

Kentucky. Laws, Statutes, etc.

ACTS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF KENTUCKY.

DECEMBER SESSION, 1837.

JAMES CLARK, GOVERNOR.

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1838.

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CHAP. 824—AN ACT to incorporate the Louisville Gas and Water Company.

Capital stock
and number of
shares.

Created a
corporation.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company, to be called the Louisville Gas and Water Company, shall be and the same is hereby established, with a capital of twelve hundred thousand dollars, to be divided into shares of one hundred dollars each, to be subscribed and paid for, by individuals, companies, and corporations, as hereafter directed; and the subscribers to the stock of said company, their successors and assigns, shall be and they are hereby created a body politic and corporate, by the name and style of "the Louisville Gas and Water Company," and shall so continue for thirty years from the first day of January, 1839, and by that name and style, under the restrictions hereafter prescribed, shall be as capable to contract and be contracted with, sue and be sued, plead, answer, and defend, in all courts, and elsewhere, as natural persons; and may have and use a common seal, and change, alter and renew the same at pleasure; and may ordain and put in execution such by-laws, rules and regulations for the good government of said company, and for the efficient management of its affairs and prudential concerns, as may be deemed expedient, not contrary to the constitution or laws of this State, or of the United States.

To construct
gas and water
works.

May borrow
and loan mon-
ey.

May discount
bills, &c.

SEC. 2. That said company shall keep an office in the city of Louisville, and its business shall be to construct and establish Gas and Water Works in the city of Louisville, and to vend gas lights and water privileges, and it may borrow and loan money, and discount notes and bills, and deal in exchange and bank notes, and receive general and special deposits, and issue certificates of deposit; but shall not issue promissory notes, bills, checks, or certificates of deposit which shall pass by delivery or that shall circulate as bank notes; nor shall it exercise any other privileges of banking; and it shall not discount any promissory notes, bond or bill, other than bills of exchange or bank notes, except such as are made payable and negotiable to said company, at its office, or such as are made payable to some person or persons, and payable and negotiable at its office, or at some bank incorporated by this Commonwealth; and promissory notes made payable and negotiable at the office of said company, and discounted by the company, or at the office of any incorporated bank or institution of this State, and discounted by the company, shall be put on the footing of foreign bills of exchange, and remedy may be had against the drawers and endorsers jointly and severally, and with like effect, except as to damages.

May hold
land for its of-
fice, &c.

SEC. 3. That said company may purchase and hold as much land as will be required for its office, and the residence of its officers, agents and laborers, and for sites for its gas and water works, and for suitable engine and other houses for their works, and so much land as will give a full supply of coal for

the furnishing gas lights; and said company may sell or exchange the same, and purchase again, and may hold such personal estate, machinery, &c., as will be necessary and convenient for the transactions and business of the company. The said company shall not deal in merchandise, or in any thing which is not here authorized, or is not the product of its own land: *Provided*, That it shall not be unlawful for said company to take liens on real and personal estate, and chuses in action, to secure any debt or contract with said company; and they may purchase any real or personal estate under judgments or decrees in favor of said company, or under judgments or decrees in favor of others, when it may be necessary to secure a debt due to said company; and when said company shall have debts secured by mortgage, deeds of trust, or pledges, it may acquire the estate by contract without a foreclosure or sale, and shall sell and convey all estate not needed for its business, within five years after the same may be acquired; and, if not sold by that time, the estate shall vest in the Commonwealth without office found.

SEC. 4. The said company shall not contract for, or receive a greater rate of interest than six per cent per annum, for the loan and forbearance of money; and the interest shall be calculated on the true time the notes have to run, including three days of grace, and be paid in advance, and in conformity with Rowlet's table of discount and interest.

SEC. 5. That said company shall not, at any time, suspend, fail, or refuse payment in gold or silver, of any deposits made with it in gold or silver, or of any specific deposits made with it in bank notes, or other things. And in case the officers, within the usual hours of office business, shall refuse, or unreasonably delay payment of any money, or other thing, deposited and demanded at their office, by any person or persons entitled to receive the same, the company shall forfeit and pay at the rate of twelve per cent interest per annum, by way of damages, until the same shall be paid.

