

VICTORIA.



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No. XXVII.

An Act to incorporate a Company to be called  
“*The Ballarat Gas Company*” and for other  
purposes. [24th November, 1857.]

**W**HEREAS the Municipal Districts of Ballarat West in the county of Grenville and of Ballarat East in the county of Grant are large and populous and the convenience and advantage of the inhabitants of the said districts would be greatly promoted were a Company established and authorized to construct Gas Works for supplying the said inhabitants with gas AND WHEREAS the several persons hereinafter named with others are willing at their own expense to undertake the construction of such works but they cannot do so without the authority of Parliament Be it therefore enacted by the Queen’s Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) Preamble.

I. The following words and expressions in this Act and in the provisions herewith incorporated shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction (that is to say) Interpretation clause.

The expression “the Company” shall mean the Company hereby incorporated.

The expression “the undertaking” shall mean the making and supplying gas within the limits herein mentioned and the making and constructing gas works for that purpose with proper works and conveniences connected therewith and all other works authorized by this Act.

The word “shareholder” shall mean shareholder or member of the Company and in referring to any such shareholder expressions properly applicable to a person shall be held to apply to a corporation.

The expression “the Secretary” shall mean the Secretary of the Company.

The

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The word "lands" shall include messuages lands tenements and hereditaments of any tenure.

The word "person" shall include corporation whether aggregate or sole.

The word "street" shall include any street court or alley highway lane road thoroughfare or public passage or place within the limits of this Act.

The expression "the gas works" shall mean the gas works and the works connected therewith by this Act authorized to be constructed.

The expression "gas rate" shall include any rent reward or payment to be made to the Company for a supply of gas.

The word "building" shall include places of public worship or public amusement public institutions public or private offices houses manufactories shops courts gardens and yards.

The word "oath" shall include a declaration and an affirmation in cases where persons are allowed by law to declare or affirm.

The word "Justice" shall mean Justice of the Peace in and for the Colony of Victoria and who shall not be interested in the matter and where any matter shall be authorized or required to be done by two Justices the expression "two Justices" shall be understood to mean two Justices assembled and acting together in petty sessions.

Short title.

II. In citing this Act in other Acts of Parliament and in legal instruments and for all purposes whatsoever it shall be sufficient to use the expression "The Ballaarat Gas Company's Act 1857."

Company incorporated by the name of "The Ballaarat Gas Company."

III. John Hepburn John Michael Cummings Richard Belford John Gibbs Richard Burkett Gibbs Edgar Agar Wynne James Stewart and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking and their several and respective executors administrators successors and assigns shall be and are hereby united into a Company for the purpose of making and supplying gas within the limits of the municipal districts of Ballaarat West in the county of Grenville and Ballaarat East in the county of Grant and for making and maintaining gas works for that purpose with proper works and conveniences connected therewith according to the provisions in this Act contained and for the purposes aforesaid such Company shall be incorporated by the name of "The Ballaarat Gas Company" and by that name shall be a body corporate with perpetual succession and shall have a common seal and by that name shall have power to purchase and hold lands for the purposes of the said undertaking and shall and may sue and be sued plead and be impleaded answer and be answered unto defend and be defended in all courts and places whatsoever.

Power to hold land limited.

IV. The Company may from time to time take and hold by grant from the Crown or by purchase from any person or corporation whomsoever any lands for the purposes of the said undertaking not exceeding ten statute acres.

Capital to be £50,000, divided into 5,000 shares of £10 each.

V. The capital of the Company shall be Fifty thousand pounds and shall be divided into Five thousand shares of Ten pounds each and Two pounds per share shall be the greatest amount of any one call which shall be made upon the shareholders and two months at the least shall intervene between successive calls.

Calls.

Power to increase the capital by the issue of new shares.

VI. It shall be lawful for the Directors of the Company with the previous authority of a general meeting of the Company to raise for the purposes aforesaid in addition to the said capital of Fifty thousand

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thousand pounds any further sum or sums of money not exceeding altogether Twenty-five thousand pounds by creating and issuing new shares of the Company and the amount of such new shares shall be Ten pounds each.

