

Wood & Loock

ACTS

OF THE

SESSION OF 1866-7,

OF THE

GENERAL ASSEMBLY OF ALABAMA,

HELD IN THE

CITY OF MONTGOMERY,

COMMENCING ON THE

Wood & Loock

Second Monday in November, 1866.



ROBERT M. PATTON, Governor.
THOMAS B. COOPER, Speaker House of Representatives.
WALTER H. CRENSHAW, President of the Senate.



MONTGOMERY, ALA :
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1867.

par value of *one hundred thousand dollars*, whereupon the treasurer shall issue his certificate to that effect; these stocks or their equivalent shall remain a perpetual deposit as a guaranty to policy-holders, annuities and trusts.

SEC. 15. *Be it further enacted*, That the corporation may take the promissory notes, or other obligations of the insured in part, or for the whole of the premium of insurance at the discretion of said company. May take promissory note for premium.

SEC. 16. *Be it further enacted*, That whenever the losses and expenses of said company make it necessary to call for more than fifty per cent. of the capital stock of one million of dollars, it shall be the duty of the president and trustees to put said company into liquidation forthwith. When go into liquidation.

SEC. 17. *Be it further enacted*, That the trustees may determine the rates of insurance from time to time, and the same to be issued; suits at law may be prosecuted and maintained by any policy-holder against said corporation for losses by death, if payment is withheld more than three months after the company is duly notified of such losses; and no policy-holder of the corporation shall be debarred his testimony as witness on account of his being a policy-holder of said company. Rates of insurance; how determined.

SEC. 18. *Be it further enacted*, That the corporate authority hereby granted shall be forfeited, unless the company hereby authorized to be formed is actually formed and organized within one year from the passage of this act. Charter; how forfeited.

SEC. 19. *Be it further enacted*, That all laws and parts of laws contrary to the provisions of this act be, and are hereby repealed. Repealing clause.

Approved, December 7, 1866.

No. 341.]

AN ACT

To amend an act, passed on the 23d day of February, 1866, entitled "An act to incorporate the Bienville Water Works Company."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*. That the act which reads as follows: "An act to incorporate the Bienville Water Works Company

Part of act
amended.

for the city of Mobile. Section 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That W. G. Clark, John Reid, Samuel Battle, Luke W. Goodman, T. J. Riley, Jones M. Withers, Moses Waring, C. H. Foote, A. Brooks, A. H. Gordon, 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 'Bienville Water Works Company,' and by this name, may sue and be sued, plead and be impleaded, to 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 the government and management of the affairs of said company, as they may deem expedient. Section 2. Be it further enacted, That the object and business of the Bienville Water Works Company, shall be to establish and construct water works, within or near the corporate limits of said city of Mobile, and to send and distribute water throughout said city; and said corporation may purchase and hold real estate within the county of Mobile, and any other property that may be necessary and expedient for the carrying on of said business, or to secure any debt that may be due said company. Section 3. Be it further enacted, That it shall be the duty of said company after it shall have been organized and gone into operation, under the provisions of this act, to establish water works as aforesaid, of sufficient capacity to supply the demands of the corporate authorities and inhabitants of said city with such public and private water as they may require. Section 4. 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 extended by additional shares to three hundred thousand dollars, as the wants of the city may require, and at the option of the stockholders; the capital stock to be paid in as said stockholders may demand. Section 5. Be it further enacted, That the president and directors of said company may borrow money to carry into effect the objects and provisions of this charter, and to pledge the property of the company for the payment of the same. Section 6. Be it further enacted, That if any person or persons shall willfully injure or destroy any portion of the water works or fixtures, or other property of said

Same.

Same.

Same.

Same.

Same.

company, or shall willfully 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 streets or other pipes conveying the same, otherwise than by authority of said corporation, or their lawful authorized agents, such person or persons shall be subject to prosecution in the city or circuit courts of Mobile, and on conviction, held liable for all damages sustained by said corporation by reason of such act, and shall also be fined in a sum not exceeding five hundred dollars, and imprisoned in the county jail not exceeding two years, at the discretion of the jury trying the same. Section 7. Be it further enacted, That the city of Mobile as a corporation, is hereby authorized to take stock in this company, and in default of the incorporators availing themselves of the privileges of this charter, within six months from the date of its approval, the mayor, aldermen and common council of said city, may organize and become the sole incorporators under its provisions. Section 8. Be it further enacted, That said company is incorporated for the term of fifty years, from and after the approval of this act; *Provided*, The provisions of the same are faithfully observed and complied with, approved February 23, 1866."—be, and the same is hereby amended as is set forth in the following sections:

Same.

Same.

Same.