SEC. 6. That it shall be the duty of said company, within three years after its organization, to erect and establish in the city of Louisville, a gas manufactory, of sufficient extent and capacity to supply the city of Louisville, and the citizens thereof, with all such public and private lights as may, from time to time, be required; and within five years after the establishment of gas works, to erect and establish water works of sufficient extent and capacity to supply the city of Louisville with water for the extinguishment of fires, and the cleansing and sprinkling the streets and alleys, and also to afford the citizens thereof a sufficient supply for all manufacturing and domestic purposes: *Provided*, That water works shall not be established until the citizens of Louisville, at a public meeting called by the Mayor and Council for the purpose, shall consent thereto: *And, provided further*, That if the citizens of Louisville shall not consent to the establish-

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Not to deal
in merchandize

May take
liens, &c.

Rate of in-
terest.

To pay all
deposits.

Damages for
failure.

A gas manu-
factory estab-
lished.

Afterwards
water works.

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If they do not,
then the capital
to be reduced.

ment of water works, as provided in this act, then the corporate powers, for that purpose, shall cease, and the shares of stock shall be reduced to fifty dollars each, instead of one hundred dollars, and so as to reduce the capital of the company one half.

What portion
of the city to
be supplied.

Sec. 7. The gas and water shall be supplied from First to Ninth cross streets, and from Water to Walnut streets, inclusive of said First, Ninth, Water and Walnut streets, and to such other streets of the city, as the city authorities shall require; *Provided*, That the company shall not be bound to extend the same beyond the streets aforesaid, until the public and private lights and water required by the city and the citizens, will pay ten per cent on the cost of the extension, after deducting the expenses of manufacturing the gas, or raising the water, on the additional cost of expenditure; and whenever an extension is required by the city, the company shall furnish the proper estimates, and if the city and individuals shall severally subscribe the sum required, the company shall be bound to make the extension.

Value of
lights to be a-
greed on.

Sec. 8. The value of gas lights used by the city of Louisville, shall be agreed upon, annually, by the company and the city authorities, but shall not exceed twenty dollars per annum for each light of an illuminating power equal to twelve spermaceti candles, and at that rate for lights of a greater or less illuminating power, and the gas shall be of such purity as not to be offensive or injurious to health, and the company shall be bound to furnish the gas lights, and to furnish and keep the lamps, lamp-posts and fixtures at the price of twenty dollars per annum, to the extent required by the city, payable quarterly; and the time of burning shall be from the close of twilight, at evening, until the dawn of day in the morning, except in clear moonlight nights, when the lights may be dispensed with.

Price of wa-
ter to be agreed
upon also.

Sec. 9. The price of water to the city of Louisville, for the extinguishment of fires and for the cleansing and sprinkling streets, alleys, &c., shall be agreed upon, annually, by the company and the city authorities; and the company shall be bound to furnish the same, at a price not exceeding ten per cent on the whole cost of the works, to be paid quarterly; *Provided*, That if the rents to individuals will more than pay the cost of raising the water, and expenses of superintendence, that the excess be deducted from the ten per cent until the cost to the city shall be reduced to three per cent.

The company
to have the ex-
clusive right.

Sec. 10. That the company have the exclusive privilege of erecting, establishing and constructing gas and water works in the city, during this charter, and of vending gas lights and supplying the city and citizens with water by means of public works.

To lay pipes,
&c.

Sec. 11. That to enable the company to construct and establish gas and water works in the city of Louisville, it is authorized to lay down and extend pipes and conductors through

any of the streets and alleys of the city, and for that purpose, to take up the pavements, and to replace the same, and shall be responsible to the city for any damage which may arise therefrom, or any unreasonable delay in replacing the same; and said company shall be subject to the regulations of the city as to the streets and alleys, and to the same ordinances and penalties that individuals may be subject to.

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SEC. 12. That if any person, or persons, shall wilfully, by any means whatever, injure or destroy any part of the gas and water pipes, or conductors, lamps, lamp-posts, burners, or any of their works or fixtures, or machinery, all such persons shall be bound to the company for all the damages sustained thereby, and may furthermore be liable to indictment at any time within three years after the commitment of the offence, and upon conviction shall be fined in any sum at the discretion of the jury, not exceeding one thousand dollars, or by imprisonment in the city work-house, at hard labor, not exceeding five years; but this section shall not be held to change the law as to arson, or wilfully burning the houses of the company.

Penalty for
injuring any of
the pipes, &c.

