

ACTS AND JOINT RESOLUTIONS

101

KFU  
1825  
.A24  
1872-1873

OF THE

GENERAL ASSEMBLY

OF THE

State of South Carolina,

LAW LIBRARY

PASSED AT THE MAY 7 1979

UNIVERSITY OF IOWA

REGULAR SESSION OF 1872-'73.

---

Printed by order of the General Assembly, and designed to form a part of the Fifteenth Volume  
of the Statutes at Large, commencing with the Acts of 1871-'72.

---

COLUMBIA, S. C.:

REPUBLICAN PRINTING COMPANY, STATE PRINTERS,  
1873.

ACTS OF THE GENERAL ASSEMBLY  
OF THE  
STATE OF SOUTH CAROLINA,

*Passed at the Regular Session, which was begun and held at the City of Columbia, on the Fourth Tuesday in November, A. D. 1872, and was adjourned without day on the 26th day of February, A. D. 1873.*

FRANKLIN J. MOSES, Jr., Governor. R. HOWELL GLEAVES,  
President of the Senate. SAMUEL J. LEE, Speaker of the House  
of Representatives.

\*AN ACT TO INCORPORATE THE CHARLESTON WATER COMPANY,  
IN THE CITY AND COUNTY OF CHARLESTON, S. C.

A. D. 1872.  
No. 217.

SECTION 1. *Be it enacted* by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That Daniel Tyler, Daniel M. Porter, Charles H. Simonton, Edwin Parson, C. W. Montgomery, Alva Gage, William F. Pierce, Timothy Hurley, Thomas Sands, T. D. McDowell, John Douglass, J. B. Dennis, W. M. Thomas, W. J. McDowell, J. S. Mobley, S. Green, B. F. Briggs, J. B. Bascomb, A. O. Jones, W. J. Etter, J. Woodruff, E. Nehemias, their associates and successors, shall be, and they are hereby, incorporated and declared a body politic and corporate; shall have power to make, use, have and keep a common seal, and the same to alter at will; to make all necessary by-laws not repugnant to the laws of the land, and to have succession of officers and members, conformably to such by-laws, and to sue and be sued, plead and be impleaded, in any court of law or equity in this State, and to have, use and enjoy all other rights, and be subject to all other liabilities which are incident to other bodies corporate.

SEC. 2. The said company shall have full power and authority to take, hold and convey water from any point, from any river, creek,

\* This Act was passed at the session of 1871-2, but was not delivered by the Governor to the Secretary of State in time for publication with the Acts of that session.

A. D. 1872.

Power to convey water into and through Charleston.

May build dam-, &c.

May dig and open streets, lanes, &c., under certain conditions.

May erect buildings.

Capital stock.

May take and hold private rights of way, &c.

In case of disagreement Commissioners to be appointed; their duty.

Oath of Commissioners.

In case of appeal Court to order a new valuation.

spring, or other sources, within sixty-five miles of the City of Charleston, into and through the said city, with the consent of the City Council of Charleston first had and obtained; and shall have full power and authority to make canals, build dams, erect locks, lay conduits or tunnels, for the conveyance of said water, through, under or along any highway in the country adjacent, or any street or streets, lane or lanes, alley or alleys, in the City of Charleston, for the purpose of conveying and distributing said water; and the canals, locks, dams; conduits or tunnels, from time to time, to renew and repair, and, for such purposes, to dig, break up, and to open, at their own expense, all and any part of the highways, streets, lanes and alleys, and of the middle or side pavement thereof, leaving, at all times, a sufficient passage for carriages, horses and foot passengers, and restoring forthwith to their former condition all such highways, streets, lanes and alleys, and the pavements thereof, as may, at any time, be taken up, opened or dug; and the said company shall have full power and authority to erect buildings, and to hold such real and personal estate as may be requisite and proper to carry on the business aforesaid; and the said corporation shall have full power to raise, by subscription, in shares of twenty-five dollars each, a capital of five hundred thousand dollars, with the privilege of increasing the same to five millions dollars, if so much be deemed proper; and the said corporation may, by purchase or otherwise, take and hold any land necessary for the establishment of their works, and also all private rights of way, water courses or other easement which may be on or along the route through which such canals, locks, dams, conduits or tunnels over or through any public road, river, creek, water course or waters, that may be on the route, but in such manner as shall not obstruct the passage of the public road or the navigation of the stream. Lands or private rights of way for canals, locks, dams, conduits or tunnels, which cannot be purchased from the owner for want of agreement, or from any other cause, may be taken by the company, at a valuation to be made by Commissioners appointed by the Court of Common Pleas of the County in which any part of the land or right of way may be situated. The Commissioners, before acting, shall be sworn, before some Magistrate, faithfully and impartially to discharge the duties assigned them. Their proceedings, accompanied by a full plat and description of the land, shall be returned under their hands and seals to the Court from which the commissions issued, there to remain of record. Either party may appeal from this valuation at the next session of the Court granting the commissions, giving fifteen days' notice to the opposite party of such appeal; and the Court shall order a new valuation to be made

