

Laws of Her Majesty's Province of Upper Canada, passed in the year 1850. Toronto: Stewart Derbyshire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 136

An Act to incorporate the Hamilton Gas Light Company. 24th July, 1850.

Whereas it is desirable to provide a cheap and effective mode of lighting the public streets, squares and places in the City of Hamilton, as well as the shops and private dwellings therein; and whereas the several persons hereinafter named have by their petition prayed that they and such others as now are or hereafter may be associated with them in their undertaking, may be incorporated as a Company, under the name, style and title hereinafter also mentioned, for the purpose of supplying Gas Lights to the said City; and whereas the Common Council of the said City of Hamilton have signified their assent to the establishment of the said Company, and whereas a considerable proportion of the Capital Stock has already been subscribed for; and whereas at a Meeting of certain of the Inhabitants of the said City of Hamilton, held on the fourteenth day of the month of March last, the following persons were duly elected a Provisional Committee to take the necessary steps to establish the said Company, namely: William Kerr, Edward C. Thomas, John Fisher, James Osborne, Robert McIlroy, Hutchison Clark, John Young, John F. Moore, Richard Juson, James Robinson, Robert R. Smiley, William P. McLaren and Archibald Kerr, and among their number the said William Kerr was elected Chairman of the said Provisional Committee, and the said Petitioners desire that the above named Committee, together with such other persons as shall, under the provisions of this Act, become subscribers to and proprietors of any share or shares in the said undertaking, be erected into a Company for the purposes above mentioned; and whereas it is expedient to grant the prayers of the said petitioners: 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, and 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 William Kerr, Edward C. Thomas, John Fisher, James Osborne, Robert McIlroy, Hutchison Clark, John Young, John F. Moore, Richard Juson, James Robinson, Robert R. Smiley, William P. McLaren, Archibald Kerr, Thomas Kerr, Thomas Davidson, Edward Glackemeyer, Thonias M. Best, Richard Hardiker, Daniel Dewey, Alexander Hamilton, James Sutherland, James Cummings, William L. Distin, Alexander Carpenter, John M. Williams, James Lynd, William Atkinson, Robert McKay and Joseph Clement, or such of them and such other persons as now are or shall hereafter become Shareholders in the said Company hereby established, shall be and are hereby ordained and constituted a Body Politic and Corporate by the name of "The Hamilton Gas Light Company" and by that name they and their successors, being such Shareholders, shall and may have perpetual succession and a common seal, with full power to make, change, break or alter the same at pleasure, and shall and may by the same name sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all Courts and places whatsoever, and shall and may have full power to purchase, take and hold personal property and lands, tenements and other real property, for the purposes of the said Company, and for the erection, construction and

convenient use of the Gas Works hereinafter mentioned, and also to alienate such personal property, lands and other property, and others to purchase, take and hold in their stead, for the purposes and uses aforesaid, and that any person or persons, body or bodies politic or corporate may give, grant, sell, bargain or convey to the said Company, any lands, tenements or hereditaments for the purposes aforesaid, and the same may re-purchase from the said Company: Provided always, that such lands, tenements and hereditaments to be so holden by the said Company, shall be so holden for the purposes and business of the said Company as set forth in this Act, and for constructing their necessary works for and about the same, and for no other purposes whatsoever; and that the total yearly value of the lands and real property to be so holden at any one time, shall not (over and above the value of the Works thereon erected) exceed One thousand pounds currency.

