

# ACTS

OF THE

## General Assembly of Alabama,

PASSED AT THE

SESSION OF 1882-83,

HELD IN

THE CITY OF MONTGOMERY,

COMMENCING 2D TUESDAY IN NOVEMBER, 1882.

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E. A. O'NEAL, GOVERNOR.  
GEO. P. HARRISON, JR., PRESIDENT OF THE SENATE.  
WILBUR F. FOSTER, SPEAKER OF THE HOUSE.

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MONTGOMERY, ALA.:  
W. D. BROWN & CO., STATE PRINTERS.  
1883.

No. 230.]

AN ACT

[H. B. 717.]

To incorporate the Bienville Water Supply Company.

WHEREAS, the inhabitants of the municipality known as the Port of Mobile, and the inhabitants of the village of Whistler, in the county of Mobile, are not provided with an adequate supply of water for domestic and municipal purposes; and whereas, it is essential to the public health of the citizens of those towns, and to the protection of their property and the public property therein, against conflagration, that an abundant supply of water should be introduced and furnished to said citizens; and whereas, a company of citizens of said county propose to undertake the duty of furnishing such supply to said towns for the public use and benefit:

SECTION 1. *Be it enacted by the General Assembly of Alabama,* That George A. Ketchum, William H. Pratt, A. C. Danner, Thomas Henry, Sr., Duncan T. Parker, William Butler Duncan, Peter Stark, and their associates and successors be, and the same are hereby made a body politic and corporate, by the name and style of the "Bienville Water Supply Company," and as such corporation they are hereby vested with all the powers and privileges of private corporations under the laws of this State.

SEC. 2. *Be it further enacted,* That the capital of said corporation shall be five hundred thousand dollars, divided into shares of one hundred dollars each, and that said corporation may, by purchase or otherwise, acquire and own any and all real estate and personal property which may be necessary in order that said corporation may successfully engage in and carry on the business of water supply hereinafter specially declared; and that any insurance, banking, or other corporation existing under the laws of this State, shall have power, and is hereby authorized to subscribe for, own and hold as many shares of the capital stock of the corporation hereby created, as said corporations, by their boards of directors or managers, may see fit to subscribe for.

SEC. 3. *Be it further enacted,* That the business and affairs of the corporation hereby created, shall be managed by seven directors, to be elected annually by the shareholders of said corporation, at such time and place as may be directed by the by-laws thereof; that one of their

Capital stock.

Corporation authorized to subscribe for stock.

number shall be elected by said directors to be president of said corporation, whose powers and duties shall be as by their said by-laws declared.

Officers.

SEC. 4. *Be it further enacted*, That the officers of said corporation shall be the said president, and a secretary, the latter to be elected by said directors, and such other officers as said corporation, by its directors, may deem to be necessary for the successful management of its business; said directors may require of all officers, except the president, bond, with satisfactory security in such sum as may be prescribed by the by-laws of said corporation, conditioned for the faithful performance of the duties required of them by said by-laws and resolutions of the board of directors.

Books of subscription.

SEC. 5. *Be it further enacted*, That until a board of directors be elected by the shareholders as herein directed, the corporators hereinbefore named shall be the board of directors, and may open books in the Port of Mobile, and elsewhere, as they may direct, for subscription of its capital stock, to be made upon such terms as to payment as said board, by resolution to be placed at the head of the subscription list, may prescribe. When the sum of one hundred thousand dollars (\$100,000.00) has been subscribed, said provisional board of directors shall call a meeting of the subscribers, at such time and place as they may direct. At said meeting the subscribers shall elect

Organization.

a board of directors, to serve one year from that date, and till their successors are elected, and proceed to organize said corporation. Upon filing with the judge of probate of Mobile county, a certificate of organization as herein directed, signed by a majority of the corporators in the first section of this act named, said corporation may enter upon and thereafter transact the business hereby authorized.

Authority of corporators.

SEC. 6. *Be it further enacted*, That said corporation is hereby charged with the duty of introducing into the Port of Mobile and the village of Whistler, in Mobile county, such supply of pure water as the domestic, sanitary and municipal wants thereof may require. And for this purpose said corporation is hereby authorized to construct all needed canals and ditches, and by pipes and aqueducts, as may be found best suited for the purpose, to carry into said towns, by such line or route as may be found best, such water as may be needed, from any point

in said county within twenty miles of said port or city of Mobile. In the laying of its pipes and the construction of aqueducts when required, said corporation is hereby authorized to use, free of charge, any and all public roads of the county, and streets of said towns, free of charge; but when its pipes are laid in or under said roads and streets, or its other works completed, said corporation shall, without delay, restore said roads and streets to their original condition for use as public highways and thoroughfares, and for the purpose herein and hereby authorized, and to perform the public duty hereby declared, and by the acceptance of this charter imposed upon it. Said corporation shall have the right to enter upon any land of private persons, and therein and beneath the surface thereof, to lay pipes for the conveyance of said water, and thereafter to repair and maintain the same; but said corporation shall not enter upon any private lot in said towns, without the consent of the owner thereof, and before entering on any private property, must first pay to the owner thereof, such reasonable compensation for its use of said land for the purpose herein declared, as may be agreed upon with said owner, or in case of disagreement, as may be ascertained upon proceedings for that purpose, as directed by law, for the condemnation of private property, or the use thereof, to public use.

