTION 1. All that district of country embraced within the recorded plat of the village of Darlington, together with all the outlots numbered from one to forty-seven, inclusive, and also all that is embraced in all the several recorded plats of the additions to said village, in the county of La Fayette, in this state, shall hereafter be known and designated by the name of the "village of Darlington," and the inhabitants residing or who may hereafter reside within the limits of said village, are hereby constituted a body corporate, by the name of "the president and trustees of the village of Darlington," and by that name they and their successors forever hereafter shall and may have

Corporate powers.

perpetual succession, shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places, in all suits, actions and legal proceedings whatsoever, with power of purchasing, receiving, holding, occupying and conveying real and personal estate, and shall have a common seal, and may change the same at pleasure, and shall have and exercise all the rights, powers and privileges, and be subject to all the duties and obligations pertaining to a municipal corporation.

SECTION 2. The government of said corporation, the exercise of its corporate powers, the management of its fiscal, prudential and municipal concerns, shall be vested in a president, who shall be *ex officio* a trustee, and four trustees, and such other officers as are hereinafter provided for. Government—
how vested.

SECTION 3. The officers of the said corporation shall be one president and four trustees, one clerk, one assessor, one treasurer, one constable, who shall be *ex officio* marshal of said corporation, one street commissioner, one surveyor, and such other officers as the trustees shall ordain. The president and trustees shall be by elected by the qualified voters of the said corporation on the first Monday of March, in each year, and shall hold their respective offices for one year, and until their successors are elected and qualified. The clerk shall give at least ten days' notice of the time and place of holding any election, and the president and trustees, or any three of them, shall preside at every such election; and any vacancy in the office of president shall be filled by a special election, and vacancies in the office of trustees shall be filled by the president and trustees. All other officers shall be appointed by the president and trustees, and shall hold their offices during the term for which the trustees are elected, and until their successors are appointed and qualified, and shall be subject to removal by the president and trustees. All persons qualified to vote in said village for members of the state assembly, and who are *bona fide* residents of said village at the time such vote is offered, shall be legal voters for corporation officers. No person shall be eligible to the office of president, trustee, treasurer, assessor or street commissioner, unless he is a freholder and voter therein. The voters Officers.

Annual elections.

Appointed officers.

present at any election may appoint three voters to act as judges of election, in case there shall not be a quorum of trustees present to conduct the election.

How elections conducted.

SECTION 4. At all elections held under this act, the polls shall be opened at one o'clock in the afternoon, and shall continue open until five of the clock in the afternoon of the same day, and the election shall be by ballot, conducted in the same manner, as far as may be, as elections for members of assembly, and a plurality of votes shall in all cases decide the election.

Special elections.

SECTION 5. In case such officers, or any of them, shall not be elected as herein provided, the corporation shall not thereby be dissolved, but special elections for the election of president and trustees may be held as herein provided for annual elections, and in case there shall be no officer to give notice thereof, then such notice may be given by any ten freehold voters of said village, as herein provided for annual elections.

Oath.

SECTION 6. Every officer elected or appointed under this act, before he enters upon the duties of his office, and within ten days after his appointment or election, shall take an oath, and file the same with the clerk, faithfully to discharge the duties of his office, and to support the constitution of the United States and of this state, and the laws thereof.

Treasurer and constable to give bonds.

SECTION 7. The treasurer and constable, before they enter upon the duties of their offices, shall severally give bonds to the trustees in such sum, with such conditions and with such sureties, as said trustees or a majority of them shall direct.

"President and police justice"—duties, jurisdiction, fees, &c.

SECTION 8. The president shall preside at all meetings of the trustees, sign all commissions, licenses and permits which may be granted by the trustees. He shall maintain peace and good order, and see that the ordinances of the village are observed and executed. A municipal court is hereby created in the said village, to be styled "the police court," and the person elected as president of said village, shall be elected on the same ballot as "president and police justice," who shall hold the said police court, and he shall have power to administer oaths and affirmations, and to take and certify acknowledgments and proofs of the execution of deeds and other instruments of writing relating to real estate, or other matters required by law to be acknowledged or recorded, or both. As a judicial officer and court,

the said police court and justice shall have and possess all the authority, jurisdiction, powers and rights of justices of the peace and justices' courts, in civil and criminal proceedings, and shall have concurrent jurisdiction with justices of the peace and justices' courts of this state, residing in the said village, of all civil and criminal actions and cases for the violation of any provisions of this act, or of any ordinance, by-law, rule, regulation or resolution of the said village. The president, when presiding at any meeting of the trustees, shall have a casting vote when the votes of the members are equal, and as police justice he shall receive the same fees as a justice of the peace receives for his services; but the village shall not be liable for his fees, except such as shall accrue in prosecutions or actions brought in the name of the corporation for the violation of the provisions of this act, or for the violation of the ordinances of the said village. Appeals may be taken from the judgment of the police justice, in the same manner and with the same effect as from justices of the peace.

