

# ACTS

OF THE

GENERAL ASSEMBLY OF VIRGINIA,

**PASSED IN 1852,**

IN THE

SEVENTY-SIXTH YEAR OF THE COMMONWEALTH.

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**RICHMOND:**

WILLIAM F. RITCHIE, PUBLIC PRINTER.

1852.

the streets and alleys of said town, and the other part, being the other half of the whole number of said tithables, shall be left at the disposal, and subject to the county authorities of Prince Edward county, to work on the roads in the vicinity of said town as heretofore, or as they may be required by said county authorities, under the laws of this commonwealth.

17. That in all suits or prosecutions arising under any by-law, rule or regulation made by the president and trustees of the said town, in manner aforesaid, when the constitutionality or validity of such by-law, rule or regulation shall be contested, appeals shall lie from the judgment of any justice of the peace of the said town to the circuit superior court of law and chancery for the county of Prince Edward, without regard to the sum or amount in controversy. Such appeals shall be taken within the same time and upon the same terms as are prescribed by law for taking appeals from the judgments of justices of the peace to the several county and corporation courts within this commonwealth; and the said circuit superior court of law and chancery shall try and decide such appeals in the same manner as the several county and corporation courts within this commonwealth are by law directed to try appeals from the judgments of justices of the peace; and judgments of the said circuit court, rendered upon such appeals, shall be executed as other judgments of the said court are executed.

Appeals from decisions of justices.

When and on what terms to be taken.

How to be tried.

18. That the act passed on the twentieth day of March one thousand eight hundred and forty-seven, entitled "an act to amend the act incorporating the town of Farmville in the county of Prince Edward," be, and the same is hereby repealed.

Repealing clause.

19. This act shall be in force from its passage.

Commencement.

CHAP. 381.—An ACT incorporating the Fincastle water company.

[Passed May 22, 1852.]

1. *Be it enacted by the general assembly, That James McDowell, Thomas C. Lancaster, Alexander Gibson, James W. Grant and Lewis Brugh, and such other persons as may hereafter be associated with them, shall be and they are hereby incorporated and made a body politic and corporate under the name and style of "The Fincastle Water Company;" and by this name and style may hold real estate in or near the town of Fincastle in the county of Botetourt, not exceeding fifty acres, and personal property, for the purpose of conducting water into said town as hereinafter provided; and shall enjoy all the rights, powers and privileges, and be subject to all the rules, regulations and restrictions conferred and imposed by the Code of Virginia on chartered companies, not inconsistent with this act.*

Fincastle water company incorporated.

Corporate powers.

2. The capital of said company shall not be less than one thousand nor more than five thousand dollars, to be raised by subscription in shares of five dollars each; for which purpose books of subscription shall be opened in said town or elsewhere, under the direction of the persons mentioned in the first section of this act, or any three of them, who, so soon as the first mentioned sum shall have been subscribed for, shall call a meeting of the subscribers by advertisement for two weeks in some newspaper published in said town. And it shall be lawful for the trustees of said town to subscribe, on behalf of the corporation of said town, for such number of shares as shall not exceed in amount the sum of two thousand dollars: *Provided, That three-fifths of the legal voters of said town, upon a vote to be taken, shall consent thereto: And provided further, That the trustees of said town shall not, by their proxy or otherwise, at any meeting of the stockholders of said company, cast a larger vote than in proportion to the amount subscribed by said corporation.*

Capital.

Subscriptions, how and by whom taken.

Meeting of subscribers.

Subscription by town.

Vote of town.

3. For the managing the affairs of said company there shall be chosen, at the first general meeting of the stockholders, to be called as aforesaid, and on the first Monday in May of every year thereafter, seven directors, who shall be stockholders in said company; in which election and in all other meetings, the private stockholders shall be entitled to one vote for

Directors, how and when chosen.

Votes of members.

