

Laws of Her Majesty's Province of United Canada, passed in the year 1851. Quebec: Stewart Derbyshire and George Desbarts, 1852.

16 Victoria – Chapter 173

An Act to provide for the formation of incorporated Joint Stock Companies for supplying Cities, Towns and Villages with Gas and Water. Assented to 14th June, 1853.

Whereas it is expedient to make provision for the formation and registration of Joint Stock Companies for supplying Cities, Towns and incorporated Villages with Gas and Water, and also after such registration to invest such Joint Stock Companies with some of the qualities and incidents of corporations, and also with certain powers and privileges subject to certain conditions and regulations: 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 any five or more persons who may desire to form a Company for the purpose of supplying any City, Town or incorporated Village with Gas or Water, or both, may make and sign a statement or declaration in writing, in which shall be set forth the corporate name of the said Company and the object or objects thereof, the amount of the Capital Stock of the said Company (which shall not exceed Fifty Thousand Pounds, if Gas or Water only is to be supplied, and One Hundred Thousand Pounds, if both are to be supplied, and shall be divided into shares of Five Pounds each,) the term of its proposed existence (which shall not exceed fifty years,) the number of shares of which the said Stock shall consist, the number and names of the Trustees who shall manage the concerns of the said Company for the first year, and the name of the City, Town or Village in which the operations of the said Company are to be carried on, and shall acknowledge such statement in duplicate before the Mayor or Chief Magistrate of such City, Town or Village, who is hereby authorized to receive such acknowledgment and grant a certificate thereof; and if upon the petition of such persons the Municipal Council of such City, Town or Village shall within thirty days from the date of such acknowledgment make a By-law granting authority to such persons as a Company to lay down pipes for the conveyance of Water or Gas, or both, under the streets, squares and other public places of such Town, City or Village, it shall be the duty of the Register of the County in which the same is situate, on production of one of the duplicates of such statement or declaration, with a proper Certificate of the acknowledgment thereof as aforesaid, endorsed thereon, and a duly certified copy of such By-law attached thereto, to file the same, and make an entry thereof in a book to be kept by him for that purpose; and the other of the said duplicates, with a proper certificate of the acknowledgment thereof, as aforesaid, and of the filing and registration thereof and of the said By-law (a certified copy of which shall be also thereto annexed) as aforesaid, endorsed thereon, shall forthwith be transmitted to and filed in the office of the Secretary of this Province.

II. And be it enacted, That when the formalities prescribed in the foregoing section of this Act shall have been complied with, the persons who shall have signed the said statement or declaration, and all such persons as shall thereafter become Stockholders of the Company thereby established, shall be a body corporate and politic in law, in fact and in name, by the style and title mentioned in such statement or declaration, and they and their successors and assigns shall and may have the power to purchase and acquire lands, tenements and hereditaments for them and their assigns and successors for the use of the said Gas Works or Water Works or Gas and Waterworks, and also to sell and convey any lands so purchased or acquired; Provided always, the lands to be holden by any such Company shall be holden for the purposes for which such Company is incorporated, in constructing their necessary works, and for no other purposes whatsoever, and shall not at any time exceed in value Seven Thousand Five Hundred Pounds.

III. And be it enacted, That any such Company if for Cities may raise and contribute among themselves such sum as shall not exceed the sum of Seventy-five Thousand Pounds, if the object of the Company be the supplying of Gas or Water only, and One Hundred and Fifty Thousand Pounds, if its object be the supplying of both Gas and Water, in shares of Five Pounds each, and if for Towns and Villages, the sum of Fifty Thousand and One Hundred Thousand Pounds respectively; and the money so raised shall be appropriated to the purpose of constructing, completing, acquiring and maintaining their said Gas Works or Water Works, or Gas and Water Works, and to no other object or purpose whatever.

IV. And be it enacted, That a copy of any such statement or declaration as aforesaid, registered in pursuance of this Act, certified by the County Register to be a true copy, and of the whole of such statement or declaration, shall be received in all courts and places as *primâ facie* evidence of the facts therein stated; and the compliance with the formalities prescribed in the first Section of this Act shall be conclusively established by the insertion in the *Canada Gazette* of a notice to that effect, proceeding from the office of the Secretary of the Province.

