

*George N. Stewart*  
**ACTS**

OF THE

**FOURTH BIENNIAL SESSION**

OF THE

**GENERAL ASSEMBLY OF ALABAMA,**

HELD IN THE

**CITY OF MONTGOMERY,**

COMMENCING ON THE

SECOND MONDAY IN NOVEMBER, 1853.

*Henry W. Collier*

HENRY W. COLLIER, Governor until December 20, 1853.

JOHN A. WINSTON, Governor.

W. GARRETT, Speaker of the House of Representatives.

WM. B. MARTIN, President of the Senate.

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MONTGOMERY :

BRITTAN AND BLUE, STATE PRINTERS.

1854.

May borrow money.

SEC. 14. *Be it further enacted,* That the said company, acting by or through its board of directors, or a quorum thereof, shall have full power to borrow money on the faith and credit of said company, to carry into effect the purposes of this act, and to issue and sell the bond or bonds of the company therefor in such form and at such rate of interest as the board of directors may prescribe, and to secure the same; to give and execute a lien or liens, by mortgage or otherwise, as the board of directors may prescribe, on all the property, means and effects of the company, or any portion thereof.

SEC. 15. *Be it further enacted,* That the said Mobile and Selma Rail Road Company are hereby authorized to intersect their road with the Girard and Mobile Rail Road upon such terms as may be agreed upon with said Girard and Mobile Rail Road Company.

May collect toll.

SEC. 16. *Be it further enacted,* That after the construction of said rail road, the company may collect toll from any person who may ride on the same, or transport merchandise or any other commodity.

May unite with Alabama and Tennessee road.

SEC. 17. *And be it further enacted,* That the Mobile and Selma Rail Road Company may form a union with the Alabama and Tennessee River Rail Road Company on such terms and conditions as may be agreed upon by and between the presidents and directors of said companies, and sanctioned by stockholders representing as much as two-thirds of the stock of said companies respectively; and on making such union, the said companies shall be regarded and held as one and the same, under the name of the Alabama and Tennessee River Rail Road Company, and so united shall be entitled to all the privileges, immunities and advantages, and be liable to all the conditions, stipulations, regulations and restrictions contained in this act.

APPROVED, February 18, 1854.

[No. 498.]

AN ACT

To incorporate the Montgomery Water Works Company.

Corporators.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That William Knox, Hugh P. Watson, John W. Murphy, John A. Elmore, John H. Murphy, Charles R. Hansford and Seth Robinson, and all such persons as are or may hereafter be associated with them, be constituted a body corporate, by the name of "The Montgomery Water Works Company."

SEC. 2. *Be it further enacted,* That the capital stock of said company shall be named and fixed by the directors herein named, but the same shall not be less than two hundred thousand dollars nor more than three hundred thousand dollars, to be divided into shares of one hundred dollars each. Capital stock.

SEC. 3. *Be it further enacted,* That the books of subscription for the capital stock of said corporation shall be opened under the direction of said directors, subject to such rules and regulations as they shall prescribe, and the stock shall be considered personal property, and shall be assignable and transferable only on the books of the company. Books for subscription.

SEC. 4. *Be it further enacted,* That the business of said corporation shall be managed by five directors, who shall be stockholders, resident in the city of Montgomery, and who shall hold their offices for one year, and until their successors are chosen. The directors shall be chosen annually, on the first Monday in April, at such place in said city of Montgomery as the directors for the time being shall appoint. The first election shall be held on the first Monday in April, one thousand eight hundred and fifty-four, or as soon thereafter as may be practicable. Notice of the time and place of such election shall be given by publication in two newspapers, published in said city, at least three consecutive weeks. Each stockholder shall be entitled to one vote for each share held by him, her or it, ten days previous to an election. Voting shall be by ballot, and may be in person or by proxy. Directors.

SEC. 5. *Be it further enacted,* That the directors shall appoint a president, secretary and treasurer, and such other officers as they shall from time to time deem necessary, who shall hold their offices until successors are appointed; and they may make and ordain a constitution and such by-laws and regulations as they may deem proper and necessary for the management of the business of the corporation. The president.