VII. Any capital which may be raised by the creation of new shares shall be considered as part of the general capital and shall be subject to the same provisions in all respects whether with reference to the payment or recovery of calls or the forfeiture of shares on non-payment of calls or otherwise as if it had been part of the original capital except as to the times of making calls for such additional capital and the amount of such calls which respectively it shall be lawful for the Directors of the Company from time to time to fix as they shall think fit.

New shares to be considered same as original shares.

VIII. If at the time of any such augmentation of capital taking place by the creation of new shares the then existing shares shall be at a premium or of greater actual value than the nominal value thereof then the new shares shall be apportioned among the then shareholders in proportion to the existing shares held by them respectively and such new shares shall be offered at the nominal value thereof to the then shareholders in the proportion aforesaid and such offer shall be made by letter under the hand of the Secretary of the Company given to or sent by post addressed to such shareholder according to his address in the Shareholders' Address Book to be kept pursuant to the provision hereinafter incorporated herewith.

If old shares at premium, new shares to be offered to the shareholders.

IX. The said new shares shall vest in and belong to the shareholders who shall accept the same and pay the value thereof to the Company at the time and by the instalments which shall be fixed by the Directors of the Company and if any shareholder fail for one calendar month after such offer of new shares to accept the same and pay the instalments called for in respect thereof it shall be lawful for the Directors of the Company to dispose of such shares in such manner as they shall deem most for the advantage of the Company.

Shares to vest in the parties accepting, otherwise to be disposed of by the Directors.

X. If at the time of such augmentation of capital taking place the existing shares be not at a premium then such new shares may be issued in such manner and on such terms as the Directors shall think fit.

Shares, if not at a premium, to be issued as Directors think fit.

XI. It shall be lawful for the Directors of the Company with the previous authority of a general meeting of the Company and in addition to the further capital hereinbefore authorized to be raised by the creation of shares and either before or after the raising of such further capital to borrow on mortgage or bond any sum or sums of money not exceeding at any time one half of the amount of the capital of the Company then actually paid up nor exceeding in the whole the sum of Twenty-five thousand pounds but no part of such money shall be borrowed until the whole of the said capital or sum of Fifty thousand pounds shall have been subscribed for and for securing the repayment of the money so to be borrowed with interest it shall be lawful for the Company to mortgage the undertaking and the future calls of the shareholders or to give bonds in manner hereinafter mentioned and all and every part of the money so borrowed on mortgage or bond shall be applied only in carrying into execution the objects and purposes of this Act.

Power to borrow money.

XII. The certificate of a Justice that the whole of such capital of Fifty thousand pounds has been subscribed for and that a certain amount of capital has been actually paid up and a copy of the Order of the General Meeting of the Company authorizing the borrowing of money on mortgage or bond certified by one of the Directors and

Evidence of authority for borrowing.

by

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by the said Secretary to be a true copy shall be sufficient evidence of the fact of the whole of such capital having been subscribed for and of the amount thereof actually paid up and of the Order for borrowing money having been made. And upon production to any Justice of the books of the Company and of such other evidence as he shall think sufficient such Justice shall grant the certificate aforesaid.

Mortgagees may require the appointment of a receiver.

XIII. It shall be lawful for the mortgagees of the Company to enforce the payment of the arrears of interest or the arrears of principal and interest due on their mortgages by the appointment of a receiver but to authorize the appointment of a receiver in respect of the non-payment of any principal money the mortgage debt or debts in arrear shall amount to not less than the sum of Two thousand five hundred pounds.

Certain clauses in "The Companies Clauses Consolidation Act" incorporated.

XIV. The following clauses and provisions of the statute or Act of the Imperial Parliament cited as "The Companies Clauses Consolidation Act 1845" save so far as they shall be expressly varied by this Act shall be and the same with the several schedules referred to in the said clauses are hereby incorporated with this Act and shall save as aforesaid form part of this Act and be construed together herewith as forming one Act that is to say—

With respect to the distribution of the Capital of the Company into shares—Sections numbered respectively from 6 to 13 both inclusive.

With respect to the transfer or transmission of shares—Sections numbered respectively from 14 to 20 both inclusive.

With respect to the payment of subscriptions and the means of enforcing payment of calls—Sections numbered respectively 21 and 22 and from 25 to 28 both inclusive.

