

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

WILLIAM C. GREGORY,

Plaintiff,

v.

Case No. 20-2441-5

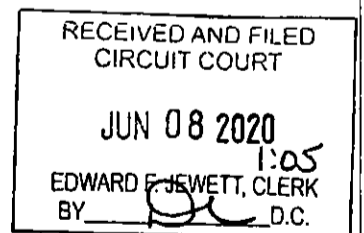
RALPH S. NORTHAM,
in his official capacity as Governor of Virginia,
Patrick Henry Building
1111 East Broad Street
Richmond, VA 23219,

JOSEPH F. DAMICO,
in his official capacity as Director, Virginia Department of General Services,
1100 Bank Street, Suite 420
Richmond VA 23219

Defendants.

**COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE
RELIEF**

Plaintiff, by counsel, states the following as his complaint for declaratory and temporary and permanent injunctive relief against Defendants:



1. This is a proceeding pursuant to the Declaratory Judgment Act, Va. Code §§ 8.01-184 *et seq.*, to obtain a judicial declaration that the activities of Defendants in attempting to remove, damage, or alter the statue of Robert E. Lee on Monument Avenue in the City of Richmond, and in allowing the defacing of such statue and its pedestal, violate Defendants' duties under a deed (the "Deed") made on March 17, 1890, conveying the the statue, its pedestal, and the 200 foot diameter circular plot of land on which it sits at the intersection of Monument Avenue and Allen Street (the "Lee Monument") to the Commonwealth of Virginia. The Deed is attached as Exhibit "A", pursuant to a Joint Resolution of the General Assembly dated December 19, 1889, Acts of Assembly 1889, chapt. 24. (the "Joint Resolution"), attached as Exhibit "B".

2. This Court has jurisdiction over the matter in controversy pursuant to Va. Code § 17.1-513.

3. Venue in this Court is proper, pursuant to Va. Code § 8.01-261 because the property involved is located in the City of Richmond, where each Defendant has an official office and regularly conducts official duties.

4. Plaintiff is the great-grandson and an heir at law of Roger Gregory and Bettie F. Allen Gregory, parties and signatories to the Deed.

5. The Deed was signed on behalf of the Commonwealth of Virginia by P. W McKinney, who was then Governor of Virginia.

6. The Robert E. Lee Monument is a 21 foot high equestrian statue on a 40 foot high granite base, in a 200 foot diameter circular plot of land in the intersection of Monument Avenue and Allen Avenue in the City of Richmond, Virginia. It is described in the registration for the National Register of Historic Places as "a masterpiece of the internationally renowned academic sculptor Marius Jean Antonin Mercie" and "remains the culmination of a beautiful composition and urban amenity".

7. The State of Virginia, acting by and through the Governor of the Commonwealth and pursuant to the Deed and the Joint Resolution, accepted the Deed in token of the acceptance of the conveyance and guaranteed that it would hold the statue and pedestal and circle of ground "perpetually sacred" to the purpose of memorializing Robert E. Lee, and that the Commonwealth would "faithfully guard it and affectionately protect it".

8. Defendant Ralph S. Northam is the Governor of Virginia and is sued in his official capacity. As Governor, he is charged under the Constitution of Virginia with the duty to assure that the laws of the Commonwealth and the United States are faithfully executed. Article V, § 7. He also has the duty, pursuant to the Joint Resolution and the Deed, to assure that the guarantee of the Commonwealth to hold perpetually sacred for the purpose to which they have been devoted the statue,

pedestal and ground on which they rest is honored and secured, and to protect and guard the Lee Monument.

9. The remaining Defendant is an appointee of the Governor and is being sued in his official capacity. The remaining defendant has derivative responsibilities under the law to assure that the Lee Monument is preserved and protected in accordance with the terms and conditions of the conveyance to the Commonwealth and the provisions of Acts of Assembly 1889 chapter 24, a copy of which is attached hereto as Exhibit A.

10. The provisions of the Deed and the Joint Resolution authorizing the Governor of Virginia to accept the conveyance of the Lee Statue, the pedestal and associated land are binding on Defendants.