SECTION 9. The president and trustees shall pre- Meetings, rules, &c.
scribe the time and fix the place of their meetings, which shall at all times be open to the public, and shall determine the rules of their proceedings, and keep a journal thereof, which shall be open for the inspection of every respectable citizen, at all reasonable times and hours, and shall have power to preserve order and propriety in their proceedings, and may adopt such by-laws, rules and regulations for their government as are not inconsistent with the provisions of this act, and shall have power to compel the attendance of its members.

SECTION 10. The president, each and every trustee, marshal, each and every justice of the peace and constable of the county in which said village is situated, shall be officers of the peace, and may command the peace, and suppress in a summary manner all rioting and disorderly behavior in a manner consistent with law and the ordinances, by-laws, rules, regulations and resolutions of said village, within the limits thereof, and for such purpose may command the assistance of bystanders, and, if need be, all citizens; and if any person shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of ten dollars. Peace officers.

Marshal—his duties, powers, fees, &c.

SECTION 11. The marshal shall possess all the power and enjoy all the rights of a constable of this state, and be subject to the same liabilities. It shall be his duty to execute all writs and process to him directed by the president or other judicial officer, and when necessary in criminal cases, or for the violation of any of the provisions of this act, or of any ordinance of said village, or by-law, rule, regulation or resolution thereof, he may serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to apprehend all disorderly persons in said village, and pursue and arrest any person fleeing from justice in any part of the state of Wisconsin, to apprehend any person in the act of committing any offense against the provisions of this act or of the laws of this state, or the ordinances, by-laws, rules, regulations or resolutions of the village, and forthwith to bring such person before competent authority for examination; and for such and other similar services, he shall receive like fees as are allowed to constables for like services. It shall be the duty of the marshal to see that all peddlers, hawkers and common showmen, and all other exhibitors, pay their licenses according to law and this act, and the ordinances of the village, and in default of payment, to prosecute for the same in the corporate name of the village, and pay over the same to the treasurer, when received by him.

Treasurer—his duties.

SECTION 12. The treasurer of the village shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances, rules, regulations, resolutions or by-laws of said village, and by law. All money raised, received, recovered and collected by means of any tax, license, fine, forfeiture or otherwise, under the authority of this act, or which belongs to said village, shall be paid to and received by him, and shall not be drawn therefrom except by a written order, signed by the president and countersigned by the clerk, by order of the trustees. Such order shall specify the amount of money to be drawn, and its objects. He shall keep a just and accurate account of all moneys and other things coming into his hands as treasurer, in a book to be provided by the trustees for that purpose, which shall remain the property of the village, wherein he shall note the time when, the person from whom, the

amount of the several sums received, and the source from whence the said sums arose, which said book, at all reasonable times, shall be open to the inspection of the electors of the village. He shall, as often as the trustees require, render to said trustees a minute account of his receipts and payments, and at the expiration of his term of office, he shall pay over and deliver to his successor all moneys, books and vouchers in his possession belonging to said village.

SECTION 13. It shall be the duty of the clerk to keep a record of the doings of the board of trustees, especially of the passing of by-laws, ordinances, rules, resolutions and regulations, and also a faithful record of all the doings and votes of the inhabitants of said village at their annual and other legal meetings, and to keep on file all papers which may be ordered by the trustees. The records kept by the clerk shall be evidence in all legal proceedings, and copies of all papers duly filed in his office, and transcripts from the record of proceedings of the board of trustees, certified by him under the corporate seal, shall be evidence in all courts of the contents of the same. He shall keep the corporate seal of the said village. He shall keep a full and accurate account of all orders drawn on the treasury, in a book provided for that purpose, and shall keep all accounts of the corporation with individuals, and shall also keep an accurate account with the treasurer and charge him with all taxes levied and sums of money paid into the treasury, and all receipts of the payment of money or property to the treasurer shall be countersigned by the clerk before they shall be a legal voucher against the village. The clerk shall have power to administer oaths.

Clerk—his duties and powers.

SECTION 14. The attorney shall perform all professional services incident to the office, as prescribed by ordinances or by resolutions of the president and trustees, or as directed by the president, and when required shall furnish written opinions to them.

Attorney.

SECTION 15. The president and trustees shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by

Other duties may be required of officers.

them. Such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office.

Penalty.

