

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart Derbshire & George Desbarats, 1849.

12 Victoria – Chapter 183

An Act to amend the Act incorporating the New City Gas Company of Montreal, and to extend the powers of the said Company. 30th May, 1849.

Whereas it is expedient to amend an Act of the Parliament of this Province, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to incorporate the New City Gas Company of Montreal*; And whereas the said New City Gas Company have petitioned that the said Act be amended, and it appears that the said Company have in accordance with the provisions of the said Act, increased their Capital Stock to the sum of fifty thousand pounds currency, and they have prayed to be empowered to create a still further increase in the amount of Capital Stock: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Capital Stock of the said Company by a vote of the majority of the Stockholders to be present at any General Meeting to be called for that purpose may notwithstanding any thing in the said Act hereby amended contained, be increased by the sum of twenty-five thousand pounds currency, or such less sum as may be resolved on, over and above the sum of fifty thousand pounds currency, to which sum the present Capital Stock of the said Company amounts, making the entire amount to which the said Capital Stock may extend, the sum of seventy-five thousand pounds currency, and the said sum of twenty-five thousand pounds currency, shall be divided into two thousand five hundred shares of ten pounds currency each, and may be raised either by the present Shareholders, by voluntary subscription among themselves, or by the admission of new members, or in both those ways, and the said Stock shall be payable by such instalments, at such times, and in such proportions and manner, and after such notice, and with or without interest from the days on which payment is required, as the Directors of the said Company shall see fit to direct, such calls nevertheless to be subject to the restrictions and limitations contained in the eleventh section of the Act hereby amended.

II. And be it enacted, That the said additional Capital Stock to be so raised as aforesaid shall be considered as part of the original Capital Stock of the said Company, and shall, as well as the subscribers therefor and owners thereof, be subject to all and every the same provisions, enactments and penalties in all respects, as well with reference to the payment and enforcing the payment of calls, as to the forfeiture of shares on nonpayment of calls or otherwise, as are contained in the Act hereby amended, and are thereby made applicable to the original Capital Stock of the said Company, and each and every of the said enactments and provisions shall apply to the additional Capital hereby authorized to be raised, and payment of the said calls shall and may be enforced, and the penalties incurred in all respects, in the same manner as provided in the

Act hereby amended, save and except in so far as may be otherwise provided in this Act with respect to such payments, penalties and forfeitures or otherwise.

III. And be it enacted, That the whole amount of additional Stock to be raised as aforesaid, shall, after the payment of all necessary and incidental expenses, be expended in payment of any claims due by the said Company for any property or works now acquired or in progress, or shall be applied in extending and improving the Works of the Company, or in erecting any new works that may be necessary from time to time, for furnishing a supply of Gas to the City and Suburbs of Montreal, agreeably to the purposes and intendment of this Act and the Act hereby amended.

IV. And be it enacted That no Shareholder in the said Corporation erected by the Act hereby amended, and herein spoken of, shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Corporation, beyond the amount of his, her or their subscribed share or shares in the Capital Stock of the said Corporation.

V. And be it enacted, That it shall and may be lawful for the Company to borrow, either in this Province or out of it, and either in sterling money or currency, and at such rate of interest, even exceeding six per cent, as the Directors may from time to time agree upon, on mortgage, bond or debenture, such sums of money, from time to time, as shall not exceed in all, the sum of twenty thousand pounds currency, and if, after having borrowed the whole or any part of such money, the Company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so, from time to time, to re-borrow, provided that the whole amount borrowed do not at any one time exceed the sum of twenty thousand pounds currency, and for securing the re-payment of the money so borrowed, with interest, it shall be lawful for the said Company to mortgage, secure and assign real estate, works, rates, revenues and rents, and the future calls on the Shareholders of the Company, or to give bonds or debentures, in such manner as shall appear most expedient, payable either in currency or sterling money, and either within or without this Province, and such bonds, debentures or other securities to be granted, may be made payable to bearer, or made transferable by simple endorsement or otherwise, as the Directors see fit: Provided always, that no such bond, debenture or other security shall be made or granted for a less sum than one hundred pounds currency.

VI. And be it enacted, That the respective obligees, in such bonds or debentures whereby the rents, revenues or future calls, or payments due to the said Company, shall be secured, shall proportionally, according to the amount of moneys secured, thereby be entitled to be paid out of the rents, revenues or future calls of the Company, the respective sums in such bonds or debentures mentioned, and thereby intended to be secured, without any preference one above another, by reason of priority of date of any such bond or debenture, or of the meeting at which the same was authorized or otherwise howsoever, and no such bonds or debentures, although they should comprise future calls on Shareholders, shall preclude the Company from receiving and applying such future calls to the purposes of the Company, so long as the money due on all such bonds or debentures does not exceed the amount of all the calls still remaining unpaid.