With respect to the forfeiture of shares for non-payment of calls—Sections numbered respectively from 29 to 35 both inclusive.

With respect to the remedies of creditors of the Company against the shareholders—Sections numbered respectively 36 and 37.

With respect to the borrowing of money by the Company on mortgage or bond—Section numbered 39 and sections numbered respectively from 41 to 55 both inclusive.

With respect to the consolidation of shares into stock—Sections numbered respectively from 61 to 64 both inclusive.

With respect to the general meetings of the Company and the exercise of the right of voting by the shareholders—Sections numbered respectively from 66 to 80 both inclusive.

With respect to the appointment and rotation of Directors—Sections numbered respectively from 83 to 89 both inclusive.

With respect to the powers of the Directors—Sections numbered respectively 90 and 91.

With respect to the proceedings and liabilities of the Directors—Sections numbered respectively from 92 to 100 both inclusive.

With respect to the appointment and duties of Auditors—Sections numbered respectively from 101 to 108 both inclusive.

With respect to the accountability of the officers of the Company—Sections numbered respectively from 109 to 114 both inclusive.

With respect to the keeping of accounts and the right of inspection thereof by the shareholders—Sections numbered respectively from 115 to 119 both inclusive.

With respect to the making of dividends—Sections numbered respectively from 120 to 123 both inclusive.

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With respect to the making of by-laws—Sections numbered respectively from 124 to 127 both inclusive.

With respect to the giving of notices and to amends and payments into court—Sections numbered respectively from 135 to 141 both inclusive.

With respect to the recovery of damages not specially provided for and penalties—Sections numbered respectively from 142 to 145 both inclusive and from 147 to 151 both inclusive and from 153 to 156 both inclusive and from 158 to 160 both inclusive.

XV. In the clauses and sections herewith incorporated the expressions “The special Act” “this and the special Act” and “this or the special Act” shall respectively mean this Act and the word “prescribed” shall be construed to refer to any matter prescribed or provided for by this Act. And the word “Directors” shall mean Directors of the Company incorporated by this Act and the word “Treasurer” shall be read Secretary and the words “England” or “United Kingdom” shall respectively apply to and be read as the Colony of Victoria and the expression “*The London Gazette*” shall be read as the *Victoria Government Gazette* and the word “abroad” shall be read as beyond the limits of the Colony of Victoria and the expression “any of the superior Courts of law or equity” shall be read as the Supreme Court of the Colony of Victoria and the expression “Quarter Sessions” shall be read as General Sessions of the Peace. And the expression “Master Extraordinary of the High Court of Chancery” shall mean and be read as Commissioner for taking Affidavits in the Supreme Court of the Colony of Victoria.

“ Interpretation of  
Clauses ” incorpo-  
rated.

XVI. If before or on the day appointed for the payment of any call any shareholder shall not pay the amount of such call he shall be liable to pay interest for the same at the rate of Ten pounds per centum per annum from the day appointed for the payment of such call to the time of the actual payment thereof.

Interest on overdue  
calls.

XVII. It shall be lawful for the said Company if they think fit to receive from any of the shareholders willing to advance the same all or any part of the monies due upon their respective shares beyond the sums actually called for and to pay interest at a rate not exceeding Eight pounds per centum per annum upon the principal monies so paid in advance or so much thereof as shall from time to time exceed the amount of the calls then made upon the shares in respect of which such advances shall be made.

Advances from share-  
holders on interest.

XVIII. There shall be seven Directors of the Company who shall be elected by the shareholders by ballot and the qualification of a Director shall be the possession in his own right of at least ten shares in the Company’s undertaking and three shall be a quorum of the Directors and John Hepburn John Michael Cummings Richard Belford John Gibbs Richard Burkett Gibbs Edgar Agar Wynne and James Stewart shall be the first Directors of the Company and such Directors shall continue in office until the first general meeting of the Company to be holden within one month after the passing of this Act at which meeting Directors shall be elected by the shareholders and such elected Directors shall continue in office until the first ordinary meeting of the Company to be holden in the month of February in the year One thousand eight hundred and fifty-eight.

Number and qualifi-  
cation of Directors.

First Directors.

XIX. Every shareholder holding five shares and less than ten shares shall be entitled to one vote and holding ten shares and less than twenty shares to two votes and holding twenty shares and less than fifty shares to three votes and holding fifty shares and less than one hundred

Scale of voting.