II. And be it enacted, That the said Company may raise and contribute among themselves such sum as shall not exceed the sum of Twelve thousand five hundred pounds currency, in shares of Ten pounds currency each; and the money so raised shall be appropriated to the purpose of constructing, completing and maintaining their Gas Works and to the purposes of this Act, and to no other object or purpose, whatever: Provided always, that if the said sum of Twelve thousand five hundred pounds currency should be found insufficient for the purposes of this Act, it shall be lawful for the said Company to increase their Capital Stock by a further sum not exceeding Twelve thousand five hundred pounds currency, either among themselves or by the admission of new Shareholders, such new Stock being divided into shares of Ten pounds currency each; and it is hereby provided further, that if by reason of the increase of the population or public works of the said City, or from other causes, it shall at any future time appear to the said Company, that it would be advantageous to extend the Works of the said Company beyond the means afforded by the Capital Stock hereinbefore specified, it shall and may be lawful for the said Company, by and with the consent and approbation of a General Meeting of the Shareholders, and for the purposes aforesaid, to raise and contribute among themselves, or by the admission of new Shareholders and Proprietors as aforesaid, a third and further like sum of Twelve thousand five hundred pounds currency, divided also into shares of Ten pounds currency each.

III. And be it enacted, That it shall be lawful to, and in the power of the said Company to borrow a sum or sums of money for the purpose of completing the said undertaking, if requisite, or for extending the Works of the said Company, not exceeding the sum of Ten thousand pounds currency, and to pledge and hypothecate the property, income, rents and future calls on the Shareholders of the said Company, for the re-payment of the sum or sums so borrowed and the interest thereon, as may or shall be agreed upon, at a rate even exceeding six per cent, 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 borrow: Provided, that the whole amount borrowed, do not at any one time exceed the said sum of Ten thousand pounds currency, and that for the money so borrowed, with interest as aforesaid, it shall be lawful for the President and any one Director of the said Company for the time then being, to give Bonds or Debentures in such manner as shall appear most expedient, 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 may see fit: Provided always,

that no such Bond, Debenture or other security shall be made or granted for a less sum than fifty pounds currency.

IV. And be it enacted, That the respective Obligees in such Bonds or Debentures whereby the income, rents and future calls or payments due to the said Company shall be secured, shall proportionally, according to the amount of money 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 over 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 or 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.

V. And be it enacted, That a President, Vice-President and Directors may be elected for the purposes of this Act at a Special Meeting to be called by any twenty Shareholders in the manner hereinafter provided, so soon as one fourth of the Capital Stock of the said Company shall be inscribed for, and shall continue in office until the first Monday of the month of March, one thousand eight hundred and fifty-one, or until the next General Election, if no Election be had on that day, unless they shall sooner resign, be removed, or become disqualified under the provisions of this Act.

VI. And be it enacted, That the first General Meeting of the Shareholders of the said Company shall be held on the first Monday of the month of March, in the year of Our Lord one thousand eight hundred and fifty-one, and a General Meeting on the first Monday of the month of March in each year thereafter, and at such place and hour as shall be appointed by the By-laws of the Company then in force, to choose by ballot and by a majority of votes seven persons, being each a proprietor of not less than ten shares in the Stock of the said Company, as Directors for managing the affairs of the said Company, which seven Directors shall continue in office until the next General Election of Directors.

VII. And be it enacted, That any three of the said Directors shall form a *quorum* for the transaction of business, and any majority of such *quorum*, assembled according to the provisions of this Act, and the By-laws of the Company then in force, may exercise any or all of the powers hereby vested in the Directors, and the President, or in his absence, the Vice-President, or in the absence of both, the Chairman chosen by the Directors present, *pro tempore*, shall preside at the Meetings of the Directors.

VIII. And be it enacted, That at the General Meetings of the Shareholders, to be held annually for the purpose of electing Directors as aforesaid, on the first Monday of the month of March in each year, and before the Election of new Directors, the Directors of the then past year shall exhibit a full and unreserved statement of the affairs of the Company, and of the funds, property and debts due to and by the said Company, which said Statement shall be certified by the President or Vice-President, under his hand and seal: Provided always, that in the event of there being no election of

Directors on the first Monday in March in any year, in consequence of the Shareholders neglecting to attend in conformity with the requirements of this Act, or from any other cause, then and in that case the Directors of the previous year shall continue and remain in office until an election shall take place at a future Special [Meeting of the said Shareholders to be called for that purpose, in the manner provided by the By-laws of the Company then in force.