VII. And be it enacted, That notwithstanding any thing in the Act hereby amended, contained, it shall and may be lawful for the Directors of the said Company, from time to time, and as often, and when they shall see fit, without the formality of passing a Bylaw to that effect, specially, by a Resolution to that effect, to be entered upon the Books of the said Company, to authorize the President and Vice-President, or any two or more of the Directors of the said Company, to sign such particular bonds, mortgages, contracts or instruments as it may in the opinion of the Directors, be necessary or expedient so to sign, and to affix the Common Seal of the said Company thereto; and it shall also be lawful in like manner, for the President and Vice-President, or any two or more Directors, to be from time to time authorized as aforesaid, to draw, sign or accept such particular promissory notes, or bills of exchange, for the purposes of the said Company without seal, as it may, in the opinion of the Directors, be necessary or expedient so to sign, and all such bonds, contracts, mortgages and instruments so signed and sealed by the persons authorized as aforesaid, and all such notes and bills so signed, drawn or accepted by the persons authorized as aforesaid, shall be valid and binding on the said Company, and be held to be the act and deed of the said Company: Provided, that no bond, bill, note, contract or other instrument, signed, or signed and sealed by any such Officer or Officers of the said Company, shall be of any force or effect or binding upon the said Company, unless the same shall have been so signed, or signed and sealed under the authority of the Directors, by a resolution as aforesaid, nor in any action, suit or proceeding, to which the said Company shall be a party, shall the election of the President, Vice-President or Directors of the said Company, be liable to be questioned by any party except the said Company, nor shall it be necessary for the Company in any suit, to prove the election or appointment, or authority of any President, or Vice-President or any Director, but the same shall be presumed, unless disputed by the said Company: And provided also, that in any action,, suit or proceeding on any such bond, bill, note, contract or other instrument so signed, or signed and sealed as aforesaid, or in which the said Company may be engaged, Copies of the Minutes of Proceedings and Resolves of the Proprietors of Shares of the Capital Stock of the said Company at any General or Special Meeting, or of the Directors at their Meetings, extracted from the Minute Book or Books kept by the Secretary of the Company, and by him duly certified on oath before a Judge of one of Her Majesty's Courts of Law in Lower Canada, or before a Commissioner duly authorized to take Affidavits to be used in the Court in which such action, suit or proceeding is brought, to be true Copies extracted from such Minute Book or Books, and bearing the Seal of the said Company, shall be held as conclusive evidence of the facts therein stated as well as of the election of any President, Vice- President or Director therein named.

VIII. And be it enacted, That all Acts done by any meeting of the Directors, or by any person acting as a Director shall, notwithstanding it shall afterwards be discovered that there was some defect or error in the appointment or qualification of any person attending such meeting as a Director or acting as aforesaid, be as valid as if such person had been duly appointed and was qualified to be a Director.

IX. And in amendment of the fourth Section of the said Act—Be it enacted, That only four out of the thirteen Directors shall retire each year, and the order of retirement of the thirteen now in office shall be decided by lot before the next annual meeting, and thereafter they shall retire by rotation, and the annual election shall take place only for four Directors instead of thirteen as

provided by the said Act; Provided always, that all Directors retiring at any time shall be eligible for re-election.

X. And be it enacted, That notwithstanding any thing in the said Act hereby amended contained, it shall not be lawful for any Stockholder at any meeting to vote on any Stock which shall not have been held in his own name, or the name of a firm, in which he may be a partner, or by the party for whom any person shall vote by proxy, for at least six months previous to the time at which such vote may be sought to be given; nor shall it be lawful for any Stockholder who is or shall become indebted to the Company for gas, rent, fixtures or otherwise, to transfer any Shares of Stock held by him until payment be made to the Company of all sums of money due by such Stockholder.

XI. And be it enacted, That the Company shall not make any dividend whereby their Capital Stock will be in any degree reduced, nor shall any dividend be paid in respect of any share until all calls then due in respect of that or any other share held by the person to whom such dividend may be payable shall have been paid; and it shall be lawful for the Company to deduct from the amount of dividend payable to any person who may not have paid the instalments on the day the same were respectively called for, on any shares at any time owned by him such sum as would be equal to interest on the unpaid call or calls from the time at which the same ought to have been paid, until the time when the same was or were actually paid; or to the period of the payment of the first dividend from which such interest may be deducted and reserved by the Company.

