

# ACTS

OF THE

SESSION OF 1870-71,

OF THE

## GENERAL ASSEMBLY OF ALABAMA,

HELD IN THE

CITY OF MONTGOMERY,

COMMENCING NOVEMBER 21st, 1870.

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WILLIAM H. SMITH, Governor until December 9, 1870.  
ROBERT B. LINDSAY, Governor.  
E. H. MOREN, Lieutenant-Governor and President of Senate.  
JOHN P. HUBBARD, Speaker House of Representatives.

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MONTGOMERY, ALA. :  
W. W. SCREWS, STATE PRINTER.  
1871.

incorporated for the term of twenty-five years from the approval of this act, provided the provisions of the same are faithfully observed and complied with; *And provided*, That the privileges hereby given shall not be held to exclude any other person or corporation from supplying the citizens, or any portion of them, with water. Section 8. Be it further enacted, That nothing contained in this act shall be so construed as to authorize the said corporation, or their agents or employees, to make any excavations for laying pipes or aqueducts, through any of the streets, lanes, or alleys, or public grounds of the city of Montgomery, only on such terms and conditions as may be agreed upon with the mayor and common council of said city,"—be, and the same is hereby amended, by adding the following proviso to section eight of said act: *Provided*, said company shall have until the fifteenth day of February, eighteen hundred and seventy-three (1873), to organize and go into operation under said act.

Time of organization extended.

Approved, March 2, 1871.

No. 221.]

AN ACT

In relation to the Bienville Water-Works Company of the city and county of Mobile.

*Whereas*, It has been represented that it would greatly promote the healthfulness and prosperity of the city of Mobile and its suburbs to have an ample supply of good and wholesome water, and that the same is greatly needed; *And whereas*, George A. Ketchum, Levi W. Lawler, John Reid, jr., Braxton Bragg, Nelson W. Perry, and others, have formed a company, and, with their associates and successors, become incorporated as a body politic of this State, under and by the name of "The Bienville Water-Works Company of the City and County of Mobile," for the purpose of furnishing such supply of water from the creek in said county known as "Eight Mile Creek," or from some or one of the streams flowing into it; Therefore—

SECTION 1. *Be it enacted by the General Assembly of*

*Alabama*, That the said corporation, "The Bienville Water-Works Company of the City and County of Mobile" be, and it is hereby authorized and empowered, by its officers and persons in its employment, to enter upon, survey and mark out, or lay off any land or lands, between the place or places from which the waters for the purposes aforesaid are to be drawn, and the place or places for the distribution thereof, for the route or course thereof; and to dig, construct, lay or make, in or through such lands, any ditch, canal, pipes or tubes, of any material or size, or aqueduct of any kind that the said company may deem best for the conduction of such water to the city of Mobile and the village of Whistler, in said Mobile county; and from time to time; and at any time afterwards, to enter upon, and dig and work upon said lands, along the aforesaid route or course, for the purpose of laying, re-laying, examining, repairing, altering, or amending such canal, channel, pipes, tubes, or aqueduct; said company compensating, according to law, the owner or owners of said lands, respectively, for the use thereof; and being responsible to such owners, respectively, for the damage that may be sustained by reason of the said canal, ditch, pipes, tubes, or aqueducts being dug, made, or laid, or repaired, altered, re-laid or amended in or over such lands, or any of them; *Provided, however*, That such canals or ditches shall not be made, or tubes or pipes laid, through any lot or lots in said city or village, without the consent first obtained of the owner thereof; but that the pipes or tubes shall and may be laid and conducted through any of the streets thereof, below the surface, as may be most practicable and convenient.

Right of way,  
&c.

SEC. 2. *Be it further enacted*, That the said corporation shall have and enjoy the exclusive right and privilege of conducting and bringing water from any other source in said county than "Three Mile Creek," for the supply of said city of Mobile and town of Whistler, for the period of twenty years, and so much longer as the city of Mobile shall not choose to purchase, as hereafter provided, the water-works and property of said company; *Provided*, That said company shall, before the expiration of one year from the passage of this act, commence their works, and before the expiration of three years

Twenty years  
limitation.

City may purchase works.

cause to be conducted the water from said "Eight Mile Creek," or some of the affluents thereof, to the city of Mobile, as herein provided, ready for distribution; *And provided further*, That after the expiration of twenty years from the passage of this act, if the city of Mobile shall choose to purchase the water-works and property of said company, it shall have the right to do so, and to receive, and thereafter to have and operate the same; and it shall be the duty of said company to deliver up the same, without any damage done thereto, upon the city paying to said company the fair value thereof, to be ascertained by the majority of arbitrators, three of whom shall be chosen by the city of Mobile, but disinterested persons, who are not residents of the county of Mobile, and three by said company; which arbitrators may together select a seventh, if they cannot agree.

Water rates.