IX. And be it enacted, That the Directors elected as aforesaid, shall, at their first Meeting after such Election, choose out of their number a President and Vice-President, who shall hold their office respectively until the next Election of Directors: and it shall be lawful for the said Directors, from time to time, in case of death, resignation, absence from the Province, disqualification (and any person disqualified to be elected shall be disqualified from remaining in office) or the removal of any person so chosen to be President or Vice-President or Director, or either of them, to choose in his or their stead, from among the said Directors, another person or persons to be President or Vice-President, or from among the other qualified Shareholders, another person or persons to be Director or Directors, respectively to continue in office until the next Annual Election as aforesaid; Provided always, that on such occasions, the Directors shall always vote *per capita* and not according to the number of shares they hold, and the President or person presiding at any Meeting of the Directors or of the Shareholders, shall have a casting vote only: and it is provided further, that no Shareholder in the said Company shall be in any manner whatever liable for or charged with the pay-mod of any debt or demand due by the said Company beyond the amount of his, her or their subscribed share or shares in the Capital Stock of the said Company.

X. And be it enacted, That the Directors shall and may have the power to appoint a manager, clerk and such other persons as may appear to them necessary for carrying on the business of the said Company, with such powers and duties, salaries and allowances to each, as shall seem meet and advisable, and also shall and may have the power to make, and repeal or alter such By-laws to be binding upon Members of the Company or their servants, as shall appear to them proper and needful, touching the well ordering of the said Company, the management and disposition of its stock, property, estate and effects, the calling of Special Meetings of its Shareholders or of Meetings of the Directors, and other matters connected with the proper organisation of the said Company, and the conduct of the affairs thereof, and also shall and may have the power to make calls for instalments on shares, subject to the provisions hereinafter made, and to declare such yearly or half yearly dividends out of the profits of the said undertaking as they may deem expedient, and to make contracts on behalf of the Company, or by such By-laws to empower the President, Vice-President, or any Director or Officer to make contracts on behalf of the Company, and to affix (if need be) the Common Seal of the Company, and to do or empower others to do whatever the Company may lawfully do under this Act, unless it be otherwise herein provided: Provided always, that such By-laws shall be in no way inconsistent with the true intent and meaning of this Act and the powers hereby granted, or repugnant to the laws of this Province, and shall before they shall have force be approved by the shareholders at some annual or Special Meeting at which such shareholders shall have full power to alter or amend the same; and provided also that until it be otherwise ordered by the By-laws of the Company, a Special Meeting of the Shareholders may be called by the Directors, or in their default on being thereunto requested by at least twenty of the Stockholders being proprietors together of not less than five

hundred shares of the stock of the said Company, then by such twenty (or more, as the case may be) stockholders, giving at least four weeks' notice thereof, in at least two of the public newspapers of the City of Hamilton, and specifying in the said notice the time and place of such meeting, together with the objects thereof.

XI. And be it enacted, That Shareholders may vote by proxy duly appointed in writing or in person, and all elections shall be by ballot and all questions to be decided at any Special or Annual Meeting of the Shareholders shall be so decided by a majority of votes, and on every occasion when the votes of the Shareholders are to be given, each Shareholder or his proxy, if the Shareholder vote by proxy, shall, if he hold one share and not exceeding two shares, have 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 six shares above thirty and not exceeding sixty, one vote, making fifteen votes for sixty shares; and for every eight shares above sixty and not exceeding one hundred, one vote, making twenty votes for one hundred shares; and no Shareholder shall be entitled to give a greater number of votes than twenty, and no Stockholder shall hold more than five hundred shares.