XII. And be it enacted, That notwithstanding any thing in the said Act hereby amended contained, it shall and may be lawful for the Directors of the said Company to declare all Shares of Stock on which any instalments and penalties may be or remain unpaid during the period mentioned in the eleventh Section of the Act hereby amended, forfeited to the said Company, and it shall not be necessary to have such Shares declared forfeited at any special meeting of the Shareholders of the said Company, it being hereby provided and declared that a resolution of the Directors shall cause the said Shares to be as absolutely forfeited as if a resolution of the Shareholders were passed in the manner required by the said Act, and such Shares shall or may be sold as provided by the said Act, but the proceeds of such sales shall not be paid over except after deduction as well of the costs and forfeitures mentioned in the said Act, as of all calls due in respect of such Shares and interest thereon from the times at which such calls were respectively made payable, which calls and interest the said Company is hereby authorized first to deduct and retain and all other provisions with respect to the effect of such forfeitures shall remain in as full force, virtue and effect, as if this Act had not been passed.

XIII. And be it enacted, That it shall be lawful for the Manager, Secretary or Clerk of the said Company, in all proceedings against the estate of any debtor, bankrupt or insolvent against whom the said Company may have claims, to represent the said Company, to appear, act, prove and vote in their behalf in all respects, as if such claim or demand were the demand of such Manager, Secretary or Clerk of the said Company.

XIV. And be it enacted, That neither the service nor connecting pipes of the said Company, nor any meters, lustres, lamps, pipes, gas-fittings or other property of any description whatsoever of the said Company shall be subject or liable for rent nor liable to be seized or attached in any way by the possessor or owner of the premises wherein the same may be, nor be in any way whatsoever liable to any person for the debts of any person-or persons to and for whose use or the use of whose house or building the same may be supplied by the Company, notwithstanding the actual or apparent possession thereof by such person or persons; any law usages or custom to the contrary notwithstanding.

XV. And be it enacted, That the said Company shall have power and authority, and it shall be lawful for the said Company to sell and dispose of gas-meters, gas-pipes, and gas-fittings of every description, for the use of private or public houses, or for any establishment, company or corporation whatever, as well as coke, coal, and all and every the product and products of their work, refuse or residuum arising, or to be obtained from the materials used in or necessary for the manufacture of Gas, as well as to sell and dispose of any surplus lands or buildings belonging to the Company but not needed by the Company for the extension of the works, in such manner as the said Company may think proper, and that the said Company shall also have power and authority to let out at hire gas-meters and gas-fittings of every kind and description, at such rates and rents as may be agreed upon between the consumer or tenant and the said Company.

XVI. And be it enacted, That if any person shall wilfully damage, or cause or knowingly suffer to be damaged any meter, lamp, lustre, service pipes, or fittings belonging to the said Company, or shall wilfully alter or impair, or knowingly suffer the same to be altered or impaired, so that the meter or meters shall indicate less Gas than actually passes through the same, every such person or persons shall incur a penalty to the use of the said Company, for every such offence, of a sum not less than one pound, nor exceeding five pounds, and shall also pay and defray all charges necessary for the repairing or replacing the said meter, pipes or fittings, and double the value of the surplus Gas so consumed, such penalties, damage and charges to be recovered with costs in the manner hereinafter provided.

XVII. And be it enacted, That if any person shall wilfully extinguish any of the public lamps or lights, he shall forfeit and pay to the use of the said Company, for every such offence, a penalty not less than one pound nor more than five pounds, and shall also be liable to make good all damages and charges to be recovered with costs in the manner hereinafter provided.

XVIII. And be it enacted, That if any person shall carelessly or accidentally break down or damage any meter, pipe, pedestal or lamp, supplied by or belonging to the Company or any persons, or keep the light or lights burning for a longer time than he shall contract to pay for, and shall not on demand make satisfaction to the Company, or to such person for the damage done, or for the excess of Gas obtained and used, such damage, loss or value may be recovered by the Company, with costs, in the manner hereinafter provided.