SECTION 16. If any person having been an officer in said village, shall not within ten days after notification and request, deliver to his successor in office all property, moneys, books, papers and effects of every description in his possession, belonging to said village or pertaining to the office he may have held, he shall forfeit and pay to the use of the village one hundred dollars, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state.

Surveyor.

SECTION 17. The surveyor shall be a practical surveyor and engineer, and his duties shall be prescribed and directed by the president and trustees, and his fees and compensation shall be fixed by them for any service performed by him. All surveys, profiles, plans, plats or estimates made by him for the village, shall be the property of the village, and shall be filed and carefully preserved in the office of the clerk or other officer, as may be directed by them, and shall be open to the inspection of all persons interested.

Style of ordinances—quorum.

SECTION 18. The style of all ordinances passed by the president and trustees shall be, "the president and trustees of the village of Darlington, do ordain as follows." The president and three trustees, or four trustees, shall constitute a quorum for the transaction of any business, and in the absence of the president, the trustees present shall appoint one of their number president *pro tem.*, who shall possess all the powers of the president, except as a police justice.

Licensing.

SECTION 19. The president and trustees shall have the exclusive authority within the corporate limits of the said village, to grant or refuse, according to law or ordinance, or both, licenses for selling wine, beer or cider, or spirituous, intoxicating, alcoholic, vinous, fermented, malt or mixed liquors, liquids or drinks; regulate and license groceries, taverns, hotels, victualling houses and saloons, and all persons vending or dealing in any such liquors, drinks or liquids, and to revoke the same; and no person shall sell, vend, deal in, or for the purpose of evading the provisions of law or of this

act, or the ordinances of said village, give away any such wine, beer, cider or intoxicating, spirituous, alcoholic, vinous, fermented, mixed or malt liquors, liquids or drinks, within such corporate limits, without having first obtained license therefor, as provided by this act, the laws of this state and the ordinances of the said village; and any person who shall in any manner violate any of the provisions of this section, or the ordinances of [or] the laws herein referred to, shall on conviction thereof be punished as provided by the laws of this state and the ordinances of said village on this subject, and all such offenses shall be prosecuted as provided by such laws and ordinances. All money received for such licenses shall be paid to the treasurer of said village for its use: *provided*, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of this state or the ordinances of the said village, and that no license shall be granted for a less time than one year; *and provided, further*, that no person thus licensed, or without being so licensed, shall sell or give away any such wine, beer, cider, or spirituous, intoxicating, alcoholic, vinous, fermented, mixed or malt liquors, liquids or drinks, on election day or on Sunday. In all prosecutions for any violation of this section, or of the laws or ordinances herein referred to, it shall be sufficient to allege in general terms, the selling, vending, dealing in or giving away without such license, of such inhibited liquors, liquids or drinks, and the proof on the trial of such selling, vending, dealing in or giving away to any person of any one of such inhibited liquors, liquids or drinks, shall be sufficient to warrant and sustain a conviction; or proof that the person charged kept a bar, sideboard or other thing or fixture, with bar furniture usually used by persons vending or dealing in such inhibited liquors, liquids or drinks, shall be *prima facie* evidence sufficient to warrant and sustain a conviction; or proof that he delivered any such inhibited liquors, liquids or drinks to any person, shall also be *prima facie* evidence sufficient to warrant and sustain a conviction for any such violation.

Liquor not to be sold on election days nor Sundays

Penalty for violation of license laws.

SECTION 20. No person shall slaughter or kill, within the corporate limits of the said village, any cattle, sheep or swine without the consent of the president or of the trustees. Any person who shall violate this section

Slaughtering cattle, &c.

shall, on conviction thereof, forfeit and pay for each offense the sum of twenty-five dollars, with costs of prosecution, to the said village for its use, to be recovered before any justice of the peace of said county.

Slaughter houses

SECTION 21. No person shall keep a slaughter-house, yard or pen, or occupy any open ground for slaughtering purposes within the corporate limits of the said village, or keep any such place for depositing the offal of slaughtered animals within such limits, without the consent of the said president and trustees, entered of record; and any person who shall violate this section shall, on conviction thereof, forfeit and pay for each day he shall keep or occupy any such place for such purpose, the sum of fifty dollars, with costs of prosecution, and shall also, in addition thereto, be guilty of a misdemeanor, and on conviction thereof, shall be punished by fine and imprisonment. All such places are hereby declared to be common nuisances, and shall be abated as provided by law and the ordinances of said village.

Penalty.

Powers and duties of president and trustees.

