ANNO TRICESIMO SECUNDO

VICTORIÆ REGINÆ.


Private Act.

An Act to Incorporate a Joint Stock Company or Association, to be called “The Provincial Gas Company of South Australia,” to limit the Liability of the Shareholders thereof; and for other purposes.

[Assented to, 30th January, 1869.]

WHEREAS a Joint Stock Company, under the name, style, or title of “The Provincial Gas Company of South Australia,” has lately been established in Adelaide, in the Province of South Australia, under and subject to the covenants, clauses, articles, conditions, stipulations, regulations, and provisions contained in a certain deed, purporting to be the Deed of Settlement of the said Company, and bearing date the seventh day of July, 1868, and the additions, alterations, variations, and modifications to be made in pursuance of such provisions: And whereas, by the said Deed of Settlement, after reciting (inter alia) that the said parties thereto had agreed to form themselves into a Company, to be called “The Provincial Gas Company of South Australia,” for the purpose of manufacturing gas, and supplying the same to the inhabitants of the several townships of Gawler, Kapunda, and Strathalbyn, and such other townships and villages in the said Province of South Australia as should be thereafter determined upon, and disposing of the residuum from the said manufacture—It is witnessed, that each of the several persons, parties thereto, covenanted and agreed (inter alia) to be, continue, and remain an association, company, or society, for the express object of carrying on the business of the said company, under the style or title of “The Provincial Gas Company of South Australia,” to be managed and conducted under, and subject to, the several rules, regulations, provisions,
provisions, and agreements thereafter contained, or thereafter to be
made, as provided for; and that the concerns of the said company,
and the manufacture and production of gas, and such other mate-
rials as usually arise from the conversion and manufacture of the
residuum occasioned by the production of gas, should be carried on
in some fit and convenient place or places, which should be chosen
by the directors for the time being of the said company to be
appointed as thereafter mentioned: And whereas it is desirable to
incorporate the said company, and to provide for limiting the
liability of the members thereof; and it is also desirable to confer
upon the said company certain powers, as hereinafter more
particularly mentioned, for the purpose of enabling them more
efficiently to carry out such objects as hereinbefore mentioned—
Be it therefore Enacted by the Governor of the Province of South
Australia, with the advice and consent of the Legislative Council
and House of Assembly of the said Province, in this present Par-
liament assembled, as follows:

1. This Act may be cited as "The Provincial Gas Company's
Act."

2. The following words and expressions in this Act, and in the
sections herewith incorporated, shall have the meanings hereby
assigned to them, unless there be something in the subject or context
repugnant to such construction—

The expression "The Company" shall mean the Company incor-
porated by this Act:

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 by this Act authorized to be executed:

The words "Directors and Secretary" shall respectively mean the
Directors and Secretary for the time being of the Com-
pany:

The word "Lands" shall include messuages, lands, tenements, and
hereditaments of any tenure:

The word "Person" shall include a corporation, whether aggre-
gate or sole:

The word "Lease" shall include an agreement for a lease:

The word "Owner" shall be understood to mean any person or
corporation who under the provisions herein contained is
enabled to sell and convey lands to the Company:

The word "Street" shall include any street, market-place, court,
or highway, lane, road, wharf, 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 "Sheriff" shall include deputy-sheriff, or other legal
competent deputy:

The word "Justice" shall mean a Justice of the Peace acting in
and for the Province of South Australia, or in and for the
district or place where matter requiring the cognizance of
any such Justice shall arise.

3. The limits of this Act shall extend to and include the whole Limits of Act.
of the Province of South Australia.

4. Such and so many persons, corporations, and companies as
have already become, or at any time or times hereafter, shall or
may under and in accordance with the covenants, clauses, articles,
conditions, stipulations, regulations, and provisions contained in
the said deed of settlement, dated the seventh day of July one
thousand eight hundred and sixty-eight, hereinbefore mentioned,
and in any supplemental deed of settlement duly made and executed,
become holders or proprietors of shares of or in the capital for the
time being of the said company shall, for the purposes aforesaid
(subject nevertheless to the conditions, restrictions, regulations,
and provisions hereinafter contained), be one body politic and cor-
porate in name and in deed, by the name of "The Provincial Gas
Company of South Australia," and by the name of "The Provincial
Gas Company of South Australia," shall and may sue any person
or persons, body or bodies politic or corporate, whether a member
or members of the said corporation or not, and may be sued in all
Courts whatsoever, at law or in equity, and may prefer, lay, and
prosecute any indictment, information, and prosecution against any
person or persons whomsoever, for any stealing, embezzlement,
fraud, forgery, crime, or offence, and in all indictments, informations,
and prosecutions, it shall be lawful to state the money, goods,
effects, bills, notes, securities, or other property of the said com-
pany, to be the money, goods, effects, bills, notes, securities, or
other property of the said company, and to designate the said
company or co-partnership by its corporate name whomsoever, for
the
the purpose of any allegation of an intent to defraud or otherwise howsoever, such designation shall be necessary, and the said corporation shall have perpetual succession, with a common seal, which may be altered, varied, and changed from time to time at the pleasure of the said company.