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hundred shares to four votes and holding one hundred shares or any number exceeding one hundred shares to five votes but no shareholder holding less than five shares shall be entitled to vote.

Absentee shareholders may vote and act by attorney.

XX. The vote or votes of any shareholder may during his absence from the Colony of Victoria be given at every meeting of the shareholders by his attorney being a shareholder constituted under a power or letter of attorney to vote and act generally at all meetings of the shareholders during such absence or under a power or letter of attorney to act generally in all the affairs in this colony of a shareholder during his absence abroad. Provided that such power or letter of attorney shall be left with the Secretary for inspection three clear days before the meeting at which the same shall be first acted on.

Quorum for general meetings.

XXI. The quorum for any general meeting of the Company shall be twelve shareholders holding in the aggregate not less than one hundred shares in the capital of the Company.

Stamps.

XXII. Notwithstanding any provision contained in any of the clauses herewith incorporated no mortgage or bond and no transfer of shares or of any mortgage or bond or of any interest thereon shall require to be stamped.

Power to construct gas works, &c.

XXIII. Subject to the provisions of this Act it shall be lawful for the Company from time to time to construct and maintain such gas works and apparatus and such buildings with approaches thereto upon the lands belonging to the Company or hereby authorized to be held or purchased by them and to do all such other acts and things as they shall think necessary for supplying the inhabitants within the limits of this Act with gas and to supply such gas upon such terms as shall be agreed upon between the Company and the persons or corporation supplied therewith and to sell and dispose of the coke and other residuum arising from the materials used in the manufacture of gas in such manner as the Company may think proper.

Power to break up streets, &c., under superintendence, and to open drains.

XXIV. The Company under such superintendence as is hereinafter specified may open and break up the soil and pavement of the several streets within the limits of the municipal districts for the time being of Ballaarat West and Ballaarat East and may open and break up any sewers drains or tunnels within or under such streets and lay down and place within the same limits pipes conduits service pipes and other works and from time to time repair alter or remove the same and also make and repair any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the gas and for the purposes aforesaid may remove and use all earth and materials in and under such streets and they may in such streets erect any pillars lamps and other works and do all other acts which the Company shall from time to time deem necessary for supplying gas to the inhabitants of the districts included within the said limits and it shall also be lawful for the Company to lay any pipe branch or other apparatus from any main or branch pipes into through or against any building for the purpose of lighting the same and to provide and set up any apparatus necessary for securing to any buildings a proper and complete supply of gas and for measuring and ascertaining the extent of such supply doing as little damage as may be in the execution of the powers hereby granted and making compensation for any damage which may be done in the execution of such powers.

And to lay pipes for lighting buildings.

Not to enter on private land without consent.

XXV. Provided always that nothing herein shall authorize or empower the Company to lay down or place any pipe or other works into through or against any building or in any land not dedicated to public use without the consent of the owners and occupiers thereof

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except that the Company may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe shall have been lawfully laid down or placed in pursuance of this Act and may repair or alter any pipe so laid down.

XXVI. Before the Company proceed to open or break up any street sewer drain or tunnel they shall give to the persons under whose control or management the same may be or to their clerk surveyor or other officer notice in writing of their intention to open or break up the same not less than three clear days before beginning such work except in cases of emergency arising from defects in any of the pipes or other works and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

XXVII. No such street sewer drain or tunnel shall except in the cases of emergency aforesaid be opened or broken up except under the superintendence of the persons having the control or management thereof or of their officer and according to such plan as shall be approved of by such persons or their officer or in case of any difference respecting such plan then according to such plan as shall be determined by two Justices and such Justices may on the application of the persons having the control or management of any such sewer or drain or their officer require the Company to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain. Provided always that if the persons having such control or management as aforesaid and their officer fail to attend at the time fixed for the opening of any such street sewer drain or tunnel after having had such notice of the Company's intention as aforesaid or shall not propose any plan for breaking up or opening the same or shall refuse or neglect to superintend the operation the Company may perform the work specified in such notice without the superintendence of such persons or their officer.