by a jury, who shall be charged therewith in the same term, and the verdict shall be final and conclusive, unless a new trial be granted; and the land, or right of land, so valued by the Commissioners or jury, shall vest in the company in simple fee, so soon as the valuation be tendered and refused. The pendency of an appeal by either party from the valuation of the Commissioners shall not prevent the company from proceeding in the construction of their work in or upon the land or right of way; but, if the appeal be made by the company, it can proceed only upon giving the opposite party a bond with good security, to be approved by the Clerk of the Court when the valuation is returned, in a penalty of double the valuation, conditioned on payment of the valuation and interest in case the valuation be sustained, and for payment of the valuation made by the jury and sustained by the Court, in case it be reversed. In all such assessments made by the Commissioners or jury, after the construction of the works or appurtenances upon the land, reference shall be had to the true value of the land at the time the construction was begun. The land covered by said works, and the space of twenty-five feet on each side, shall be deemed in actual possession of the company; a majority of the Commissioners shall be competent to perform the duties required of them in this Section. Nothing in this Act contained shall authorize the company to take or invade, without the consent of the owners, any dwelling house, yard, garden, graveyard, or ornamental trees. In the absence of any written contract between the company and the owners of the land through which the works may have been constructed, it shall be presumed that the land required and occupied by the company, with twenty-five feet on each side, has been granted to the company by the owners; and the company shall have good right and title to it, and shall hold it unless the owner, or some one claiming under him, shall apply for the assessment of the value of the land, as before directed, within ten years after the construction of the works on or through the said land. If within that time no application be made for assessment by the owners or some one claiming under him, he, or they, shall be barred forever from recovering the same, or having any compensation; but this limitation shall not affect the rights of *femme covertes*, infants or lunatics: *Provided, nevertheless*, That should the Commissioners aforesaid give any compensation in damages to the owner or owners of any land or private rights of the way taken and occupied, as aforesaid, by the Charleston Water Company, the said company shall be held liable for the cost of the proceedings, and should such owner or owners, as aforesaid, fail to recover any compensation, as aforesaid,

A. D. 1872.

Rights of both parties during pendency of appeal.

Manner of valuation.

Presumption in case no contract is made.

Proviso.

Liability of company and owners of land for costs of proceedings.

A. D. 1872.

from said company, that such owner or owners shall, in like manner, be liable for the costs of the proceedings; and either party may enforce, by execution, the collection of the costs aforesaid; or should the jury on appeal, as aforesaid, give no greater compensation in damages to the owner or owners of any lands or private rights of way, taken and occupied, as aforesaid, by said company, than was given therefor by the Commissioners aforesaid, with interest added thereto, then such owner or owners shall be liable for and pay all costs and expenses of the proceedings and appeal; but, if such owner or owners recover a greater amount of compensation in damages than was given by the Commissioners aforesaid, with the costs, expenses of the proceedings before said Commissioners, and interest added, then such owners shall recover all the costs and expenses of said proceedings and appeal of said company.

May establish  
reservoirs and  
fountains.

Privilege of  
using said water  
to be granted on  
such conditions  
as they think fit.

Shares deemed  
personal estate,  
and may be  
transferable.

In case of fail-  
ure to pay in-  
stallments,  
shares of defaul-  
ter to be sold at  
auction.

SEC. 3. That the said company shall have full power and authority to establish reservoirs and fountains in such part of the streets and squares of said city, with the consent of the City Council of Charleston first had and obtained, or adjacent thereto, or elsewhere, to be connected with the works, as they may think proper, and to extend to all persons whomsoever, and to all bodies corporate and politic, the privilege of using said water, to be introduced in such manner, and on such terms and conditions, and in quantities, respectively, as they may think fit; the said waters to be introduced, together with all reservoirs, canals, drains, locks, conduits, tunnels, engines, buildings and machines to be by them made and used for the purpose of introducing, raising and distributing said water, to hold to them, their successors and grantees forever, as their sole and exclusive property.

SEC. 4. That the said shares of the capital stock aforesaid, of the said corporation, to be deemed personal estate, and be transferable only on the books of the said corporation; and no part of the said capital shall, at any time, or under any pretense whatever, be loaned or divided among the stockholders, until the liabilities of said corporation, other than the bonds hereinafter authorized, have been lawfully paid.

SEC. 5. That, if the proprietor of any share shall neglect or refuse to pay installments assessed thereon for the space of thirty (30) days after the time appointed for the payment thereof, the Treasurer of the company may, by order of the Board of Directors, sell, by public auction, a sufficient number of any shares held by such defaulter to pay all installments then due by him, together with the necessary and incidental charges; and the Treasurer shall give notice of the time and place of such sale, and of the sum due on each share, by advertising the same, for two successive weeks pre-

vious to such sale, in some newspaper in the city of Charleston; and a bill of sale of the shares so sold shall be made by the Treasurer of the company to the purchaser thereof, who shall thereupon be entitled to have the same transferred to him on the books of the company, and shall be liable for all future installments of the stock he may purchase.