11. On information and belief, the defendants intend to have the Lee Statue removed as early as Tuesday, June 9, 2020.

12. The stated intentions of Defendants to remove the Lee statue are in conflict with the Deed and Joint Resolution.

13. The Lee Monument has international artistic, cultural, and historical significance.

14. The Lee Monument was donated to the Commonwealth following a 20 year private fundraising process. The cost was \$77,500, which is equivalent to about two million dollars today.

15. On Thursday, June 4, 2020, at a press conference, Governor Ralph S. Northam announced that he had decided to remove the Lee Monument, and had directed the Department of General Services to remove it "as soon as possible". Governor Northam gave no indication that he had consulted with or solicited, prior to his decision, the views of the Virginia Art and Architecture Review Board, the Virginia Department of Historic Resources, the U.S. Department of the Interior, or any other organization with an artistic, cultural, or historical preservation mission.

16. During the last days of May 2020 and the first several days of June 2020, vandals have repeatedly desecrated, damaged and altered the Lee Monument while Defendants have failed to enforce existing Virginia statutes prohibiting such conduct. This vandalism, which has occurred in large part because of Defendants' failure to guard and protect the Lee Monument as required by the Deed and Joint Resolution, and carry out their official responsibilities, is being asserted as a basis for removing the Lee statue.

17 If the injunction is not granted, the defendants will be free to remove the Lee Monument. The removal would inherently result in irreparable harm to the Plaintiff. His family has taken pride for 130 years in this statue resting upon land belonging to his family and transferred to the Commonwealth in consideration of the Commonwealth contractually guaranteeing to perpetually care for and protect the Lee Monument.

18. The failure to enter an injunction would allow the Commonwealth to breach its contract with impunity.

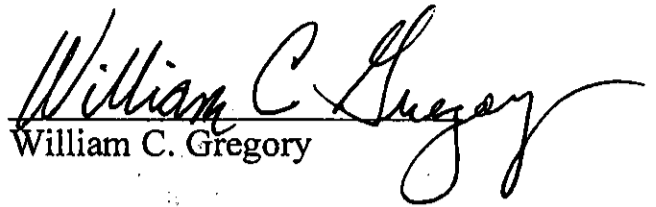
WHEREFORE, Plaintiff prays for temporary and permanent injunction and judgment declaring that the actions of Defendants to remove the statue of Robert E. Lee and the failure of Defendants to guard and protect the Lee Monument violate the provisions of the Deed and the Joint Resolution, the Constitution of Virginia, and Virginia law; for temporary and injunctive relief barring Defendants from carrying out the activities associated with the removal of the Lee statue; that the Court declare that the Plaintiff is entitled to enforce the covenants in the Deed, and for such other relief as the Court deems proper in the circumstances.

William C. Gregory

By Joseph E. Blackburn, Jr.
Of counsel

Joseph E. Blackburn, Jr. Esquire (13744)
BLACKBURN, CONTE, SCHILLING & CLICK, P.C.
300 West Main Street
Richmond VA 23220
Tel: (804)782-1111
Fax: (804) 648-3914

VERIFICATION

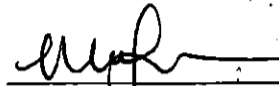

William C. Gregory

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Richmond, to-wit:

This day personally appeared before me William C. Gregory, and who, under penalty of perjury, made oath that the allegations set forth in the foregoing complaint are, according to the best of his knowledge, information and belief, true and correct.

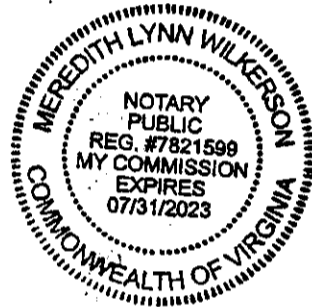
Subscribed and sworn to before me this 8 day of June, 2020.



Notary Public

Registration number: 7821599

My Commission Expires: 07/31/2023



See Monument
Act
To of the
State of
Virginia

EXHIBIT
A

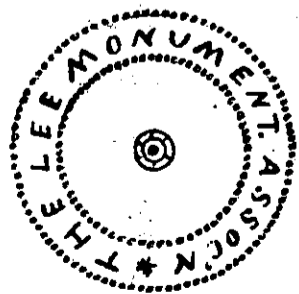
Whereas the Lee Monument
had finished the work for which
granted, and whereas it is deemed to
be the most appropriate supplement to the
Equestrian Statue of General Rabe
being completed for said Associa
of Paris. and the monument of which
a part should be presented to
and whereas the General Assembly
highly appreciating, and approving
purpose had by special statute
19th day of December 1889, a act
authorized and requested the Gov
and on behalf of the Commonwealth
appropriate conveyance of the
of such acceptance and of the qua
State hereinbelow set out.