XXVIII. When the Company open or break up the road or pavement of any street or any sewer drain or tunnel they shall with all convenient speed complete the work for which the same shall be broken up and fill in the ground and reinstate and make good the road or pavement or the sewer drain or tunnel so opened or broken up and carry away the rubbish occasioned thereby and shall at all times whilst any such road or pavement shall be so opened or broken up cause the same to be fenced and guarded and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement where the same shall be open or broken up every night during which the same shall be continued open or broken up and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same and for such further time if any not being more than twelve months in the whole as the soil so broken up shall continue to subside.

XXIX. If the Company open or break up any street or sewer drain or tunnel without giving such notice as aforesaid or in a manner different from that which shall have been approved of or determined as aforesaid or without making such temporary or other works as aforesaid when so required except in the cases in which the Company are hereby authorized to perform such works without any superintendence or notice or if the Company make any delay in completing any such work or in filling in the ground or reinstating and making good the road or pavement or the sewer drain or tunnel so opened or broken up or in carrying away the rubbish occasioned thereby or if they neglect

Notice to be served on persons having control, &c., before breaking up streets or opening drains.

Streets or drains not to be broken up except under superintendence of persons having control of same.

If persons having the control, &c., fail to superintend, the Company may perform the work without them.

Streets, &c., broken up to be reinstated without delay.

Penalty for delay in reinstating streets &c.

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neglect to cause the place where such road or pavement has been broken up to be fenced guarded and lighted or neglect to keep the road or pavement in repair for the space of three months next after the same is made good or such further time as aforesaid they shall forfeit to the persons having the control or management of the street sewer drain or tunnel in respect of which such default is made a sum not exceeding Five pounds for every such offence and they shall forfeit an additional sum of Five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay other parties may re-instate and recover the expenses.

XXX. If any such delay or omission as aforesaid take place the persons having the control or management of the street sewer drain or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed and the expense of executing the same shall be repaid to such persons by the Company and such expenses may be recoverable in the same manner as damages are recoverable under this Act.

Power of the Company to contract for lighting streets, &c.

XXXI. The Company may from time to time enter into any contract with any person for lighting or supplying with gas any public or private building or for providing any person with pipes burners meters and lamps and for the repair thereof and may also from time to time enter into any contract with the councils of the municipal districts aforesaid and with the trustees or other persons having the control of the streets within the limits of the said municipal districts for lighting the same or any of them with gas and for providing such municipal councils trustees or persons with lamps lamp posts burners and pipes for such purpose and for the repairs thereof in such manner and upon such terms as shall be agreed upon between the Company and the said municipal councils trustees or other persons.

Power to Company to let meters and gas fittings.

XXXII. The Company may let for hire any meter for ascertaining the quantity of gas consumed or supplied and any fittings for the gas for such remuneration in money as shall be agreed upon between the Company and any person to whom the same may be so let and such remuneration shall be recoverable in the same manner as the rents or sums due to the Company for gas and such meters and fittings shall not be subject to distress for rent of the building or premises where the same may be used or to be taken in execution under any process of any court of law or equity against the person in whose possession the same may be nor be affected by any order of sequestration of the estate of such person.

Company's officers may enter buildings for ascertaining quantities of gas consumed.

XXXIII. The clerk engineer or other officer duly appointed for the purpose by the Company may at all reasonable times enter any building or place lighted with gas supplied by the Company in order to inspect the meters fittings and works for regulating the supply of gas and for the purpose of ascertaining the quantity of gas consumed or supplied and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time he shall for every such offence forfeit to the Company a sum not exceeding Five pounds.

Recovery of rents due for gas.

XXXIV. If any person supplied with gas by virtue of this Act neglect to pay the rent due for the same to the Company the Company may stop the gas from entering the premises of such person by cutting off the service pipe or by such means as the Company shall think fit and recover the rent due from such person if less than Twenty pounds together with the expense of cutting off the gas and the costs of recovering the rent in the same manner as any damages for the

recovery



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recovery of which no special provision is made are recoverable under this Act or if the rent so due amounts to Twenty pounds or upwards the Company may recover the same together with the expenses of cutting off the gas by action in any Court of competent jurisdiction.

