

# ACTS

20144

OF THE

## GENERAL ASSEMBLY

OF

VIRGINIA, laws, statutes, &c.  
" "

PASSED AT THE SESSION COMMENCING 7TH JANUARY, AND ENDING  
10TH APRIL, 1839,

IN THE

SIXTY-THIRD YEAR OF THE COMMONWEALTH.

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RICHMOND:

SAMUEL SHEPHERD, *Printer to the Commonwealth.*

1839.

CHAP. 236.—An ACT establishing the town of Democratic Republic in the county of Lewis.

(Passed March 28, 1830.)

Town of Democratic Republic established.

1. *Be it enacted by the general assembly*, That not exceeding the quantity of forty acres of land, the property of William Stalnaker, lying at the mouth of Mill seat run in the county of Lewis, so soon as the same shall be laid off into lots with convenient streets and alleys, shall be and the same is hereby established a town by the name of Democratic Republic.

Trustees.

2. *And be it further enacted*, That Benjamin Riddle, William Stalnaker, Francis Vanny, William H. Ball and George G. Goff, be, and they are hereby appointed trustees of said town, who shall, as also their successors in office, before they enter upon the duties of their appointment, take an oath, or make solemn affirmation, before some justice of the peace for the county of Lewis, to execute faithfully and impartially, according to the best of their skill and judgment; a majority of whom shall form a quorum for the transaction of business, under the authority of this act.

Powers and duties of trustees. See acts 1838, p. 196.

3. *And be it further enacted*, That from the second section of the act, entitled, "an act to establish the town of Damascus in the county of Marshall," passed February the sixth, eighteen hundred and thirty-eight, shall apply to and be in force as to the town of Democratic Republic hereby established, as fully and effectually as if the same words in said act contained were herein repeated.

Commencement.

4. This act shall be in force from the passing thereof.

CHAP. 237.—An ACT to change the name of the town of Evansham, in the county of Wythe, to Wytheville, and to incorporate the same.

(Passed March 6, 1839.)

Name of Evansham changed to Wytheville.

1. *Be it enacted by the general assembly*, That the town of Evansham in the county of Wythe, as the same has been heretofore laid off into lots, streets and alleys, and as the same may be hereafter further laid off and extended into lots, streets and alleys, shall be henceforth called and known by the name and style of "Wytheville," and the inhabitants thereof shall have and exercise the powers hereinafter granted.

Trustees incorporated.

2. *Be it further enacted*, That all the free white inhabitants of the said town of Wytheville, shall be a body corporate, by the name and style of "The Trustees and Inhabitants of the town of Wytheville," and by that name and style, they and their successors shall be known in law, and be capable of suing and being sued, and of defending in all suits, and in all actions and matters whatever; and may have and use a common seal, and alter and change the same at their pleasure; and by the same name shall be capable of holding and conveying any estate, real and personal, for the use of the said corporation: *Provided*, That such real estate be within the limits of said town.

General corporate powers.

Trustees, when and how elected.

3. *Be it further enacted*, That on any day after the passage of this act, upon five days notice previously given, by the sheriff of Wythe county, or either of his deputies, by advertisement in writing, stuck up at the front door of the courthouse of said county, and the taverns in said town annually thereafter on the first Monday in November, all the free white male inhabitants of the said town, and at the first election of trustees under this act, all the free white males residing on lots in the immediate vicinity of said town, and nominally recognized as part thereof, but not embraced within

Right of suffrage.