Now therefore this deed
the 19th day of March 1890 before
Monument Association parties
and Otway S. Allen and Mary M.
his wife, Roger Gregory and Be
his wife who was Bettie T. C
Ogilson and Anarcha A. Ogilson he
was Anarcha Allen, parties of the
and the State of Virginia parties.

Witnessed: That
the first part, in consideration
by and with the approval and consent
of the second part who were of
granted of the Monument Si
by their execution of this Inst

under the property herein above
 which is the Monument Site
 on said plat by the figure of the
 Also the pedestal erect-
 ing completed upon said site of
 Statue of General Robert E. Lee
 by Mr. Mercier in the City of Wash-
 ington which statue is to be placed
 pedestal the whole constituting
 to General Robert E. Lee; for the
 which the said Lee Monument Association
 organized The State of Virginia, pa-
 part acting by and through the
 the Commonwealth and pursuant to
 provisions of the Special Statute her-
 tioned executed this instrument in
 acceptance of the gift of her go-
 she will hold said Statue and pedestal
 ground perpetually sacred to the ob-
 purposes to which they have been
 she will faithfully guard it and aff-
 protect it;

Witness the following Signatures:



J. W. McKinney, Jr.
 L. M. Davis
 W. M. Mills
 March Allen Mills
 Roger Gregory
 Curtis T. Gregory
 Otway S. Allen
 Mary M. Donald Allen
 D. M. N. S. S.

at President ^{and} altho by the Special
direction of the Board of the
said Association.
Given under my hand this 17th
1890.

C. Lee Prosser
Notary

Virginia,
King William County } To wit:
I O. On Wins
the peace for the County of King
the State of Virginia, do certify
Gregory and Peter F. Gregory his wife
are signed to the writing hereto
date on the 17th day of March, 1890
me at their residence Edling Green
County of King William and acknowledge
same to be their act and deed
Given under my hand this 19th
A. D. 1890.

O. On Winsor

City of Richmond } To wit:
State of Virginia }
I O. S. Spallan
public for the City aforesaid, in
do hereby certify that Ormay S.
Onc Donald Allen his wife who
signed to the writing hereto, on
date March 17th 1890, have acknow-
same before me in my City afo-
Given under my hand this 21st

O. S. Spallan

State of Virginia,
City of Richmond, J. D. int.
I, C. Lee Moore a Notary
and the State of Virginia for the City aforesaid do certify
that the State of Virginia for the City aforesaid do certify
sp. W. McKinney Governor of Virginia who
as Governor is signed to the above writ-
ing date the 17th day of March 1890 after
appeared before me in my City aforesaid
acknowledged the same to be the act
of the Governor of Virginia.
Given under my hand this 22nd day of

C. Lee Moore
Notary Public

This deed was presented in the Clerk of
Henrico County Court on the 28th day of
and with the certificate annexed admitted
at 10 o'clock A.M.

Teste: Samuel P. Waddell
C. H. C.

This Deed made this 22nd day of
and the year One thousand Eight Hundred
Ninety between Maggie A. Garrett my
Wife of the said Benj. K. Garrett
of the first part and Reubin T. Hill
of the second part. Witnesseth That in
presence of the sum of Four Hundred (\$400) &
the said parties of the first part do grant
the said Reubin T. Hill with General W.
all those two certain pieces or parcels of
all the improvement thereon lying in
the County of Henrico, about Three miles
the City of Richmond bounded and described
as follows:

11 Mag. Ct
all
to read
111. Reubin
T.
11. 1891 20
ing sold to R.
Hill.

A PLAT of that part of the real estate of the late Wm C. Allen, to be called THE W.C. ALLEN ADDITION lying West of Lombardy Street, partly in the City of Richmond and partly in Henrico Co. Va. between Broad Street extended and Park Avenue formerly Seiffelstein Road, extending Westward to a straight line between two stone monuments marked W.C.A. one on the South side of Broad Street extended, the other on the North side of Park Avenue or Seiffelstein Road.