XXXV. In all cases in which the Company are authorized to cut off and take away the supply of gas from any building or premises under the provisions of this Act the Company their agents or workmen after giving twenty-four hours' previous notice to the occupier may enter into any such building or premises between the hours of nine in the forenoon and four in the afternoon and remove and carry away any pipe meter fittings or other works the property of the Company.

Power to take away pipes, &c., when supply of gas discontinued.

XXXVI. Every person who shall lay or cause to be laid any pipe to communicate with any pipe belonging to the Company without their consent or shall fraudulently injure any such meter as aforesaid or who in case the gas supplied by the Company is not ascertained by meter shall use any burner other than such as has been provided or approved of by the Company or of larger dimensions than he has contracted to pay for or shall keep the lights burning for a longer time than he has contracted to pay for or who shall otherwise improperly use or burn such gas or shall supply any other person with any part of the gas supplied to him by the Company shall forfeit to the Company the sum of Five pounds for every such offence and also the sum of Forty shillings for every day such pipe shall so remain or such works or burner shall be so used or such excess be so committed or continued or such supply furnished and the Company may take off the gas from the building and premises of the persons so offending notwithstanding any contract which may have been previously entered into.

Undue use of gas.

Penalty for fraudulently using the gas of the Company.

XXXVII. Every person who shall wilfully remove destroy or damage any pipe pillar post plug lamp or other work of the Company for supplying gas or who shall wilfully extinguish any of the public lamps or lights or waste or improperly use any of the gas supplied by the Company shall for each such offence forfeit to the Company any sum not exceeding Five pounds in addition to the amount of the damage done.

Penalty for wilfully damaging pipes.

XXXVIII. Every person who shall carelessly or accidentally break throw down or damage any pipe pillar lamp post lamp iron or other apparatus belonging to the Company or under their control shall pay such sum of money by way of satisfaction to the Company for the damage done as any two Justices shall think reasonable.

Satisfaction for accidentally damaging pipes.

XXXIX. The Justice who shall issue any warrant of distress may order that the costs of the proceedings for the recovery of the money due to the Company shall be paid by the person or persons or corporation liable to pay such money and such costs shall be ascertained by such Justice and shall be included in the warrant of distress for the recovery of such money.

Costs of distress.

XL. No person shall fit up any apparatus or fittings whereby gas shall be obtained from any main or pipe of the Company without the consent in writing of the Secretary first obtained for that purpose.

Fittings not to be connected with mains without previous consent.

XLI. If the Company shall at any time cause or suffer to be brought or to flow into any river stream brook creek canal reservoir aqueduct waterway feeder pond spring head or well or into any drain communicating therewith any washing or other substance produced in making or supplying gas or shall wilfully do any act connected with the making or supplying of gas whereby the water in any such river stream

Penalty on Company for causing water to be corrupted.

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stream brook creek canal reservoir aqueduct waterway feeder pond spring head or well shall be fouled the Company shall forfeit for every such offence the sum of One hundred pounds.

Penalty to be sued for within six months.

XLII. The said penalty of One hundred pounds shall be recovered with full costs of suit in the Supreme Court by the person into whose water such washing or other substance shall be conveyed or shall flow or whose water shall be fouled by any such act as aforesaid but such penalty shall not be recoverable unless it be sued for during the continuance of the offence or within six months after it shall have ceased.

Daily penalty during the continuance of the offence.

XLIII. In addition to the said penalty of One hundred pounds (and whether such penalty shall have been recovered or not) the Company shall forfeit the sum of Twenty pounds (to be recovered in the like manner) for each day during which such washing or other substance shall be brought or flow as aforesaid or the act by which such water shall be fouled shall continue after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the Company by the person into whose water such washing or other substance shall be brought or shall flow or whose water shall be fouled thereby and such penalty shall be paid to such last mentioned person.

Daily penalty during escape of gas after notice.

XLIV. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the Company they shall immediately after receiving notice thereof in writing prevent such gas from escaping and in case the Company shall not within twenty-four hours next after service of such notice effectually prevent the gas from escaping and wholly remove the cause of complaint they shall for every such offence forfeit the sum of Five pounds for each day during which the gas shall be suffered to escape after the expiration of twenty-four hours from the service of such notice.

Penalty if water contaminated by gas.

