

L A W S
OF THE
S T A T E
OF
D E L A W A R E,

FROM THE SECOND DAY OF JANUARY, ONE THOUSAND SEVEN
HUNDRED AND NINETY-EIGHT, TO THE TWENTY-
FIFTH DAY OF JANUARY, ONE THOUSAND
EIGHT HUNDRED AND FIVE.

VOLUME III.

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An ACT to incorporate the Wilmington Spring Water Company.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That those persons who now are, and those who shall hereafter be, and become subscribers to, and holders of stock in the association or company, now called and known in the borough of Wilmington, by the name of the "Wilmington Spring Water Company," be, now are, and hereafter shall be, one body politic and corporate, in deed and in law, to all intents and purposes, by the name and style of the "Wilmington Spring Water Company."

Members incorporated.

SECT. 2. *And be it enacted,* That the said company or corporation shall have full power and authority, to have and use a common seal, and to break and alter the same, and to establish another or others, with such device or devices, as they shall think proper: and all acts certified under the seal of the said corporation, shall have full faith and credit, in and before all and every the courts and jurisdictions within this State.

May have a common seal.

of seal and certificate, the effect.

SECT. 3. *And be it further enacted,* That the said corporation are hereby declared and made capable in law and equity, to have, take, purchase, receive, possess and enjoy, any lands, tenements, and hereditaments, goods, chattels, rights, credits and effects of what nature, kind or quality soever, to the amount of fifteen thousand dollars, and no more; and to sell, grant, dispose, alien or demise the same, in such manner and form as they shall think proper, for the purposes expressed in this act.

May hold property, and

dispose of the same.

SECT. 4. *And be it further enacted,* That the president, directors, and other officers of the said corporation, who now are chosen and appointed, and

Continuance of officers.

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who shall hereafter be chosen and appointed, in pursuance of the powers hereby granted, shall be and continue the president, directors, and officers of the said corporation, until others shall be elected and appointed, in virtue of the said powers, in their places; *Provided*, That twelve directors, one of whom shall be president, shall be of the number of their officers.

Proviso.

Capacity to sue,
&c.

SECT. 5. *And be it enacted*, That the said corporation be, and shall hereafter be able and capable in law, to sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended in courts of law and equity, or any other place whatsoever; and to do, and execute all and singular other matters and things, which bodies politic or corporate may lawfully do.

Powers.

SECT. 6. *And be it further enacted*, That the stockholders of the said corporation, shall annually meet, at such time and place within the said borough, as now is or hereafter may be appointed by the rules or ordinances of the said corporation, and proceed to elect twelve directors and a treasurer by ballot; at which elections, no stock-holder shall be entitled to more than one vote, which may be given by proxy: and the said directors, when so elected, shall immediately proceed to ballot for and elect one of their own number to be president; and the treasurer, before he enters into the performance of the duties of his said office, shall give bond with one or more competent sureties, in a sum not less than double the amount of the stock of the company, conditioned for the faithful discharge of the duties of his office; and he shall be entitled to receive compensation for his service, as the directors may order, not more than an half per centum, on the monies which by him shall have been disbursed.

President to be chosen.

Treasurer shall give bond, &c.

His compensation.

Powers of the president and directors.

SECT. 7. *And be it enacted*, That the president and directors of the said company, shall be capable of exercising such powers for the well governing and ordering of the same, and the affairs and busi-

ness thereof, and of holding such occasional meetings for that purpose, as have been or shall be fixed, described and determined, by the rules, laws, regulations, and ordinances of the said corporation.

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SECT. 8. *And be it enacted,* That the rules already established by the said company for the government thereof, shall be taken and considered as regulations and ordinances of the said corporation; and the said corporation shall and may annul and repeal the same, or any part thereof, and make, ordain and establish such other laws, rules and regulations for the government thereof, as to them may seem necessary and convenient. *Provided always nevertheless,* That nothing herein contained shall be construed to authorize the said corporation, to exercise any powers repugnant or contrary to the laws or constitution of this State.

Rules heretofore established, good till altered.

Proviso.

