

ACTS AND RESOLUTIONS

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF GEORGIA,

PASSED IN ATLANTA, GEORGIA,

AT THE

SESSION OF 1870.

COMPILED AND PUBLISHED BY AUTHORITY.

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1870.

Atlanta City Water Works.

XI.—WATER COMPANIES.

No. ACT.
255. Water-works in Atlanta.

No. ACT.
256. Atlanta & Great Western Canal Co.

(No. 255.)

An Act to authorize the Mayor and Council of the city of Atlanta to provide for the introduction of Water Works in said city, and for other purposes.

Preamble. WHEREAS, By reason of the rapid increase of population in the city of Atlanta, it has become manifest that the present supply of water for extinguishing fires and for domestic and sanitary purposes is inadequate for the wants of said city—

SECTION 1. *Be it enacted, etc.,* That for the purpose aforesaid, there shall be created within the city of Atlanta a board of water commissioners, to consist of one member from each ward, to be elected and empowered to act as hereinafter described. Said water commissioners shall be elected by the voters having the right to vote for Mayor and members of Council, and shall be chosen at any regular annual election for city officers, and the persons so elected shall constitute the board of water commissioners, and shall choose from their number, annually, one as president of said water board; but the Mayor of Atlanta and his successor in office shall, *ex officio*, always be one of said board; and the members so elected shall determine by lot or otherwise, after a period of two years, who of their number shall vacate the board, to the extent of two members, thereby creating a vacancy to be filled at the next regular election, who may hold their offices for the term of two years from the date of their installment.

SEC. 2. *And be it enacted,* That said board of commissioners, in proceeding to organize, shall take and subscribe the oath administered to the Mayor and members of the Council, and shall provide books in which shall be kept a record of the acts and doings of said board, a full report of which shall be made annually to the Mayor and Council of Atlanta; and the books of said board shall be subject to examination, at any time, by persons authorized to do so by the Mayor and Council.

SEC. 3. *And be it enacted,* That a majority of said board shall constitute a quorum for the transaction of business; and all contracts and engagements, acts and doings of said board within the scope of their duty or authority, shall be obligatory upon, and be in law considered as if done by the Mayor and Council of the city of Atlanta; and the said Mayor and Council, and all the real estate within the city of Atlanta, shall be liable for the payment

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of the principal and interest that may become due on the bonds or obligations to be issued by virtue of this act.

SEC. 4. *And be it enacted*, That the said board shall, for and in the name of the Mayor and Council of the city of Atlanta, take and hold the lands and real estate, rights, franchises and property of every kind so purchased by the board aforesaid, and any other lands, real estate or property necessary, in their opinion, for the construction of any canals, aqueducts, reservoirs or other works for conveying or containing water, or for the erection of any buildings or machinery, for laying any pipes or conduits for conveying the water into or through the said places, or to secure and maintain any portion of the works, and in general to do any other act necessary or convenient for accomplishing the purposes contemplated by this act. How board shall hold real estate.

SEC. 5. *And be it enacted*, That in case of any disagreement between said board and the owners of any lands of water-rights which may be required for the said purposes, or affected by any operation connected therewith, as to the amount of compensation to be paid to said owner, or in case any such owner shall be an infant or a married woman, or insane, or shall be absent from the State, the Judge of the Superior Court of Fulton county shall, on the application of either party, or in case any such owner shall be unknown or cannot be found, then, upon notice of such application, to be given as said court may direct, nominate and appoint three disinterested persons to examine such property and estimate the value thereof, or damage sustained thereby, who shall, after reasonable notice to the parties, or notice to be advertised as said court may direct, of the time and place where they will be heard in relation to the matter, proceed without delay to hear the same, and make their report thereon, and deliver the same to the court at the next session thereof, which shall be held in said county. Disagreement between company and land owners—how settled.

SEC. 6. *And be it enacted*, That whenever such report shall be confirmed by the court aforesaid, the said board shall, within two months thereafter, pay to the said owner, or to such person or persons as the court may direct, the sum mentioned in said report, in full compensation for the property so required, or for the damage sustained, as the case may be; and in all cases where the title or interest of any person or persons in lands required and taken up for the purpose of this act is doubtful or disputed, or in case said owner shall be unknown, insane, *non compos mentis*, or an infant, or cannot be found, the value of, or damage to, such lands awarded by the commissioners appointed by said Judge of the Superior Court, may be paid into said court upon affidavit made of such facts by the claimant, his agent or attorney, and such payments shall have the same effect as if made to the owner thereof; and the said court may proceed, in a summary way, upon petition of any person claiming to be the owner of said lands, or any part thereof, and to what person or persons the said money shall be paid, and shall have power to distribute the same among the persons entitled thereto; and thereupon the Mayor and Council of the Report confirmed, board must pay.
In case of doubtful titles and other disqualifications.
Value of lands—to whom paid.
Effect of such payment.

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city of Atlanta shall become seized in fee of such property so required, and shall be discharged from all claim by reason of such damage.