Right of way.

Corporation must compensate owners of property.

SEC. 7. *Be it further enacted*, That for the supply tubes or pipes leading from the main or large pipes in the streets or roads to the houses or other places where the water is required for use, and for the hydrants and other appliances connected therewith, said corporation shall be entitled to have and demand from the person or persons requiring the water, the reasonable cost thereof, and of fixing and adjusting the same, and said corporation shall have authority to make all needful rules and regulations relating to the supply and use of said water.

SEC. 8. *Be it further enacted*, That said company may contract with the owner or owners of any land through, or over which its water routes may run, for the purchase of so much of said land, or of the use thereof, as may be requisite for the purposes of said company. If any such land or lands 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 administra-

May contract for purchase or use of land.

In case of dis-  
agreement.

tor, as the case may be, may contract with the company for the purchase by said corporation of said land or lands, or the use thereof, as may be needed by said corporation, for the purpose authorized by this act, and upon consummation of such contract, may sell and convey said land or lands, or the use thereof, to said corporation. If said corporation cannot agree with the owners or the parties authorized to sell the property desired to be acquired, then said corporation may proceed to obtain, and may acquire the property or interest so desired, in the mode prescribed by law for the taking of private property for the use of other persons, or for public use.

Rights and  
powers.

SEC. 9. *Be it further enacted*, That the said corporation hereby created is hereby invested with all the rights and powers, which by law or contract was vested in the late municipal corporation, known as "The mayor, aldermen and common council of the city of Mobile," by redemption, purchase or otherwise to acquire from any and all other persons, corporations or associations whatever, any and all property and rights by such person or persons, corporations or associations, held under any former contract or law whatever, for the introduction and supply of water into the city of Mobile, or the inhabitants thereof, and for such purpose, said Bienville Water Supply Company shall be held and taken to be the assignee of the said "mayor, aldermen and common council of the city of Mobile," and may proceed to assert said rights, and exercise said powers thus assigned, the same as could have been done by the municipal corporation aforesaid; and for this purpose the commissioners of Mobile, appointed under and by virtue of "An act to vacate and annul the charter and dissolve the corporation of the city of Mobile," approved February 11th, 1879, are hereby authorized, on the demand of said corporation, to release to said corporation all the rights of said late city of Mobile in and to such right of redemption, purchase or other acquisitions of such property or rights.

May purchase  
right of parties  
to furnish wa-  
ter supply.

SEC. 10. *Be it further enacted*, That said Bienville Water Supply Company, be and is hereby authorized to acquire by contract with any person or persons, corporation, company or association, claiming any right to supply the port or city of Mobile or the inhabitants thereof with water, such right or rights as he or they may have in the premises, and the property owned and used in connection

therewith, and pay therefor such amount of money as may be agreed upon, or such amount as may be agreed upon in stock of the said supply company; and in case of failure by contract to obtain such right and property, then said corporation hereby created, may proceed as directed by law, for the condemnation and the taking of private property for public use, to obtain the same for the purpose of the public use and benefit herein declared of furnishing the port of Mobile, and the village of Whistler, and the inhabitants thereof, with an adequate supply of water for domestic, sanitary and municipal purposes.

Condemnation  
provided for.

SEC. 11. *Be it further enacted*, That said corporation shall have and enjoy the exclusive right and privilege of conducting and bringing water from any other source than Three Mile creek, in the county of Mobile, for the supply of said port and village, for the period of twenty years, from the time when said water shall have been brought into, and be ready for distribution, within the corporate limits of said port, and till the municipal authorities of said port and village, if so by law authorized, shall purchase the water works and property of said corporation, as hereinafter provided; but said corporation must, within two years from the passage of this act, begin its works, and within four years cause water to be conducted into the port of Mobile, for distribution, from same stream or point as hereinbefore named; and if and when any existing claim to bring water from Three Mile creek has been obtained, then said corporation shall have the exclusive right to supply the port and village aforesaid for the period, and upon the terms aforesaid.

Time when  
work shall be-  
gin and water  
supplied.

SEC. 12. *Be it further enacted*, That after the expiration of said period of twenty years, in case the General Assembly of Alabama so authorize, the corporate authorities then existing for the government of the territory now known as the port of Mobile, the said corporate authorities may then purchase the property and rights of said corporation, on such terms as may be agreed upon on a valuation to be made by five referees, two to be appointed by said municipal authorities, two by the Bienville Water Supply Company, and one to be selected by the other four referees, but none of said referees shall be residents of the county of Mobile.

Government  
of Mobile may  
purchase the  
works.