V. And be it enacted, That the stock, property and concerns of every such Company as aforesaid shall be managed by not less than three nor more than nine Trustees, who shall respectively be Stockholders in such Company, and who shall, except the first year, be annually elected by the Stockholders at such time and place as shall be directed by the By-laws of the Company; and notice of the time and place of holding such election shall be published not less than ten days previous thereto in a newspaper printed in the City, Town or Village where the operations of such Company shall be carried on; and the election shall be made by such of the Stockholders as shall attend for that purpose, either in person or by proxy.

VI. And be it enacted, That all elections shall be by ballot, and each Stockholder shall be entitled to as many votes as he owns shares of stock in the Company; and the persons receiving the greatest number of votes shall be Trustees; and when any vacancy shall happen, among the Trustees, by death, resignation or otherwise, it shall be filled for the remainder of the year in such manner as may be provided for by the By-laws of the Company.

VII. And be it enacted, That if it shall happen at any time that an election of Trustees of any such Company as aforesaid shall not be made on the day when, according to the By-laws of such Company it ought to be made, such Company shall not for that reason be dissolved, but it shall be lawful for the Stockholders of such Company to hold an election of Trustees on any other day, in such manner as shall be provided for by such By-laws; and all acts of Trustees of any such Company as aforesaid, until their successors shall be elected, shall be valid and binding as against such Company.

VIII. And be it enacted, That every such Company as aforesaid shall have a Chairman or President, who shall be elected by the Trustees from among themselves, and also such subordinate Officers as the Company by its By-laws may require, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their respective Offices as the Company by its By-laws may provide.

IX. And be it enacted, That every Shareholder shall be held liable to the Trustees of every such Company for the payment of the full amount subscribed, and that it shall be lawful for the Trustees of any such Company to call in and demand from the Stockholders thereof respectively, all sums of money by them subscribed at such times and in such payments or instalments as such Trustees shall deem proper, provided that no one Instalment shall exceed ten per cent, and that not less than three months shall intervene between the calls for any two Instalments; and if payment shall not be made by the Stockholders, respectively, within sixty days after a personal demand, or after notice requiring such payment shall have been published for six successive weeks in a newspaper published in the City, Town or Village where the business of the Company shall be carried on as aforesaid, it shall be lawful for the said Trustees to declare forfeited the shares upon which the said Instalments shall not be paid: Provided always, that such forfeiture shall be a discharge to the holders of the shares so forfeited from all further liability either to the Company or to any third party in respect of the shares so forfeited, but the holders of shares so forfeited shall lose whatever sum or sums they may have paid on or for such shares, and no more.

X. Provided always, and be it enacted, That the said Trustees may if they think proper, sue any Stockholder for the amount of the call or calls on his stock due and not paid, instead of forfeiting the same; and if at the time appointed for the payment of any call, any Stockholder shall fail to pay the amount of the call payable by him, he shall be liable to pay interest at the rate of six pounds per centum per annum for the same, from the day appointed for payment thereof to the time of the actual payment of the same, and may be sued by the Trustees for such call and the interest thereof in any Court of Law or Equity having competent jurisdiction in this Province, the United Kingdom of Great Britain and Ireland, or in any other of Her Majesty's Colonies and Dependencies, or elsewhere.

XI. And be it enacted, That in any such suit or action to recover any money due upon any share, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the Defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear shall amount, whereby an action hath accrued to the Company by virtue of this Act; and at the trial of such action it shall be sufficient to prove the facts

so declared, and the evidence of one witness in respect of all facts required to be proved shall be *primâ facie* sufficient to maintain any such action without the production of any documentary proof whatever.

XII. And be it enacted, That the Trustees of every such Company as aforesaid shall have power to make such By-laws as they shall deem proper for the management and disposition of the stock and business affairs of such Company, for the appointment of Officers, and for prescribing their duties and those of all artificers and servants that may be employed, and for carrying on all kinds of business within the objects and purposes of such Company; and any copy of any such By-laws or any of them, purporting to be under the hand of the Clerk, Secretary or other Officer of such Company, and having the corporate Seal of such Company affixed to it, shall be received as *primâ facie* evidence of such By-law or By-laws in all Courts of Law or Equity in this Province.