SECTION 22. The president and trustees shall have the control and management of the finances and of all the property of the village, and shall likewise, in addition to the powers herein vested in them, have full power to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, regulations, resolutions and by-laws for the government and good order of the village, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade, commerce and health, as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules, regulations, resolutions or by-laws; and such ordinances, rules, regulations, resolutions and by-laws are hereby declared to be and have the power and force of laws: *provided*, that they be not repugnant to the constitution and the laws of the United States or of this state; and for these purposes shall have authority, by ordinances, resolutions, by-laws, regulations or rules:

Shows.

1st. To license and regulate the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, and to provide for the abatement and removal of all nui-

sances under the ordinances or at common law; to restrain, prohibit or license billiard tables, ten pin or other ball alleys, or the setting up or playing on the same in said village.

2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming in said village; and to restrain any person from vending, giving or dealing in spirituous, intoxicating, alcoholic, malt, mixed, fermented or vinous liquors, unless duly licensed by them.

3d. To prevent any riots, noises, disturbances or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming.

4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome, nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said village.

5th. To direct the location and management of slaughter-houses and markets, and to prevent the erection, use and occupation of the same, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying of the same, or other combustible materials.

6th. To prevent the encumbering of the streets, sidewalks, lanes and alleys with carriages, sleighs, boxes, lumber, firewood, or other materials or substances whatever, and to prevent the digging or sinking of mineral or other shafts or holes in the streets, alleys or other public grounds of said village.

7th. To prevent the public exhibition of stallions, horse-racing, immoderate riding or driving in the streets or over the bridges, and to regulate the places of bathing in the water within the limits of said village.

8th. To restrain the running at large of horses, cattle, mules, asses, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same.

9th. To prevent the running at large of dogs, and

to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances.

Putrid carcasses,
&c.

10th. To prevent any person from bringing, depositing or having within said village any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, putrid or unwholesome or unsound beef, pork, fish, hides or skins of any kind, and on default of such person, to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Pounds, &c.

11th. To make and establish pounds, and appoint pound-masters and fence-viewers, and prescribe their powers and duties; also, to protect shade or ornamental trees on the public squares or in the streets of the corporation; also, to fence the public squares and grounds of said corporation, and to protect the same, and monuments in said village.

Board of health,
&c.

12th. To establish and regulate boards of health, provide hospitals for those infected with small pox or other contagious diseases, and order and regulate the removal of such persons from the village, when its health and safety so require, [and] to provide grounds for the burial of the dead.

Meetings—com-
pensation of of-
ficers.

13th. To call regular and special meetings of the voters of the said village, and to prescribe the compensation of all officers of the corporation, except their own, and shall examine, audit and adjust the accounts of all persons and of all officers of the corporation.

Fire companies,
storage of gun-
powder, &c.

14th. To organize fire companies, hook and ladder companies; to regulate their government and the time and manner of their exercise; to provide all necessary apparatus for the extinguishment of fires; to require the owners of buildings to provide and keep suitable ladders and fire-buckets, which are hereby declared to be appurtenances to the real estate, and exempt from seizure, distress or sale in any manner; and if the owner shall neglect or refuse to procure suitable ladders or fire-buckets, after reasonable notice, the trustees may procure and deliver the same to him, and in default of payment therefor, may recover of such owner the value of such ladder or fire-buckets, or both, with costs of suit; to regulate the storage of gunpowder and other dangerous materials; to direct the safe con-

struction of places for the deposit of ashes; to appoint one or more fire-wardens to enter into, at reasonable times, and examine all dwelling houses, lots, yards, inclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such as may be dangerous to be put in a safe condition; to regulate the manner of putting up stoves and stove-pipes; to prevent fires and the use of fireworks and firearms within the limits of said village, or such part thereof as they may think proper; to compel the inhabitants of said village to aid in the extinguishment of fires, and to pull, break down and raze such buildings in the vicinity of the fire as shall be directed by the trustees, or any four of them who may be at the fire, for the purpose of preventing its communication with other buildings, and any buildings so destroyed shall be paid for by the corporation; to construct and preserve reservoirs, pumps, wells and other waterworks, and to regulate the use thereof, and, generally, to establish other measures of prudence for the prevention or extinguishment of fires, as they may deem proper.

15th. To prevent all persons riding or driving any horse, ox, mule, cattle or other animal on the sidewalks, or in any way doing any damage to such sidewalks. Protection of walks.

16th. To restrain drunkards, immoderate drinking or obscenity in the streets or other places in the said village, and to provide for the arresting, removing and punishing any person or persons who may be guilty of the same. Drunkenness and obscenity.

17th. To prevent the shooting of firearms or the exhibition of any fireworks in any place which they may consider dangerous to the village or any property therein, or annoying to any person thereof. Firearms and fireworks.

18th. To regulate the police of the village, to regulate the place and manner of selling and weighing hay, and measuring and selling of fuel, either wood or coal, and to appoint suitable persons to superintend and conduct the same. Hay and fuel.

