

WV Law P3221

LAWS OF WEST VIRGINIA

RESPECTING

CORPORATIONS;

EMBRACING ALL THE LEGISLATION ON THE SUBJECT  
UP TO THE CLOSE OF THE SESSION ENDING  
MARCH 2, 1865.

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TO WHICH IS ADDED, THE LAW PROVIDING FOR

RECORDING DEEDS & OTHER WRITINGS

RELATING TO PROPERTY

IN COUNTIES WHERE NO RECORDS ARE KEPT.

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*Compiled from Official Sources.*

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WHEELING:  
CAMPBELL & M'DERMOT, BOOK AND JOB PRINTERS.

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1865.





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LAW OF WEST VIRGINIA

REPORTS

CORPORATIONS

THE OFFICE OF THE CLERK OF THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE DISTRICT OF WEST VIRGINIA

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Entered according to Act of Congress, in the year 1865, by

JOHN FREW,

In the Clerk's Office of the District Court of the United States, in and  
for the District of West Virginia.

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RECORDING DEEDS & OTHER WRITINGS

IN THE DISTRICT OF WEST VIRGINIA

FOR THE YEAR 1865



## ADVERTISEMENT.

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THE growing attention which the development of the varied and exhaustless mineral resources of the new and free State of West Virginia is attracting throughout the Northern and Eastern States, and the disposition of capitalists to make joint investments in enterprises within her borders, together with the difficulty in obtaining adequate and correct information respecting her laws for the creation and government of corporations, have been the occasion of this unpretending pamphlet. The general corporation act, passed at the session of 1863, is pronounced by competent lawyers in other States to be, in important respects, a law of superior excellence. The supplementary acts simply remedy such defects as were originally overlooked. This compilation aims at nothing more than to give these acts in a correct form, and in chronological order, with convenient tables of contents and notes of reference. As a guaranty of its correctness the publisher would state that it has been made by the officer, who has had custody of the records of the Legislature from the organization of the State down to the close of the recent session.

As a matter of interest to those likely to be interested in our corporation laws, the compiler has annexed the Law providing for the recording of Writings relating to Property in counties in which there is no civil organization.

JOHN FREW, *Publisher.*

WHEELING, W. V., *March 15th, 1865.*







# ACTS OF 1863.

## CHAP. LXXXIII.—An ACT Providing for the Formation of Corporations and Regulating the same.

SEC.

1. General purposes of formation.
2. General restrictions.
3. Value of shares.
4. Maximum capital.
5. Corporators' agreement.
6. Same name forbidden.
7. Amount of subscription paid in.
8. Acknowledgment and proof of agreement.
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17. Fees of Secretary of the State.
18. General Powers.
19. Restrictions—Manufacturing Villages.
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21. Powers respecting Collection of Debt; purchase and disposition of own stock.
22. Scale of Voting in Stockholders' Meeting.
23. Vote on Transferred Stock.
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- 25, 26. Meetings of Stockholders.
27. Publication of list of Stockholders.
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SEC.

29. Continuance of organization of Old Corporations accepting.
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42. Government of Directors.
- 43, 44, 45, 46. Sale of Additional Shares.
47. Instalments.
- 48, 49, 50. Enforced Collection of Subscriptions.
- 51, 52. Security for Unpaid Stock.
53. Remedy for Failure to give same.
54. Stock as Personal Property.
55. Books as Evidence of Ownership.
- 56, 57. Restrictions Respecting Transfer of Stock.
58. Certificates of Stock.
- 59, 60. Assignment of same.
61. Proceedings where Certificate is Lost.
62. Accountability to Legislature.
63. Plea of Usury Forbidden.
64. Expiration or Dissolution.
65. Service of Process.
66. Reservations by Legislature.

Be it enacted by the Legislature of West Virginia :

I. Corporations may be formed under this act :—

I. For manufacturing, mining or insuring ;

II. For savings institutions, savings banks, or banks exclusively of discount and deposit ;

III. For constructing lines of magnetic telegraph, and carrying on the business properly pertaining to telegraph companies ;

IV. For establishing hotels, springs companies, gas works, water works, cemeteries, or building associations, and transacting the business properly pertaining thereto ;

V. For universities, colleges, academies, seminaries, schools, or institutes, for the purpose of teaching any branch or branches of useful information or learning, or promoting religion, morality, military science and discipline, or the diffusion of knowledge ; including library companies and literary and scientific associations ;

VI. For benevolent associations, orphan, blind and lunatic asylums, and hospitals ;

VII. For gymnastic associations ;

VIII. And for any other purpose or business useful to the public, for which a firm or co-partnership may be lawfully formed in this state.



2. But this act shall not be construed to authorize the incorporation of a bank of circulation, or of a company for the construction of any work of internal improvement, or of any church or religious denomination, or of any company, the object, or one of the objects of which may be to purchase lands and re-sell the same for profit.