The subdivision appearing in the PLAT is made with the free consent and in accordance with the desire of the undersigned owners, and proprietors of the land embraced therein pursuant to Sections 1 & 2 Chapter 486. Session Acts of the Assembly of Va 1887-8.

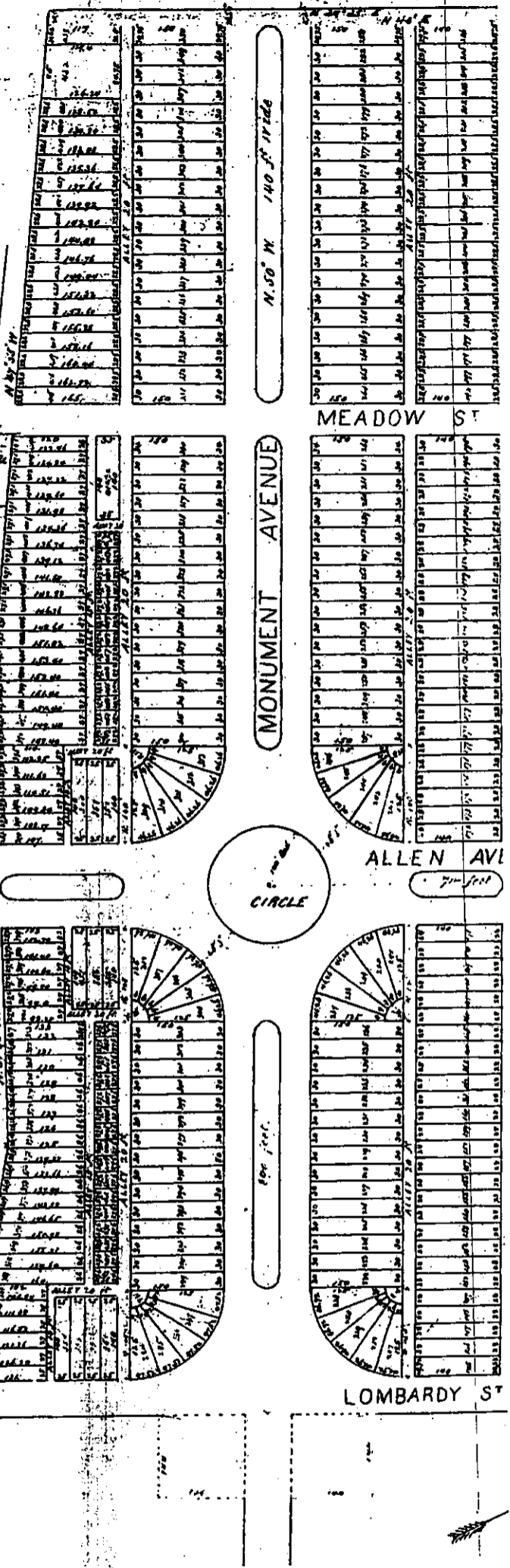
Bates & Bolton
Engineers

Dec 18th 1888



Frederick Lee
President Lee Monument Association

Thomas A. Allen
Mary W. Donald Allen
Roger Gregory
Bettie F. Gregory
T. M. Wilson
Martha Allen Wilson



State of Virginia
City of Richmond

I, C. Lee Moore a Notary Public for the City of Richmond in the State of Virginia do certify that Frederick Lee President of the Lee Monument Association whose name is signed to the above plat bearing date on the 18th day of December 1888, personally appeared before me in my City aforesaid, and acknowledged that same to be the act and deed of the association, so far as their rights and interests are concerned herein and affixed thereto the common seal of said association a testimony thereof by virtue of his authority as President and also by the special authorization and direction of the Board of Managers of the said association, in and under my hand this 23rd day of April 1889.