SECT. 9. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said company, from time to time, and at all times, as the extension and improvement of their water-works may require, to convey water by means of pipes or conduits, and to dig, sink, make and establish fountain heads, wells and reservoirs, in, through, under or along all and any of the public streets, lanes and alleys of the borough aforesaid, and of the public roads within one mile of the said borough; and the said company, their officers or agents, shall and may from time to time, and at all times, dig, break up, or plough the said streets, lanes, alleys and roads, and any of them, and therein lay, sink, make and establish, and alter, repair or amend, all such pipes, conduits, fountain-heads, wells, and reservoirs, and other works by them deemed necessary, for the collection, reception and conveyance of spring-water. *Provided always nevertheless,* That it shall not be lawful for the said company, its officers or agents, to erect any permanent work or works, so as to raise above the level or surface of any of the said streets, lanes, alleys or roads, except however, such pumps, hydrants,

How far the company may extend their water-works.

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cocks, or jet d'eau, as may be found necessary for supplying the inhabitants of the borough aforesaid, with water; and which may be, and are hereby directed to be fixed, raised, erected and established, at or near the junction of the pavements or footways, with the said streets, lanes, alleys and roads.

The streets, alleys, &c. not to be longer obstructed than necessary, and

SECT. 10. *And be it enacted*, That whensoever the said company shall proceed to dig, open or plough any of the said streets, lanes, alleys or roads, for any of the purposes aforesaid, the said streets, lanes, alleys and roads shall be kept by the said company as passable as the nature of the work will admit, and shall not be obstructed for any longer space of time than may be found absolutely necessary, and when the work is finished, the said streets, alleys, lanes or roads which may have been so dug, opened or ploughed, shall be by the said company, and at their cost and charge, immediately repaired, amended, and reinstated in the same order in which they shall have stood, at the time the said company began to work thereon.

when the water work is finished, company shall repair the streets, &c.

The water-works, now or hereafter erected, vested in the company.

SECT. 11. *And be it further enacted*, That the well or fountain-head opened, sunk, made and established by the said company, in or near the middle of High-street, between Tatnal-street and West-street; the reservoir by them sunk, made and established in Shipley-street, above the intersection of the said street with Third-street, and the several pipes, conduits, hydrants, pumps, cocks and jet d'eau connected therewith, and used or intended for the conveyance of spring water therein and therefrom, and all such other wells or fountain-heads, reservoirs, pipes, conduits, hydrants, pumps, cocks or jet d'eau, which the said company shall hereafter open, dig, sink, make, erect or establish, in, through, under, or on any of the said streets, lanes, alleys or roads, now are and shall be vested in, and held and considered, both in law and equity, as the property of the said Wilmington Spring-water Company, and their assigns forever.

SECT. 12. *And be it enacted,* That if any person or persons, with intent to injure the said company, shall break up, uncover, obstruct or otherwise do damage to any of the water-works of the said company, which are now or may at any time hereafter be made, laid, erected or established, within the borough aforesaid, or within one mile thereof, agreeably to the powers by this act vested in the said company, the person or persons so offending, and being thereof legally convicted, before any one of the burgesses of the said borough, or before any justice of the peace for the county of New-Castle, by the testimony of one or more credible witness or witnesses, shall forfeit and pay a sum of money, equal to three times the amount of the damage done, to be ascertained by three freeholders, to be summoned and qualified by one of the burgesses of the borough of Wilmington, or any one justice of the peace for that purpose, who shall neither of them be one of the company, which said forfeiture, in case the same does not exceed twelve pounds, may be sued for and recovered before the same persons, and in the same manner, that debts under twelve pounds, may or can be sued for and recovered under the laws of the State; and in case the same shall exceed twelve pounds, then by action in either of the the superior courts of the State.

Penalty on persons damaging the water-works.

Mode of recovery.

SECT. 13. *And be it enacted,* That it shall be lawful for the said company by agreements to be made in writing, and to be signed by the president, to contract with any person or persons and their assigns, for the sale, use or supply of the said water, for such period of time, in such manner and upon such terms as may be agreed upon, which shall be obligatory upon the respective parties, according to the true intent and meaning of the agreement. *Provided always,* That no dividend, or dividends, shall at any time be declared or made by the said company, whereby the stockholders therein shall become entitled to, or receive more than nine per centum per annum on their stock therein, on the average from the time the shares by them sub-

Agreements may be made for the use of the water, &c.

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scribed shall have been respectively paid into the hands of the treasurer, until the time of declaring a dividend or dividends, including the dividend then declared; and in case the nett profits arising from their water works, should at any time increase, so as to admit a larger dividend, then the price or rate, for the use and privilege of water, shall by the said company be reduced, so as to keep the nett profits aforesaid within or not exceeding nine per centum per annum; and in case of a larger dividend being made or declared, the whole thereof shall be forfeited, and shall be recoverable from the said corporation by an action on the case, one moiety to the use of the person who shall sue for the same; and the other moiety to the use of the poor of Newcastle county.