3. The capital of every corporation formed under this act shall be divided, as may be agreed upon by the persons desiring to be incorporated, into shares of ten dollars each, or some multiple of that sum, or into shares of twenty-five dollars each.\* †

4. The capital of a corporation formed under this act shall not exceed one million dollars ‡

5. Any number of persons not less than five, desiring to become a corporation for any purpose or business designated in the first section, shall sign an agreement to the following effect:

"The undersigned agree to become a corporation by the name of (here insert the name by which it is intended the corporation shall be known,) for the purpose of (here describe fully and particularly the purpose for which the corporation is to be formed, and the kind of business intended to be carried on by it,) which corporation shall keep its principal office or place of business at ———, in the county of ———, and is to expire on the ——— day of ———, eighteen hundred and ———. And for the purpose of forming the said corporation, we have subscribed the sum of ———dollars to the capital thereof, and have paid in, on said subscriptions, the sum of ———dollars; and desire the privilege of increasing the said capital, by sales of additional shares from time to time, to ——— dollars in all. The capital so subscribed is divided into shares of ——— dollars, each, which are held by the undersigned, respectively, as follows, that is to say: by (here insert the full name of each corporator, with his place of residence, and the number of shares held by him.) And the capital to be hereafter sold is to be divided into shares of the like amount. Given under our hands, this ———day of ———, eighteen hundred and ———."

6. No corporation to be formed under this act shall be allowed to adopt or use any name, if there be another corporation in this state having the same name.

7. No person shall be included as a corporator in any such agreement, by reason of any stock subscribed for by him, unless he has, in good faith, paid to the person who may have been appointed or agreed upon to receive the same for the intended corporation, at least ten per cent. of the par value of the said stock.

8. The said agreement shall be acknowledged by the several corporators, before a justice, notary or judge; and such acknowledgments shall be certified by the officers before whom they are made. If any such acknowledgment be made before a justice, notary or judge of another state or country, proper evidence of the official character of the officer certifying the same, shall accompany his certifi-

\*For "Preferred Stock," see post c. 43, Acts, 1864.

†Amended and re-enacted, post c. 12, Acts, 1865.

‡Increased to three millions, §1 and 4, post c. 12, Acts, 1865.



cate. The affidavits of at least two of the corporators named in the agreement shall be annexed thereto, to the effect that the amount therein stated to be paid on the capital, has been in good faith paid in, for the purposes and business of the intended corporation, without any intention or understanding that the same shall be withdrawn therefrom before the expiration or dissolution of the corporation.

9. The agreement, with the acknowledgments and affidavits aforesaid, shall be delivered to the secretary of the state, who shall thereupon issue to the said corporators, his certificate, under the great seal of the state, to the following effect:

"I, A. B., secretary of the state of West Virginia, hereby certify that an agreement, duly acknowledged, and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following: (here insert it.) Wherefore, the corporators named in the said agreement, and who have signed the same, are hereby declared to be, from this date, until the — day of —, eighteen hundred and —, a corporation by the name and for the purposes set forth in the said agreement.

Given under my hand and the great seal of the said state, at —, this — day of —, eighteen hundred and —."

10. When a certificate of incorporation shall be issued by the secretary of the state, pursuant to this act, the corporators named in the agreement recited therein, and who have signed the same, and their successors, associates and assigns, shall from the date of the said certificate until the time designated in the said agreement for the expiration thereof, unless sooner dissolved according to law, be a corporation by the name and for the purposes and business therein specified. And the said certificate of incorporation shall be received in all courts and places as legal evidence of the existence of the corporation, as aforesaid.

11. No corporation under this act, except those mentioned in clauses five, six and seven of the first section, shall continue longer than twenty years.

12. The stockholders of any corporation now existing in this state, banks of circulation and companies incorporated for the construction of works of internal improvement excepted, may by resolution in general meeting, accept the provisions of this act. And thereupon a copy of the resolution shall be filed with the secretary of the State, together with a statement showing the name by which the corporation had theretofore been known, and the name, whether it be the same or a different one, by which it is intended it should be known thereafter; the business to be carried on; the place where such business is to be carried on and where the principal office is to be kept; the time when the corporation is to expire, subject to the limitation contained in the eleventh section of this act; the amount of the whole capital, the amount of the capital paid in; the amount to which it is intended to reserve the privilege of increasing the same; and the par value of each share; which copy and statement shall be certified by the president under his



hand, and the common seal of the corporation. And the secretary of the state shall thereupon issue a certificate of incorporation, under his hand and the great seal of this state, reciting the said resolution and statement, and declaring the said corporation to be thereafter, until the time mentioned in the said statement for the expiration thereof, a corporation by the name which it is intended it should thereafter bear, and for the purposes and business therein set forth, unless sooner dissolved according to law. Certificates of incorporation issued pursuant to this section shall be received in all courts and places as legal evidence of the existence of the corporation as therein declared; and the said corporations shall no longer be under their former charters, but shall have all the rights, privileges and powers conferred by this act, and shall be subject to the liabilities, restrictions and regulations herein prescribed.\*

13. If the stockholders of any corporation now existing in this state, excepting banks of circulation and companies incorporated for the construction of works of internal improvement; or the stockholders of any corporation which may be formed under this act, desire to change the name thereof, and shall pass in general meeting a resolution to that effect, stating the name by which it is intended the corporation should be thereafter known, there being no other corporation of the same name in this state, the president shall thereupon, under his signature and the common seal of the corporation, certify the said resolution to the secretary of the state, and the secretary shall issue, under his hand and the great seal of this state, a certificate reciting the said resolution, and declaring that the corporation is to be thereafter known by the new name so adopted by the stockholders; and the said certificate shall be received in all courts and places as legal evidence of the change of name therein specified.