SEC. 6. *Be it further enacted,* That the directors may require payment of subscriptions to the capital stock at such times and in such proportions as they may see fit, under penalty of forfeiting all stock and payments made previously thereon, and may sue for and recover all such subscriptions as remain unpaid. Stockholders shall have notice of the time and place of such payments, by publication in two newspapers, published in the city, for four consecutive weeks. Payment of stock

SEC. 7. *Be it further enacted,* That the persons named in the first section shall be the first directors, and shall hold their offices until the said first Monday in April, one thou- Directory, and term of office.

sand eight hundred and fifty-four, and until their successors are chosen, and in case of a vacancy in the direction by reason of death or resignation of any one of the directors or otherwise, it may be filled by the remaining directors until the next annual election, or until some other shall be elected to fill the same. The directors herein named may appoint three persons, who shall be stockholders, to be inspectors at the first election; thereafter the stockholders shall choose three such inspectors at the annual elections; if no inspectors are chosen, the directors may appoint them from time to time. The directors may remove all officers appointed by them, and appoint others in their places, and fill all vacancies in the offices. If at any time an election for directors shall not take place on the day appointed by this act, the corporation shall not, for that cause, be dissolved, but an election may be held on any other day in such manner as shall be prescribed by the directors or provided by the by-laws, and the directors in office shall so continue until others are elected to succeed them.

May remove officers.

May hold property for its purposes.

SEC. 8. *Be it further enacted*, That for the purpose of supplying the city of Montgomery with good and wholesome water, the said company may purchase, take and hold any real estate or personal property of any kind whatsoever, and by their directors, agents, servants or other persons employed by it, may enter upon the lands of any person or persons as may be necessary for said purpose, and may take and use water from any springs, ponds, fountains or rivers, and divert and convey the same to said city, and may lay and construct any pipes, conduits, aqueducts, wells, reservoirs or other works or machinery necessary or proper for said purpose. Said corporation may, as aforesaid, enter upon any lands, streets, highways, roads, lanes, or public squares, through which they may deem it proper to convey the water from said springs, fountains, ponds, streams, wells and reservoirs, or other works for that purpose, leaving the said lands, streets, highways, roads, lanes and public squares in the same condition, as nearly as practicable, as they were before entry; but the said company shall not, within the bounds of said city of Montgomery, lay and construct said pipes, conduits, aqueducts and other works through any private garden, courts, yard or building lot.

Survey and map to be made, and other duties.

SEC. 9. *Be it further enacted*, That before entering, taking or using any lands for the purpose of this act, the directors of the company shall cause a survey and map to be made of the lands intended to be entered upon or taken for any of said purposes, and by which the land of each

owner or occupant intended to be used or taken, shall be designated, and which map shall be signed by the surveyor or engineer making the same, and by the president of said company, and be filed in the office of the judge of probate for the county of Montgomery. The company, by any two of its officers or agents, may enter upon any lands for the purpose of making any examination, and of making said survey and map, they doing no unnecessary damage thereon.

SEC. 10. *Be it further enacted,* That in case the said company cannot agree with the said owners or occupants of any lands or water intended to be taken or used as aforesaid, for the purpose aforesaid, the president of said company may apply to the sheriff of the county of Montgomery, who shall summon a jury of seven disinterested persons, a majority of whom shall, upon their oaths, to be administered by the sheriff, assess the damages, if any, to which the owner is entitled, and render their verdict in writing, which, on the application of said president, shall, by the clerk of probate of said county, be entered of record and operate in law and equity as a conveyance of said property to said company, on its paying or offering to pay the damages, if any, assessed. The sheriff and each of the jurors shall be entitled to one dollar per day, and the clerk to one dollar for making such record, which shall be paid by said company; but either party dissatisfied with the verdict may appeal to the next circuit court of said county, entering into bond, with security, before the clerk of probate court, to be approved by said clerk, conditioned to prosecute the said appeal with effect, and pay all costs and damages which may be awarded thereon; but the progress of said business shall not be delayed or suspended pending such appeal.

SEC. 11. *Be it further enacted,* That in laying the pipes, conduits, aqueducts, or constructing or erecting works in the streets, lanes or public squares of the city of Montgomery, the company shall conform to such regulations as the city council thereof shall prescribe.