XII. And be it enacted, That all subscriptions for the Capital Stock of the Company or to the undertaking for carrying out which the said Company is incorporated, shall be good and valid and binding on the Shareholders whether made before or after the passing of this Act; and the several persons who have subscribed or who may hereafter subscribe for shares in the said undertaking or Company, shall and they are hereby required to pay the sum or sums of money by them respectively subscribed or such part or portions thereof as shall from time to time be called for by the Directors of the said Company, under and by virtue of the powers and directions of this Act to such person or persons and at such times and places as shall be directed or required by the Directors, and in case any person or persons shall neglect or refuse to pay the same at the time and manner required for that purpose, it shall be lawful for the Directors to cause the same to be sued for and recovered in any Court of Law in this Province, having jurisdiction in civil cases to the amount, and in such action, whether for the subscriptions already made or hereafter to be made, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is the holder of one or more shares in the stock, (stating the number of shares,) and is indebted to the Company in the sum to which the calls in arrear may amount, and in any such action, it shall be sufficient to maintain the same that the signature of the defendant to some book or paper by which it shall appear that such defendant subscribed for a share or a certain number of shares of the stock of the said Company or undertaking, be proved by one witness whether in the employment of the Company or not, and that the number of calls in arrear have been made, and the suit may be brought in the corporate name of the Company.

XIII. And be it enacted, That no one instalment to be paid on account of the shares in the Stock of the said Company, shall exceed Two Pounds and Ten Shillings Currency on each share, and notice thereof shall be given by advertisement in at least two newspapers during two consecutive weeks before such instalment shall be called for; Provided always, that no instalment shall be called for except after the lapse of at least one calendar month from the time when the last instalment was

called for, and if any person or persons shall neglect or refuse to pay his, her or their share of such money to be so paid in as aforesaid, at the time and place fixed and appointed by the Directors, such person or persons so neglecting or refusing may be sued as aforesaid, or at the option of the Directors, shall thereby incur a forfeiture of not more than ten nor less than five per cent, on the amount of his, her or their respective share or shares, and if such person or persons shall refuse or neglect to pay their proportion of the instalment demanded for the space of two calendar months after the time fixed for the payment thereof, then and in that case such person or persons shall forfeit to the Company his, her or their respective shares, upon which former instalment shall have been paid, and such share or shares shall be sold by order of the Directors by public auction, and the proceeds of the sale, after deduction as well of the costs and the forfeiture above mentioned, 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, shall be paid over to such defaulter, and the President or Manager of the Company shall have power to transfer the Stock to the purchaser or purchasers thereof; and it is hereby provided, that it shall and may be lawful for the Directors of the said Company to declare at any of their Meetings any such share or shares duly forfeited to the said Company, and every such forfeiture shall be an indemnification to and for every proprietor so forfeiting against all action or actions, suits or prosecutions whatever to be commenced or prosecuted for any breach of contract or other agreement between such proprietor and the other proprietors with regard to carrying on the said Gas Works.

XIV. And be it enacted, That the shares in the Stock of the said Company shall be assignable and transferable according to such rules, restrictions and regulations as shall from time to time be made and established by the By-laws of the Company, and shall be considered as personal property notwithstanding the conversion of the funds into real estate, and shall go to the personal representatives of such Shareholders; Provided also, that such transfer shall not be valid unless entered and registered in a book or books to be kept for that purpose, in the manner provided by the said By-laws; and it is further provided, that it shall not be lawful for any Shareholder 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 said Company of all sums of money due by such Stockholder.

XV. And be it enacted, That it shall and may be lawful for the said Company, after two days' notice to the Corporation of the City of Hamilton, to break up, dig and trench so much and so many of the streets, squares and public places of the said City of Hamilton, as may at any time be necessary for laying down the mains and pipes to conduct the Gas from the Works of the said Company to the Consumers thereof, or for taking up, removing, altering or repairing the same, when the said Company shall deem it expedient, doing no unnecessary damage in the premises, and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares and public places while the works are in progress, also placing guards or fences with lamps, and providing watchmen during the night, and taking all other necessary precautions for the prevention of accidents to passengers and others which may be occasioned by such openings; also finishing the work and replacing the said streets, squares and public places in as good condition as before the commencement of the work, without any unnecessary delay; and in case of any

neglect of any of the duties herein provided as aforesaid, the said Company shall be subject to pay a fine of One pound currency, for every day such neglect shall continue after receiving a legal or written notice thereof, to be recovered by civil action in any Court of Law of competent jurisdiction, at the suit of any person or persons, or of the Corporation of the City of Hamilton, to and for the use of the said Corporation, over and above all such damages as may be recovered against the Company by any other party.