14. No debt, contract, right or liability previously existing, or any warrant, proceeding, motion, suit or process then pending, shall be affected or impaired by any thing that may be done under either of the last two sections.

15. The secretary of the state shall carefully preserve in his office the agreements specified in the fifth section of this act, with the acknowledgments and affidavits accompanying the same; and also the resolutions and statements mentioned in twelfth and thirteenth sections. He shall cause to be accurately recorded in a well-bound book, to be used for that purpose exclusively, all certificates of incorporation and certificates of change of name he may issue pursuant to this act. If he neglect to record any such certificate, or if any error be discovered in the record of any such certificate, he shall forfeit for every such neglect or default not less than ten nor more than fifty dollars. At the beginning of every regular session of the legislature, he shall deliver to the clerk of the House of Delegates accurate copies of all original certificates of incorporation, and certificates of change of name not before reported by him; and it shall be the duty of the said clerk to cause the same to be printed and bound with the acts of the session. If the said secretary or

\*Amended, §1, post c. 105, Acts, 1863.



clerk fail therein, the party so in default shall forfeit not less than ten nor more than fifty dollars. The corporators shall cause certificates of incorporation, and certificates of change of name to be recorded in the recorder's office of the county in which the corporation therein named transacts its business, or in which its principal office is situated.

16. The secretary of the state may, at any time, on application of a party interested, issue under his hand and the great seal of this state, certified copies of any certificate of corporation, or certificate of change of name, recorded in his office; and such copies, as evidence, shall have the same effect as the originals. The copies printed with the acts of the legislature, as prescribed by the preceding section, shall also, as evidence, have the same effect as the original certificates.

17. For issuing a certificate of incorporation or change of name, or a certified copy thereof, under the great seal of this state, as aforesaid, the secretary of the state may charge a fee of two dollars; and for recording the originals, as required by the fifteenth section, a fee of fifteen cents for every hundred words; which fees shall be paid at the time the service is rendered, by the person at whose instance it is done.

18. Every corporation for which a certificate of incorporation shall be issued in conformity with the ninth and twelfth sections of this act, shall, until the expiration or dissolution thereof, have perpetual succession, and a common seal, which it may alter and renew at pleasure. It may sue and be sued, plead and be impleaded, answer and be answered, at law or in equity. It may in any case, and in any manner in which it would be lawful for a natural person so to do, but subject to the restrictions and regulations herein contained, contract and be contracted with; purchase, acquire, hold and use real and personal estate, stocks and securities, or any interest or right therein; and grant, convey, sell, assign, lease, mortgage, convey in trust, pledge, encumber, or otherwise dispose of the same. It may in general meeting of its stockholders make by-laws and regulations, not inconsistent with the laws of this state, for the government of its board of directors, officers and agents, the management of its property and business, and the due and orderly conducting of its affairs. And, generally, it may do for the purposes for which it is incorporated, and in the transaction of its proper business, but subject to the restrictions and regulations herein contained, whatever it would be lawful for a natural person to do.

19. No such corporation shall employ its capital, money or effects, or otherwise engage in the purchase of real estate in order to resell the same for profit; or in transactions not proper for the purposes or business expressed in its certificate of incorporation. But mining or manufacturing companies may lay out a town or village, not to include over six hundred and forty acres, on lands owned by them, at or near their principal works, and sell lots therein.

20. It shall not be lawful for any corporation, formed or continued under this act, to hold more real estate than is proper for



the purposes for which it is incorporated. And in no case shall any such corporation hold more than one hundred acres of land, except that a company for mining iron, lead, or copper ore, and manufacturing the same into metal, may hold ten thousand acres for every charcoal-blast furnace, and three thousand acres for every other furnace; other manufacturing companies, one thousand acres each; a company for mining coal for sale, three thousand acres; other mining companies, including salt and oil companies, two thousand acres each;\* and a springs company, fifteen hundred acres. No corporation subject to this act shall hold more than five acres of land in a city or incorporated town, except in the case specified in the nineteenth section.†

21. But nothing in this act contained shall prevent any corporation from taking stocks or real estate as a payment, in whole or in part, of any debt owing to it, or as security therefor; or from purchasing stocks and other property at any sale made for its own benefit; and disposing of the same at its own discretion. And if any corporation subject to this act lawfully acquire any share or shares of its own stock, it may either extinguish the same, or sell and transfer the same to a purchaser; but no vote shall be given on such stock while held by the corporation.

22. In a meeting of the stockholders of a corporation subject to this act, and at every election of directors, every stockholder may, in person or by proxy, give the following vote on whatever stock he may hold in the same right, that is to say, one vote for every share of stock not exceeding one hundred; and one vote for every four shares exceeding one hundred.‡

23. Where a vote is offered at any meeting of stockholders upon stock transferred within sixty days before such meeting, such vote shall not be counted if any stockholder present object thereto, unless the stockholder, whose vote is so objected to has made or shall make oath that the stock on which such vote is to be given is held by him in good faith, and not by virtue of a transfer made with intent to obtain more votes than is allowed by law.