XIII. And be it enacted, That no shares of the Stock of any such Company shall be transferable until all previous calls thereon shall have been fully paid in; and it shall not be lawful for any such Company to use any of its funds in the purchase of any stock in any other Corporation.

XIV. And be it enacted, That every such Company shall annually within twenty days from the first of January, make a report which shall be inserted in some newspaper published in the Town where the business of such Company shall be carried on, stating the amount of the Capital of such Company and the proportion thereof then actually paid in, together with the amount of the existing debts of such Company, which report shall be signed by the Chairman or President and a majority of the Trustees of such Company, and shall be verified by the oath of said Chairman or President or of the Secretary of the said Company, and shall be entered and registered as aforesaid in the Registry Office of the County where the business of the Company shall be carried on; and all the Trustees of any Company failing to comply with the requirements of this Section, shall be jointly and severally liable for all the debts of the Company then existing, and for all that shall be contracted until such report shall be made.

XV. And be it enacted, That if the Trustees of any such Company shall declare and pay any dividend when the Company is insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they shall be jointly and severally liable for all the debts of the Company then existing, and for all that shall be thereafter contracted, while they shall respectively continue in office: Provided always, that if any of such Trustees shall object to the declaring of such dividend or to the payment of the same, and shall, at any time before the time fixed for the payment thereof, file a written statement of such objection in the office of the Secretary of the Company, and also in the Registry Office of the County, such Trustee or Trustees shall be exempt from such liability.

XVI. And be it enacted, That no loan of money shall be made by any such Company to any Stockholder therein; and if any such loan shall be made to a Stockholder, the Officer or Officers who shall make it or who shall assent thereto, shall be jointly and severally liable to the extent of such loan, with legal interest thereon, for all the debts of the Company that may be contracted before the repayment of the sum so loaned.

XVII. And be it enacted, That if any certificate or report made or public notice given by the Officers of any such Company in pursuance of the provisions of this Act shall be false in any material representation, all the Officers who shall have signed the same shall be jointly and severally liable for all the debts of the Company contracted while they are Officers or Stockholders thereof, respectively: and if the indebtedness of any such Company shall at any time exceed the amount of its capital stock, the Trustees of such Company assenting thereto shall be personally and individually liable for such excess to the creditors of such Company.

XVIII. And be it enacted, That no person holding Stock in any such Company as Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be personally subject to any liability as Stockholder of such Company; but the estates and funds in the hands of such Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be liable in like manner and to the same extent as the Testator or Intestate, or the Minor, Ward or interdicted person, or the person interested in such trust fund would be if he were living and competent to act, and held the same stock in his own name; and that no person holding such stock as collateral security shall be personally subject to any liability as Stockholder of such Company, but the person pledging such stock shall be considered as holding the same, and shall be liable as a Stockholder accordingly.

XIX. And be it enacted, That every such Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall represent the shares of stock in his hands at all meetings of the Company, and may vote accordingly as a Stockholder; and every person who shall pledge his stock as aforesaid may nevertheless represent the same at all such meetings, and may vote accordingly as a Stockholder; but no person holding stock as Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be a Trustee or hold any office in the service of such Company; and all votes given to them or either of them shall be void.

XX. And be it enacted, That it shall be the duty of the Trustees of every such Company to cause a book to be kept by the Treasurer or Clerk thereof containing in alphabetical order the names of all persons who are or have been Stockholders of such Company, and showing their places of residence, the number of shares of stock held by them respectively, and the time when they respectively became the owners of such shares; and also a statement of all the existing debts and liabilities of such Company, and of the amount of its stock actually paid in; which books shall, during the usual business hours of the day, on every day except Sundays, be open for the inspection of Stockholders and creditors of the Company and their personal representatives, at the office or principal place of business of such Company, in the City, Town or Village where the operations of such Company are carried on as aforesaid: and any and every such Stockholder, Creditor or Representative, shall have a right to make extracts from such book; and no transfer of stock shall be valid for any purpose whatever, except to render the person to whom it shall be transferred liable for the debts of the Company according to the provisions of this Act, until it shall have been entered therein as required by this section by an entry showing to and from whom such stock shall have been transferred.