XVI. And be it enacted, That where there are buildings within the said City of Hamilton, the different parts whereof shall belong to different proprietors or shall be in possession of different tenants or lessees, the said Company shall have power to carry pipes to any part of any building so situate, passing over the property of one or more proprietors or in possession of one or more tenants, to convey the Gas to that of another or in the possession of another, the pipes being carried up and attached to the outside of the building, and also to break up and uplift all passages which may be a common servitude to neighbouring proprietors, and to dig and cut trenches therein, for the purpose of laying down pipes or taking up or repairing the same, the said Company doing as little damage as may be in the execution of the powers granted by this Act, and making satisfaction thereafter to the owners or proprietors of buildings or other property, or to any other party for all damages to be by them sustained in or by the execution of all or any of the said powers, subject to which provisions this Act shall be sufficient to indemnify the Company or their servants or those by them employed, for what they or any of them shall do in pursuance of the powers granted by this Act.

XVII. And be it enacted, That the said Company shall so locate their Gas Works and all apparatus thereunto appertaining or therewith connected and wheresoever situated as in no wise to endanger the public health and safety, and the said Company shall, as regards the construction of their said Gas Works, or so much thereof as shall lie within the City of Hamilton, be subject to and bound by the existing By-Laws of the Corporation of the said City for insuring the public safety and convenience of the inhabitants thereof, and the said Gas Works, apparatus and appurtenances, or so much thereof as shall be within the said City, shall moreover be at all reasonable times subject to the visit and inspection of the municipal authorities thereof or their officers, reasonable notice thereof being previously given to the said Company, and the said Company and their servants and workmen shall at all times obey all just and reasonable orders and directions they shall receive from the said Municipal authorities in that respect, under a penalty of not more than five pounds nor less than one pound currency for each offence in refusing or neglecting to obey the same, to be recovered from the said Company at the suit and for the use of the Corporation of the city of Hamilton, in any Court of competent civil jurisdiction, except a Court constituted under and by virtue of any Act or Acts incorporating the said City of Hamilton.

XVIII. And be it enacted, That 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, tar, and all and every the products of their works, refuse or residuum arising or to be obtained from the materials used in or necessary for the manufacture of Gas, and the said Company shall also have power and

authority to let out at hire Gas Meters and Gas Fittings of every kind and descriptions at such rates and rents as may be agreed upon between the consumers or tenants and the said Company.

XIX. And be it enacted, That neither the service nor connecting pipes of the Company, nor any Meters, Lustres, Lamps, Pipes, Gas Fittings or other property of any kind 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 debt 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, usage or custom to the contrary notwithstanding.

XX. And be it enacted, That if any person or persons shall wilfully or maliciously break up, pull down or damage, injure, put out of order or destroy any main pipe or other works or apparatus, appurtenances or dependencies thereof, or any matter or thing already made and provided, or which shall be made and provided for the purposes aforesaid, or any of the materials used and provided for the same, ordered to be erected, laid down or belonging to the said Company, or shall in any wise wilfully do any injury or damage for the purpose of obstructing, hindering, or embarrassing the construction, completion, maintaining or repairing of the said works, or shall cause or procure the same to be done, or shall increase the supply of Gas agreed for with the said Company, by increasing the number or size of the holes in the gas burners, or otherwise wrongfully, negligently or wastefully burning the same, or by wrongfully or improperly wasting the same, every such person or persons shall be guilty of a misdemeanor, and on conviction thereof, the Court before whom such person shall be tried and convicted, shall have the power and authority to condemn such person to pay a penalty not exceeding Ten Pounds currency, or be confined in the Common Gaol of the District for a space of time not exceeding three months, as to such Court shall seem meet.