24. No officer or director of a corporation subject to this act shall vote as the proxy of a stockholder.

25. An annual meeting of the stockholders of every corporation subject to this act shall be held at such time and place as may be prescribed by the by-laws, or if there be no such by-laws, then on the fourth Tuesday of January. A general meeting of the stockholders may be called at any time by the board of directors, or by any number of stockholders, holding together at least one-fifth of the capital. Notice of the annual or any other general meeting shall be given in such manner as the by-laws may direct, or if there be no such by-laws, by advertising the same once a week, for two weeks at least, in some newspaper of general circulation published near the principal office or place of business of the company.

26. The number of stockholders, or amount of stock necessary to

\* § 2 post c. 12, Acts, 1865.  
 † 1 post c. 69, Acts, 1865.  
 ‡ § 2 post c. 105, Acts, 1863.



constitute a quorum at a meeting of stockholders, and the mode of transacting business at such meetings, may be prescribed by the by-laws. If there be no such by-law, a majority of the stock must be present, in person or by proxy, to constitute a meeting. But if a sufficient number do not attend at the time and place appointed, those who do attend may adjourn from time to time until a meeting is regularly constituted. Every meeting of stockholders may adjourn from time to time till its business is completed.

27. A list of the stockholders, showing the number of shares and votes to which each is entitled, shall, for one month before every annual meeting, be hung up in the most public room at the principal office or place of business of the corporation.

28. When any certificate of incorporation is issued under the ninth section of this act, the incorporators named in the agreement recited therein, or a majority of them, shall appoint the time and place for holding a general meeting of the stockholders to elect a board of directors, make by-laws, and transact any other business which may lawfully be done by the said stockholders in general meeting. The time appointed for the meeting shall be not less than twenty-one nor more than ninety days from the date of the certificate, and at least two weeks notice of such meeting shall be given by advertisement in the manner prescribed in the twenty-fifth section.

29. When a certificate of incorporation is issued to an existing corporation, pursuant to the twelfth section, the board of directors and officers may continue to act in their respective capacities until the next annual meeting of the stockholders, and thereafter until their successors are elected or appointed and qualified; or a general meeting of stockholders may be called in the manner prescribed in the twenty-fifth section to elect a new board, or make such order in the matter as they may deem right.

30. For every corporation subject to this act there shall be a board of directors, who shall have power to do, or cause to be done, all things that are proper to be done by the corporation. The stockholders may in general meeting, by a by-law, prescribe the number of which the board shall consist; but unless a different number be so prescribed, there shall be five directors. They may also, by by-law, prescribe the qualifications of directors; but if it be not otherwise provided, every director must be a resident of this state and a stockholder. The directors shall be elected at the annual meeting of the stockholders, or as soon thereafter as practicable, and shall hold their offices until their successors are elected and qualified. The stockholders in general meeting may remove any director and fill the vacancy; but any vacancy not caused by such removal may be filled by the board. A majority of the board shall constitute a quorum, unless it be otherwise provided in the by-laws; and if the number of the board be reduced at any time so as to interrupt the proper and efficient management of the business of the corporation, a general meeting of the stockholders may be called to elect new directors, or to take such order in the premise as they may deem proper.



31. As soon as may be after their election, the board of directors shall choose one of their own body president of the corporation, who shall act as such till his successor is qualified, without ceasing, however, to be a member of the board. During the absence of the president the board may appoint a president *pro tempore*, who for the time, shall discharge the official duties of the president.

32. The board shall hold meetings at such time as they see fit or the president shall require. They may by resolution prescribe when and where their regular meetings shall be held, how special meetings shall be called, and what notice of their meetings shall be given.

33. They shall keep a record of all their resolutions and proceedings, which shall be verified by the signature of the president or president *pro tempore*. No member of the board shall vote on a question in which he is interested otherwise than a stockholder, or be present at the board while the same is being considered; but if his retiring from the board in such case reduce the number present below a quorum, the question may nevertheless be decided by those who remain. On any question the names of those voting each way shall be entered on their minutes, if any member at the time require it.

34. The board of directors shall appoint such officers and agents of the corporation as they deem proper, and prescribe their compensation; but there shall be no compensation for services rendered by the president or any director, unless it be allowed by the stockholders. The officers and agents so appointed shall hold their places during the pleasure of the board; and if required by the board, or the by-laws, shall give bonds, payable to the corporation, in such penalties and with such conditions and security as the board may approve.

35. The board of directors shall cause regular and correct books of account to be kept, and to be settled and balanced once at least every six months.

36. They shall make a report to the stockholders, at the annual meeting, of the condition of the corporation. The report shall show the property and funds belonging to the corporation, and the estimated value thereof; the debts due to it, distinguishing such as are believed to be good from those considered doubtful or hopeless; the debts and liabilities of the corporation; the amount of capital paid in; and the estimated surplus or deficiency, as the case may be. It shall also state the amount of dividends declared, and the losses incurred or profits accruing during the preceding year.

37. The property and funds, books, correspondence and papers of the corporation, in the possession or control of any officer or agent thereof, shall at all times be subject to the inspection of the board, or a committee thereof appointed for the purpose, or of any committee appointed for the purpose by a general meeting of the stockholders. The minutes of the resolutions and proceedings of the board shall, for thirty days before the annual meeting of the



stockholders, be open to the inspection of any stockholder. They shall be produced when required by the stockholders at any general meeting.

38. The board may from time to time declare dividends of so much of the net profits as they may deem it prudent to divide. If any stockholder be indebted to the corporation, his dividend, or so much thereof as may be necessary, may be applied to the payment of the debt, if the same be then due and payable.