XLV. Whenever any water within the limits hereinbefore mentioned shall be fouled by the gas of the Company they shall forfeit to the person whose water shall be so fouled for every such offence a sum not exceeding Twenty pounds and a further sum not exceeding Ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Power to examine gas pipes to ascertain cause of contamination, if notice be given of the same.

XLVI. For the purpose of ascertaining whether such water be fouled by the gas of the Company the person to whom the water supposed to be fouled shall belong may dig up the ground and examine the pipes conduits and works of the Company. Provided that such person before proceeding so to dig and examine shall give twenty-four hours' notice in writing to the Company of the time at which such digging and examination is intended to take place and shall give the like notice to the persons having the control or management of the road pavement or place where such digging is to take place and they shall be subject to the like obligation of reinstating the said road and pavement and the same penalties for delay or any nonfeasance or misfeasance therein as are hereinbefore provided with respect to roads and pavements broken up by the Company for the purpose of laying their pipes.

Expenses to abide result of examination.

XLVII. If upon any such examination it appear that such water has been fouled by any gas belonging to the Company the expenses of the digging examination and repair of the street or place disturbed in any such examination shall be paid by the Company but if upon such examination it appear that the water has not been fouled by the gas of the Company the person causing such examination to be made

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made shall pay all such expenses and shall also make good to the Company any injury which may be occasioned to the works by such examination.

XLVIII. The amount of the expenses of every such examination and repair and of any injury done to the Company shall in case of any dispute about the same together with the costs of ascertaining and recovering the same be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are to be ascertained and recovered. How expenses to be ascertained.

XLIX. Nothing in this Act contained shall prevent the Company from being liable to an indictment for nuisance or to any other legal proceeding to which they may be liable in consequence of making or supplying gas. Nothing to exempt Company from being indicted for a nuisance.

L. The profits to be divided amongst the shareholders in any year shall not exceed the rate of Twenty-five pounds per centum per annum on the paid-up capital of the Company unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate. Profits of the Company limited.

LI. If the clear profits of the Company in any year amount to a larger sum than is sufficient after making up the deficiency in the dividends of any previous year as aforesaid to make a dividend at the prescribed or aforesaid rate the excess beyond the sum necessary for such purpose shall from time to time be invested on Government or real securities and the dividends and interest arising from such securities shall also be invested on the same or like securities in order that the same may accumulate at compound interest until the fund so formed amounts to the sum of Five thousand pounds which sum shall form a reserved fund to answer any deficiency which may at any time happen in the amount of divisible profits or to meet any extraordinary claim or demand which may at any time arise against the Company and if such fund be any time reduced it may thereafter be again restored to the said sum and so from time to time as often as such reduction shall happen. If profits exceed the amount limited, excess to be invested and form a reserve fund.

LII. When such fund shall by accumulation or otherwise amount to the prescribed sum the interest and dividends thereon shall no longer be invested but shall be applied to any of the general purposes to which the profits of the Company are applicable. When fund amounts to prescribed sum, interest to be applied to general purposes.

LIII. If in any year the profits of the Company divisible amongst the shareholders shall not amount to the prescribed rate such a sum may be taken from the reserved fund as with the actual divisible profits of such year will enable the Company to make a dividend of the amount aforesaid and so from time to time as often as the occasion shall require. If profits are less than the prescribed rate, a sum may be taken from the reserved fund to supply deficiency.

LIV. When the profits of the Company shall exceed the prescribed rate of Twenty-five pounds per centum per annum on the paid-up capital the Company shall in case the whole of the reserved fund has been and then remains invested as aforesaid and in case dividends to the amount hereinbefore limited have been paid make a rateable reduction in the price or rate for gas to be furnished by them. If profits are more, a rateable reduction to be made in the price of gas.

LV. It shall be the duty of the Company to publish in the *Government Gazette* and in some local public newspaper half-yearly a full and true statement and account of the monies received disbursed and expended by them and every such statement and account shall be verified by the Secretary by solemn declaration to be made before a Justice and such statement and account shall be made up to the periods at which the books of the Company shall be balanced before each ordinary meeting Periodical statement of accounts to be published.

