

ACTS

OF THE

GENERAL ASSEMBLY OF ALABAMA.

PASSED AT THE

SESSION OF 1886-87,

HELD IN

THE CITY OF MONTGOMERY.

COMMENCING 2D TUESDAY IN NOVEMBER, 1886.

With Separate Index to General and Local Laws.

THOMAS SEAY, GOVERNOR.

W. J. SAMFORD, PRESIDENT OF THE SENATE,

THOS. G. JONES, SPEAKER OF THE HOUSE.

MONTGOMERY, ALA.:

W. D. BROWN & CO., STATE PRINTERS AND BINDERS,
1887.

ilroads

erect and operate in said town of Florence and its vicinity, gas works, electric light and power works and water works, for supplying said town of Florence and vicinity with light and water; to construct and operate in said town of Florence and its vicinity for a distance of ten miles from the present corporate boundaries of said town, railways for the carriage of persons or the transportation of property, taking for such carriage or transportation, reasonable fare or tolls, and using such motive power as may be deemed best; but without the consent of the corporate authorities of said town, must not use the streets thereof; to keep and maintain stock-yards and slaughter-houses, and to keep and maintain wharves, depots and warehouses on its own lands in or near the said town of Florence.

Approved February 28, 1887.

No. 235.]

AN ACT

[s. 392.]

To incorporate the Birmingham and Cahaba River Water Works Company, for the city of Birmingham, and to confer upon it certain corporate powers.

WHEREAS, It will greatly promote the health and comfort of the citizens of Birmingham, and of its suburbs, to have an ample supply of good and pure water, and the same is greatly needed; And whereas, the Birmingham and Cahaba River Water Works Company desire to be incorporated to supply it; And whereas, in the judgment of the General Assembly the object of the corporation cannot be obtained under the general laws—

Corporators.

SECTION 1. *Be it enacted by the General Assembly of Alabama*, That James E. Webb, Robert Jemison, Charles E. Waller and John White, and such other persons as they may associate with them, their successors and assigns, be and they are hereby created and constituted a body politic and corporate under the name and style of the Birmingham and Cahaba River Water Works Company, and by that name may contract and be contracted with, sue and be sued,

plead and be impleaded, and may have and use a common seal, which they may alter or renew at pleasure, and may enact and execute such by-laws, rules and regulations for government and management of the affairs of said company as they may deem expedient, and may elect or appoint such officers and agents as may be necessary.

SEC. 2. *Be it further enacted*, That the objects and business of said company shall be to establish and construct water works within or near the corporate limits of said city of Birmingham, and to send and distribute water throughout the said city, and places adjacent thereto; and to that end said corporation may purchase and hold real estate within the county of Jefferson and counties adjacent, and any other property that may be necessary and expedient for the carrying on of said business, and also to that end and for that purpose the said company is hereby authorized and empowered by its officers, and persons in its employment, to enter upon, survey and mark out or lay off, any land between the place or places from which the water for the purposes aforesaid are to be drawn, and the place or places for the distribution thereof, for the route or course thereof, and to dig, construct, lay or make any dam, reservoir, ditch, canal, pipes or tubes of any material or size, or aqueduct of any kind, that the said company may deem best for the conducting of such water to the city of Birmingham, and from time to time and at any time afterwards to enter upon and dig and work upon said lands along the aforesaid route or course, for the purpose of laying, re-laying, examining, repairing, altering or amending such canal, channel, pipes, tubes or aqueducts, by and with the consent of the owners of such lands, and if the owners of such lands cannot agree with said company for such right or easement, then the said company may, and it is hereby authorized, to condemn such right by a proceeding or proceedings had and conducted in accordance with the provisions of Article 2, Chapter 17, of Title 2, of Part 3, of the Code of Alabama.

Objects and powers.

SEC. 3. *Be it further enacted*, That said company is hereby authorized to lay pipes and aqueducts for conducting its water, and for that purpose make execava-

Laying pipes, &c.

tions through any of the streets, alleys, or public grounds of the said city of Birmingham, by and with the consent of the corporate authorities of said city.