39. If the board declare a dividend by which the capital of the corporation shall be diminished, all the members present who do not dissent therefrom and cause said dissent to be entered on the minutes of the resolutions and proceedings, shall be jointly and severally liable to the creditors of the corporation for the amount the capital may have been so diminished; and may be decreed against therefor on a bill in equity filed by any creditor; and moreover every stockholder who has received any such dividend shall be liable to the creditors for the amount of capital so received by him.

40. The stockholders may at any time in general meeting resolve to discontinue the business of the corporation, a majority of the capital stock being represented and voted in favor of such discontinuance, and may divide the funds and assets that may remain after paying all debts and liabilities thereof. Public notice of such resolution shall be immediately given by advertisement in some newspaper of general circulation published near the principal office or place of business of the corporation, for three months at least before any dividend of the capital shall be made; and the said resolution shall be forthwith certified by the president under his hand and the common seal of the corporation to the secretary of the state, who shall preserve the same in his office, and deliver a copy to the clerk of the house of delegates to be printed and bound with the acts of the legislature. As soon as practicable after such resolution is passed, the stockholders shall cause ample funds and assets to be set apart, either in the hands of trustees or otherwise, to secure the payment of all debts and liabilities of the corporation; and any creditor who supposes his claim not to be sufficiently secured thereby, whether such claim be then due or thereafter to become due, may on bill in chancery, and proper evidence in support thereof, obtain an injunction to prevent the distribution of the capital, and a decree against any stockholder for the amount of the capital received by him; and if necessary or proper in the case, the court may appoint a receiver to take charge of and administer the funds and assets of the said corporation.

41. If any corporation to which a certificate shall have been issued, under the ninth section of this act, be not organized by the election of a board of directors within six months after the date of such certificate; or if any corporation to which a certificate shall have been issued, under either the ninth or twelfth section, suspend its operations for two years continuously, it shall be thereby dissolved.



42. The board of directors in the exercise of all powers conferred by this act, shall be subject to such by-laws and regulations, not inconsistent with the constitution and laws of this state, as the stockholders may pass from time to time in general meeting.

43. After a certificate of incorporation is issued, pursuant to the ninth section of this act, and before a board of directors are elected and qualified, additional shares of the capital of the corporation may be disposed of, so that the *maximum* capital be not exceeded, in such manner, on such terms, at such times and places, and under the superintendence of such persons, as the incorporators named in the agreement recited in the certificate of incorporation, or a majority of them, may order or direct.

44. But when there is a board of directors for any corporation to which a certificate may have been issued, under either the ninth or twelfth section, the disposal of additional shares to increase the capital, shall be subject to the order and direction of the board for the time being, so that the *maximum* capital be not exceeded.

45. In no case shall stock be sold or disposed of at less than par, in order to increase the capital; and no stock shall be regarded as taken, or the person subscribing therefor be considered entitled to the same, until the first instalment thereon be paid.

46. If more than the amount necessary to make up the *maximum* capital or the amount of stock to be disposed of, be at any time subscribed, the subscriptions at that time shall be reduced to the proper amount by deducting the excess from the largest subscriptions, in such manner that no subscription shall be reduced while any one remains larger.

47. At least ten per cent. on the par value of every share shall be paid at the time of subscription; and the residue as required by the board of directors.

48. If any person who has received for any corporation subject to this act, any sum of money on any share or shares subscribed to the capital thereof, shall fail to account for and pay over the same as the board of directors may require, or if any stockholder fail to pay any instalment upon his shares when required by the board, the corporation may recover from the party so in default, the principal sum due, with interest thereon at the rate of ten per cent. per annum until paid, and costs, by warrant or action, according to the amount, or by motion on ten days notice in lieu of an action; or such shares may, after two weeks notice published in a newspaper of general circulation, printed near the principal office or place of business of the company, be sold at public auction for ready money, and be transferred to the purchaser or purchasers by such person as the board shall for that purpose appoint.

49. Out of the proceeds of such sale, there shall be paid the expenses thereof, and the money which ought to have been paid on the said shares, with interest thereon at the rate of ten per cent. per annum until paid, and any surplus shall be paid to the delinquent stockholder.



50. If there be no sale for want of bidders, or if the sale do not produce sufficient to pay the expenses and the money which ought to have been paid, with interest as aforesaid, the corporation may recover from such stockholder whatever may remain unpaid, with interest at the rate mentioned in the preceding section, and costs, by warrant, action or motion as aforesaid.

51. Any corporation subject to this act, may by by-law, require every stockholder, who shall not have paid up his stock in full, to give bond and security for the payment in such instalments, as the board of directors may require, of the residue remaining unpaid on his stock. And in such case, bond shall be given in a penalty equal to the whole par value of stock, with one or more sureties to be approved by the board; or in lieu of personal security, it shall be secured by pledge of stocks or securities, or by deed of trust or mortgage on real estate, to the satisfaction of the board. Such bonds shall be payable to the corporation, and be conditioned for the payment at such times and in such instalments as the board of directors may require, or the residue due by such stockholder on the share or shares held by him. And if any stockholder who has given bond and security as aforesaid, fail to pay any instalment on his stock when thereto required by the board, the corporation may recover against all the obligors of the bond, or any one or more of them, the amount of such instalment, with interest thereon at the rate of ten per cent. per annum till paid, and costs, by warrant, action or motion as aforesaid; or by sale or collection of the stocks and securities pledged, or the property conveyed in trust or mortgaged as aforesaid; or the shares held by such delinquent stockholder may be sold and transferred, and the proceeds applied, and the balance, if any, then remaining unpaid be recovered, in the manner specified in the preceding three sections. If the corporation proceed in any one of the modes prescribed in this section, it shall not bar or preclude it from afterwards resorting to any other mode of collecting the residue that may remain unpaid.