the original limits of the same, who shall be over the age of twenty-one years, and subject to a revenue tax, or county levy, and have paid such tax or levy for the year previous to the election, and after the first election of trustees under this act, also have paid the tax or levy which may have been imposed for the benefit of said town for the year previous to the election, and who shall have been residents in said town for six months previous to the election, and all free white males over the age of twenty-one years, who shall own lots in said town, and not reside therein, shall assemble at the courthouse of Wythe county, in said town, and shall then and there elect, by *viva voce* vote, ten fit and able men, being freeholders and inhabitants of the said town, and over the age of twenty-one years, to serve as trustees of the said town: *Provided*, That for the purpose of preventing any doubt from arising as to what persons shall be eligible for trustees, at the first election under this act, all persons residing on lots in the immediate vicinity of said town, to whom the right to vote at the said first election, is hereinbefore given, shall be considered and taken as inhabitants of the said town. All elections of trustees of the said town under this act, shall be conducted by the sheriff of Wythe county, or either of his deputies, who, when an election shall be closed, which shall be before sunset of the election day, shall grant certificates of election to the persons elected, which certificates shall be recorded among the proceedings of the trustees of said town. And, in case any two or more persons voted for in any such election and not being elected, shall have an equal number of votes, and proclamation having been made that the election is about to be closed, and no more voters appearing for one hour, provided it be before sunset, the said sheriff or deputy, who may be conducting the said election, shall determine and say, which of the persons voted for as aforesaid, shall be elected, and shall grant certificates of election accordingly. The persons elected trustees of the said town, shall, before they enter upon the duties of their office, respectively take an oath, or make affirmation before some justice of the peace of the county of Wythe, well and truly, faithfully and impartially to execute and perform the duties of their several offices, according to the best of their skill and judgment; and shall, as soon as practicable and convenient after their election, and as often thereafter as there shall be a vacancy in the office, any seven of their number being present, proceed to choose out of the whole number of trustees, one person to preside at their meetings.

Who eligible as trustees.

Election, how conducted.

Who to decide on a tie.

Trustees' oath of office.

President, how elected.

4. *Be it further enacted*, That should it so happen that an election of trustees be not made at the time prescribed for an annual election, then such election may be had at any time, upon ten days notice given by any two or more voters of the said town, qualified as hereinbefore mentioned, of the time of election, which notice shall be by advertisement in writing, stuck up at the front door of the courthouse and taverns in said town; and if no election be made at the time prescribed for an annual election, or in the manner aforesaid, then the same trustees last elected, shall remain in office until a new election shall be had.

Annual elections not taking place how and when elections may be had.

Term of office of trustees.

5. *Be it further enacted*, That the presiding trustee, or any two of said trustees, shall have power to summon a meeting of said trustees as often as he or they may think fit, which meeting shall be composed of seven members at least, including the pre-

Meetings of trustees, how convened and composed.

Questions, how decided.

Trustees to judge of election of members. Vacancies supplied.

Record of proceedings.

Town limits extended.

Power to lay off lots, streets and alleys.

Town sergeant, treasurer, secretary and other officers appointed.

Their duties and obligations prescribed.

Power of removal.

Fees and emoluments of officers.

Provision for suppressing fires, and supplying town with water.

sident, or in his absence, a president *pro tempore*, elected by any six of said trustees, who may be present; and all questions before a meeting of said trustees shall be decided by a majority of the trustees present, each having one vote, except the person presiding, who shall vote only when the others are equally divided. The said trustees shall be the judges of the election of their own members. And in case of any vacancy in the office of trustee, in the interval between elections of trustees by the inhabitants of the said town, such vacancy shall be filled by the trustees; and any trustee so elected, shall remain in office until a new election of trustees shall be had by the inhabitants of the said town. The said trustees shall, moreover keep a full and complete record of all their proceedings, and accounts of all moneys by them received and disbursed, for which purpose they shall procure all necessary blank books, well bound; which record and accounts the said trustees shall carefully preserve, and from time to time hand over and deliver to their successors; and the same shall, at all times, be open to the inspection of persons qualified to vote for trustees of said town.

6. *Be it further enacted*, That the trustees of the said town shall, as soon as practicable, after the first election of trustees under this act, proceed to extend the limits of said town, so as to include within the corporate limits thereof, all houses and lots lying in the immediate vicinity of the same, and nominally recognised as a part of the said town, but not heretofore included within the established limits thereof, and make an order to be entered of record among their proceedings establishing such extended limits, and particularly describing the same. The said trustees shall moreover have power and authority at any time thereafter, to lay off new lots, streets and alleys, on other lands not included within the said limits, and include the same within the corporate limits of the said town, with the consent of the owners of the land, which they may desire so to include, or if such land be owned by an infant, *feme covert*, or person *non compos mentis*, imprisoned, or not within the commonwealth, or to any person disabled by law in any other manner to give consent, then and in that case, with the consent of the county court of the said county of Wythe; and also at any time after the passage of this act, to lay off and open new streets, cross streets and alleys, of such width and extent as the said trustees may think fit and convenient, or alter those already laid off and opened, or such as may hereafter be laid off and opened, whether within the original or extended limits of the said town.