SEC. 13. That L. L. Shreve, J. I. Jacob, James Rudd, and Robert Tyler, shall be Commissioners for opening books for the subscription of the stock, and they, or any two of them, may advertise the time and place of opening the books in the city of Louisville, and shall keep them open not less than ten days, and until not less than five thousand shares shall have been subscribed: that is to say, not less than two thousand shares by the city of Louisville, and not less than three thousand by the citizens of Louisville and the State of Kentucky, or by corporations erected by the State of Kentucky, and authorized to purchase and hold stocks; *Provided*, That should the city of Louisville decline subscribing, said Commissioners may close the books when three thousand shares shall have been subscribed by others, as aforesaid; *Provided*, That if more stock shall be subscribed than the whole amount, the Commissioners shall scale the subscription of the largest subscribers, until the stock is reduced to the sum authorized by the charter; *And, provided*, That when any person shall procure other persons to subscribe for such person, the subscriptions shall be added together and considered as one subscription.

Regulations
as to taking
stock.

SEC. 14. That when the Commissioners shall have closed the books, they shall advertise the same, and call a meeting of the stockholders, other than the city of Louisville, giving at least ten days' notice, and the stockholders, so called, may elect six Directors of said Company, who, together with three directors to be chosen by the city of Louisville, and who shall be stockholders to the same amount as the directors chosen by the other stockholders, and to said nine directors, who shall choose a President from amongst themselves, shall be entrusted the real and personal estate, business, property, funds, and

Meeting to
elect directors.

Qualification.

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financial concerns of said company, and the administration of its affairs. They shall be stockholders to the amount of twenty five shares each, in their own right, and after their first election shall have been stockholders not less than three months before the election at which they are chosen. They shall serve for one year, and until their successors are chosen; and after the first election, there shall be an annual election on the first Monday of January, in each year, of which notice shall be given for ten days, in at least two newspapers printed in Louisville, and the Mayor and Council shall meet on the same day, and elect the three directors on behalf of the city; *Provided*, That if the city of Louisville shall not be a stockholder; that the other stockholders shall choose the nine Directors. The President and Directors shall fill all vacancies that may arise in their body, from death, resignation, removal from the city, or the failure to meet their engagements to the company with promptness; and it shall be the duty of the other directors to declare the seat of a director vacant for that cause, or for a removal from the city.

Each share
entitled to one
vote.

SEC. 15. That each share of stock in this company shall entitle the owner to one vote, and no one individual, company or corporation, other than the city of Louisville, shall hold more than one thousand shares of the stock, either directly or indirectly, and, if any one shall purchase and hold more, his whole stock shall be forfeited to the State.

Mode of pay-
ing subscription

SEC. 16. That the subscription of stock in the Louisville Gas and Water Company, by individuals, companies and corporations, other than the city of Louisville, shall be made on such conditions, as to the time and manner of payment, and as to the surety which shall be given for the payment of the stock subscribed, which the Commissioners may prescribe before the stock is taken; *Provided*, That the President and Directors may, with the consent of the subscribers, change the conditions as to the time and manner of payment, and of the security for the payment of the stock, or of the instalments thereof, provided that such change shall be equally beneficial to all.

City subscrip-
tion, how paid.

SEC. 17. That the city of Louisville shall have the right to subscribe four thousand shares in said company, and to pay for two thousand shares by the execution of the city bonds for two hundred thousand dollars, in such amounts as said company and the city may agree upon, redeemable at any time within three years after the expiration of the charter, and to pay for the other two thousand shares by the excess of dividends on the two thousand shares paid for, after paying the interest on the said two hundred thousand dollars; the city bonds to bear an interest of six per cent per annum, payable half yearly, on the first Mondays in July and January in each year, at the office of the company in Louisville, and any premium for which the company may sell the city bonds, shall be applied to the payment of the other two thousand shares.

SEC. 18. The dividends of the city shall not be expended, nor its stock be sold during the continuance of this charter, and after paying in full for the four hundred thousand dollars of city stock, the dividends shall be invested in profitable and safe stocks, by the President and Directors of this company, and the stock so purchased, and the city stock in this company, shall be a fund to redeem the two hundred thousand dollars of city bonds, and to purchase the gas and water works at the termination of this charter, and it is made a fundamental principle and condition that the city of Louisville, if it so elect, shall be entitled to the gas and water works at the termination of this charter, at a fair estimation of what said works would cost and be worth at that time, to be ascertained by the judgment of competent engineers, selected by the parties, or appointed by the Court of Chancery, if either party refuse to concur in the appointment.