SECTION 2. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That it shall be lawful for the Bienville Water Works Company, their executors, administrators and assigns, as often as it may be necessary during the continuance of the privileges granted in the act, to which this is amendatory, to apply at any time to the judge of the probate court of Mobile county, or in his absence, to the clerk thereof, for writ of *ad quod damnum*, which it shall be the duty of the said judge or clerk to issue immediately on such application directed to the sheriff of Mobile county, commanding him to summon the proprietors of land at any point on the stream at which the said Bienville Water Works Company, their executors, administrators or assigns, shall conclude to fix their aqueduct, dams or reservoir, and also the proprietors of lands above and below the said points, on the said bayou and creek, who may claim compensation for damages, in consequence of said works,

May apply for writ of ad quod damnum.

and also to summon a jury of seven discreet freeholders of the said county to view the said premises at a time not exceeding ten days from the issuing of the writ aforesaid, and the jury shall examine the banks of the stream above and below the said points, and shall ascertain what amount of damages the said proprietors may sustain by the withdrawal of water or otherwise, in consequence of the erection of the said works; and if the said Bienville Water Works Company, their executors, administrators and assigns, shall require any land for the use of their canal or ditches, or through which to pass their pipes, or for erecting reservoirs, or for any of the purposes authorized by the act to which this is amendatory, then the said jury shall ascertain the damage that the owner of the said land may sustain in consequence thereof, and it shall be the duty of the sheriff to return the verdict or verdicts of the said jury to the judge of the probate court as soon as the same shall have been agreed upon by the said jury, or a majority of the same.

Parties interested may except to the award of the jury.

SEC. 3. *Be it further enacted*, That any of the parties interested, may within ten days after the return of the said inquisition as aforesaid, except to the award of the said jury, which shall be filed with the judge of the said probate court, then the judge of the said court shall forthwith make an order or decree, which shall vest absolute rights and ownerships in the said Bienville Water Works Company, their executors, administrators and assigns, in and to the land, water, privilege or right, that shall have been condemned by the said jury, and in the said proprietors to the money that shall have been assessed; *Provided*, That if the said Bienville Water Works Company shall not satisfy and pay the decree within thirty days from the entry of the same, they shall take no benefit therefrom.

Exception to said award; when heard and decided.

SEC. 4. *Be it further enacted*, That if exceptions to the said award be filed as aforesaid, the same shall be heard and decided on by the said judge at the next session of the regular term of said court, or on some day appointed by said judge, of which all parties interested shall have due notice, and the parties excepting may at the hearing, propound his interest and exhibit, and prove the damage he may sustain, and the said judge may examine and decide upon all matters put in issue, and may upon application of either party cause a jury to be empaneled to determine any issue of facts in the cause, and either party

may *subpoena* witnesses, the cost of whose attendance, as well as the costs of the appeal shall be borne by the party against whom the judge may decide.

SEC. 5. *Be it further enacted*, That it shall be the duty of the sheriff to administer an oath to the said jurors as in other cases of the execution of the said writ. Oath administered to jurors.

SEC. 6. *Be it further enacted*, That it shall be lawful for the said Bienville Water Works Company, their executors, administrators and assigns, instead of the writ of *ad quod damnum*, allowed by the first section of this act, to agree with the said proprietors, or any of them, upon the appointment of three arbitrators, and to apply to the said judge of the said court, by petition, stating the land, water privilege, or rights to be condemned, and the willingness of the parties to refer the matter to the said arbitrators, and thereupon, the said judge shall forthwith issue an order to the said arbitrators, stating the matter to them referred, and commanding them to view the premises and ascertain the damages which may be sustained within ten days from the issuance of the said order, and to return their award to the said judge, and it shall be the duty of the said arbitrators, to ascertain the damage in same manner as the jury are directed to do in the first section of this act, and the said arbitrators, or a majority of them, shall make award and return the same to the said judge within five days after viewing the premises, and the same proceedings shall be had upon the return of said award, as are directed to be had upon the return of the inquisition, in the second and third sections of this act. Arbitrators appointed to assess damages.

SEC. 7. *Be it further enacted*, That the said arbitrators, before entering upon the investigation of the matters referred to them, shall take an oath or affirmation, impartially to determine the matter to them submitted, according to the equity of the case, to the best of their judgment, without favor or affection, which said oath shall be administered by the said clerk, or any justice of the peace. Arbitrators to take an oath to act impartially.

SEC. 8. *Be it further enacted*, That it shall be lawful for the said Bienville Water Works Company, to prepare and publish a tariff of water rents, and the same to alter and amend from time to time, as they may find necessary, and shall have power to collect and receive from each and every person or persons, who shall take and receive water from said water works, the rents as stated in said Shall publish a tariff of water works.

tariff, the same being due and payable annually in advance on the first day of November, of each year.

To collect
fines and add
per centage to
arrears.

SEC. 9. *Be it further enacted*, That it shall be lawful for the said Bienville Water Works Company to collect the fines mentioned in the sixth section of the act of the 23d February, 1866; also, in cases where the water rents, payable on the first day of November, shall fall in arrear and remain unpaid, it shall be lawful for said Bienville Water Works Company, to add a certain per centage to said water rents, according to the time said water rents may be overdue, or to shut off the water from the premises until all arrears are paid, or both, at their discretion, and also, to assess and collect such fines and damages as may accrue from infractions of the by-laws, rules and regulations for government and management of said company, established by the first section of the act of 23d February, 1866, of which this act is amendatory.

Approved, February 5, 1867.

No. 342.]

AN ACT

To authorize and require the Court of County Commissioners of Marshall county to issue a certificate or county claim to R. Hampton, late sheriff of said county, &c.

Certificate re-
quired to be is-
sued to Reuben
Hampton.

SECTION. 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened*, That the court of county commissioners for Marshall county, be, and they are hereby required to issue & certificate or county claim to Reuben Hampton, (late sheriff) of said county, for *ex-officio* services as said sheriff, notwithstanding the lapse of time required by law for said claim to have been presented to said court for allowance, any law to the contrary notwithstanding.

Approved, February 8, 1867.