XXI. And be it enacted, That such book shall be *primâ facie* evidence of the facts therein stated in favour of the Plaintiff in any suit or proceeding against such Company or against any one or more Stockholders; and that every Officer or Agent of any such Company who shall refuse or neglect to make any proper entry in such book, or to exhibit the same, or allow the same to be inspected and extracts to be taken therefrom as aforesaid, shall be liable to a fine of Ten Pounds, more or less, at the discretion of the said Trustees; and every Company that shall neglect, to keep such book open for inspection as aforesaid, shall forfeit the corporate rights, character and privileges acquired by it in pursuance of this Act.

XXII. And be it enacted, That it shall be lawful for any such Company to sell and dispose of Gas Meters, Gas and Water fittings of every description for the use of private and public houses, or for any establishment, company or corporation whatsoever, 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 every such company shall have power and authority to let out to hire Gas Meters and Gas and Water fittings of every kind and description at such rate and rents as may be agreed upon between the consumers or tenants and the Company.

XXIII. And be it enacted, That the shares in the stock of every such 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, Water 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.

XXIV. And be it enacted, That it shall and may be lawful for any of the Municipalities in which the works of any such Company are erected or placed, to subscribe to or take stock in such Company, or to loan any sum of money, on mortgage or otherwise, to such Company, or to contribute in any manner towards advancing the object for which such Company is incorporated; and the Mayor or Chief Magistrate for the time being of any Municipality holding Stock in any such Company, to the extent of one tenth part or more of the whole of the Capital Stock thereof, shall be *ex officio* a Director of such Company so long as such Municipality continue to hold such Stock to the extent aforesaid.

XXV. And be it enacted, That it shall and may be lawful for Aliens to hold stock in any such Company, and to enjoy all the privileges in such Company which they would have if they were subjects of Her Majesty.

XXVI. And be it enacted, That it shall and may be lawful for any such Company to break up, dig and trench so much and so many of the streets, squares, highways, lanes and public places of the said Municipalities for supplying which with Gas or Water or both they may have been

incorporated as aforesaid, as will be necessary for laying the mains and pipes to conduct the Gas or Water or both from the works of the Company to the consumers thereof, 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, highways, lanes and public places, while the works are in progress.

XXVII. And be it enacted, That where there are buildings within such towns, the different parts whereof shall belong to different proprietors, or shall be in possession of different tenants or lessees, the 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 Water or Gas or both 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 common to neighbouring proprietors or tenants, and to dig or cut trenches therein for the purpose of laying down pipes or taking up or repairing the same, doing as little damage as may be in the execution of the powers granted by this Act, and making satisfaction to the owners or proprietors of buildings or other property, or the public, 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 such 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.

XXVIII. And be it enacted, That every such Company shall construct, and locate their Gas Works or Water Works or Gas and Water Works and all apparatus and appurtenances thereunto belonging or appertaining, or therewith connected, and wheresoever situated, as in nowise to endanger the public health or safety.

XXIX. And be it enacted, That if any person shall lay or cause to be laid any pipe or main, to communicate with any pipe or main belonging to any such Company, or in anyway obtain or use its Gas or Water without the consent of such Company, he or they shall forfeit and pay to such Company the sum of Thirty Pounds, and also a further sum of One Pound for each day during which such pipe shall so remain, which said sums, together with costs of suit in that behalf incurred, may be recovered by civil action in any Court of Law in this Province, having jurisdiction to the amount claimed.