Whereas the Lee Monument Association has finished the work for which it was organized and whereas it is deemed by all the parties to this instrument to be the most graceful and appropriate supplement to that work the Equestrian Statue of General Robert E Lee about being completed for said association in the City of Paris and the monument of which it is to form a part should be presented to the Commonwealth and whereas the General Assembly of Virginia highly appreciating and approving this patriotic purpose has by special statute approved the 19th day of December 1889 accepted the gift and authorized and requested the Governor in the name and on behalf of the Commonwealth to execute any appropriate conveyance of the same in token of such acceptance and of the guarantee of the State herein [belong?] set out

Now therefore this deed made this the 17th day of March 1890 between the Lee Monument Association party of the first part and Otway S. Allen and Mary McDonald Allen his wife, Roger Gregory and Bettie F. Gregory his wife who was Bettie F. Allen and N.M. Wilson and Martha A. Wilson his wife who was Martha Allen, parties of the second part and the State of Virginia a party of the third part

Witness[to?] That the parties of the first part in consideration of the promises by and with the approval and consent of the parties of the second part who were the original grantors of the Monument Site, signify by their Execution of this Instrument, do grant[,] transfer and convey unto the party of the third part with Special Warranty the following property to wit: That piece or parcel of land lying and being in the County of Henrico just beyond the present western confines of the City of Richmond contained within a circle whose radius is (100) One Hundred feet whose centre is the middle point of the intersection of Monument Avenue and Allen Avenue and whose location and description are more fully and clearly shown upon a plat of The Wm C Allen Addition recorded on the 27th day of April 1889 in plat Book No. 6, page 63 in the Clerks Office of the County Court of Henrico County to which plat reference is hereby [special?]

made the property herein above conveyed, which is the Monument Site being indicated on said plat by the figure and the word "Circle."

Also the pedestal erected and about being completed upon said site and the Equestrian Statue of General Robert E Lee being executed by M. Mercie in the City of Paris and now completed which statue is to be placed upon said pedestal the whole constituting the Monument to General Robert E. Lee, for the erection of which the said Lee Monument Association was organized.

The State of Virginia, party of the third part acting by and through the Governor of the Commonwealth and pursuant to the terms and provisions of the Special Statute herein before mentioned executes this instrument in token of her acceptance of the gift and of her guarantee that she will hold said Statue and pedestal and Circle of ground perpetually sacred to the Monumental purpose to which they have been devoted and that she will faithfully guard it and affectionately protect it.

Witness the following Signatures and Seals P.W. McKinney, President L.M. Assn {Seal} N.M. Wilson {Seal} Martha Allen Wilson {Seal} Roger Gregory {Seal} Bettie F. Gregory {Seal} Otway S. Allen {Seal} Mary McDonald Allen {Seal} P.W. McKinney, Governor {Seal}

Virginia, City of Richmond} To wit: I.C. Lee Moore, a Notary Public in the State and for the City aforesaid to certify that P.W. McKinney, President of the Lee Monument Association, whose name as president is signed to the above writing bearing date the 17th day of March 1890 personally appeared before me in my city aforesaid and acknowledged the same to be the act and deed of the said Association and that he executed the same and affixed thereto the common seal of said Association testimony whereof by virtue of his authority

as president and also by the Special Authorization and direction of the Board of Managers of the said Association. Given under my hand this 17th day of March 1890. C. Lee Moore, Notary Public

Virginia, King William County} To wit: I O.M. Winston, a Justice of the peace for the County of King William in the State of Virginia, do certify that Roger Gregory and Bettie F. Gregory his wife whose names are signed to the writing hereto annexed bearing date on the 17th day of March 1890 appeared before me at their residence Elsing Green in the said County of King William and, acknowledged the same to be their act and deed. Given under my hand this 19th day of March A.D. 1890 O.M. Winston, J.P>

City of Richmond, State of Virginia} To wit: I M.L. Spotswood a Notary Public for the City aforesaid in the said State do hereby certify that Otway S. Allen and Mary McDonald Allen his wife whose names are signed to the writing hereto annexed bearing date March 17th 1890 have acknowledged the same before me in my Cify aforesaid. Given under my hand this 21st day of March 1890 M.L. Spotswood, N.P.

State of Virginia, City of Richmond} To wit: I W.S. [Dash...?], a Notary Public for the City aforesaid in the state of Virginia do certify that N.M. Wilson and Martha Allen Wilson his wife whose names are signed to the [within?] writing dated 17th day of March 1890 have acknowledged the same before me in my City aforesaid. Given under my hand this 20th day of March 1890 W.S. [Dash...?]

