

ACTS

OF THE

GENERAL ASSEMBLY

OF

VIRGINIA,

PASSED AT THE SESSION OF 1834-35,

COMMENCING 1ST DECEMBER, 1834, AND ENDING 12TH MARCH, 1835,

IN THE
FIFTY-NINTH YEAR OF THE COMMONWEALTH.



RICHMOND:

PRINTED BY SAMUEL SHEPHERD,
Printer to the Commonwealth.

1835.

annual election, or until an earlier election by the stockholders in general meeting, at which a majority of the stock shall be represented.

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

Commencement.

CHAP. 197.—An ACT to incorporate the Wythe watering company in the county of Wythe.

(Passed March 21, 1836.)

1. *Be it enacted by the general assembly*, That John P. Mathews, Jacob Haller, Charles L. Crockett, William H. Spiller, Ephraim M'Gavock, James R. Miller, Robert Kent, John Foster, David Sexton, Benjamin Robinson, Robert Crockett, James M. Aiken and Andrew S. Fulton, and others who may hereafter become owners of stock jointly with them, be, and they are hereby incorporated into a company by the name and style of "*The Wythe Watering Company*," and by that name and style shall have perpetual succession, may sue and be sued, plead and be impleaded, in any court of law or equity in this commonwealth having competent jurisdiction, may contract and be contracted with, have and use a common seal, and change the same at pleasure, and may hold real estate not exceeding five acres, at or near the town of Evansham, in the county of Wythe, and personal property for the purpose of conducting water into said town as hereinafter provided, and shall have power to make such by-laws, not contrary to the constitution and laws of the United States, or of this commonwealth, as may be deemed expedient and proper for the government of said company.

Wythe watering company incorporated.

Corporate powers.

2. *Be it further enacted*, That the capital stock of the said company shall not be less than three thousand nor more than six thousand dollars, to be raised by subscription in shares of twenty-five dollars each; for which purpose, books of subscription shall be opened in the town of Evansham, or elsewhere, at such time as the commissioners hereinafter named for the purpose of receiving subscriptions may designate, viz: under the direction of William H. Spiller, Albert B. Moore, Ephraim M'Gavock, Robert Kent and William H. Henson, or any three or more 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 or nearest to the said town of Evansham. And it shall be lawful for the county court of the county of Wythe to subscribe for, or authorize a subscription on their behalf, for such number of shares as shall not exceed in amount the sum of fifteen hundred dollars.

Capital.

Books of subscription, where and by whom opened.

Subscription by county court of Wythe.

3. *Be it further enacted*, That for managing the affairs of said company, there shall be chosen at the first general meeting of the stockholders, to be called as aforesaid, (or within twelve months from the passing of this act,) and on the second Monday of the month of November of every year thereafter, five directors, who shall be stockholders in said company; in which elections, and in all other meetings, the stockholders shall be entitled to one vote for every share held by them respectively, and may vote in person or by proxy, in such manner as may from time to time be prescribed in general meeting. The said directors, or a majority of them, may choose a president, and in his absence, a president *pro tempore*. They shall have power to call general meetings of the stockholders; to supply vacancies in their own body; to appoint such officers,

Directors, when and how chosen.

Ratio of votes.

President elected.

Powers of president and directors.

agents and clerks as the stockholders in general meeting shall authorize; to take bonds with sufficient surety for the good conduct, fidelity and attention of such officers, agents and clerks, and to do all other acts and things touching the affairs of the company, and not otherwise specially provided for.

Term of office of president and directors.

4. *Be it further enacted*, That if there should be no election of directors at any annual meeting, as herein before 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 the majority of the stock shall be represented.

Stock deemed personal estate, and transferrable.

5. *Be it further enacted*, That 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 president and directors, or the stockholders in general meeting, shall from time to time direct:

Real estate disposed of.

Provided, That nothing herein contained shall be so construed as to prevent the said company from selling and conveying any part of such real estate as they are hereby authorized to acquire and hold, or the said land and appurtenances, when sold, from being considered real estate; nor from taking and holding any donation in land or other thing, within the limitation herein before expressed, for the beneficial purposes of the said company: *And provided moreover*, That whenever the same shall cease to be used for the purposes aforesaid, it shall revert to the former owner or owners, and their heirs forever.

Donations to company.

When property to revert to owners.

Power to contract for land.

6. *Be it further enacted*, That it shall be lawful for the said president and directors, at any time hereafter, to contract and agree with the owners of any land 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 be desirable for the convenient location of wells, pipes, water works, or any of the fixtures or appurtenances necessary therefor; and in case of disagreement, or if the owner thereof 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 court of the county of Wythe, 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, commanding him to empanel a jury of twelve freeholders of the county of Wythe, no way related to the parties, or in any manner interested, whose duty it shall be to go upon the land, and being sworn, to ascertain and fix the damages which will accrue to the owner of said land, by reason of the location of said wells, pipes or water works thereon, or the passage of the said pipes or fixtures through the same. The damages assessed shall be certified under the hands and seals of the said jury, and by the said sheriff shall be returned to the court of said county and recorded, and shall be paid by the said president and directors to the proprietors of the said lands; and when the said damages shall be paid, or secured to be paid by the said president and directors, the said land, or the privilege of digging wells, constructing water works, and passing their pipes and fixtures through the same, and of repairing, altering; taking up and laying them down again from time to time, shall thereafter be vested in the said president and directors, and their successors in office.

When and how to obtain writ of *ad quod damnum*.

Proceedings thereupon.

7. *Be it further enacted*, That it shall and may be lawful for the said president and directors to sell and dispose of the water which they may have conducted into the 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 the 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 and convenient regulations made for the purpose, without hesitation to throw open and make easy of access, any works, cisterns, wells, pumps, hydrons 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 the said company, for the sale of their said water, shall, after deducting all necessary expenses and charges, be divided amongst the said stockholders in proportion to the amount of stock owned by them respectively, at such times as shall be agreed upon by the said company in legal meeting assembled.

Power to dispose of water.

Privilege of using water in case of fire.

Dividends.

8. *Be it further enacted*, That 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 may 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.

9. *Be it further enacted*, That if any person or persons shall divert, use, apply or draw off any part of the water so by the said company introduced into said town, without the consent of the said company first had and obtained, he, she or they shall forfeit and pay the sum of twenty dollars to and for the use of said company, for every such offence, and shall moreover be subject to the action or prosecution of the said company for the same. And if said company, their officers or agents, shall refuse to permit the free use of said water, in the case of any building or buildings 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 diverting or using water.

Remedy against company refusing use of water in case of fires.

10. *And be it further enacted*, That this act and every part and provision thereof, shall be subject to be altered, amended, modified or repealed by any future legislature of Virginia, as to them may seem necessary and proper: but shall, nevertheless, subject to such modification and repeal, continue and be in force for and during twenty years from and after the passing thereof, and no longer.

Power reserved to alter charter.

Commencement and duration.

CHAP. 198.—AN ACT to incorporate the Berkeley coal mining and rail-road company.

(Passed March 18, 1836.)

Whereas it is represented to the general assembly by Philip C. Pendleton, Edward Colston, John R. Cooke and Thomas M. Colston, that they have found anthracite coal of excellent quality, and believed to be superior to that of Pennsylvania, on a tract of land owned by them in the western part of Berkeley county, situated on and between the Sleepy creek and Third hill mountains, at a place called the Locks, and are induced to believe, by the partial explorations which have been made, that an extensive field of that valuable

Preamble.