7. *Be it further enacted*, That the trustees of the said town, shall from time to time, appoint a town sergeant or collector, a treasurer, a clerk or secretary of their own board, and all other officers thought necessary by the said trustees for conducting the affairs of said town, or for preserving the peace, good order and government thereof; to prescribe the duties of any and all such officers, require them to enter into bonds payable to said corporation, in such penalty and with such security as they may prescribe and approve, conditioned for the faithful discharge of their duties, to remove any such officer at their discretion, and supply the vacancy occasioned by such removal; and to allow them, (except the sergeant or collector, whose fees are herein prescribed,) such compensation by fees or otherwise as they may deem reasonable. The said trustees shall also have power and authority to make all neces-

sary provisions for preventing accidents by fire, and for that purpose to contract with "The Wythe watering company," for the erection and keeping in repair as many fire plugs as the said trustees may think necessary, and for such extension and enlargement of any part of the works of said company, as they may think useful and necessary to secure and insure an ample supply of water for suppressing fire, and which shall be necessary to enable said company to supply any part of said town with water for all necessary purposes, and to purchase engines, hose, fire hooks, ladders, and any other fixtures useful for preventing accidents by fire, and to organize fire companies; they shall also have power and authority to establish markets, build a market house, and regulate the same; to graduate and pave, or in any other manner improve the streets, walks and alleys of said town; to prevent and punish by reasonable fines, the practice of firing guns, or in any manner setting fire to powder, and of running horses in said town; to license and regulate shows, and other public exhibitions, and the same to tax, to such extent as they may think reasonable and expedient; to prescribe rules for the orderly and regular building of houses and chimneys; to regulate blacksmith's shops, and all other shops considered likely to occasion accidents by fire, and the erection of stoves and stove pipes; to regulate the erection of privies, stables and cow-sheds, and prescribe their location; to regulate butcher-stalls and slaughter houses; to remove and abate nuisances within said town, at the expense of those who may occasion them; to prohibit hogs and dogs from running at large within the limits of said town; to prevent the exhibition of stud horses and jackasses in said town; and generally to pass all by-laws and ordinances, not contrary to the laws and constitution of this state, or of the United States, which the said trustees may think necessary and proper for carrying into effect the foregoing powers that may hereafter be invested in them, and for regulating the police, preserving the peace, good order and government of the said town, and to amend or repeal the same at their pleasure; and to enforce the observance of such by-laws and ordinances, under penalties not exceeding twenty dollars for any one offence, to be recovered with costs in the name of the said corporation, before any justice of the peace of said county of Wythe, and applied in aid of the taxes imposed upon said town. And for the purpose of carrying into effect all or any of the powers granted to the trustees of the said town, they shall also have power and authority to levy and collect annually a tax on all the titheables and property, real and personal, within the said town, including the public lots, lands and buildings belonging to the county of Wythe, and on such other subjects within the said town as are, or may be taxed by the revenue laws of this state, and on dogs belonging to persons residing in said town: *Provided*, That the tax on real estate shall not exceed in any one year fifty cents on every one hundred dollars value thereof, as assessed under the laws of this state, for ascertaining the value of lands and houses, for apportioning public taxes, and as ascertained by persons who may be appointed under this act to value the said public lands, lots and buildings belonging to Wythe county, and that the tax on titheables shall not exceed fifty cents on each in any one year: *And provided also*, That the tax to be imposed on all other property, shall not exceed the taxes on the like subjects imposed by

Regulation of  
markets, and  
streets.

Police regula-  
tions.