XXX. And be it enacted, That if any person shall wilfully or maliciously break up, pull down, or damage, injure, put out of order or destroy, any main pipe, engine, water-house, pipe, plug 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 purpose aforesaid, or any of the materials used and provided for the same, or ordered to be erected, laid down or belonging to any such Company, or shall in any wise wilfully do any other 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 bathe, or wash, or clean any cloth, wool, leather, skin, animals, or any nauseous or offensive thing, or cast, throw or put any filth, dirt or any nauseous thing, or cause, permit or suffer the water of any sink, sewer or drain, to run or be conveyed into, or cause any other annoyance to be done to the water within any

reservoir, cisterns, ponds, sources or fountains from which the water belonging to such Company is to be supplied or conveyed, or shall increase the supply of Gas or Water, agreed for with the said Company, by increasing the number or size of the holes in the Gas Burners, or using the Gas without Burners, or otherwise wrongfully, negligently or wastefully burning the same, or by wrongfully or improperly burning the same, or by wrongfully or improperly wasting the Water or Gas, every such person or persons shall on conviction thereof before a Justice of the Peace or any other person authorized to act in that capacity in the locality wherein the offence may be committed, be compelled to pay for the use of the Company a penalty not exceeding Five Pounds, together with costs of prosecution, or to be confined in the Common Gaol of such County for a space of time not exceeding three months, as to such Justice may seem meet.

XXXI. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to prevent any person or persons from constructing any works for the supply of Gas or Water to his or their own premises.

XXXII. And be it enacted, That neither the service nor connecting pipes of any such Company, nor any meters, lusters, lamps, pipes, Gas fittings or any other property of any kind whatsoever of any such 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 to and for whose use or the use of whose house or building the same may be supplied by such Company, notwithstanding the actual or apparent possession thereof by such person; any law, usage or custom to the contrary notwithstanding.

XXXIII. And be it enacted, That if any person shall wilfully or maliciously damage or cause or knowingly suffer to be damaged any meter, lamp, lustre, service pipe, or fittings belonging to any such 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 such Company, for every such offence, of a sum not less than One Pound nor exceeding Five Pounds, and shall also pay 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 damages, penalties and charges to be recovered with costs as hereinafter provided.

XXXIV. 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 any such Company, such person or persons shall forfeit and pay to the use of such Company 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 as hereinafter provided.

XXXV. And be it enacted, That if any person supplied with Gas or Water, or both, by any such Company, shall neglect to pay any rent, rate or charge due to such 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 forty-eight hours previous notice, to stop the supply of Gas or Water, or both,

from entering the premises of such person in arrear as aforesaid, by cutting off the service pipe or pipes, or by such other means as such Company or its officers 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 or Water or both, as the case may be, in any competent court, notwithstanding any contract to furnish for a longer time; and in all cases where it shall be lawful for the Company to cut off and take away the supply of Gas or Water, or both, 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 forty-eight hours previous notice to the person in charge or occupier, 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 such Company, and it shall also be lawful for any servant of the Company duly authorized to enter any house into which Gas or Water or both 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 such Company or used for their Gas or Water, or both, and if any person refuses to permit or does not permit the servants and officers of the company to enter and perform the acts aforesaid, every such person so refusing or obstructing shall incur a penalty to such Company for every such offence of Ten Pounds, 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.

XXXVI. And be it enacted, That it shall be lawful for the Company either in this Province or out of it, to borrow money at such rate of interest as the President and Directors of the said Company may deem necessary, provided that the sum so borrowed shall not exceed the sum of Ten Thousand Pounds Halifax Currency, to be expended in Gas Works, and the like sum for Water Works for any Town or incorporated Village, or the sum of Twenty-five Thousand Pounds for any City for either Gas or Water Works as aforesaid; And provided also, that for securing the repayment of money so borrowed with interest thereon, it shall be lawful for the said Company or the President thereof, by and with the consent of a majority of the said Directors, to mortgage, secure and assign, real estate, works, rates, revenues, rents and future calls on Shareholders of the said Company, and that all Bonds, Debentures or other securities to be granted may be payable to bearer or made transferable by endorsement or otherwise, as the Directors may see fit; Provided also, that no such Bond or Debenture shall be made or granted for a less sum than Fifty Pounds.

XXXVII. And be it enacted, That the said Bonds, Debentures, future calls or other securities so granted and pledged as securities for money borrowed, shall be equitable and proportionably liquidated or paid out of the funds or receipts of the said Company, without preference to any of the said securities over each other; Provided always, that no such Bonds or Debentures or other securities so pledged, shall prevent the Directors of the said Company from receiving and applying such future calls to the purposes of the said Company, so long as the money due on all such Bonds and Debentures does not exceed the amount of all the calls still remaining unpaid.

