

PRIVATE LAWS .

OF THE

State of North Carolina

PASSED BY THE

GENERAL ASSEMBLY

AT ITS

SESSION OF 1899,

BEGUN AND HELD IN THE CITY OF RALEIGH

ON

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CHAPTER 195.

An act to authorize the city of Fayetteville to establish and operate a system of waterworks and sewerage, and to issue bonds therefor.

Whereas, by reason of its revenues from other sources and because under the provisions of chapter one hundred and fifty-three (153) of the private laws of eighteen hundred and ninety-three (1893), and the act amendatory thereof, passed by the general assembly of eighteen hundred and ninety-nine (1899), entitled "An act to amend chapter one hundred and fifty-three (153) of the private laws of eighteen [hundrel] and ninety-three," etc., and ratified on January twenty-sixth, eighteen hundred and ninety-nine, sufficient taxes are now levied and not otherwise appropriated to amply provide for the payment of the interest on the coupon bonds hereinafter provided for as it falls due and to create a sinking fund sufficient to fully pay off said bonds as well as to meet all the other obligations and liabilities of the said city:

Preamble.

The General Assembly of North Carolina do enact :

Section 1. That the city of Fayetteville, through its board of aldermen or their legally constituted agent or agents, be and is hereby authorized and empowered to establish and maintain a system of waterworks and sewerage, either or both, for the use of the said city and its citizens and of persons living in its suburbs, and to that end may purchase, hold, establish, maintain and operate all necessary lands, works, machinery and appliances wherewith to furnish a sufficient quantity of pure and wholesome water and a proper system of sewerage, either or both.

Fayetteville empowered to establish system of waterworks.

Sec. 2. For the foregoing purpose it shall be lawful for the said the city of Fayetteville to issue and sell at a price not less than par the coupon bonds of said city to an amount not exceeding sixty thousand dollars (\$60,000), said bonds to be in denominations of one hundred dollars (\$100) and five hundred dollars (\$500), and to run for a period of thirty years from the issue of the same, and to bear interest at a rate not exceeding six per centum per annum, payable semi-annually on the first (1st) day of June and December of each year after their issue.

May issue and sell bonds

Amount of issue.

Date of maturity.

Interest.

Sec. 3. Said coupon bonds shall be consecutively numbered and signed by the mayor and clerk of the city of Fayetteville, and it shall be the duty of the said clerk to keep an accurate account of the same.

Bonds, how numbered, etc.

Sec. 4. The coupons of said bonds shall be receivable by the tax collector and treasurer of the city of Fayetteville in payment of all taxes and dues to the said city.

Coupons receivable as taxes.

Sec. 5. It shall be lawful for the said the city of Fayetteville,

May provide a system of sewerage

in addition to supplying the public demands of said city as hereinbefore provided, to provide water and sewerage, either or both, for private use at a uniform rate to be prescribed by the board of aldermen of said city, and the receipts arising from such rentals shall be kept by the treasurer of the said city and shall be applied to the payment of interest on said bonds as the coupons may fall due, and to the further purpose of creating a sinking fund of two thousand dollars (\$2,000) per annum, which sinking fund it shall be the duty of the authorities of said city to lay aside annually from any funds in the treasury not otherwise appropriated, and from any surplus arising from said rentals in excess of amounts sufficient to pay the interest on said bonds. And the sinking fund above provided for may be temporarily applied to the payment of operating expenses of said waterworks plant or sewerage plant, either or both, as the case may be, and any deficiency in amount necessary for the payment of either interest, sinking fund or operating expenses of said system shall be paid from the current tax receipts of said city and shall be charged as necessary "water expense"; and to this end the twenty (20) per centum of the tax now levied for the benefit of the city of Fayetteville for water purposes under its charter may be used. Should there be any excess from private rentals over the amount necessary to pay said interest, sinking fund and operating expenses, such excess shall be used for the payment of the ordinary expenses and liabilities of said city.

City authorities shall levy annual tax to create sinking fund.

Excess from rentals.

Sinking fund shall not be used for other purpose.

