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24 Victoria – Chapter 52

An Act to incorporate the Newcastle Gas Company. Passed 12th April 1861.

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Whereas the establishment of a Company for the purpose of erecting Gas Works in the Town of Newcastle, in order to furnish the means of lighting the said Town in a superior manner, would be an object of public utility;—

Be it therefore enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. That the Honorable Peter Mitchell, Alexander M'Laggan, Allan A. Davidson, William Park, George Kerr, Edward Williston, Richard Davidson, James Allan, John Rundle, John Haws, John Noonan, James Fish, Richard Hutchison, Daniel Wetherall, James Mitchell, Patrick Morrissy, James Murray, Edward Fraser, W. M'Master, Robert Coll, George S. Pope, John Coghlin, and John Nevin, their associates, successors, and assigns, shall be and they are hereby erected into a body politic and corporate by the name of 'The Newcastle Gas Company,' and shall have all the general powers and privileges made incident to a Corporation by Act of Assembly in this Province, for the purpose of lighting the Town of Newcastle with gas, and for all necessary works therewith connected.

2. The capital stock of the said Corporation shall be twelve thousand dollars of current money of New Brunswick, and shall be divided into twelve hundred shares of ten dollars each, to be paid in

at such times and in such instalments as the business of the said Company shall require, provided that twenty five per centum of the said capital stock, amounting to three thousand dollars, shall be actually paid in and invested in the business of the said Corporation in two years from the passing of this Act; and provided that the said Corporation shall, when necessary, have leave to extend the said capital stock of the said Corporation to the sum of sixteen thousand dollars of like current money, and shall have power to increase the number of shares accordingly; and provided also that the said Corporation shall not be entitled to purchase any property, real or personal, or to incur any debts, until the said twenty five per centum of the capital stock as aforesaid shall be paid in.

3. The first meeting of the said Corporation shall be held in the Town of Newcastle, and shall be called by Allan A. Davidson, or in case of his death, neglect, or refusal, by any two of the said Company, by giving notice in one of the public newspapers printed in Northumberland, at least ten days previous to such meeting, for the purpose of establishing bye laws and choosing Directors; which Directors so chosen shall serve until the first annual meeting, or until others are chosen in their stead, and shall have full power and authority to manage the concerns of the said Corporation, subject to the rules and regulations made and provided.

4. A general meeting of the stockholders of the said Corporation shall be held in Newcastle on the first Wednesday in January in each and every year, for the purpose of choosing five Directors; which Directors so chosen shall remain in office one year or until others are chosen in their stead, and shall, at their first meeting after their election, choose one of their number President of the said Company; provided always, that not less than three Directors do form a quorum for the transaction of business, and in case of the absence of the President, the Directors shall have power to appoint any one of their number Chairman for the occasion.

5. No person shall be eligible for a Director, unless such person is a stockholder, and holds not less than five shares of the capital stock of the said Corporation, and is of the full age of twenty one years.

6. The number of votes to which each stockholder shall be entitled on any occasion when according to the provisions of this Act the votes of the stockholders are to be given, shall be for one share and not more than two, one vote; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten and not exceeding thirty, one vote, making ten votes for thirty shares; for every eight shares above thirty not exceeding seventy, one vote, making fifteen votes for seventy shares; for every twelve shares above seventy and not exceeding one hundred and thirty, one vote, making twenty votes for one hundred and thirty shares; which said number of twenty votes shall be the greatest any stockholder shall be entitled to have; and all stockholders may vote by proxy, such proxy being a stockholder and producing sufficient authority in writing from his constituent.

7. The shares in the Corporation shall be assignable and transferable according to such rules and regulations as may be established in that behalf, but no assignment or transfer shall be valid or effectual unless the same shall be entered and registered in a Book to be kept for that purpose; in no case shall any fractional part of a share, or other than a complete share or shares, be assignable

or transferable; and whenever any stockholder shall transfer in manner aforesaid all his stock and shares in the said Company, he shall cease to be a member of the said Corporation.

8. In case of any vacancy among the Directors by death, resignation, or disqualification by sale or transfer of stock, then and in either of such cases the remaining Directors shall and may fill up such vacancy, and the person or persons so chosen by the Directors shall serve until another or others is or are chosen in his or their room.

9. Each and every stockholder in the said Company shall be held liable to the said Company for the payment of each and every call or assessment made, (not however to exceed in amount the stock to be subscribed for,) for the purpose of enabling the said Company to pay the debts and engagements of the said Corporation, or to carry on the operations for which the said Company is incorporated, and shall and may be sued for and recovered by the said Company in any Court having jurisdiction, notwithstanding the whole of the stock may not have been subscribed, and although the whole of the subscribed stock may not have been paid up before the levying of such assessment.

10. That all sums not exceeding twenty dollars due to the said Company for any debt, or for any call or assessment that may be made on the subscribed stock in the said Company, may be sued for and recovered before any Justice of the Peace within the County of Northumberland, under and according to the provisions of Chapter 137, Title XXXVII, of the Revised Statutes, 'Of the jurisdiction of Justices in Civil Suits'; provided always, that nothing in this Act contained shall be construed to take away or affect the right of the said Company to forfeit and sell delinquent shares.