A. D. 1872.

SEC. 6. That at any time after the organization of said company, as provided for in the next Section of this Act, the said company may issue bonds of such denomination and form as may be deemed for the best investment of the company, bearing interest not exceeding seven (7) per cent. on the dollar, payable at such times, manner and places as may be deemed expedient, to an amount not exceeding three millions of dollars, and may make, execute and deliver a mortgage, in such manner, form, and to such trustee or trustees, or otherwise, as may be deemed best, upon all the property, assets and effects, and rights, privileges and franchises of said company, then owned by said company, or which may be at any time acquired or owned by said company, or to which it may be entitled; to recover the payment of the principal and interest upon each and all said bonds, according to their tenor and effect; and upon such mortgage being recorded in the office of Register of Meſne Conveyance in the city of Charleston, in the State of South Carolina, the same shall be and become a lease upon all property, assets and effects, and all the rights, privileges, enfranchises, the said company, by which company, all to which it is entitled to at the date of said mortgage, or which said company may, at any time thereafter, require or own, or become entitled to.

Issue of bonds provided for.

Mortgage.

Such mortgage when recorded in office of Register of Meſne Conveyance shall become a lease.

SEC. 7. The said Daniel Tyler, Daniel M. Porter, Chas. H. Simon-ton, Edwin Parson, Timothy Hurley, Alva Gage, and their associates, may open books and take subscriptions for the capital stock of said company, in such a manner as they may deem expedient; and whenever such subscriptions shall amount to the sum of one hundred thousand dollars, the stockholders having had two weeks' notice in writing, or in one of the public newspapers in the city of Charleston, may meet and elect a President, Treasurer and Board of Directors or such other officers as they may deem necessary for organizing the said company and conducting the affairs thereof. Thereupon the right, franchises, powers and privileges granted by this Act shall become vested under this Act; and the company shall be a body corporation therein provided; and the said Board of Directors shall continue in office until their successors shall have been duly elected; and, until otherwise provided by the by-laws of the said corporation, shall have power to dispose of the residue of the capital stock of said company not subscribed for, in such manner

Books of subscription.

Election of officers.

Term of office.

• A. D. 1872.

Manner of  
voting.

and at such time as they may deem fit; and at the said election of officers, and at all meetings of the said company, any stockholder shall be entitled to one vote for every share held by him; that the Directors shall submit to the stockholders, annually, a written statement, under oath or affirmation, of the Treasurer of the corporation, setting forth the amount of capital stock paid in, and of the general assets of the company.

Penalty for  
tampering in  
any manner  
with water or  
works of said  
company.

SEC. 8. That if any person or persons shall, wantonly, negligently, or maliciously divert the water, or any part thereof, of any ponds, streams, springs or water sources which shall be taken by said company in pursuance of the provisions of this Act, or shall corrupt the same, or render it impure or offensive, by mingling other substances with it, or by washing or swimming in it, or by erecting any privy or nuisances near it, or by any other means whatever, or shall injure or destroy any dam, lock, aqueduct, pipe, conduit, hydrants, machinery, or any other property held, owned, or used by the said company, by the authority and for the purposes of this Act, any such person or persons shall forfeit and pay the said company treble the amount of damages sustained by such company, to be recovered by a civil action; and any such person or persons shall, moreover, be deemed guilty of misdemeanor, and may, on indictment and conviction thereof, be punished by fine, not exceeding five hundred dollars, and imprisonment, not exceeding one year, at the discretion of the Court.

Action or com-  
plaint to be tried  
by Courts in this  
State.

SEC. 9. That any such action or complaint of said company, against any person or persons whatsoever, on account of, or grounded on a trespass or injury done to the said work, or any tunnels, locks, dams, conduits, canals, water courses, pipes, hydrants, machinery or other property of said company, or appertaining to the same, shall, in every instance, be held and deemed as transitory in its nature, and may be brought, sustained and tried in any Court of this State, having jurisdiction in such like cases; and nothing in this Act, providing for special remedies of the said company, shall be construed to deprive them of the right, or impair the same, of bringing any suit in law or equity, to which they would otherwise be entitled.

Said company  
not to interfere  
with privileges  
conferred on  
Edisto and Ash-  
ley Canal Com-  
pany.

SEC. 10. That nothing in the foregoing Act shall in any way interfere with the privileges accorded to the Edisto and Ashley Canal Company.

Capital stock  
not to be used in  
banking opera-  
tions.

SEC. 11. That this Act shall continue in force from and after the passage thereof, and no part of the capital stock, nor any of the funds of the corporation, shall at any time, during the continuance of this charter, be used directly or indirectly in banking operations, or for any other purposes whatever, inconsistent with this Act.

Approved March 15, 1872.