19th. To establish public markets, and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to punish or restrain for interrupting or interfering with the due observance of such rules and Markets.

regulations; to license and regulate butchers' stalls, shops and stands for the sale of game, poultry, meats, fish and other provisions.

Peddlers.

20th. To regulate, suppress or license hawkers and peddlers, who travel from place to place to sell goods, wares and merchandise within said village, and to license transient dealers and traders to sell the same.

Rubbish, &c.

21st. To compel the owners of buildings or grounds, or the occupants, when the same are occupied, to remove snow, dirt or rubbish from sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in default, to authorize the removal or destruction of the objectionable substance by some officer of the village, at the expense of such owner or occupant.

Auctions.

22d. To regulate the time, place and manner of holding public auctions and vendues.

Watchmen.

23d. To appoint watchmen, and prescribe their duties.

Weights, &c.

24th. To provide by ordinance for a standard of weights and measures, and for the punishment of false weights and measures.

Trees.

25th. They shall have power to require the owner of any lots or grounds in the village to set out ornamental trees in the street or streets fronting the same, and in default thereof, to cause the same to be done, and to lay a special tax upon such lots or grounds to pay the expense of the same.

Streets, &c.

26th. To make, open, keep in repair, grade, improve, lay out, alter, widen, vacate or discontinue streets, avenues, lanes, alleys, sewers, bridges and sidewalks, to keep them free from encumbrances, and to protect them from injury in said village.

Poll tax.

27th. To tax every male resident of said village above the age of twenty one years and under the age of fifty years, one day's labor, or in lieu thereof, one dollar, to be appropriated to improving the roads and streets of said village, under the direction of such person as they may appoint.

Sidewalks, &c.

28th. Upon the application of the owners of two-thirds of the lots on any street, or part of a street, or on one side of any block, to levy and collect a special tax on the owners of the lots on such street or part of

street, according to their respective parts, for the purpose of making a sidewalk along the same, or grading, paving and improving the street along the same.

SECTION 23. The trustees shall have power to appoint, and at their pleasure to remove, the following officers, to wit: One chief engineer of the fire department, two fire-wardens, and as many assistant wardens as they shall from time to time deem necessary, one attorney, one sealer of weights and measures, sexton and keeper of burial grounds, and a street commissioner, and prescribe their duties and fix their compensation, under the provisions of this act; and to impose and enforce in law such penalties as to the said trustees may seem proper for any malfeasance or improper conduct of any of said officers, and to require bonds for the faithful performance of the duties of any or such of them as may be deemed expedient and necessary by the trustees.

Chief engineer,
fire wardens,
sextons, &c.

SECTION 24. The president and trustees shall, at such time as they may deem proper, establish the grade of all streets, alleys and sidewalks in said village, and shall cause accurate profiles thereof to be made, which shall be filed with the clerk.

Grade of streets.

SECTION 25. Whenever the trustees shall levy any tax for the purpose of grading, paving or otherwise improving any street, or for the building or repairing any sidewalk, or for any other special purpose, they shall make out and deliver to the street commissioner such tax to be collected and expended, a list of persons and a description of the property taxed; and thereupon the street commissioner shall notify the persons named in such tax list, by publishing a notice in three or more of the most conspicuous places in said village, or in some public newspaper printed therein, and shall specify in such notice a time not less than twenty days nor more than thirty days from the date thereof, when the persons charged with taxes in such lists may pay their taxes in labor, materials or money; and the persons charged with such tax may within such time and at such place as may be required of such street commissioner, pay their taxes in labor or materials: *provided*, the labor and materials offered in payment for such taxes are suitable, and such as may be required by said street commissioner.

Tax for street
improvements.

SECTION 26. At the expiration of thirty days from

Collection of
taxes.

the time the said street commissioner shall have received such tax list, he shall return the same to the trustees, accompanied by a statement verified by his affidavit subscribed thereto, showing the amount of tax collected in labor and materials, and the amount collected in money, and the manner in which such money was expended, and the items of expenditure; also, the taxes which remain unpaid, and the persons and descriptions of real estate and lots to which such unpaid taxes stand charged; and the clerk of said village shall make out a certified copy thereof, and deliver the same to the town clerk of the town in which said village is situated, who shall, in making out the duplicate tax and assessment of such town next thereafter, enter such unpaid special taxes therein in a separate column, with ten per cent. added thereto, opposite to the names of the persons and descriptions of property against which the taxes so remain charged and unpaid; and such taxes shall be collected in the same manner as the general taxes of said village and town are collected, and when so collected, shall be paid over on the order of the trustees, and when not previously applied, shall be expended under their direction on the street or sidewalk, or for the purpose for which they were originally assessed.