11. If any shareholder shall fail to pay the amount of any assessment made by the said Directors, or any part thereof, it shall be lawful for the said Company to sue such stockholder for the amount thereof, or so much thereof as may be and remain due and owing thereon in any Court of law or equity having competent jurisdiction; and to recover the same with lawful interest from the day on which such assessment was payable, with costs of suit.

12. In any action or suit to be brought by the said Company against any shareholder, to recover any money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the said Company to declare that the defendant is the holder of one or more shares in the said Company, (state the number of shares,) and is indebted to the said Company in the sum of money to which the assessment or assessments in arrear shall amount, in respect of one assessment or more upon one share or more, (state the number and amount of such assessments,) by means of which an action hath accrued to the said Company by virtue of this Act.

13. On the trial or hearing of such action or suit, it shall be sufficient to prove that the defendant, at the time of such assessment, was a holder of one share or more in the said undertaking, and that such an assessment was in fact made, and it shall not be necessary to prove any other matter whatsoever; and thereupon the said Company shall be entitled to recover what shall be due upon such call, and interest thereon.

14. The joint stock or property of the said Corporation shall alone in the first instance be responsible for the debts and engagements of the said Corporation; and no shareholder or member of the said Company shall be individually or personally responsible or liable for any debts, engagements or losses of the said Company, beyond the amount of his shares of the stock of the said Company.

15. The stock subscription list already subscribed, and such other names and shares as may be added thereto, to the extent of the stock, shall compose the Company; stockholders and the subscribers shall be in the same position as if they had subscribed after the passing of this Act, as well for the payment of such stock or otherwise.

16. The Directors shall have power to levy and collect assessments upon the shares from time to time, of such sums of money as may be deemed necessary for carrying on the business of the said Company; and whenever any assessment may be made by the Directors, it shall be the duty of the Treasurer to give notice thereof in one of the public newspapers printed in the County, requiring payment of the same within thirty days; and if any stockholder shall neglect or refuse to pay the Treasurer the amount of such assessment upon his shares at the time prescribed, all such delinquent shares may be sold at public auction, the Treasurer giving at least thirty days' public notice of the time and place of such sale; and all shares upon which the assessment is not then paid, with interest from the time such assessment became due, shall be sold to the highest bidder, and after retaining the amount of the assessment and interest due on each share, and the expense of advertising and selling, the residue (if any) shall be paid over to the former owner, and a new certificate of the shares so sold shall be made out and delivered to the purchaser.

17. All meetings of the said Company shall be called by public notice thereof in one of the newspapers printed as aforesaid, ten days at least before the time of such meeting; and all special meetings may be called by the Secretary under the authority of the Directors, or by shareholders representing not less than one hundred shares of stock, upon giving the like notice.

18. It shall and may be lawful for the said Company, at a proper and convenient depth under each and every of the streets and roads leading into and through the said Town and its vicinity, to lay down, set and place such and so many pipes, leaders, and other apparatus for the said gas, as they shall find to be necessary for conveying the same to any or every building or lamp post in the said Town or its vicinity, and from time to time, as often as the said Company shall think proper, to lay down such pipes, leaders, and other apparatus, or if occasion require, to alter, amend, or repair the same; it shall also be lawful for the said Company to break up and open any part whatsoever of the said roads and streets, or of the covering, pavement, or sidewalk thereof, and the same to keep open and uncovered during the time necessary for such purposes; provided always, that the said Company shall and do at their own proper costs and charges, and to the satisfaction of the Commissioners of streets and highways for the Town and Parish of Newcastle for the time being, and without unnecessary delay, repair and amend the said roads, streets, coverings, pavements, or sidewalks, in every part where they shall be so broken up and opened as aforesaid, to the condition in which they were before breaking up or opening the same.

19. If the said Company shall not repair the said streets, roads, coverings, pavements, or sidewalks, or any of them so broken up, to the satisfaction of the said Commissioners of highways for the time being, or a majority of them, it shall be lawful for the said Commissioners to cause the same to be repaired, and to sue for and recover the expense incurred therein from the said Company, in any Court competent to try the same.

20. From and after the passing of this Act, the said Company or any person or persons who may in any way be employed by them, shall not throw, drain, or cause, suffer or permit any person or persons to throw or drain, into any part of the River Miramichi, any refuse of coal tar or other noxious substance that may arise from the said gas works, under the penalty of twenty dollars for each and every offence.

21. Provided always, that unless three thousand dollars of the said capital stock shall be actually paid in for the purposes of the said Corporation, and a certificate of such payment signed and verified on oath by the said Directors, or a majority of them, which oath any Justice of the Peace is hereby authorized to administer, shall be filed in the office of the Secretary of the Province before the expiration of four years after the passing of this Act, the operation of this Act shall cease, and the existence of the said Corporation shall be terminated on the expiration of the said four years.

22. The said Company do and shall in every street or road through which the said pipes shall be laid, make and provide proper leaders and apparatus for supplying with gas any public lamps which may hereafter be set up in the several streets, and shall provide such apparatus and at such distances from each other as the Justices in General Sessions shall from time to time direct; provided that such Justices in General Sessions shall pay any additional expense that may be incurred by the said Company, by the making of such leaders and apparatus for supplying gas.