Licenses to  
shows, &c.

Regulations for  
buildings.

Nuisances.

Hogs, dogs and  
horses.

By-laws.

Power to impose  
and collect taxes.

the revenue laws of this state for the same year, unless such excess shall have been authorized by a majority of the inhabitants, and the owners of real estate in the said town, qualified as aforesaid to vote for trustees thereof.

Commissioners to value property of county of Wythe, how appointed.

8. *Be it further enacted*, That the county court of Wythe county, at their next court, after the first election of trustees under this act, and annually thereafter, at the January court, shall appoint one person, who together with two other persons, one to be appointed by the trustees of said town, and the third to be elected and chosen by the other two, all being freeholders of said county, and over the age of twenty-one years, and being first duly sworn for that purpose, before a justice of the peace for said county, shall, without delay, proceed to value the public lands, lots and buildings within the said town, belonging to the county of Wythe; which

Return and record of valuation.

valuation, any two of said valuers concurring in the same in writing, under the hands and seals of the said valuers, or of the two concurring as aforesaid, shall be returned forthwith to the trustees of the said town, and also to the next succeeding court of Wythe county, after the same shall have been completed, and shall have been entered of record, among the proceedings of the said trustees, and also among the proceedings of said court; and the trustees of said town when assessing tax upon the real estate thereof for any year, shall, in ascertaining the proportion of such tax, to be paid by the said county for that year, on the said public lands, lots and buildings, be regulated by the valuation so returned for the same year: *Provided*, That should there be a failure at any time, either to make the appointment of valuers, as aforesaid, or of said valuers to make and return a valuation as aforesaid, then and in that case the valuation last made and returned as herein directed, shall be considered and taken as the valuation for the purpose aforesaid, of each subsequent year, until a new valuation shall be made. And when the amount of tax on the said public lands, lots and buildings shall be ascertained as aforesaid, the said trustees shall enter an order among their proceedings, directing the amount of tax so ascertained to be certified to the said county court, a copy of which order, attested by the clerk or secretary of the board of trustees, and signed by the president, or president *pro tempore* of the said trustees, shall be returned to the said court before the assessing and laying of the county levy for that year: whereupon, the said county court in assessing and laying the county levy, shall include the amount of said tax, so certified among the debts due by the said county of Wythe, and make an order directing the sheriff thereof to pay the same out of the levy of that year to the treasurer of the said town.

Taxes to be imposed according to valuation.

Tax to be certified to county court.

Court to provide for payment.

Land for opening new streets, &c. how obtained.

9. *Be it further enacted*, That should there be any person or persons through or on whose land it may be proposed to open any new street, cross street or alley, as hereinbefore provided, unwilling voluntarily to yield and convey to the said corporation so much of their land or lots as may be necessary for the location of such street, cross street or alley, and in such manner as shall be satisfactory to the trustees of the said town, it shall and may be lawful for said trustees to contract and agree with the owner or owners of any such lands or lots, for the purchase of so much thereof as may be necessary to form such street, cross street or alley; and in case they cannot agree, or in case it shall be necessary to pass such street, cross street or alley, in its location, on, along, or through any land, lot or

Condemnation thereof.