Penalty for violation of ordinances, &c.

SECTION 27. In all cases in relation to which, by the provisions of this act, the president and trustees have power to enact or pass ordinances, rules, regulations, resolutions or by-laws in relation to any subject, they may prescribe any penalty for the violation of such ordinances, rules, regulations, resolutions or by-laws, not exceeding one hundred dollars for any one offense in violation or non-observance thereof; and may also provide that in default of payment of any judgment rendered for such violation or non-observance, the offender may be imprisoned for such term as they may, by such ordinance, by-law, rule, regulation or resolution direct, not exceeding sixty days, for which purpose the said village shall have the use of the jail of the county in which said village is situated, for the imprisonment of any person liable to be imprisoned; and all such persons committed to said jail by the marshal or any other officer, shall be under the charge of the sheriff of said county, and kept by him the same as other prisoners.

How actions to recover penalties to be brought.

SECTION 28. All actions brought to recover any

penalty or sum of money or forfeiture under this act, or the ordinances, by-laws, or rules, regulations, resolutions, or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the village, without being required to give security for costs in any such action, and the process may be either by summons or warrant; and it shall be sufficient, without setting forth the special matter, to declare generally, stating the clause of this act or by-law, ordinance, resolution, rules or regulation under which the act [action] is brought. The defendant may plead the general issue, and give the special matter in evidence, and a printed copy of an ordinance, by-law, rule, regulation or resolution published in a newspaper or pamphlet, by authority of the trustees, shall be *prima facie* evidence of the passage and publication of such ordinance, by-law, rule, regulation and resolution.

SECTION 29. Every execution issued upon judgments for any violation of the provisions of this act, or for the violation or non-observance of any ordinance or by-law, rule, regulation or resolution of said village, shall contain a clause directing, in the event of non-payment of the judgment, the imprisonment of the defendant in the said county jail, or the jail provided by said village, for such term as shall have been provided for by this act, or the ordinance, rule, regulation, resolution or by-law under which the judgment shall have been rendered, or in the discretion of the court, in the absence of such provision by this act, or by rule, regulation, resolution, by-law or ordinance. All fines, penalties and forfeitures, when collected, shall be paid into the treasury of said village for its use.

SECTION 30. Any ordinance, regulation, resolution, rule or by-law, imposing any penalty or forfeiture for the violation of its provisions, shall be published one week in some newspaper in the village, before the same shall be in force, except as hereinafter provided; and proof of such publication, by affidavit of the printer or foreman in the office of such newspaper, or by producing such newspaper containing such publication, shall be conclusive evidence of the publication and promulgation of such ordinance, regulation, resolution, rule or by-law, in all courts and places; and within ten days after such publication, they, with said affidavit, shall be recorded by the clerk of the village in books to

be provided for that purpose, which record shall also be conclusive evidence of such publication and passage of such ordinance, rule, regulation, resolution or by-law, in all courts and places. No ordinance, rule, regulation, by-law or appropriation shall be passed, made, altered, amended or repealed, without an affirmative vote of a majority of the president and trustees in its favor, which vote shall be taken by ayes and noes, and entered of record.

Ibid.

SECTION 31. All notices, ordinances, by-laws, rules, regulations, resolutions or other matter required by or under this act to be published in a newspaper, shall be published in a weekly newspaper published in said village, if there be one, and if no such paper shall be published in said village, then the same shall be published by posting up the same, either in writing or print, in three or more of the most public places in said village. In all actions brought by or in the name of the said village, or against it, the said village shall have the same right of appeal, or to a writ of error, as individuals have, and in no case shall any judgment be rendered against said village for costs, but it shall be liable for costs to the same extent that the state is liable for costs in criminal cases, and no more.

Appeal.

Competency of judge, &c.

SECTION 32. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said village, in any action or proceeding in which said village is a party, or interested.

Suits to abate nuisances.

SECTION 33. The powers conferred upon the said president and trustees, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns, and houses or places where intoxicating, alcoholic, malt, mixed, spirituous, vinous or fermented liquors are sold without the license required therefor, houses or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances, and shall be abated as herein provided, and according to the laws of this state for abating nuisances.

Exclusive jurisdiction.

SECTION 34. The police justice and justice of the peace residing within the corporate limits of the said

village, shall have exclusive jurisdiction of all actions arising under this act, or the ordinances, by-laws, rules, resolutions or regulations passed in pursuance of this act, unless otherwise specially provided.