What persons
may use the
water.

SECT. 14. *And be it further, enacted,* That it shall not be lawful for any person or persons, without an agreement or permission in writing as aforesaid; other than such who are employed in the service of a person or persons, who may rightfully do the same, by virtue of an agreement in writing as aforesaid, to draw, vent, or in any manner make use of, or waste any of the water contained in any of the water works of the said company; and in case any person or persons, not having right, nor being authorized as aforesaid, shall wilfully draw, vent, make use of, or waste any of the said water, each and every such person, for every such offence, shall forfeit and pay to the said company, the sum of one dollar, to be recovered in like manner as a debt of that amount may be recovered by the laws of the State, upon complaint made in writing, signed by the ~~president~~ and any two of the directors, on their own testimony, or the testimony of either of them, or the testimony of any credible witness, by them produced; *Provided always,* That nothing herein contained, shall extend to the case, where any house or other building shall be on fire, and the water shall be necessary, or used to extinguish the same; but on all such occasions, and for such purposes, the said water may be freely used by all persons, without incur-

Penalty on persons using the water, without right.

How recovered.

Proviso.

ring any forfeiture, or becoming liable to any charge.

SECT. 15. *And be it enacted*, That it shall and may be lawful for the said company to purchase from the owner or owners thereof, such lands within the said borough, and within one mile thereof, as they may deem necessary, for the purpose of sinking, laying, making and establishing a fountain-head and reservoir, to collect and receive spring water, and pipes and conduits for the conveyance thereof; and in case of disagreement, or in case the owner or owners thereof shall be feme covert, under age, non compos mentis, or out of the State, upon application to either of the burgesses of the borough aforesaid, or any justice of the peace for the county, the said burgess or justice, shall issue his warrant to the Sheriff of the county, to summon a jury of eighteen freeholders, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the said warrant, not less than seven, nor more than ten days thereafter; and the Sheriff, upon receiving the warrant, shall forthwith summon the jury, and when met, shall administer an oath or affirmation, as the case may require, to every jurymen who shall appear, "That he will faithfully and impartially value the land, and all damages the owner or owners thereof may sustain by the opening, sinking, laying down, making and establishing such water-works therein (as the business of the said company shall require) without fear, favour or affection, according to his best skill and knowledge;" and the inquisition thereupon taken and signed by any twelve, or more of the said jurymen, with a plot and description of the said lands, and returned to the "Court of common pleas," and being approved by the said court, shall be by them certified accordingly, and thereupon shall be recorded in the office of the recorder of deeds for the county; and thenceforth shall be binding on the said parties: and upon the payment, or lawful tender of the damage or value so assessed as

Company may purchase lands within certain bounds, for their water-works.

In case of disagreement, or incapacity of the owner to sell, what proceedings shall be adopted.

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aforesaid, the said corporation, their officers and agents, shall have full right and power to enter into, and upon such grounds as shall be condemned for the use of the corporation, as aforesaid, at all times afterwards, when they shall deem it necessary, for the purpose of sinking, laying, making, altering, or repairing any of the works aforesaid; and it shall be lawful for them to do all such acts and things, as shall be necessary for the said purposes.

-When, and on what terms, the water-works, &c. may become vested in the Corporation of the Borough.

SECT. 16. *And be it further enacted by the authority aforesaid,* That if after the expiration of fifty years from the passing of this act, the Corporation of the borough of Wilmington, do pay, or cause to be paid, unto the stock-holders of the said company, the amount of the stock by them respectively owned and held in the said company, with so much interest money, as together with the respective dividends paid by the company, will amount to nine per centum per annum on the stock subscribed and paid, from the time the same has been paid, until the expiration of the said fifty years, then and in that case, all the right, title, property, claim, interest and demand whatsoever of the said stock-holders, to and in the said company, shall be and become vested in the said Corporation of the borough of Wilmington, and all the estate, water-works, improvements, tenements, hereditaments, rights, liberties, privileges, and immunities whatsoever of the said company, shall be and become vested in the said corporation and its successors, forever; and the said Wilmington Spring-Water Company, shall cease to be, determine and become absolutely void and extinct, any thing herein before contained to the contrary, notwithstanding.

SECT. 17. *And be it further enacted,* That no suit or proceeding shall be brought or instituted for any penalty or forfeiture given by this act, after the expiration of one year from the time the cause of such action or proceeding accrued.

Passed at Dover, January 23, 1804.