52. When bonds are taken, according to the last section, for the unpaid residue of the stock, it shall be the duty of the board of directors to examine from time to time the said bonds and the securities pertaining thereto. And if they deem any such bond or security to be insufficient or doubtful, they shall require new bond and security in lieu thereof, and so, from time to time thereafter, whenever they shall find the bond and security held by the corporation against any stockholder to be doubtful or insufficient. And the corporation may enforce payment of the bonds and securities so subsequently taken, in like manner as the former bonds and securities.

53. If any stockholder fail to give bond or security, or to renew the same when thereto required as aforesaid, the whole residue remaining unpaid on his stock, with interest thereon at the rate of ten per cent. per annum until paid, and costs, may be recovered by the corporation by warrant, action, or motion, or by sale and transfer of the stock, in the manner prescribed in the forty-eighth, forty-ninth, and fiftieth sections of this act.



54. The shares of every corporation subject to this act shall be deemed personal estate, and as such shall pass to the personal representative or assignee of the stockholder, and be subject to execution.

55. The person in whose name shares may stand on the books of a corporation shall be deemed the owner thereof, so far as the corporation is concerned.

56. No shares shall be assigned without the consent of the board of directors, until the same be fully paid up, or security be given to the satisfaction of the board, for the residue remaining unpaid. And where bond and security have been given for the unpaid residue of the stock, no assignment shall affect the validity of such bond and security or the right of the corporation to resort thereto, for enforcing payment of the said unpaid residue, until the assignee shall have given bond and security, and the same shall be accepted as satisfactory by the board.

57. A transfer book shall be kept by the corporation, in which its shares may be assigned, and they shall be assignable only on the said book, under such regulations, if there be any, as may have been prescribed by the by-laws of the corporation.

58. The corporation shall provide by its by-laws, for issuing, if demanded, to every person appearing on its books as owner of any shares of stock fully paid up, a certificate therefor, under the corporate seal, to be signed by the president, and such other officer, if any, as the by-laws may direct.

59. The person to whom any such certificate has been issued, may, upon returning the same to the corporation, assign, either in person or by attorney, upon the transfer book, the whole number of shares mentioned in the said certificate, or any less number. The certificate returned shall be canceled and retained by the corporation, which shall thereupon, if demanded, cause a new certificate or certificates to be issued to the proper persons.

60. If any person shall for valuable consideration sell, pledge, or otherwise dispose of any shares belonging to him to another, and deliver to him the certificate for such shares, with a power of attorney, authorizing the transfer of the same on the books of the corporation, the title of the former, both at law and in equity, shall vest in the latter, so far as may be necessary to effect the sale, pledge, or other disposal of the said shares, not only as between the parties themselves, but also as against the creditors of, and subsequent purchasers from the former; but subject, nevertheless, to the provisions contained in the fifty-fifth section of this act.

61. When a person to whom a certificate has been issued alleges it to have been lost, he shall file in the office of the corporation, first, an affidavit setting forth the time, place and circumstances of the loss, to the best of his knowledge and belief; second, proof of his having advertised the same in a newspaper of general circulation, published near the principal office of the corporation, once a week for four weeks, and, third, a bond to the corporation, with



one or more sufficient securities, conditioned to indemnify the corporation and all persons against any loss in consequence of a new certificate being issued in lieu of the former. And thereupon the board of directors shall cause to be issued to him, a new certificate, or a duplicate of the certificate alleged to be lost.

62. Every corporation subject to this act shall exhibit its books, papers, and property to such agents or committees as the Legislature may from time to time appoint to examine the same; and when required by the Legislature, shall report thereto a full, fair and detailed exhibit of its property, liabilities and condition, verified by the oath of the president and of the secretary or principal book-keeper.

63. No corporation subject to this act shall interpose the defense of usury to any warrant, action, motion, proceeding, or suit at law or in chancery. Nor shall any bond, note, debt or contract of such corporation be impaired or adjudged invalid by reason of any thing in the laws prohibiting usury.\*

64. When any such corporation shall expire or be dissolved, or its corporation rights shall cease, its property and assets shall, under the order and direction of the board of directors then in office, or of such receiver as may be appointed for the purpose by the circuit court for the county in which the principal office or place of business of the corporation is situated, or in which its property or some part thereof may lie, be subject to the payment of the debts and liabilities due by it, and the surplus to distribution among the stockholders, according to their respective interests. And such corporation may sue and be sued as before, and do all lawful acts for the purpose of collecting its debts, converting its property or assets into money, prosecuting its rights, enforcing its liabilities, and distributing its property and assets, or the proceeds thereof, among those entitled thereto.