lots belonging to, or owned by any infant, *feme covert*, person *non compos mentis*, imprisoned, or not within this commonwealth, or to any person disabled in law in any other manner to consent, or to any person or persons (such land, lot or lots being at the time it may be proposed to open such new street, cross street or alley within the then established limits of the said town, or within the immediate vicinity of the original limits thereof, and hereinbefore directed to be included by said trustees within the corporate limits of the same,) unwilling to consent to part with the same, or so much thereof as may be necessary for the purposes aforesaid, it shall be the duty of the county court of Wythe county, upon application in that behalf, to issue a writ in the nature of a writ of *ad quod damnum*, directed to the sergeant of the town of Wytheville, commanding him to summon twelve discreet and impartial men, freeholders in said county, and not related to any party having an interest in the land, lot or lots, who shall be a jury, and shall meet upon the premises, on the day appointed in said writ, and being sworn by a justice of the peace of the said county of Wythe, true enquiry to make according to the best of their skill and judgment, and being charged by the said sergeant as to the nature of their enquiry, and that they shall faithfully and impartially ascertain the value of the land as proposed to be taken for the location of such street, cross street or alley, together with the value of such house or building erected on the same, and the damages which the owner or owners of such land, lot or lots will sustain by reason of the location of such street, cross street or alley, and by reason of the removal of any such house or building, shall forthwith proceed to the discharge of their duties accordingly; and in estimating the damages the said jury shall consider the advantages and conveniences which may accrue to such owner or owners of the land, lot or lots, by the addition of front to his or their land, lot or lots, or otherwise, in having such street, cross street or alley opened. And the proceedings upon the issuing, execution and return of said writ or writs, as the case may be, shall be in like manner, in every respect, or to the same effect, as is prescribed by law for such writs in similar cases. And all damages so assessed, and also all damages or sums agreed to be paid by the said trustees, in any contract or understanding between them and the owner or owners of any land, lot or lots, on, along, or through which any street, cross street or alley shall be opened, shall be paid out of any moneys in the hands of the treasurer, or of the trustees of the said town, for the use and benefit thereof: *Provided however*, That it shall not be lawful to remove any such house or building, if the same shall have been estimated by a jury, in manner aforesaid, to be of greater value than the sum of two hundred dollars, unless with the consent of the proprietor, or until such house or building shall so decay, or otherwise depreciate in value, as not to be worth, in the opinion of the county court of Wythe county, more than the sum of two hundred dollars; but the said trustees shall have power, notwithstanding such impediment, to establish and mark by lasting signs, any such street, cross street or alley, to be opened whenever such house or building can be removed as aforesaid; and if, when such house or building can be removed as aforesaid, the owner or owners thereof, or the said trustees, shall not then be satisfied with the damages previously ascertained by a jury as aforesaid, or such land, lot or lots shall then

Proceedings on writ of *ad quod damnum*.

Damages assessed, how paid for.

When illegal to remove buildings.

Upon decay of buildings new writ issuable.

belong to an infant, *feme covert*, person *non compos mentis*, imprisoned, or not within this commonwealth, or to any person disabled in law in any manner to consent, a new writ, in the nature of a writ of *ad quod damnum*, shall be issued in manner aforesaid, and the then value of the damages aforesaid, be assessed in manner aforesaid, except that the jury summoned under such new writ shall not ascertain the value of such house or building, but shall ascertain the damages likely to be sustained in removing such house or building to any other part of the lot on which the same may have been erected, if the owner or owners thereof shall desire to retain it, and have it so removed: *And provided also*, That in assessing damages by virtue of any writ, in the nature of a writ of *ad quod damnum*, issued under this act, the jury shall not estimate the cost or value of any improvement, building or repair of any kind, which may have been erected or made subsequent to the application for such writ, or during the time when any street, cross street or alley cannot be opened as aforesaid on account of there being a house or houses on the lands proposed to be taken for the location of such street, cross street or alley, exceeding the value aforesaid: *Provided likewise*, That no damage which may have been estimated or assessed, for so much of any street, cross street or alley as the said trustees may be delayed or prevented from opening as aforesaid, shall be paid until the same can be opened.

Streets and alleys established.

10. *Be it further enacted*, That all streets, cross streets and alleys which are already laid off and opened, or which may at any time be located, surveyed and opened in said town, or in extending the same, shall be and they are hereby established as public streets and alleys of the said town.

Survey and plat of town to be made.