- every share held by them respectively, and may vote, in person or by proxy, in such manner as may be from time to time prescribed in general meeting. The said directors, or a majority of them, may elect a president, and in his absence, a president *pro tempore*. They shall have power to call general meetings of stockholders; supply vacancies in their own body; appoint such officers, agents and clerks as the stockholders in general meeting shall authorize; take bonds with sufficient security for the good conduct, fidelity and attention of such officers, agents or clerks; and do all other acts and things touching the affairs of the company, and not otherwise provided for.
- Election of president. Powers of president and directors.** 4. If there should be no election of directors at any annual meeting as hereinbefore prescribed, the president and directors then in office shall continue until the next annual election, or until an earlier election by the stockholders in general meeting, at which a majority of the stock shall be represented.
- Stock deemed personal estate, and transferable.** 5. The stock of said company shall be deemed personal estate, and pass as such to the representatives of each stockholder, and may be transferred and certificates thereof issued in such manner and form as the stockholders in general meeting shall direct: *Provided*, That nothing herein contained shall be so construed as to prevent the said company from selling and conveying any part of the said real estate, as they are hereby authorized to acquire and hold, or the said land and appurtenances, when sold, from being considered real estate.
- Real estate, how disposed of.** 6. It shall be lawful for the said president and directors, at any time hereafter, to contract and agree with the owners of any land or water privileges, for the use or purchase thereof, whether the same be situated within or without the limits of said town, if the use or possession of said land or water privileges be advisable for the location of reservoirs, pipes, conduits, water works, or any of the fixtures or appurtenances necessary therefor. And the county court of Botetourt county, the justices having been summoned for that purpose, and a majority thereof being present and assenting, is hereby authorized to allow the said company to use the public grounds upon which the courthouse is erected, for the purposes of a reservoir, laying down pipes, et cetera, upon such terms as may be agreed upon by the president and directors of said company and the said county court.
- Power to purchase land or water privileges.** 7. In case of disagreement, or if the owner of such land or water privileges be a *feme covert*, under age, *non compos mentis*, out of the state or unknown, the said president and directors may apply to and obtain from the county court of such county, in which such lands or water privileges are situated, a writ of *ad quod damnum*, (which it shall be the duty of said court, upon application, to award,) directed to the sheriff of said county, no way related to the parties, or in any manner interested, whose duty it shall be to go upon the premises, and being sworn, to ascertain and fix the damages which shall accrue to the owner of said land or water privileges by reason of the location of said reservoirs, pipes, conduits or water works thereon, or the use of said water privileges, or the passage of said conduits, pipes or other fixtures through said land. The damages assessed shall be certified, under the hands and seals of the said jury, and by the said sheriffs shall be returned to the court of said county and recorded, and shall be paid by the president and directors to the proprietors of the said land or water privileges: and when the said damages shall be paid or secured to be paid by the said president and directors, the said land or water privileges, or the privileges of constructing and maintaining reservoirs and other water works, and passing their pipes, conduits and fixtures through the same, and of repairing, altering, taking up and laying them down again from time to time; and the use of said water privileges shall thereafter be vested in the said president and directors, and their successors in office.
- Use of public grounds of county granted.** 8. The said company shall be authorized to open the streets, lanes, alleys and public squares in said town, for the purpose of laying pipes for distributing water: *Provided*, That when the same shall be opened for that purpose, they shall, as soon as practicable, be repaired by the
- Condemnation of land.**
- Damages, when paid.**
- Power to open streets, &c.**

said company, at their own cost and expense, subject to the approval of the superintendent of police of said town, or the common council thereof.

9. It shall be lawful for the said president and directors to sell and dispose of the water, which they may have conducted into said town, to the inhabitants thereof, and to other persons, in such manner and at such prices as to them from time to time shall seem expedient for the interest of said company: *Provided however*, That in case of calamity by fire, it shall be the duty of said company, their officers and agents, under proper rules and regulations made for the purpose, without hesitation, to throw open and make easy of access any reservoirs, water plugs, hydrants or other fixtures containing or affording a supply of water, for the purpose of enabling the citizens of said town, fire companies or others, the more readily to extinguish the flames, free of any fee, charge or demand whatsoever; and all the profits accruing to said company from the sale of their said water shall, after deducting all necessary expenses, be divided among the said stockholders in proportion to the amount of stock owned by them respectively, at such times as shall be agreed upon by said company, in legal meeting assembled.

Power to dispose of water.

Regulations for use of water at fires.

Dividends.

10. If any subscriber shall fail to pay the amount subscribed by him at the time prescribed by the president and directors, it shall be lawful for the said company to recover the amount which shall be so due, by action of debt in any court of record within this commonwealth, or before a justice of the peace; and such delinquent shall receive no dividend until the amount so due upon his subscription shall have been paid.

Remedy against delinquent subscribers.

11. If any person shall divert, use, apply or draw off any part of the water so by said company introduced into said town, without the consent of said company first obtained, or shall willfully do or cause to be done any act whatever, whereby any of the works or fixtures of said company shall be obstructed, injured or destroyed, the person or persons so offending shall be subject to a penalty of not less than ten nor more than twenty dollars for each and every such offence, to be recovered by warrant before the mayor of said town, or any justice of the peace of the county in which said offence shall have been committed: one-half to be paid to the informer, and the other half to the treasurer of said town, for its own use; and shall moreover forfeit and pay to said company double the amount of damages sustained by reason of such offence or injury, to be recovered in the name of said company, with costs of suit, by action in any court of record in this state: and if said company, their officers or agents shall refuse to permit the free use of said water in case of any building in said town being on fire, they shall be subject to the action of the party injured by such refusal, and shall pay such damages as a jury may assess.

Penalty for using illegally, or injuring works, &c.

How recoverable.

Penalty for refusing water at fires.

12. The common council of said town shall have power to pass ordinances for the protection from injury, by adequate penalties, not exceeding twenty dollars in any one case, of the works and property of said company.

Power of council to protect works.

13. If the said company shall not be organized, by the appointment of a president and directors, within five years from the passage of this act, then all its provisions shall be null and void.

When company to be organized.

14. This act shall be in force from its passage.

Commencement.

CHAP. 382.—An ACT amending an act, entitled "an act extending the corporate limits of the town of Fredericksburg," passed March 28th, 1851, so as to define with more certainty the extended boundaries thereof.

[ Passed May 7, 1852.]

1. *Be it enacted by the general assembly*, That the first section of the act, entitled "an act extending the corporate limits of the town of Fredericksburg," passed March the twenty-eighth, eighteen hundred and fifty-one, shall be and the same is hereby repealed, and the following substituted therefor.

Repealing clause.

2. The corporate limits of the town of Fredericksburg in the county of Spotsylvania, as heretofore established by law, shall be and the same are hereby extended and enlarged, so as to include within the same so much land as lies within the boundary line particularly set out and de-

Limits of Fredericksburg extended.