370 State of Virginia, City of Richmond} To wit: I C. Lee Moore a Notary Public in the State and for the City aforesaid do certify that P.W. McKinney Governor of Virginia whose name as Governor is signed to the above writing bearing date the 17th day of March 1890 personally appeared before me in my City aforesaid and acknowledged the same to be the act and deed of the Governor of Virginia. Given under my hand this 27th day of March 1890. C. Lee Moore, Notary Public.

might have been so directed, and shall, and may do, and perform all acts, execute and return such warrants, and be liable in the same manner and to the same extent that constables are by the laws now in force.

16. The sergeant of said town shall be a conservator of the peace, and shall have power to arrest in said town, or anywhere within Washington county, upon a warrant issued by the mayor, a justice of the peace, or councilman, any person charged with a violation of the laws of the commonwealth or ordinances of said town; and where a violation of the laws or ordinances aforesaid are committed in his presence, he shall have authority and power, without warrant, forthwith to arrest the offender and carry him before a justice of the peace of Washington county, or the mayor, or some conservator of the peace of said town, to be dealt with according to law. The sergeant shall collect the taxes voted by the council, for which he shall be allowed a certain per centum for collecting and paying out the same, the rate to be fixed by the council. He shall have the like rights of distress and power for collecting taxes and levies made by said council of said town, as tax collectors in similar cases, and in the collection of all fines arising under the authority of this act, or of any by-laws made in pursuance thereof, he shall have and possess the same rights and powers as aforesaid. He shall pay over the money in his hands to the treasurer of said town, taking his receipt for the same. He shall perform all the duties of overseers of roads and streets in the corporation in accordance with the laws of Virginia. No road tax shall be assessed upon the property within the corporation except by the council aforesaid, which road tax shall be expended upon the roads and streets of said town by the sergeant aforesaid, under direction of the council. For his services as overseer of roads and streets, he shall be entitled to the same compensation allowed by law to overseers of roads.

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

CHAP. 24.—JOINT RESOLUTION authorizing the governor, on behalf of the state, to accept the gift of the Lee monument.

Approved December 29, 1889.

Resolved by the senate (the house of delegates concurring), Whereas it has been brought to the notice of the general assembly that the Lee monument association proposes, as the most graceful and appropriate disposition of the equestrian statue of General Robert E. Lee, about being completed in the city of Paris, and of the monu-

ment of which it is to form a part, to present the same to the commonwealth; and whereas this patriotic purpose is highly appreciated and approved by the general assembly.

1. Be it therefore resolved by the general assembly of Virginia, That the governor be, and he is hereby authorized and requested, in the name and in behalf of the commonwealth, to accept, at the hands of the Lee monument association, the gift of the monument or equestrian statue of General Robert E. Lee, including the pedestal and circle of ground upon which said statue is to be erected, and to execute any appropriate conveyance of the same, in token of such acceptance, and of the guarantee of the state that it will hold said statue and pedestal and ground perpetually sacred to the monumental purpose to which they have been devoted.

CHAP. 25.—An ACT to authorize the Norfolk and North Carolina canal company, as successors to the Dismal Swamp canal company, to increase its capital stock and issue bonds.

Approved December 20, 1889.

Whereas the rights, franchises and property of the Dismal Swamp canal company were recently sold under a deed of trust from said company, dated first day of July, eighteen hundred and eighty-two, and also by virtue of an order of the corporation court of the city of Norfolk, pronounced on the twenty-fourth day of October, eighteen hundred and eighty-eight; and whereas the said company has been reorganized by the purchasers under the name of the "Norfolk and North Carolina canal company," by virtue of the general provisions of the law, as contained in sections one thousand two hundred and thirty-three, to one thousand two hundred and thirty-six, inclusive, of the code of Virginia, edition of eighteen hundred and eighty-seven; and whereas the said Norfolk and North Carolina canal company, having thus succeeded to the rights, franchises and property of the said Dismal Swamp canal company, desires to make extensive improvements and accessions to the property so acquired by it, to accomplish which it is expedient that the said Norfolk and North Carolina canal company shall have power to increase its stock beyond the present limit of three hundred thousand dollars, and to issue bonds; therefore,

1. Be it enacted by the general assembly of Virginia, That the said Norfolk and North Carolina canal company may, from time to time, by a vote of a majority of its stockholders, increase its capital stock to a sum not ex-

Capital stock.