Subterranean right-of-way.
Restrictions
SEC. 7. *And be it enacted,* That the said board, in behalf of the Mayor and Council of the city of Atlanta, and all persons acting under their authority, shall have the right to use the ground or soil under any road, railroad, highway, street, lane, alley or court within the State, for the purpose of constructing, enlarging, improving any of the work contemplated by virtue of this act, upon condition that they shall not permanently injure any such road, railroad, highway, street, lane, alley or court, to be restored to its original state, and all damages done thereto to be repaired.

Certain contracts must be made in writing.
How indorsed.
May require security of contractors.
SEC. 8. *And be it enacted,* That all contracts for material, or for the construction of any part of said work which shall involve the expenditure of five hundred dollars or more, shall be made in writing, and of each contract two copies shall be taken, which shall be numbered with the number of said contract, and indorsed with the name of the contractor and a summary of the work to be done or materials furnished; one of said copies shall be deposited with the auditor of accounts of the city of Atlanta, and one shall be retained by said board; the said board shall have authority to require from any person or persons, with whom they shall enter into a contract, satisfactory security for the faithful performance of said contract according to its terms; and no member of said board shall be interested, directly or indirectly, in any contract relating to said work.

Board may issue bonds.
Limit of—interest on—where redeemable.
When and where paid.
SEC. 9. *And be it enacted,* That for the purpose of purchasing materials and constructing the said Atlanta water-works, the board of commissioners shall be authorized to issue, for and in behalf of the city of Atlanta, certain obligations which shall be known as "Atlanta water bonds," and of such denominations as convenience requires, to the amount of not exceeding five hundred thousand dollars, (\$500,000,) bearing interest at the rate of 7 per cent. per annum, redeemable at the city of New York, thirty years from date, the interest of which shall be paid annually, in the city of New York, on all bonds to which this act refers.

Mayor, etc., shall provide tax to pay interest
SEC. 10. *And be it enacted,* That for the purpose of paying interest on bonds which shall have been sold, and before a revenue can be realized from said water-works, not yet completed, the interest which may fall due on bonds disposed of, the Mayor and Council of Atlanta shall provide by tax for the payment of said interest.

Board to regulate distribution of water and fix price of.
Proviso.
SEC. 11. *And be it enacted,* That the said board shall regulate the distribution and use of said water in all places, and for all purposes, where the same may be required, and from time to time shall fix the price for the use thereof, and the times of payment, and they may erect such number of public hydrants, and in such places as they shall see fit, and direct in what manner and for what purposes the same shall be used—all of which they may change at their discretion: *Provided,* That all conduits or appliances required and furnished for the purpose of extinguishment of

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fires, shall be erected at the expense of the Mayor and Council of the city of Atlanta, and placed as they shall direct, and be under their exclusive control and direction.

SEC. 12. *And be it enacted*, That the said board shall have full power and authority to require the payment in advance for the use or rents of water furnished by them in or upon any building, place or premises, and in case prompt payment for the same shall not be made, they may shut off the water from such building, place or premises, and shall not be compelled again to supply said building, place or premises with water until said arrears, with interest thereon, shall be fully paid.

Powers of board as to payment for use of water
May shut off water.

SEC. 13. *And be it enacted*, That the said board shall make no contracts for the price of using the water for a longer term than three years, and at the expiration of any term or lease the price paid for the use thereof shall be adjusted according to the regulations then established.

Contract for use of water limited to 3 years.

SEC. 14. *And be it enacted*, That if any person or persons shall maliciously or willfully divert the water or any portion thereof from the said works, or shall corrupt or render the same impure, or shall destroy or injure any canal, aqueduct, pipe, conduit, machinery or other property used or required for procuring or distributing the water, such person or persons, and their aiders and abettors, shall forfeit to the said board, to be recovered in an action of trespass, treble the amount of damages, (besides cost of suit,) which shall appear on trial to have been sustained; and all such acts are hereby declared to be misdemeanors, and the parties found guilty thereof may be further punished by fine, not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both, at the discretion of the court.

Persons injuring or diverting shall forfeit—what.
Guilty of misdemeanor—penalty

SEC. 15. *And be it enacted*, That all lands, and real estate, and property of every kind so held, as aforesaid, by the said board, for and in the name of the Mayor and Council of the city of Atlanta, shall be exempted from all taxes and assessments.

Taxation.

SEC. 16. *And be it enacted*, That the board shall be authorized to execute promissory notes, or accept drafts, for any of the legitimate purposes of the said works, in anticipation of the receipts of the proceeds of the sale of the bonds hereinbefore authorized to be issued by them, or of the revenue of the said works: *Provided*, however, That the whole amount of the permanent indebtedness of the city to be incurred by them, by virtue of this act, shall not exceed the sum of five hundred thousand dollars.

Board may execute promissory note, accept drafts, etc.
Proviso.