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Dividends,
how invested.

City may purchase works at end of charter.

SEC. 19. That if the whole stock shall not be subscribed before the Commissioners close the books, it shall be in the power of the President and Directors to sell the residue of the twelve hundred thousand at such time, and in such manner, and on such terms, as they may deem expedient: *Provided*, That they shall not sell it under par, without the consent of all the stockholders.

If the whole stock is not subscribed at first, to be sold afterwards.

SEC. 20. That no person, or persons, but citizens of Kentucky, and no company not incorporated by the State of Kentucky, shall subscribe for, or purchase, or hold, directly or indirectly, any stock in this company, and all stock subscribed, taken or held, at any time during this charter, contrary to this provision, shall be forfeited, and vest in the Commonwealth.

Who may hold stock.

SEC. 21. That certificates of stock shall be issued to the holders thereof, whenever the same shall be paid for; and stock in this company shall be considered and pass as personal estate, and shall be transferable on the books of the company, in such manner as the stockholders, or President and Directors, by their by-laws, shall prescribe, but no stock shall be transferable until all the debts and demands of the company are discharged, and for all debts and demands, the company shall have a lien on the stock.

Certificates of stock to be issued.

SEC. 22. That on the first Mondays in July and January, in each year, the company shall make out a statement of the condition, affairs, and finances of the company, and furnish the same to the city authorities of Louisville, and shall make a dividend on such parts of the profits as they may deem proper, but such dividends shall not be less than three per cent for each six months, if so much profit shall have been made.

Dividends & semi-annual reports.

SEC. 23. That the President and Directors shall keep a record of their proceedings, which they shall produce to the stockholders at the regular or called meetings, and they shall be open to the inspection of the Mayor of the city of Louisville; they shall take bond and good security from their officers, and

Records to be kept, &c.

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renew them from time to time as their by-laws shall direct, and no officer, other than the President and Directors, shall become indebted to the company for the loan of money, or by dealing in exchange.

Fraud of officers declared felony.

SEC. 21. That if any officer of this company shall, without the authority of the President and Directors, appropriate any of the funds of the corporation to his own use or that of any other person, or shall wilfully fail to make correct returns, or shall knowingly make false returns on the books of the company with the intent to cheat or defraud the corporation or any person, or to hide or conceal any improper appropriation of the funds of the corporation, the officer so offending shall be deemed guilty of felony, and upon conviction thereof, be sentenced to confinement in the jail and penitentiary of this State, for a period not less than five nor more than twenty years.

Salaries.

SEC. 25. That the Directors shall allow to the President a reasonable compensation for his services; but no compensation shall be allowed to a Director, except by the order of the stockholders; and if the President, or any of the Directors shall, knowingly, diminish the capital stock by dividends, or otherwise, they shall be responsible to the stockholders for the deficiency thus created.

Directors liable.

Legislature may examine their condition.

SEC. 26. Reports of the finances and affairs of the company may be required by the Legislature, and the Legislature shall have the right, by its committees, to investigate the condition of the company; and any violation of the essential provisions of the charter shall be cause of forfeiture; but no forfeiture shall prevent the corporation from collecting its debts and enforcing its contracts, and disposing of its effects.

Court to have jurisdiction.

SEC. 27. That the General Court, or any court that the Legislature shall direct, shall have jurisdiction to hear and determine any alleged forfeiture of this charter.

Not to purchase or sell bank notes.

SEC. 28. Nothing herein shall be so construed as to authorize said company to purchase the note of any bank incorporated by this State, or to loan or sell, on credit, the notes of any bank not incorporated by this State which said company may buy.

State may tax stock.

SEC. 29. The State reserves to itself the right to impose a tax on the capital stock paid in, not exceeding fifty cents on the hundred dollars.

Approved February 15, 1838.

CHAP. 825—AN ACT the better to provide against fraudulent purchases, and fraudulent sales and conveyances of property, to the prejudice of creditors.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That when any person or persons shall purchase any lands, goods, wares, merchandize, or other property, with the fraudulent intent of procuring without