SEC. 13. *Be it further enacted*, That said corporation, for the purpose of its creation, may borrow money and

Additional  
powers of cor-  
poration.

issue its bonds therefor, and for the payment of the same, may mortgage its property and franchises, on such terms as it may contract, but not at a rate of interest in excess of that authorized by the laws of this State.

Rates of  
charges.

SEC. 14. *Be it further enacted*, That said corporation be and the same is hereby authorized to demand and receive for compensation for the supply of water it may furnish, at not exceeding the following rates, to be paid by the person receiving the water, and in advance, that is to say, for every family consisting of six persons or less, not more than twenty dollars per annum, and two dollars per annum for ever person additional, two children under twelve years of age, to be estimated as two for one. For retail grocery stores where liquors are not retailed, twelve dollars per annum, for retail grocery stores where liquor is retailed, from twenty to fifty dollars per annum; for liquor stores doing the business of drawing off and bottling wines or other liquors, from thirty to seventy-five dollars per annum; for stores without families, and for offices, twelve dollars per annum; for baths for private families, five dollars per annum; for a horse, five dollars per annum; for a buggy or carriage, three dollars per annum; for the use of ships and steamboats, vessels and other water crafts, per hogshead of one hundred and twenty gallons, (50c) fifty cents per hogshead. Coffee houses, oyster saloons, confectioneries, manufactories, hotels, taverns, boarding-houses, steam mills, tan yards, brick yards, soda water stands, livery stables, public baths, public or private fountains, baking, dyeing, scouring and renovating establishments, and other places of business not herein enumerated, may be supplied at an annual charge, according to the quantity of water, which may be required, on such terms as may be agreed upon.

Supply for mu-  
nicipal purpos-  
es free.

SEC. 15. *Be it further enacted*, That said corporation must, without charge, supply all needed water for the use of municipal buildings and hospitals of said port, and the jail and the court house of the county, but shall be entitled to have and demand reasonable and proper compensation for all pipes, hydrants and labor necessary to carry the water from the main, passing said buildings to the point where the water is to be used.

SEC. 16. *Be it further enacted*, That whenever the owners of three fourths of the improved property of any square in said port, in writing, so demands, said corpora-

tion must place on such square as many fire plugs as may be so demanded, at such rate as may be agreed upon per annum, for each plug, and the payment of the annual compensation, so contracted for, shall be a lien upon the improved property of such square, and be divided among and between the buildings upon such square, in proportion to their respective values, as the same are assessed upon the tax books of said port or city, and the proportion so assessed to said buildings respectively, shall be collected for the use of the corporation, and paid to it by the tax collector of the port or city when he makes collection of the taxes levied for municipal purposes. Said fire plugs shall be placed upon the street, readily accessible to the firemen for use in case of fire. Said plugs may be opened for the purpose of washing the streets and gutters, when and for such time, as the municipal authorities may, by ordinance direct. For the water so used, in case of fire, and for washing and sanitary purposes, no additional payment shall be made to said corporation. And the Bienville Water Supply Company, and the municipal authorities of the port or city of Mobile, may contract with each other, on such terms as they can agree upon, for the employment by said company, of apparatus or appliances of their own in connection with its said water works, for the extinguishment of fires or for other public uses, but the existing police board shall not, by anything in this act contained, be empowered to levy, demand or collect any other or additional taxes, than they are now by law empowered to levy, demand and collect.

Private property in relation to fire plugs.

Municipal privileges.

No additional tax allowed.

SEC. 17. *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, any earth, or other material, or by logs, brush 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 reservoirs 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 authority of said company, or of its

Damaging property of corporation; penalty for.



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 or sentenced to hard labor for the county, not exceeding two years, at the discretion of the jury trying the cause, and shall besides, be liable to the company for all damages it may sustain thereby.

Approved February 19, 1883.

No. 231.]

AN ACT

[H. B. 11.]

To repeal an act of the General Assembly approved December 8, 1880, to prohibit the sale, giving, distilling, or otherwise disposing of intoxicating beverages in Crenshaw county.

SECTION 1. *Be it enacted by the General Assembly of Alabama,* That an act of the General Assembly of the State of Alabama, approved December 8th, 1880, to prohibit the sale, giving, distilling or otherwise disposing of intoxicating beverages in Crenshaw county be, and the same is hereby repealed.

Approved February 19, 1883.

No. 232.]

AN ACT

[H. B. 64.]

To repeal an act, entitled an act for the protection of fish in the county of Baldwin, approved February 3d, 1881.

SECTION 1. *Be it enacted by the General Assembly of Alabama,* That an act entitled an act for the protection of fish in Baldwin county, approved February 3d, 1881, be, and the same is hereby repealed, and it is made the duty of the presiding judge of the Circuit Court of said county of Baldwin at the first term of said Circuit Court, after the passage of this act, to order all prosecutions pending, against persons for alleged violations of said act so repealed to order the same *nol prossed*.

SEC. 2. *Be it further enacted,* That all laws and parts