SECTION 35. The president and trustees are here-
by invested with full power and authority to survey, establish and determine the lines, boundaries, width and dimensions of all streets, highways, alleys, lanes and public grounds in the said village, which determination, when recorded, shall be conclusive upon all persons and parties; and whenever and wherever the same are now or shall be hereafter encroached upon or obstructed by any person or in any manner, they shall have power to cause the same to be removed in a summary manner, by giving notice to the person suffering or causing such encroachment or obstruction to remove the same within not less than ten days after service of such notice; and in case of neglect, default or refusal of such person to remove the same within the time specified in such notice, they shall order and direct the marshal or street commissioner to remove the same forthwith, at the expense and cost of such person, to be recovered the same as fines and penalties are recovered, as provided by this act; and for the purpose of such removal, the marshal or street commissioner is hereby authorized to call to his assistance all officers and persons, and every officer or person refusing to render such assistance, shall forfeit and pay a fine of ten dollars.

Survey of streets.

SECTION 36. The president and trustees of said village may, at any time, appoint three commissioners, resident freeholders of said village, who, with the assistance of the surveyor, or such other assistant surveyor as the said president and trustees may appoint, shall cause a new and accurate survey to be made of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, lots, blocks and tracts of land, and shall cause to be established such permanent landmarks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the said surveyor and commissioners, which, when approved by the said president and trustees, shall be filed in the office of the clerk, and a copy thereof shall be recorded in the office of the register of deeds of the proper county.

Commissioners—
establishment of
land marks, &c.

Prima facie evidence of lines.

SECTION 37. The survey, landmarks and plats so made and established and recorded, shall be conclusive evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds and blocks in all cases in which they shall be drawn into controversy in all courts of this state, and shall be *prima facie* evidence of the lines and boundaries of all lots and tracts of land owned by individuals.

Service of process against village.

SECTION 38. When any suit or action shall be commenced against the said village, the service in such case may be made by leaving a copy of the process, duly certified to by the proper officer, with the president, and it shall be the duty of the president forthwith to inform the trustees thereof, or to take such other proceedings as by the ordinances or resolutions of said village may be in such case provided.

Property of individuals not liable for village debts.

SECTION 39. No real or personal property of the said village, or of any inhabitant of said village, or of any individual or corporation, shall be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said village.

Arrest without process.

SECTION 40. Any peace officer may, and it shall be the duty of the marshal, to arrest without process any person found in a state of intoxication, or guilty of immoderate drinking, improper reveling, obscenity, or noisy, boisterous or disorderly conduct, in the streets or public places, and take such person or persons forthwith before the police justice, or a justice of the peace in said village, or keep them until they become sober, in confinement, or until such time as said justice can reasonably hear and dispose of such offender.

Damages for widening streets.

SECTION 41. The president and trustees, in case of laying out or widening any street, alley or public walk, shall pay to the owner or owners of any land or lots through which any such street, alley or public walk so laid out or widened by them shall pass, adequate compensation for any damages which may be sustained in consequence.

How to be ascertained.

SECTION 42. Such damages shall be ascertained by six freehold electors of the said village, to be summoned by or under the direction of the president of said village for that purpose, as a jury, who shall determine the necessity thereof. They shall be selected by the said president and the party claiming damages, in the same manner as jurors before justices of the peace in

civil cases are selected, and after being selected and summoned as aforesaid, they shall be sworn by the said president truly to ascertain upon actual view, first, the necessity thereof, and then such damages. They shall take into consideration the benefit, if any, as well as the damage from the laying out or widening of such street, alley or public walk, to such party claiming damage; and the persons so selected, summoned and sworn, shall proceed to the discharge of their duty in the premises, and make report in writing over their several signatures, to said president, within twenty-four hours, which report shall be binding upon the corporation and the party claiming such damages.

SECTION 43. All highway taxes assessed or payable on property or persons resident or being within said village, shall be expended on any and all the highways, streets and bridges in said village, but not on any sidewalk, crossing or alley; and the overseers of highways in said village, and every overseer of highways of whose district any portion of said village shall form a part, shall apply and expend the highway taxes assessed and collected on property or persons resident or being within said village, under and according to the direction and control of the board of trustees of such village, or such person as they may appoint, any law to the contrary notwithstanding; and said board shall have power to appoint, during their pleasure, a street commissioner, as their agent to direct and control the expenditure of highway taxes in said village, and the building and repairing of bridges therein, whose compensation for services rendered by him in the discharge of his duties, shall be such as they may order or allow, not exceeding one dollar and fifty cents per day: *provided, however*, that the board of trustees of said village may, by special order previously made, allow such portion of the highway taxes assessed or collected as aforesaid in said village, not exceeding one-third part thereof, to be expended without the limits of said village on any public highway leading from said village.