SEC. 3. *Be it further enacted*, That the said "Bienville Water-Works Company of the City and County of Mobile" shall have the right and privilege to take and have compensation for the water furnished by it, at a sum or price which shall at no time exceed the following rates, to be paid by the person or persons receiving or requiring the water, payable in advance: First, for every family consisting of six persons, twenty dollars per annum, and two dollars for every person additional. Persons under twelve years of age are to be estimated as two for one; second, for retail grocery stores, where liquor is not retailed, twelve dollars per annum; third, for retail grocery stores, where liquor is sold in quantities less than one quart, from twenty to fifty dollars; fourth, for liquor stores doing the business of drawing off and bottling wine or other liquors, from thirty to seventy-five dollars; fifth, for stores, without families, offices, and so forth, twelve dollars per annum; sixth, for baths for private families, five dollars, each, per annum; seventh, for a horse, three dollars per annum; eighth, for a carriage, three dollars per annum; ninth, for the use of ships, steamboats, vessels, and other craft, per hogshead of one hundred and twenty gallons, fifty cents each; tenth, coffee-houses, oyster-houses, confectioneries, manufactories, hotels, taverns, boarding-houses, steam-mills, tan-yards, brick-yards, soda-shops, livery-stables, public baths, public or private fountains, baking,

dyeing, scouring and renovating establishments, not herein enumerated, may be supplied at an annual charge according to the quantity of water that may be required, on such terms as the parties may agree upon.

SEC. 4. *Be it further enacted*, That the said water-works company shall so arrange for fire plugs for the use of the city, that there shall be four for each square of ground where the pipes are laid, and shall permit the city of Mobile, under the direction of the city authorities, to use four fire plugs, and no more, at one time, in any part of the city in which the pipes are laid down, as often as may be necessary for washing the gutters of the streets; and in case of a conflagration or fire of buildings, as much water as may be needed for the fire engines of the city; and said city, by its corporate authorities, may contract and stipulate with the said company, and said company with the city, on such terms as they may agree upon, for such further supplies of water for washing the streets as may be agreed on; and for the employment by said company of apparatus or appliances of their own in connection with said water works, for the extinguishment of fire, or for other public uses. Said company shall furnish water for the city hospital and guard-house free of charge.

SEC. 5. *Be it further enacted*, That said company shall be permitted to use the public roads in Mobile county, and the streets in the city of Mobile and in Whistler, free of charge, for the purpose of laying down therein, and repairing and re-laying pipes for the conveyance of water, but shall put the roads and streets again in as good order as they were before their employees digged into or opened them. For the supply tubes or pipes, leading from the large pipes in the streets to the houses or other places where the water is required for use, and for the hydrants and other appliances connected therewith, the company shall be entitled to demand and have from the persons requiring the water the reasonable cost thereof, and of fixing and adjusting them; and said company shall have authority to make all needful rules and regulations relating to the supply and use of the water.

SEC. 6. *Be it further enacted*, That said company may contract with the owner or owners of any land, through

or near which their water routes may run, for the purchase of so much of said land, or of the use thereof, as may be useful for the purposes of the company; and if any such land shall belong to a person or persons under age, or *non compos mentis*, or to a trust estate, or to an estate under administration by an executor or administrator, the guardian, trustee, executor or administrator, respectively, may contract with the company for the sale thereof, and sell the same; or said company may proceed to obtain, and may acquire such land, or the use thereof, in the mode prescribed by law for the taking of private property for the use of other persons, or for public use.

Or condemn  
by law.

Injuring  
works, pipes,  
&c., punish-  
able as misde-  
meanor.

Sec. 7. *Be it further enacted*, That any person who shall wilfully remove, disturb, break, or otherwise injure or damage the water works of said company, or anything appertaining thereto, including the logs, pipes, reservoirs, or other things connected therewith, or remove from, under, or about them, or any of them, any earth or other material, or, by logs, brush, earth, or other thing, obstruct or divert therefrom the waters thereof, or of the streams or fountains from which they are supplied, or shall wilfully deposit, or cause to be deposited, any unwholesome or offensive substance or matter in the reservoir or pipes of said company, or in the streams supplying the same, or shall tap or open a communication, or cause the same to be done, into the street pipes or other pipes for the conducting of water, otherwise than by the authority of said company, or of its lawful agent thereunto authorized, shall, for each such offense, be subject to prosecution in the city court or the circuit court of Mobile county, and be fined in a sum not exceeding five hundred dollars, and be imprisoned in the county jail not exceeding two (2) years, at the discretion of the jury trying the cause; and shall, besides, be liable to the company for all damage it may sustain thereby.

May increase  
capital stock,  
borrow money  
&c.

SEC. 8. *Be it further enacted*, That the said water works company is hereby authorized to increase its capital to a sum not exceeding six hundred thousand dollars, and to borrow money to carry into effect the object for which it was incorporated, and to mortgage or otherwise charge with a lien for the payment of its debts, the property and effects thereof.

Approved, March 3, 1871.