11. *Be it further enacted*, That the said trustees shall, within six months after the passage of this act, make or cause to be made a survey and correct plan or plat of the said town, shewing distinctly each lot, street and alley, and the size and width thereof, including all alterations and extensions up to the time when such survey shall be made, numbering anew all lots, and shewing the former as well as new numbers of all lots which have been numbered heretofore, with such remarks and explanations thereon as they may deem necessary and proper; which plan or plat so made, and under the hands and seals of any seven of the trustees of the said town, shall be lodged in the clerk's office of the county court of Wythe county, there to be recorded and kept, and the said plan and survey so duly made, signed, sealed and recorded, shall, in all future suits and contests concerning the boundaries of the lots, streets and alleys of the said town, be deemed, held and taken as full and conclusive evidence between the parties, from and after the first day of January, eighteen hundred and forty: *Provided*, That infants, *femes covert*, persons *non compos mentis*, or out of the commonwealth, shall have six months after such disability shall be removed, within which they may contest such plan and survey, so made and recorded. And if at any time after the making said survey, the streets and alleys of the said town, or any part thereof, shall be altered, or new streets and alleys be laid off in said town, or new lots, streets and alleys be laid off, and opened on lands, not included in the above named survey, for the purpose of extending the corporate limits of the said town, the said trustees as aforesaid shall, as often as any such alteration shall be made, or new streets

Where to be recorded.

Survey and plat of alterations to be made and recorded.

and alleys laid off, or extension of the said town as aforesaid made, make or cause to be made a correct survey and plan or plat of all such alterations, new lots, streets and alleys, numbering the new lots, and the same duly made out, signed and sealed as above, shall likewise lodge in the said clerk's office, there to be recorded and kept; all which shall be done previous to the opening of any such alteration, new streets and alleys; and the said plan and survey, so duly made and recorded, from time to time, shall, in all suits or contests thereafter arising concerning the lands, lots, streets and alleys therein embraced, be deemed, held and taken as full and conclusive evidence between the parties.

12. *Be it further enacted*, That the said trustees shall have power and authority, whenever they may deem it expedient, to have the side walks, footways and gutters along any street or alley within the said town, of such width as they may prescribe, properly paved, or otherwise suitably improved, and repaired and altered, whenever they may think fit, at the proper cost and expense of the owners or occupiers of the lands or lots along the front or sides of which such footways, side walks, or other improvements extend, and to levy and collect for that purpose a special tax on each of such lots or pieces of land, proportioned to the number of feet of the same, fronting on such pavement or other improvement; which special tax shall be collected by the sergeant of the said town as other taxes on real estate within the said town are herein directed to be collected: *Provided however*, That before any owner or occupier of any land or lot within the said town shall be required to make any such pavement or other improvement at his own proper cost and expense, or a tax shall be levied upon the same for such purpose, there shall be on such land or lot, fronting the side along which such pavement or other improvement shall be required, a house or building at least twelve feet square. In all cases where a lessee or tenant shall pay the expense of any such pavement or other improvement along the side or sides of the land or lot by him occupied, and for which land or lot by the contract with his lessor or landlord he shall be bound to pay rent, the amount of any such expenses paid by him, or collected from him, or made out of his property, shall be a good and valid set-off against so much of the rent due or accruing to his lessor or landlord.

Pavement of side walks, footways, &c.

Tax therefor.

Taxes paid by tenants, set-offs against rent.

13. *Be it further enacted*, That all taxes, general or special, assessed upon any land or lot within the said town, under this act, are hereby declared to constitute a lien upon such land or lot, in the hands of the owner, or his heirs, devisees, assignees, or any subsequent purchaser, or other person claiming the same, and may be collected by the said sergeant from such subsequent purchaser, or other person entitled to such land or lot, in like manner as they might have been collected from the original owner or occupier. And if the said town sergeant shall not have been able with due diligence, to collect the said taxes, in manner hereinafter directed, before the first day of November of the year in which the same were assessed, he shall on that day, or at the first meeting of the said trustees thereafter, make return upon oath before some justice of the peace for Wythe county, of the taxes so uncollected, and the lands or lots on which such uncollected taxes were levied, to the said trustees; and thereupon the said trustees shall have power and authority to order a sale of such delinquent land or lot, or of so

Taxes to be liens on lots.

Sale of delinquent lots.

much thereof as may be necessary to pay such arrears of taxes, and to defray all proper expenses attending such sale, upon due notice being given of such sale by advertisement in the newspaper, if any, published in said town for six successive weeks, and by advertisement in writing to be stuck up at the front door of the courthouse, and the taverns in said town, for two successive courts of the said county of Wythe, before the day of sale, describing the lands or lots to be sold; which sale shall take place in front of said courthouse, on the first day of some court of said county, between the hours of eleven of the morning and four of the evening.