Sec. 6 It shall be unlawful for the authorities of the said the city of Fayetteville to use the sinking fund herein provided for otherwise than as above provided for, and it shall be the duty of the board of audit and finance of said city to safely invest, at not less than the legal rate of interest, annually, the sinking fund herein provided for under the advice of the city attorney, or said board of audit and finance may purchase, at a price not exceeding the face value of said bond or bonds, any of the outstanding bonds herein provided for from any person desirous of disposing of the same.

Administrators and others may invest funds in said bonds.

Sec. 7 All administrators, executors, guardians and other persons acting in a fiduciary capacity are hereby authorized and empowered to invest the funds intrusted to them in said bonds.

Committees shall be appointed to select site for plant, etc.

Sec. 8. The board of aldermen of the city of Fayetteville in the event of the erection or purchase of a waterworks plant provided for in this act shall appoint three freeholders of the city of Fayetteville who, with the assistance of the city engineer, shall locate the site for said waterworks plant and who shall survey, map out and designate with proper metes and bounds an ample watershed to secure the purity of the water flowing and draining into

the stream from which said water supply may be taken, and to locate and plan a suitable reservoir for said water supply.

Sec. 9. Any person who shall willfully place or deposit in the stream from which said water supply may be taken or any of its tributaries, or upon the ground drained by them or any of them within a distance from said reservoir, to be marked, designated and published by the three freeholders and engineers aforesaid, or upon the water-shed herein provided for, any dead carcass of any animal or any filthy or poisonous substance or any other substance or thing by which the water of said streams, or its tributaries shall be rendered or may become liable to the [be] rendered unwholesome, contaminated or otherwise unfit for domestic purposes, shall be guilty of a misdemeanor.

Persons placing dead carcasses, etc., in streams used, guilty of a misdemeanor.

Sec. 10. It shall be unlawful for any person to erect, establish or maintain upon the water-shed of the stream upon which said waterworks plant may be located or any tributary thereof within the boundaries and marks and designations provided for in this act, any establishment or works the effect of which in its operation or use shall be deleterious to the water of the stream upon which said plant shall be located or its tributaries above the points and boundaries named, and any such establishment, contrivance and works is hereby declared to be a public nuisance: Provided, that all such establishments, contrivances and works which are standing, established and maintained at the time of the survey provided for in this act shall be condemned as provided in this act for condemning land, and shall be removed.

Works deleteriously affecting water shall not be established along streams used.

Provido.

Sec. 11. It shall be the duty of the superintendent of health of the county of Cumberland, together with the board of health of the city of Fayetteville to exercise due surveillance over the water-shed, streams and tributaries mentioned in the preceding section, and to report to the board of aldermen of the city of Fayetteville, whose duty it shall be to abate the nuisance therein declared and forbidden in the manner provided by existing laws.

superintendent of health of Cumberland county shall exercise control over sheds, etc.

Sec. 12. Any person who shall willfully injure any of the property of said waterworks plant or in any manner willfully and maliciously interfere with or obstruct the operation of its works, or shall cast, throw, place or deposit any deleterious substance in any of the filters, mains, pipes, tanks, reservoirs or other receptacle of water connected with the said water plant or waterworks, shall be guilty of a misdemeanor.

Persons injuring property guilty of a misdemeanor.

Sec. 13. The board of aldermen and the city engineer of the city of Fayetteville, and any agent or agents appointed by said board of aldermen are hereby authorized and empowered to enter upon the lands of all persons, firms and corporations within or without the limits of said city, for the purpose of making the surveys provided for in this act, laying or putting down any

Aldermen empowered to condemn lands.

pipes, drains, machinery or appliances, or for the purpose of erecting any reservoirs or other necessary buildings or doing any other act necessary to be done towards the erection and maintenance of such system of waterworks or sewerage, either or both, and towards the maintenance and protection of the same when erected, and may, by proper proceedings as hereinafter provided for, condemn such real estate, easement or interest in real estate as may be necessary for the purpose of this act.

Proceedings for such condemnation.