65. It shall be sufficient service of any warrant, process or notice on a corporation subject to this act, if a copy thereof be delivered by a proper officer or person to the president of the corporation; or in his absence, be delivered to any officer, director or agent of the corporation at its principal office or place of business; or if service cannot be made as aforesaid, the corporation may be proceeded against by order of publication.

66. The right is reserved to the legislature to alter or amend by general laws, at its pleasure, this act or any certificate of incorporation issued under the same. But such alteration or amendment shall not affect or impair the right of the creditors of the corporation to have the property and assets thereof applied in discharge of their respective claims, or of the stockholders to have the surplus which may remain after providing for the debts and liabilities of the corporation, distributed among themselves according to their respective interests.

Passed, October 26, 1863.

\* § 7 post c. 69, Acts, 1865.



CHAP. CV.—An ACT to amend the act Providing for the Formation of Corporations and Regulating the same.

Sec.

1. Change in the par value of shares by old corporations.
2. Representation of stock.

Sec.

3. Regulations respecting increase of capital and change in par value of shares.
4. Real estate held by old corporations.

Be it enacted by the Legislature of West Virginia :

1. Any existing corporation which shall, under the twelfth section of the act providing for the formation of corporations and regulating the same, passed October twenty-sixth, eighteen hundred and sixty-three, accept the provisions of the said act, may change the par value of its shares as the stockholders thereof in general meeting may determine, subject to the regulation contained in the third section of the said act ; and in such case, the statement to be filed with the secretary of the state, under the said twelfth section, shall show the proposed par value of each share.

2. The stockholders of any corporation which may be formed under the said act or accept the provisions thereof, may, by by-law adopted in general meeting, provide that every share of stock shall have one vote in meetings of stockholders, notwithstanding anything to the contrary contained in the twenty-second section of the said act.

3. If the stockholders of any corporation now existing in this state, excepting banks of circulation and companies incorporated for the construction of works of internal improvement, or of any corporation which may be formed under the said act, desire to increase the amount of its capital stock or change the par value of its shares, and shall pass in general meeting a resolution to that effect, stating the proposed increase or change, the president of the corporation shall thereupon, under his signature and the common seal of the said corporation, certify the resolution to the secretary of the state ; and the secretary, under his hand and the great seal of this state, shall issue a certificate reciting the said resolution and declaring the proposed increase or change to be authorized in law ; which certificate shall be received in all courts and places as legal evidence of the change of the par value of the shares, or the authority to increase the capital stock therein declared. But the capital stock shall not be thereby increased so as to exceed in the whole one million of dollars, and the par value of the shares shall be subject to the regulation contained in the third section of the said act.

4. The provisions of the twentieth and twenty-first sections of the above mentioned act of October twenty-sixth, eighteen hundred and sixty-three, in relation to the quantity of real estate which the corporations subject to said act may hold, shall be extended so as to apply to all corporations now existing in this state, except banks and internal improvement companies, the charters of which may be altered or amended by the legislature.

Passed, November 16, 1863.



# ACTS OF 1864.

CHAP. XLIII.—An Act to allow Corporations to issue Preferred Stock.

SEC.

1. Manner of issuing stock.

2. Certificate of issue to Secretary of the State.

SEC.

3. Proviso respecting increase of Capital Stock.

Be it enacted by the Legislature of West Virginia :

1. The stockholders of any corporation now existing in this State, or which may be hereafter formed therein pursuant to law, may, by by-law or regulation passed in general meeting, provide for the issue of preferred stock upon such terms and conditions and with such stipulations and regulations respecting the preference to be given to such stock in regard to future dividends or otherwise as by the said by-law or resolution they may see fit to prescribe or agree to: Provided, that notice be given by advertisement, to be published at least once a week for four weeks successively in some newspaper of general circulation printed in this State, of the intention to offer such by-law or resolution.

2. When any such by-law or resolution is passed, the president or chief officer of the corporation shall forthwith certify a copy thereof to the Secretary of this State, who shall record the same in the book kept in his office for recording certificates of incorporation, and may charge therefor a fee at the rate of fifteen cents for every hundred words, to be paid by the corporation.

3. Nothing contained in this act shall be deemed to authorize any corporation to increase its capital stock beyond the amount to which it is now limited by law.

Passed, March 3, 1864.



# ACTS OF 1865.

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CHAP. XII.—An Act to amend the act passed October 26, 1863, entitled “an act providing for the Formation of Corporations and Regulating the same.”

SEC.	SEC.
1. Increase of maximum capital.	3. Unrestricted authority to Regulate Shares.
2. Increase in quantity of Land held by Oil Companies.	4. Repeal of former limit to amount of Capital.

Be it enacted by the Legislature of West Virginia :

1. The capital of a corporation formed under the “act providing for the formation of corporations and regulating the same,” passed October 26, 1863, shall not exceed three millions of dollars.

2. Oil companies may hold not exceeding three thousand acres of land each, notwithstanding anything to the contrary contained in the twentieth section of said act.

3. The third section of said act is hereby amended and re-enacted to read as follows :

“3. The capital of every corporation now formed or that may hereafter be formed under this act shall be divided, as may be agreed upon by the persons desiring to be incorporated, into such number of shares, and in such sums as said corporators respectively may deem proper and expedient.”\*

4. The fourth section of the above mentioned act is hereby repealed.

Passed, February 3, 1865.

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CHAP. LXIX.—An ACT defining the Terms on which Foreign Corporations may hold Real and Personal Estate in this State.