SEC. 17. *And be it enacted*, That the said board shall have power to make rules and regulations respecting the introduction of the water into or upon any premises, and, from time to time, to regulate the use thereof in such manner as shall seem to them necessary and proper; and the members of said board, and all engineers, superintendents or inspectors in their service, are hereby authorized and empowered to enter, at all reasonable hours, any dwelling or other place where said water is taken or used, and when unnecessary waste thereof is known or suspected, and examine

Board may make rules.
Special powers.

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and inquire into the cause thereof; they shall have full power to examine all service pipes, stop-cocks, and other apparatus connected with said works, for the purpose of ascertaining whether the same are of the character and dimensions, and fixed in the manner directed in the permits issued therefor; and if any person or persons shall refuse to permit such examination, or oppose or obstruct such officer in the performance of such duty, he, she or they, so offending, shall be liable to such penalty, not exceeding ten dollars for each offense, as the board may impose, and the supply of water may also be shut off until the required examination is made, and such alterations and repairs are completed as may be necessary.

SEC. 18. *And be it enacted,* That for the purpose of enabling the treasurer of said city of Atlanta to pay the interest upon the bonds issued by virtue of this act, it shall be the duty of said board to pay annually to the said treasurer, and at least one week prior to the time when such payment shall become due, all the net revenue of their said works for the preceding six months, unless the said revenue shall be more than is sufficient for said payment, in which case they shall pay to said treasurer only a sufficient sum for that purpose; in order to create a fund for the payment of said bonds at their maturity, it shall be the duty of the Mayor and Council of said city of Atlanta to raise annually, by tax, the sum of thirty-five hundred dollars, until said bonds shall be paid and redeemed, which sum the treasurer of said city shall annually, on the first Monday in November of each year, pay over to said board for that purpose; the said board are hereby authorized to invest the said sum from time to time, together with such net revenue as may from year to year remain in their hands after paying all necessary expenses of said work, and the interest upon said bonds as a sinking fund for the redemption of said bonds; the said board shall have power to make such rules and regulations respecting the management of said fund as they shall deem expedient, but no part thereof shall at any time be used in any manner inconsistent herewith; they shall keep accurate and separate books from those in which their other accounts are kept, and shall annually make a full and detailed report of the state of the said fund to the Mayor and Council; in case the revenue received by the board shall not in any year be sufficient to pay said interest and all necessary expenses of said works, the said fact shall be reported in their semi-annual statements by the said board to the Mayor and Council, and it shall therefore be the duty of said Council to pay over to the said board an amount of funds equal to said deficiency; and, if necessary, they may raise said amount of tax in the next year thereafter.

SEC. 19. *And be it enacted,* That the members of said board shall not receive any compensation for their services, but shall be paid for all reasonable expenses they may incur while in the performance of their duties; the said Mayor and Council shall be authorized by a committee of their own number, or otherwise, to inspect

Duty of board as to paying treasurer.

City authorities to raise annual tax—how invested.

May punish non-payment of tax.

Annual report.

Board receives no compensation.

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semi-annually, or oftener, the state and condition of the works and property, and all property thereto belonging, and the said board shall give them every reasonable facility and assistance in making such inspection. Duty of board as to.

SEC. 20. *And be it enacted*, That the Mayor and Council of the city of Atlanta may at any time remove any member of said board: City Council may remove *Provided*, It shall satisfactorily appear, after reasonable notice to the parties, and hearing the causes of complaint and answer thereto, if any shall be offered, that the member whose removal is sought has been guilty of mal-administration or neglect of the duties of his office, that his removal will be right and proper, and two-thirds of all the members elected to the said Council shall concur in such removal. Proviso.

SEC. 21. *And be it enacted*, That said board of commissioners shall have power to appoint a competent engineer for the construction of said water-works, and to fix his compensation therefor while so employed; but said engineer shall have entire control of subordinates, either as assistants, mechanics or laborers, which may be required during the progress or after the completion of said water-works, and to fix the amount of compensation which all persons so employed shall receive. Board may appoint engineer and fix his compensation.

SEC. 22. *And be it enacted*, That until a regular city election can be held, the Mayor and Council of Atlanta shall have and exercise all the powers which this act confers upon said commissioners. Mayor, etc., ex officio board until election for commissioners.

SEC. 23. *And be it enacted*, That this act shall be deemed a public act, and take effect immediately.

SEC. 24. Repeals conflicting laws.

Approved September 23, 1870.

(No. 256.)

An Act to incorporate the Atlantic & Great Western Canal Company, and to grant certain privileges therein named.

SECTION 1. *Be it enacted, etc.*, That Edward Denmead, B. W. Frobel, Simon B. Buckner, M. A. Hardin, W. D. Anderson, Gustavus W. Smith, W. P. Price, John B. Gordon and Roland B. Hall, and their associates and successors, be, and they are hereby, created a body politic and corporate, by the name of the Atlantic & Great Western Canal Company, and by that name they and their successors and assigns shall and may continue such body politic and corporate, and as such may sue and be sued, answer and be answered unto, defend and be defended, in all courts of the State of Georgia, or any place whatsoever, having competent jurisdiction over any matter, dispute or transaction touching the business affairs or property of said company. Corporators Name. May sue.