SEC. 12. *Be it further enacted,* That the directors may establish and ordain rules and regulations for the government of the use of the water from their works, so far as respects the preservation and restraining the waste thereof, and may impose penalties and forfeitures for any violation of said rules and regulations so that such penalty or forfeiture shall not in any case exceed five dollars, which penalties may be recovered, with the costs, in the name of the company, before the mayor or any justice of the peace in said city. Said rules and regulations shall be published for

Rules and regulations to be established.

three consecutive weeks in two newspapers published in the city of Montgomery, and a copy of said rules and regulations, certified by the president or secretary of said company, with affidavit to said publication of the same, made by any publisher of said papers, or foreman in their offices, shall be received as evidence in all courts.

Shall furnish water to extinguish fires.

SEC. 13. *Be it further enacted,* That the said company shall furnish water to the city of Montgomery for the purpose of extinguishing fires, upon such terms as may be agreed upon between the directors thereof and the city council; and if they cannot agree, applications may be made by said company or said city council, for the appointment of a jury as provided for in section (10) ten of this act, whose verdict shall prescribe the terms upon which said water shall be furnished, subject to an appeal by either party as provided in said section ten; any agreement made by the council in reference to a supply of water for said purposes, shall be obligatory upon the city. The said company may make any agreements, contracts, grants and leases for the sole use and distribution of water with individuals, associations and corporations, which agreements, contracts, grants and leases shall be valid and effectual in law.

Penalty for injury to works.

SEC. 14. *Be it further enacted,* That any person who shall maliciously or wilfully destroy or injure any of the works or property of said company, or who shall maliciously or wilfully commit any act which shall injuriously affect or tend to affect the water of said company, shall be guilty of a misdemeanor.

City authorities may subscribe for stock.

SEC. 15. *Be it further enacted,* That the mayor and aldermen of the city of Montgomery in council assembled, shall have power and authority to subscribe to the capital stock of the aforesaid company, and to issue their bonds for the same in sums of one hundred thousand (\$100,000) dollars or less, pledging the faith and credit of the city for the payment of the principal and interest of said bonds, and pledging, as a special security, the stock and proceeds thereof, which the said city shall hold in said company, which bonds shall issue under the corporate seal of the city, and be signed by the aforesaid mayor and aldermen, or a majority of them.

Collection of rents.

SEC. 16. *Be it further enacted,* That in the event of the aforesaid subscriptions of the said council being made to the capital stock of the above company, it shall be the duty of the said directors to collect the annual water-rents charged by them for the use of the water, so far as it may be possible for them to do so, and pay over into the hands of the treasurer of said company the same at least sixty

(60) days previous to the time fixed by ordinance of said city for the assessment of city taxes, and to make a special report to the aforesaid city council what dividend sum there is due said city council, if any, on account of their subscription to the said stock.

SEC. 17. *Be it further enacted*, That all the stockholders of the company hereby created, shall be severally and individually liable to the creditors of said company to an amount equal to the amount of the stock held by them respectively, for all debts and contracts made by said company until the whole amount of capital stock, fixed and limited by the directors of said company, shall be paid in and a certificate thereof shall have been made, and recorded as prescribed in the following section; and the capital stock shall all be paid in, one half thereof in one year and the other half in two years, from the time of the commencement of the works of said company under this act, or the corporation hereby created shall be dissolved.

Liability of stockholders.

SEC. 18. *Be it further enacted*, That the president and a majority of the directors, within thirty (30) days after the payment of the last instalment of the capital stock, shall make a certificate of the amount of the capital fixed and paid in, which certificate shall be signed and sworn to by the president and a majority of directors, and shall within thirty days be recorded in the office of probate court of Montgomery county.

Certificate of president and directors.

SEC. 19. *Be it further enacted*, That the indebtedness of said company shall not at any time exceed an amount equal to seventy-five (75) per centum of its capital stock, and if the indebtedness of said company shall at any time exceed such amount, the directors of said company assenting thereto shall be personally and individually liable for such excess to the creditors of said company.

Amount of indebtedness limited.

SEC. 20. *Be it further enacted*, That said corporation, by the name of "The Montgomery Water-Works Company," may sue and be sued, plead be impleaded, answer and be answered unto, defend be defended, in all manner of actions, suits, matters and things depending in any court of law and equity in the State of Alabama, and that it may have a common seal, and the same break, alter and renew at pleasure.

Legal rights.

SEC. 21. *And be it further enacted*, That the said company hereby incorporated, shall commence their works within two years and complete the same within five years from the date of the passage of this act, or the corporation hereby created shall be dissolved.

When work shall commence.

APPROVED, February 18, 1854.