Expenditure of
highway taxes

SECTION 44. The president and trustees shall have power, and it is hereby made their duty, in each year, to levy and assess upon the taxable property in said village, such a sum of money as taxes as shall be sufficient to pay and discharge the outstanding debt of the

Payment of out-
standing debts.

corporation, if any, and its expenses for the current year, after applying the money derived from other sources to such purposes, and no more.

How taxes levied

SECTION 45. All taxes raised and collected in the said village of Darlington, for the purposes authorized in the last preceding section, shall be levied and assessed upon the same kinds of property, real and personal, within the corporate limits of the said village, as taxes for town, county and state purposes are levied and assessed.

Amount to be determined.

SECTION 46. The president and trustees of the said village shall, on or before the first Monday of November, in each year, by resolution to be entered on their records, determine the amount of such corporation tax to be levied and assessed on the taxable property within the corporate limits of the said village for the current year; and the clerk of the said village shall thereupon, on or before the third Monday of the same month of November, in each year, deliver to the town clerk of the town in which such village is situated, a certified copy, under his hand and name and the corporate seal of the said village, of all resolutions of the said president and trustees determining the amount of taxes to be levied and assessed for the current year, together with a description of the territory included within the corporate limits of the said village.

How assessed and collected.

SECTION 47. The town clerk or other proper officer, as the case may be, of the town in which said village is situated, shall assess, apportion and carry out such corporation taxes *pro rata*, according to the dollar valuation, upon all the real and personal property liable therefor, in a separate column in the tax and assessment roll and warrant of his town next thereafter issued and delivered to the town treasurer of his town for collection, in the same manner as he shall assess, apportion and carry out town, county and state taxes; and if for any reason such corporation taxes shall not be assessed, apportioned and carried out in the next assessment and tax roll and warrant, as herein provided, it shall or may be assessed, apportioned, carried out and collected in that of any succeeding year. The said corporation taxes shall be in all respects collected or returned delinquent in the same manner as town, county and state taxes are collected by law, and when collected shall be paid over by any officer collecting or receiving

the same, to the treasurer of the said village. Any officer or other person who shall neglect or refuse on demand to pay over any such corporation taxes when collected or received by him, in any manner, to such village treasurer, shall be liable to an action therefor, with twenty per cent. damages to be added thereto, to be sued for and recovered in the corporate name of the said village, both against such defaulting officer or other person, and his sureties.

SECTION 48. The town assessor of the town in which said village is situated, in assessing the taxable property in his town in each year, shall assess the taxable property, real and personal, within the corporate limits of the said village, in one continuous part of his assessment roll, and foot up the valuations of all the items of property assessed and valued by him within said limits.

Duty of town assessor.

SECTION 49. No general law contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law. It shall be the duty of the clerk of the said village, immediately after an election under this act, to make out a statement of the persons elected as corporation officers, and of the persons appointed to the offices of clerk, constable and treasurer of the corporation, whenever an appointment of such officers is made, with the fact of the acceptance and qualification of such officers so elected or appointed, under his hand and corporate seal, and file the same in the office of the clerk of the circuit court of the county in which said village is situated; and it is hereby made the duty of the clerk of such circuit court to file the same in the same manner as he files and preserves like certificates of the election and qualification of justices of the peace and other town officers. The police justice shall file a duplicate of his oath of office with the said clerk of the said circuit court.

Statement of election of officers to be filed with clerk of circuit court.

SECTION 50. The first election of officers under this act, shall be held on the second Monday of May, A. D. 1865, on which day it shall be lawful for the inhabitants of said village, qualified to vote under the provisions of this act, to meet at the court house in said village, at one o'clock P. M. of said day, and choose, *viva voce*, three judges of election and one clerk, who together shall form an election board, and then and

First election.

there said inhabitants shall elect by ballot the officers mentioned in section 3 of this act: *provided*, that in case the officers aforesaid shall not be elected on that day, they may be at any time thereafter, on a call signed by twelve electors of said village, and ten days' notice thereof being given by said electors, by posting up three notices of the time and place of said election, in said village; and the officers so elected at the first meeting, shall hold their respective offices until their successors shall be elected and qualified.

Construction.

SECTION 51. This act shall be construed a public act, and shall be construed favorably in all courts and places, and shall take effect and be in force from and after its passage and publication; and it is hereby made the duty of the secretary of state to cause this act to be published in the official state paper immediately after its passage.

Approved April 7, 1865.

CHAPTER 327.

[*Published May 23, 1865.*]

AN ACT to incorporate the West Bend manufacturing company.

(*See supplement to local laws.*)

CHAPTER 328.

[*Published May 20, 1865.*]

AN ACT to incorporate the Mount Hope lead-mining and smelting company.

(*See supplement to local laws.*)