Sec. 14. The proceedings for the condemnation of land or any easement or interest therein for the use of said waterworks or water plant and the sewerage provided for in this act, the appraisal of land or interest therein, the duties of commissioners of appraisal the right of either party to file exceptions, the report of the commissioners, the mode, and manner of appeal, the power and authority of the court or judge to file judgment and the manner of its entry and enforcement and the rights of the city of Fayetteville pending appeal, shall be as prescribed in chapter forty-nine (49) of The Code of North Carolina and acts amendatory thereof for condemning land for the use of railroads: Provided, that all the provisions in said chapter requiring petitions to state incorporation, the subscription and payment of stock, surveys, maps of routes or any other maps, and signatures by directors, shall not be necessary in carrying into effect this act: Provided further, that it shall not be necessary for the board of aldermen of the said city or their agents or the city engineer to institute any proceeding or file any petition or to pay into court any money before entering upon or taking possession of any land for constructing and operating the said plant: Provided further, that nothing in this act shall prevent the city of Fayetteville from acquiring any right or title or interest in any land or easements in lands by gift or purchase, nor to prevent the arbitration of any differences which may arise between the said the city of Fayetteville and any person owning or interested in any land or easements or rights in lands which may be required or needed for the erection, operation and maintenance of said waterworks plant or water plant

Proviso.

Aldermen not required to institute proceedings.

Election shall be held to vote on issuance of bonds.

Sec. 15. An election shall be held at the market house in the city of Fayetteville on the first (1st) Tuesday in April, eighteen hundred and ninety-nine, for the purpose of ratifying or disapproving, by a majority of the qualified voters of said city, the issuance of the bonds herein provided for. It shall be the duty of the mayor to cause daily publication of this act in full to be made in some newspaper published in said city not less than ten days immediately preceding said election, not including Sundays.

Appointment of registrar.

Sec. 16. The board of aldermen of the city of Fayetteville shall appoint a registrar of voters for the said the city of Fayetteville.

who shall register such citizens of said city as are not at present registered and who would be entitled to vote at the election, and shall cause publication and notice to be given as provided by section seven (7) of chapter one hundred and fifty-three (153) of the private laws of eighteen hundred and ninety-three (1893): Provided, that if upon a vote a majority of the board of aldermen of the city of Fayetteville shall so declare at a meeting to be held twenty days before the time provided for in this act for said election, a new registration shall be had of the voters of said city as provided by law, upon the question of issuing bonds under the provisions of this act or upon any other question submitted to the voters of said city at the same time.

Sec. 17. The duties of registrar so to be appointed, the registration and the oath of election shall be as provided by section eight (8), nine (9) and ten (10) of chapter one hundred and fifty-three (153) of the private laws of eighteen hundred and ninety-three (1893).

Duties of registrar.

Sec. 18. The board of aldermen of said city shall appoint two judges of election to hold said election, and the duties and powers and qualifications of said judges of election shall be the same as are provided by said chapter one hundred and fifty-three (153) of the private laws of eighteen hundred and ninety-three (1893); and all matters and questions as to the election herein provided for shall be determined according to the provisions of chapter one hundred and fifty-three (153) of the private laws of eighteen hundred and ninety-three (1893), sections seven (7) to fourteen (14) inclusive of both.

Appointment of judges of election.

Sec. 19. The ballots to be used at the election herein provided for shall be of white paper and without device, and shall contain the word "Water" or the words "No water," and the bonds herein provided for shall be issued only in case a majority of the qualified voters of said city shall vote "Water": Provided, however, that in case an election on any other subject than the bonds provided for in this act shall be held on said first (1st) Tuesday in April, eighteen hundred and ninety-nine, in the said the city of Fayetteville, the officers appointed to hold said other election shall hold the election provided for in this act, and it shall not be necessary in such case to appoint the election officers provided for in the preceding sections of this act.

Form of ballots.

Sec. 20. All laws and parts of laws in conflict with this act are hereby repealed.

Conflicting laws repealed.

Sec. 21. This act shall be in force and effect from and after its ratification.

Ratified the 6th day of March, A. D. 1899.