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meeting and shall be for the period immediately preceding such meeting and it shall be the duty of the Chairman of the Directors to publish the statement and account so verified within thirty days after the first ordinary meeting to be holden in the month of February One thousand eight hundred and fifty-eight and within thirty days after every succeeding half-yearly meeting and if such Secretary shall wilfully falsify any such statement and account or if such Chairman shall neglect so to publish such statement and account such Secretary and Chairman respectively shall for every such offence forfeit the sum of One hundred pounds to be recovered with full costs of suit by an action at law in the Supreme Court or any other Court of competent jurisdiction by any person who shall sue for the same Provided always that such action shall be commenced within six months from the time the offence shall have been alleged to have been committed.

Penalty for defacing boards used for publication of penalties.

LVI. If any person pull down or injure any board put up or affixed as required by this Act for the purpose of publishing any bye-law or penalty or shall obliterate any of the figures thereon he shall forfeit for every such offence a sum not exceeding Five pounds and shall defray the expenses attending the restoration of such board.

Form of conviction.

LVII. The Justices before whom any person shall be convicted of any offence against this Act may cause the conviction to be drawn up according to the following form (that is to say)

COLONY OF VICTORIA, } Be it remembered that on the                      day of  
TO WIT.                      }                      in the year of our Lord

A. B.                      is convicted before us C. D. two of Her Majesty's Justices of the Peace in and for the Colony of Victoria [*here describe the offence generally and the time and place when and where committed*] contrary to the Ballaarat Gas Company's Act, 1857.

Given under our hands and seals at  
in the said Colony the day and year first above written.

C.

D.

Persons giving false evidence liable to penalties of perjury.

LVIII. Every person who upon any examination upon oath under the provisions of this Act shall wilfully and corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury.

Application of penalties.

LIX. One moiety of all penalties or sums of money recovered under this Act shall be paid to the informer and the other moiety to Her Majesty Her Heirs and Successors for the public uses of the Colony and for the support of the Government thereof.

No creditor allowed to take or remove the property of the Company fixed or laid in streets or buildings.

LX. No judgment or other special or simple contract creditor of the Company shall by or under any law title or pretence whatsoever levy or seize in execution or in any way attempt to recover payment of any sums of money due to him from the Company by taking or removing any of the pipes or lamps of the Company laid placed or fixed in under upon or through any street within the limits of this Act or in any building not being in the occupation of the Company.

Receipt of minors and lunatics.

LXI. If any money be payable from the said Company to any shareholder or other person being a minor idiot or lunatic the receipt of the guardian of such minor or the receipt of the committee of such idiot or lunatic shall be a sufficient discharge to the said Company for the same.

Power to purchase works, &c.

LXII. It shall be lawful for the Councils of the Municipal Districts of Ballaarat West and Ballaarat East aforesaid if they shall think fit at any time after the first day of January which will be in the year of our Lord One thousand eight hundred and eighty-one to purchase all the

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the lands buildings works lamps pipes stock hereditaments and appurtenances of and belonging to the Company in the name and on the behalf of the said Councils upon giving to the Directors of the Company twelve months' notice in writing of such intention so to do upon such terms and conditions as shall or may be mutually agreed upon between the Directors of the Company and the said Councils but in case of any dispute or disagreement arising between the Directors of the Company and the said Councils respecting such purchase as aforesaid then it shall be lawful for the Directors of the Company or the said Councils if they or either of them shall think fit to require that it shall be left to arbitration to determine what amount of purchase money shall be paid to the Directors of the Company and in the event of such arbitration being required the said Councils shall name one person and the Directors of the Company another and if such two persons cannot agree upon the amount to be paid to the Company then the same shall be referred to the umpirage of some third person to be appointed by such two first-named persons previously to their entering upon the arbitration and the said award or umpirage as the case may be shall be binding and conclusive on the said parties and their respective successors and assigns.

LXIII. All money raised by the Company by subscriptions of the shareholders shall be applied firstly in paying the costs and expenses incurred in obtaining this Act and all expenses incident thereto and secondly in carrying the purposes of the Company into execution. Application of capital.

LXIV. Nothing in this Act contained shall be deemed to affect or apply to any right title or interest of Her Majesty Her Heirs or Successors or of any body or bodies politic or corporate or of any person or persons excepting such as are mentioned in this Act and those claiming by from or under them respectively. Saving of rights.

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MELBOURNE:

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