XXI. And be it 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 join or connect any pipe for the supply of any light or burner to any pipe whatsoever, containing gas without having first received the consent of the Company, or their Manager or Clerk, 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 two calendar months in the Common Gaol of the County.

XXII. And be it enacted, That if any person shall wilfully damage or cause, or knowingly suffer to be damaged any meter, lamp, lustre, service pipe or fittings belonging to the said Company, or shall wilfully 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 riot less than One Pound nor exceeding Five Pounds currency, and shall also pay and deb-ay 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, damages and charges to be recovered with costs in the manner hereinafter provided.

XXIII. And be it enacted, That if any person or persons shall wilfully extinguish any of the public lamps or lights, or shall wilfully remove, destroy, damage, fraudulently alter or in any way injure any pipe, pedestal, post, plug, lamp or other apparatus or thing belonging to the Company, or to any person, 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, currency, and shall also be liable to make good all damages and charges to be recovered, with costs, as hereinafter provided.

XXIV. 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 other 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 the excess of gas obtained and used, such damages, loss or value may be recovered by the Company, with costs, as hereinafter provided.

XXV. And be it enacted, That it shall be lawful for the said Company to contract on such terms and for such periods as may be thought proper with the Corporation of the City of Hamilton, for lighting the streets, squares and public buildings and places of the said City with Gas, at such rates and prices, for the general benefit of the City, as may be mutually agreed on.

XXVI. 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.

XXVII. 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 Hamilton Gas Light Company at any of the times fixed for the payment thereof, it shall be lawful for the said 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 Corporate, 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 and take 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 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 purposes 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.

XXVIII. And be it enacted, That in case the said Company shall open or break up any street, square or public places in the said City, and shall neglect to keep the passage of the said street, square or public place, as far as may be, free and uninterrupted, or to place guards or fences with lamps, or to place watchmen, or to take every necessary precaution for the prevention of accidents to passengers and others, or to close and replace the said streets, squares or public places without unnecessary delay as hereinbefore provided, the City Surveyor, under the direction of the Common Council of the City, after notice in writing to the said Company, shall cause the duty so neglected to be forthwith performed, and the expense thereof shall be defrayed by the said Company, on its being demanded by the City Surveyor at any time not less than one month after the work shall have been completed, in any case, from the President or Manager of the said Company, or in default of such payment, the amount of such claim shall and may be recovered from the said Company at the suit of the Corporation of the City of Hamilton by civil action in any Court of competent jurisdiction.

XXIX. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to prevent any person, body politic or corporate, from constructing any works for the supply of Gas to his or their own premises, or to prevent the Legislature of this Province, at any time hereafter, from altering, modifying or repealing the powers, privileges or authorities hereinbefore granted to the said Company, or from incorporating any other Company for like purposes.

XXX. And be it enacted, That nothing herein contained shall affect or be construed to affect in any way or manner whatsoever the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any body or bodies corporate or collegiate except such only as are herein mentioned.

XXXI. And be it enacted, That the Gas works hereinbefore mentioned shall be in operation within five years from the passing of this Act, and in default thereof the privileges and advantages granted by this Act to the said Company shall cease and be of no effect.

XXXII. 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.

XXXIII. 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 first 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.

XXXIV. And be it enacted, That if at any future period any person or persons, Company or Companies, or body corporate shall lay down any main pipes or pipes of any kind either for the supply of Gas or water in the said City of Hamilton, the said main pipes and pipes of any description shall be laid down at least three feet distant from those of the Hamilton Gas Light Company, under a penalty of five pounds currency for each offence or neglect thereof, and also a further sum of one pound currency for each day such pipes shall so remain, which penalty shall be paid to the said Hamilton Gas Light Company, and may be recovered in the manner hereinafter provided.