SEC.	SEC.
1. Placed upon same footing as if formed under laws of this State.	5. Penalty for failure to appoint attorney and file copies of law and charter.
2. Required to file copy of law and have recorded copy of charter under which formed.	6. Record of power of attorney.
3, 4. Required to appoint attorney in this State.	7. Forbidden to plead usury.
	8. Fees for recording.

Be it enacted by the Legislature of West Virginia :

1. Any corporation duly chartered by the laws of any of the United States, or territories thereof, for the purpose of mining for petroleum, or rock oil ; for coal oil ; for coal, iron, or other minerals, in said state or territory, may hold real and personal estate in this state, if its charter authorize it to do so, upon the same terms, in like quantity, and on the same condition imposed upon corporations created by the laws of this state.

\* For “preferred stock” see ante c. 43, Acts 1864.



2. Every such corporation desiring to hold real estate within this state shall file in the office of the secretary of the state a duly certified copy of the law under which it is formed ; which shall be preserved by the secretary. It shall cause to be recorded in the office of the secretary of the state, and in the office of the recorder of the county in which its real estate or the greater portion thereof is situated, whenever such county is organized, a duly certified copy of its charter, to be recorded by the secretary in the books in which certificates of incorporation issued under the laws of this state are recorded.

3. Every such foreign corporation shall, by power of attorney duly executed by it, appoint some person residing in this state its attorney with authority to accept service of all lawful processes and notices against such corporation in this state; and if he refuse so to accept such process or notice, service may be made on such attorney, and such service shall be equivalent to service on his principal.

4. Such power of attorney shall be filed in the office of the secretary of the state, and if such attorney dies or removes from this state, the said corporation shall appoint another attorney with like powers.

5. Every such foreign corporation which shall, after the first of July, eighteen hundred and sixty-five, operate in this state without such appointment of an attorney, or shall have failed to comply with the second section of this act, shall forfeit and pay not less than one hundred and not over three hundred dollars, to be recovered as other fines, and when so recovered to be applied to the use of free schools.

6. Every such power of attorney in this act mentioned shall be recorded by the secretary of the state, in the manner provided by the fifteenth section of the said act of the Legislature of this state.

7. The said foreign corporations shall be subject to the sixty-third section of the said act.

8. For any recording which may be done pursuant to this act, the secretary of the state and recorder may charge at the rate of ten cents per hundred words.

Passed, February 28, 1865.



CHAP. XLII.—An ACT to Provide for Recording, in the office of the Secretary of the State, Deeds and other Writings relating to Property in counties in which no records are kept.

<p>Sec. 1. General objects of act defined—records as evidence. 2. Duties and fees of Secretary of the State. 3. Effect of record.</p>	<p>Sec. 4. Copies of records. 5. Removal of the recorded writings to the several counties.</p>
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Be it enacted by the Legislature of West Virginia :

1. Any writing mentioned in the first section of chapter one hundred and twenty-one of the Code of Virginia, second edition, or the one hundred and nineteenth chapter, or in the one hundred and eighteenth chapter of the said Code, which is to be or may be recorded in any county of this state in which, by reason of war or insurrection, no records are kept, may be admitted to record in the office of the secretary of the state, as to any person whose name is signed thereto, when it shall have been acknowledged by him or proved by two witnesses as to him, before the secretary of the state, or when the same shall have been acknowledged or proved and certified in the manner required by law. When any writing admitted to record in the office of the secretary of the state, or a certified copy thereof, is offered in evidence, it shall not be necessary to prove that no records were kept in the proper county, by reason of war or insurrection at the time the same was so admitted to record; but it shall be so presumed unless evidence to the contrary be produced.

2. It shall be the duty of the secretary of the state, upon being satisfied at any time that no records are kept in a county, by reason of war or insurrection, to admit to record all writings which, as the law now is, might be recorded in such county; and to record the same in a well bound book to be provided at the public expense and kept in his office. Writings admitted to record under this act shall be subject to the same tax as if they were recorded in the counties in which they might otherwise be recorded, to be paid to the secretary before they are admitted to record. The secretary shall account for and pay into the state treasury quarterly all taxes received by him under this act. The secretary shall charge and receive the same fees for recording any writing under this act that a recorder would be entitled to charge and receive for similar services.

3. The recording of any writing admitted to record under the provisions of this act shall have the same effect as if such writing had been recorded in the county wherein it might otherwise have been recorded, until records can again be kept in such county, and no longer.

4. Copies of writings admitted to record by the secretary of the state, pursuant to this act, certified by him under his hand to be true copies, shall have the like effect as copies certified by a recorder of writings duly recorded in his office, and the secretary may charge the same fees for such copies as the recorder.

5. The Governor, whenever he is satisfied that the writings



recorded in the office of the secretary of the state, as aforesaid, relating to property in any county, or which as the law now is should be recorded therein, can safely be removed to and kept in such county, may order the said writings to be delivered to the recorder thereof; and the recorder shall thereupon duly record the same in his office, in like manner and with like effect as if the same had been originally admitted by him to record; and may charge the same fees for such recording. And if any original writing admitted to record by the secretary of the state be lost or destroyed, a copy certified by the secretary under his hand may at any time be admitted to record and recorded in the proper county in place of such original.

Passed, February 20, 1865.