XXXVIII. And be it enacted, That it shall and may be lawful for the Directors of any such Company, from time to time, and as often as they may see fit, without the formality of passing a By-law, by a

resolution to that effect, to be entered upon the books of such Company, to authorize the President or Manager of such 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 Company thereto; and it shall also be lawful in like manner for the President or the Manager of the 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 such Company, without seal, as it may in the opinion of the Directors be necessary or expedient so to sign or accept; and all such bonds, contracts, mortgages and instruments so signed and sealed by the person authorized as aforesaid, and also such notes and bills so signed, drawn or accepted by the person authorized as aforesaid, shall be valid and binding on the Company, and be held to be the act and deed of the Company; Provided that such Bonds, Bills or Debentures shall not exceed the amount which the said Companies are by this Act empowered to borrow.

XXXIX. And be it enacted, That all lines penalties and forfeitures imposed by this Act may be sued for and recovered with costs by any such Company or by any person whose property may be injured, to and for the use of such Company or person, either in the manner hereinbefore directed, or before a Justice or Justices of the Peace or any other person authorized to act in that capacity, where the offence is committed, on the oath of any one credible witness, and all actions for damages or penalties or both given by this Act, 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 lines, 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.

XL. And be it enacted, That in any action brought by or on behalf of any such Company, in any Court, or in any proceeding before a Justice of the Peace or any other person authorized to act in that capacity, on the behalf of any such Company, the President and any Shareholder shall be competent witnesses, notwithstanding their interest in such suit or otherwise.

XLI. And be it enacted, That if it be found necessary or deemed proper to conduct any of the pipes or carry any of the works of any such Company through the lands of any person, lying within ten miles of the City, Town or Village for supplying which the Company is incorporated, and the consent of such person cannot be obtained for that purpose, then it shall be lawful for the Company to nominate and appoint one indifferent person, and the owner or owners of the land so taken or damaged to nominate and appoint another indifferent person, which two persons so appointed shall nominate and appoint a third person, and it shall be lawful for the said three persons to and they are hereby required to act as Arbitrators in such matter of dispute between the said Company and the said owner or owners of such property; And it shall be the duty of the said Arbitrators to examine all witnesses, administer all necessary oaths or declarations to the same, and the said Arbitrators, or a majority of them, shall award, determine and adjudge what sum or sums of money respectively shall be paid to the owner or owners of such property so taken or damaged by the said Company; and the sum or sums of money so awarded shall be paid

within three months after the date of such award, and in default of such payment, the proprietor may resume the possession of his or her property, with all the rights appertaining thereto; and in the event of either the Company or the owners of such property failing to appoint an Arbitrator, after eight days' notice from one of the said parties to the other, or the said two Arbitrators failing to appoint a third, it shall be lawful for the Judge of the County Court within which the said property may lay, to appoint an Arbitrator instead thereof, and the decision of the said Arbitrators, or a majority of them, shall be binding on all parties concerned.

XLII. And be it enacted, That nothing contained in this Act shall extend to authorize any such Company or any person acting under the authority of the same, to take, use or injure for the purposes of the said Gas or Water Company, any house or other building or any land used or set apart as a garden, orchard, yard, park, paddock, plantation, planted walk or avenue to a house or nursery ground for trees, nor to convey from the premises of any person any water already appropriated and necessary for his or her domestic uses, without the consent, in writing, of the owner or owners thereof first had and obtained.

XLIII. And be it enacted, That the word "Company," wherever it occurs in this Act, shall be construed to mean a Joint Stock Company incorporated by registration under the provisions of this Act; and all words importing the singular number or the masculine gender only shall be construed to extend to the plural number, and to females as well as males, unless there be something in the context inconsistent with such construction.

XLIV. And be it enacted, That nothing in this Act shall be construed to authorize any Company to be established under it, to interfere with or infringe upon any exclusive privilege which may have been granted to any Company.

XLV. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this or any other Session of the Parliament of this Province; but such amendment or repeal shall not, nor shall the consequent dissolution of any Corporation formed or created under this Act, take away or impair any remedy given against any such Corporation, its Stockholders or officers, for any liability which shall have been previously incurred.