XIX. And be enacted, That if any person or persons, whether principal or workman or party employing such, shall join or connect any pipe to the main or service pipes of the said Company, or

shall in any way lay, join or connect any pipe for the supply of any new light or burner, to any pipe, whatsoever, containing gas, without having first received the consent of the Company or their Agent in writing, then such person or persons or party employing such, shall for every offence forfeit and pay to the said Company the sum of twenty-five pounds currency, and also a further sum of one pound for each day such pipe shall so remain, or be imprisoned for the term of one calendar month in the Common Gaol.

XX. And be it enacted, That if any person or persons, company or companies, or body corporate supplied with Gas by the Company, shall neglect to pay any rate, rent or charge due to the said New City Gas Company, at any of the times fixed for the payment thereof, it shall be lawful for the Company or any person acting under their authority, on giving twenty-four hours previous notice, to stop the Gas from entering the premises, service pipes or lamps of any such person, company or body, by cutting off the service pipe or pipes, or by such other means as the said Company shall see fit, and to recover the said rent or charge due up to such time, together with the expenses of cutting off the Gas, in any competent Court, notwithstanding any contract to furnish for a longer time, and in all cases where it shall be lawful for the said Company to cut off and take away the supply of Gas from any house, building or premises, under the provisions of this Act, it shall be lawful for the Company, their agents and workmen, upon giving twenty-four hours previous notice to the occupier or person in charge, to enter into any such house, building or premises, between the hours of nine o'clock in the forenoon and four in the afternoon, making as little disturbance and inconvenience as possible, and to remove, take and carry away, any pipe, meter, cock, branch, lamp, fittings or apparatus, the property of and belonging to the said Company; and it shall also be lawful for any servant of the said Company duly authorized, to enter any house into which Gas may have been or be taken, between the hours aforesaid, for the purpose of repairing and making good, any such house, building or premises, or for the purpose of examining any meter, pipe or apparatus belonging to the said Company or used for supplying their Gas; and if any person or persons refuse to permit or do not permit the servants and officers of the said Company to enter and perform the acts aforesaid, every such person so refusing or obstructing shall incur a penalty to the said Company, for every such offence, of ten pounds currency, and a further penalty of one pound for every day during which such neglect, refusal, or obstruction shall continue, to be recovered with costs as hereinafter provided.

XXI. And be it enacted, That all fines, penalties and forfeitures imposed by this Act or by the Act hereby amended may notwithstanding any special provision with respect to any such fines, penalties or forfeitures, in the Act hereby amended, be sued for and recovered with costs by the said Company to and for their own use, or by any person whose property may be injured, to and for the use of such person or persons either in the manner directed in the said Act, or before any one or more Justices of the Peace for the District of Montreal, on the oath of any one credible witness, although such witness be a servant in the employ of the said Company, and in all actions authorized by this Act or by the Act hereby amended to be instituted or contemplated therein, the evidence of one credible witness shall be received as sufficient, notwithstanding such witness may be in the employ of the said Company, and all such actions shall be brought in Courts having jurisdiction over the amount involved in such suit unless otherwise specially provided and authorized by this or the said Act, and where damage as well as a penalty may be given, such

damage and penalty may be sued for separately; and such fines, penalties and damage may be levied by distress from the goods of the defendant, and in case the defendant may have no goods to satisfy the same, then he shall be committed to the Common Gaol for such period not exceeding two months, as the Justice or Court may direct.

XXII. And be it enacted, That the word "Lands" in this Act and the said amended Act, shall include all lands, tenements, and hereditaments, and real and immoveable property whatsoever, and the word "Company" in the said Acts shall mean the Corporation erected in the said Act hereby amended, and in this Act spoken of unless otherwise expressly indicated by the context, and all words importing the singular number or the masculine gender only, shall extend to more than one person, party or thing, and to females as well as males, and the words "Shareholder" or "Stockholders," shall include the heirs, executors, administrators, curators, legatees or assigns of such Shareholders, or any other party having the legal possession of any share whether in his own name or that of any other, unless the context shall be inconsistent with such construction; and whenever power, is by this Act given to do any thing, power shall be intended also to do all things which may be necessary to the doing of such things, and all acts which the Directors or Stockholders are authorized to perform and do, shall or may be validly performed and done by a majority of the Directors or a majority of the *quorum* of the Directors or of the Stockholders respectively as the case may be, unless where otherwise expressly provided, and generally all words and clauses herein shall receive such liberal and fair construction as will best insure the carrying into effect of this Act according to its true intent and spirit.

XXIII. And be it enacted, That this Act shall be deemed a Public Act, and as such judicially noticed by all Judges, Justices and others whom it may concern, without being specially pleaded.