XXXV. And be it enacted, That notwithstanding any thing in this Act 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 By-law to that effect especially, by a resolution to that effect to be entered upon the books of the said Company, to authorize the President or Vice-President or the Manager 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 or Vice-President, or the Manager of the said Company, to be from time to time authorized as aforesaid to draw, sign or accept such 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 Instrument so signed and sealed by the person authorized as aforesaid, and all such Notes and Bills so signed, drawn or accepted by the person 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 or other Instrument, signed or signed and sealed by any such officer 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, or appointment of the Manager of the said Company, be liable to be questioned by any party except the said Company, nor shall it be necessary for the said Company in any suit to prove the election or appointment or authority of any President, Vice-President, Director or Manager, 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 kept by the Secretary or other officer of the Company, and by him duly certified on oath before any Judge of one of Her Majesty's Courts of Law, 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, 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, Director or Manager therein named.

XXXVI. And be it enacted, That all lines, penalties and forfeitures imposed by this Act, may 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 hereinbefore directed or before one or more Justices of the Peace for the City of Hamilton, on the oath of any one credible witness, although such witness be a shareholder acting either as Manager or Clerk, or be a Servant in the employ of the said Company, and in all actions authorized by this Act, to be instituted or contemplated, the evidence of one credible witness shall be received as sufficient, notwithstanding such witness may be a shareholder acting as aforesaid, or be in the employ of the said Company, and all such actions shall be brought in Courts having jurisdiction to the amount involved in such suit, unless otherwise specially provided and authorized by this Act, and where damages as well as a penalty may be given, such damages and penalty may be sued for separately, and such fines, penalties and damages 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 and in that case he shall be committed to the Common Gaol for such period, not exceeding two months, as the Justice or Court may direct.

XXXVII. And be it enacted, That should the Common Council of the City of Hamilton decide, as they are hereby empowered to do, upon taking the whole of the Stock of the said Company, the Shareholders therein shall be and are hereby declared to be bound to surrender and transfer the whole of their respective shares unto the Corporation of the said City of Hamilton, upon the terms and conditions hereinafter set forth, that is to say: the said Corporation shall pay such an advance upon the shares as will cover the interest of the instalments paid previously to the works of the Company having gone into operation, as well as any other loss of interest which the said Shareholders may have sustained by reason of the dividends not having been equal to the legal interest on their shares; and that the Corporation of the said City consent and agree that the charge made to the consumers of Gas shall not exceed such price as will be sufficient to produce a net profit on the works of eight per centum per annum: and if the Common Council of the said City shall so purchase the whole of the Stock of the said Company, they may, in that case, pay for the same, out of any funds at their disposal not specially appropriated, or may raise money by loan or by debentures, in like manner as they are empowered to raise money which they are duly empowered to borrow for any other purpose: Provided always, that the said Common Council, to be entitled to exercise the power hereby given them, of taking the whole of the said Stock as aforesaid, shall take the same within fifteen years from the passing of this Act: and in the event of their taking the same, the Corporation of the said City shall be and is hereby bound to fulfil all the engagements to which the said Company may have previously entered into, in respect to the

carrying on of the business of the said Company, as well as its engagements with mechanics, workmen, servants and others, and the said Company shall in all those respects be entirely relieved, exonerated and held harmless from all claims, damages and demands of all persons aforesaid by the Corporation of the said City of Hamilton; and generally, the said Corporation shall have, all the rights, and be subject to all the liabilities of the said Company, imposed by this Act, or lawfully contracted under it.

XXXVIII. And be it enacted, That the word "Lands" in this Act, shall include all lands, tenements and hereditaments, real and moveable and immoveable property whatsoever; and the word "Company" in this Act, shall mean the Corporation erected by this Act, unless some other be 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 all well as males; and the words "Shareholders" or "Stockholders" shall include the heirs, executors, administrators, curators, legatees or assignees 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 thing, and all acts which the Directors or Shareholders are authorized to perform and do, shall and may be validly performed and done by a majority of the Directors, or a majority of the *quorum*, of the Directors or of the Shareholders 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 ensure the carrying into effect of this Act according to its true intent and spirit.

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

XL. And be it enacted, That this Act shall be and remain in force fifty years, and no longer.