Who liable to taxation.

14. *Be it further enacted*, That in order the better to determine who shall be liable to taxation in the said town under this act, it is hereby declared, that all persons liable to taxation, as hereinbefore provided, and residing in said town, annually on the first day of February, shall be subject to taxation the then current year.

Who to sell unsold lots.

15. *Be it further enacted*, That it shall be the duty of the county court of Wythe county, at any time after the passage of this act, on the application of the trustees of the said town, to appoint five fit and able men, being freeholders of said county, whose duty it shall be, any three of them acting, to sell and convey in fee simple all the lands and lots lying in the said town, not heretofore sold or conveyed by the former trustees of the said town of Evansham, and the said court shall have power and authority if it shall seem fit and proper to them, by an order to be entered at the court making such appointment, or at any court thereafter, to direct that the proceeds of all such sales be paid to the treasurer of the said town, to be by the said trustees applied in aid of the taxes of the said town, in the providing and purchasing of all suitable fixtures for preventing accidents by fire, and improving the streets of said town.

Proceeds, how applied.

Powers of sergeant.

16. *Be it further enacted*, That the sergeant or town collector, who shall from time to time be appointed under this act, shall have the like rights of distress, and powers in collecting the taxes and levies made by the trustees of the said town, as sheriffs have in similar cases, and shall be entitled to the same or like fees and commissions for collecting said taxes and levies as are allowed to sheriffs for the collection of county levies; and in the service and return of all process, and the collection of all fines arising under the authority of this act, or of any by-law made as aforesaid, in pursuance hereof, he shall have and possess the same rights and powers, and be entitled to the same or like fees and commissions as are allowed by law to sheriffs or constables for similar duties and services.

Fees and commissions.

Conditions of bonds of sergeant, collector and treasurer.

17. *Be it further enacted*, That the condition of the bonds which the sergeant or collector, and treasurer of the said town may be required to enter into by the said trustees, under the authority hereinbefore given, shall in addition to the provision for the faithful discharge of their duties, contain a provision for the payment over to such persons and in such manner as the said trustees shall from time to time order, direct and prescribe, of any and all moneys which may in any manner be collected or received by them, or come into their hands in virtue of their offices, or otherwise, for the use and benefit of said town. And the said sergeant or collector, and treasurer, or their sureties, their executors and administrators, shall, respectively, be subject to such proceedings by motion or otherwise, before the court of the county of Wythe, for enforcing payment of any and all such moneys at the suit of the corporation, or of any

Remedy against them.

person or persons authorized by the trustees of the said town to receive the same or any part thereof, from said sergeant or treasurer, as collectors of county levies are by law subject to for enforcing payment of the levies by them collected.

18. *Be it further enacted*, That the sergeant or collector of the said town, upon his entering into bond with the county court of said county of Wythe, such as other constables are required by law to enter into, shall have the right to become a constable of the said county of Wythe, and to act as such within the said town as his district, and upon his ceasing to be the sergeant of the said town, by removal or otherwise, he shall likewise cease to be constable as aforesaid, unless re-appointed by the said court.

Sergeant to act as constable.

19. *Be it further enacted*, That all fines, penalties and amercements, and all other moneys received or raised by virtue of this act, or any by-law in pursuance thereof, and all other moneys whatever, which shall at any time, or in any manner, come into the hands of the said trustees, or any other officer of the said town, in virtue of their office, and not directed to be applied otherwise, shall be at the disposal of the said trustees, for the use and benefit of the said town.

Fines and other moneys at disposal of trustees.