SEC. 4. *Be it further enacted*, That for the purpose of carrying out the objects of its incorporation, the said company is hereby authorized, in order to obtain a supply of water for its reservoirs, pipes, and canals, to take, divert, use and condemn the water of the Cahaba river, and to construct dams, reservoirs, and for this purpose said company may institute proceedings of *ad quod damnum* against the riparian owners of said river or lands, in the probate court of Jefferson county, Alabama, as a proceeding *in rem* against the water of said river, and the riparian rights of the subjacent riparian owners, by a petition addressed to said court, under and as nearly in conformity as practicable with the provisions of Article 2, Chapter 17, of Title 2, of Part 3 of the Code of Alabama, and upon the filing of such petition, the jurisdiction of said court shall attach to the *rem*, and the judge thereof shall cause a monition or notice, signed by him as such judge, addressed "to all whom it may concern," to be given of the filing of said petition, and of the purport in general terms thereof, to be published in some paper printed in the city of Birmingham, Alabama, for twenty days prior to the day to be appointed by him for the hearing thereof; and also cause a copy of said notice to be posted by the sheriff of said county in some conspicuous places at or near the place or point on such stream or water course where it is proposed to deflect said water from its natural channel; and thereafter the proceedings in said cause upon said petition shall be had and conducted after the manner, as near as practicable, as is provided in said Article 2, of Chapter 17, Title 2, of Part 3 of the Code, except that no personal notice shall be necessary to be given to the individual riparian owners along said stream. And from any and all of these proceedings authorized by this section the right of appeal to the Supreme Court of Alabama direct, is hereby given to any person whose rights of property are affected thereby; *Provided however*, that the provisions of this section shall not apply or be construed to authorize said company to condemn or appropriate for its use the springs or waters flowing

Obtaining
water.

Riparian
rights.

Trial of ripa-
rian rights.

Appeals.

therefrom in sections 1 and 12, township 18, range 8 west, or to the sources of, and waters in Cedar Branch, in said county, or to the waters of Village creek, Five Mile creek, or to any springs used for private and domestic purposes, or to Hawkins' Springs, or to take or interfere with any water used by any other company for supplying the city of Birmingham, or to take or interfere with any water or property previously acquired by any other company for the purpose of supplying the said city of Birmingham with water.

Not to use
certain waters
mentioned.

SEC. 5. *Be it further enacted*, That the capital stock of said company shall be divided into shares of one hundred dollars each, amounting to one hundred thousand dollars, to be increased by additional shares to five hundred thousand dollars, as the business of said company may require, and at the option of a majority in value of the stockholders; said stock may be paid either in money or property.

Capital stock.

SEC. 6. *Be it further enacted*, That the said company may, by a vote of its stockholders, borrow money to carry into effect the object and provisions of this charter, and to issue its bonds and to secure their payment by a mortgage on its property and franchises.

May borrow
money.

SEC. 7. *Be it further enacted*, That if any person or persons shall wilfully injure or destroy any portion of the water works, reservoirs, fixtures or other property of said company, or shall wilfully deposit any offensive or unwholesome substance or matter in the reservoir, pipes or streams supplying the same, or shall open a communication into any of the mains or pipes thereof, otherwise than by authority of the said corporation, or its lawful or authorized agents, such other person or persons shall be guilty of a misdemeanor, and subject to prosecution in any court having jurisdiction of such offense in Jefferson county, Alabama, and on conviction shall be fined in a sum not exceeding five hundred dollars, and may be imprisoned or sentenced to hard labor for the county for not more than twelve months, at the discretion of the jury trying the same.

Injury to
property of
company.

SEC. 8. *Be it further enacted*, That said company shall have the right to make contracts with individuals and corporations for the water to be supplied by it, and to charge for and collect such water rates and com-

Contracts.

pensation therefor as may be contracted to be paid to them; *Provided*, that said company shall not have the power to sell or transfer its property or franchises to any water works company now supplying said city of Birmingham with water.

Approved February 28th, 1887.

No. 236.]

AN ACT

[s. 313.

To incorporate the Mobile and Central American Mail and Trading Company.

SECTION 1. *Be it enacted by the General Assembly of Alabama*, That H. F. DeBardeleben, of Birmingham, Alabama; A. M. Shook, of Tracy City, Tennessee; Wm. Butler Duncan, of New York; Duncan T. Parker, of Anniston, Alabama; W. F. Vandiver, of Montgomery, Alabama; J. H. Fitts, of Tuscaloosa, Alabama; O. F. Cawthorn, F. A. Luling, F. Ingate, H. Austill and Rittenhouse Moore, of Mobile, Alabama; W. E. Nowell, of Nashville, Tennessee, and W. R. Nelson, of Selma, Alabama, and such other persons as may hereafter subscribe to the stock of the Mobile and Central American and Trading Company, are hereby constituted a body politic and corporate by said name and style, and by such name may sue and be sued, may have a corporate seal, and may break or alter or amend the same.

SEC. 2. *Be it further enacted*, That said company shall have power, and is hereby authorized to purchase, charter or build and equip such iron or wooden ships as the company may see fit, to be propelled by steam or other motive power, and may navigate the same between the port of Mobile and other port or ports in Mexico, Central America and South America, or between Mobile and any ports on the Pacific Ocean, or between Mobile and other domestic ports, and may touch at or trade with any immediate port or ports.

SEC. 3. *Be it further enacted*, That said company may charter, build or purchase any and all auxiliary vessels, boats and barges as may be deemed needful; to provide fuel and other necessities, or to aid in the