20. *Be it further enacted*, That it shall be the duty of the president and directors of "The Wythe watering company," with all reasonable and practicable speed and expedition, after being directed so to do by the trustees of the said town, to proceed to erect within the said town as many fire plugs in connexion with the water works of said company, and to make such extension and enlargement of any part of the works of said company, over and above what may be necessary to enable said company to supply any part of said town with water for all ordinary purposes, as the said trustees shall from time to time order and direct, and to keep the same in good condition and repair; all which work, of whatever sort or character, erected, made and done in pursuance of the order and direction of the trustees of the said town, and all repairs to the same, or any part thereof, shall be made and done at the cost and expense of the said town: *Provided*, That the said company shall not demand of the trustees of the said town, for any such work and repairs, more than the amount actually expended by the said company on account of such work and repairs, and ten per centum on such amount.

Wythe watering company to erect fire plugs and extend water works.

21. *Be it further enacted*, That for the purpose of enabling the trustees of the said town to make speedy provision to prevent accidents by fire, and to do any thing or matter hereinbefore provided for, and requiring speedy and prompt attention, it shall be lawful for the said trustees to borrow such sum or sums of money as they may deem necessary, not exceeding in the whole the sum of fifteen hundred dollars, at an interest not exceeding six per centum per annum, to be applied to the purposes aforesaid. And the said trustees are hereby authorized and empowered to pay the interest on the money borrowed, and to extinguish the debt so created, out of any and all moneys which may come into their hands, or hands of the treasurer of the said town, for the use and benefit thereof, arising from taxation or otherwise.

Trustees authorized to borrow money.

22. *Be it further enacted*, That in all suits or prosecutions arising under any by-law, rule or regulation made by the trustees of the said town in pursuance of this act, where the constitutionality or

Appeals from judgments of justices to circuit court to test validity of ordinances.

validity of any by-law, rule or regulation shall be contested, appeals shall lie from the judgment of any justice of the peace of the said county of Wythe, to the circuit superior court of law and chancery for said county of Wythe, 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 the judgments of the said circuit superior court of law and chancery, rendered upon such appeals, shall be executed as other judgments of the said court are executed, except that the process which shall be issued upon such judgments may be directed to the sergeant of the said town.

Authenticated copies of ordinances, &c. legal evidence.

23. *Be it further enacted*, That all copies, purporting to be copies of the by-laws, orders or ordinances of the said town, attested by the clerk or secretary of the board of trustees of the same, with the corporate seal attached, and certified to be correct by the president, or president *pro tempore*, of the said board, shall be received by all courts and magistrates within the commonwealth as legal evidence.

Jurisdiction of corporation.

24. *Be it further enacted*, That for the purpose of maintaining the police regulations of the said town, under the authority of this act, and for no other purpose, the jurisdiction of the corporate authorities thereof shall be and the same is hereby made to extend one mile beyond the limits of the said town.

By-laws of Evansham continued in force.

25. *Be it further enacted*, That the by-laws heretofore passed by the trustees of the said town of Evansham, and which have not been repealed, shall be and continue in force until altered or repealed by the trustees elected under this act.

Repealing clause.

26. *Be it further enacted*, That all acts and parts of acts concerning the town of Evansham in the county of Wythe, or the lands and lots therein, conflicting with, or contrary to the provisions of this act, shall be and the same are hereby repealed.

Commencement.

27. *And be it further enacted*, That this act shall commence and be in force from and after the passing thereof.

CHAP. 238.—AN ACT to amend the act, entitled, "an act to prescribe the mode of electing trustees for the town of Farmville in the county of Prince Edward, and vesting them with corporate powers," passed February 27th, 1833.

(Passed March 23, 1839.)

Condemnation of land for conducting water into town.

1. *Be it enacted by the general assembly*, That it shall be lawful for the trustees of the town of Farmville in the county of Prince Edward, in conducting water into said town, and in distributing the same, in case they cannot agree with the owners of land through which it may be necessary to pass the same, or otherwise necessary for such purpose, for the purchase or limited use thereof, to apply to the county court of said county, and obtain therefrom a writ in the nature of a writ of *ad quod damnum*, directed to the sheriff of said county, commanding him to empanel a jury of good and lawful men, whose duty it shall be to ascertain and fix the damages, if any, which the owner or owners of such land will sustain by rea-