5. The capital of the company shall be Thirty Thousand Pounds, and the number of shares into which the said capital shall be divided shall be six thousand, and the amount of each share shall be Five Pounds, and Ten Shillings per share shall be the greatest amount of any one call which shall be made upon the shareholders, and three months at the least shall intervene between successive calls.

6. The company, at a special general meeting to be called for that purpose, shall be at liberty to increase the said capital to the sum of Sixty Thousand Pounds, and the additional sum of Thirty Thousand Pounds shall be divided into equal shares of Five Pounds each, and shall be apportioned in such manner as the company at such meeting shall think fit, amongst the parties who have executed or shall hereafter execute any deed subscribing such additional capital with the object of joining in this undertaking: Provided that the said additional shares shall be in the first instance offered to the parties who have already subscribed to the capital of Thirty Thousand Pounds.

7. It shall be lawful for the company to borrow on mortgage or bond, such sum or sums of money as shall from time to time, by an order of a general meeting of the company, be authorized to be borrowed, not exceeding at any time the amount of the capital of the company then actually paid up, but no part of such money shall be borrowed until Five Thousand Pounds of the said capital shall have been paid up; 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 on the shareholders, or to give bonds in manner hereinafter mentioned, and all and every part of the money so to be borrowed on mortgage or bond shall be applied only in carrying into execution the objects and purposes of this Act.

8. The certificate of a Justice that the specified and definite amount of the 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 the chairman, for the time being of the directors, and by the secretary, to be a true copy, shall be sufficient evidence of the fact of the specified amount of capital having been 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.

9. It
9. 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 One Thousand Pounds.

10. The board of directors for the time being of the said company shall have the custody of the common seal of the company, and the form thereof, and all other matters relating thereto shall, from time to time, be determined by the board of directors in the same manner as is provided in and by the said deed of settlement, or any such supplemental deed of settlement as aforesaid for the determination of other matters by such board; and the said board shall have power to use the common seal of the said company for the concerns and affairs thereof, and under seal to authorize and empower any person without such seal to execute any deeds, and to do all or any such other matters or things as may be required to be executed, and done on behalf of the said company, and in conformity with the provisions of the deed of settlement, and of any such supplemental deed of settlement as aforesaid, and of this Act within the said Province; but it shall not be necessary to use the corporate seal in respect of any of the ordinary business of the company, or for the appointment of an attorney or solicitor for the prosecution and defence of any action, suit, or proceeding.

11. The several covenants, clauses, articles, conditions, stipulations, regulations, and provisions contained in the said deed of settlement, and in any such supplemental deed of settlement as aforesaid, and the several regulations, alterations, and provisions to be made under or by virtue, or in pursuance thereof, are and shall be deemed and considered to be, and shall be the by-laws for the time being of the said company, save and except in so far as any of them are or shall, or may be altered, varied, or repealed by, or shall or may be inconsistent or incompatible with or repugnant to any of the provisions of this Act, or of any of the Laws or Statutes in force in the said Province; subject, nevertheless, to be, and the same may be amended, altered, or repealed, either wholly or in part, in the manner provided in and by the said deed of settlement, and any such supplemental deed of settlement as aforesaid: Provided always, that any regulation, provision, or by-law made by the said company, either under or by virtue of the said deed of settlement and any such supplemental deed of settlement as aforesaid, or of this Act, in opposition to the general scope or true intent and meaning of the said deed of settlement, and any such supplemental deed of settlement as aforesaid, or of this Act, shall have no effect within the said Province.

12. The capital or joint stock for the time being, and all funds and property of the said company, and the several shares therein, and
and the profits and advantages to be derived therefrom, shall be and be deemed personal estate, and be transmissible accordingly, subject to the regulations and provisions of the said deed of settlement, and any such supplemental deed of settlement as aforesaid.

13. In the event of the assets of the said company being insufficient to meet the engagements thereof, then, and in that case, the shareholders therein shall be responsible to the extent of twice the amount of the share or shares for the time being held by them respectively, that is to say—for the amount subscribed for on such share or shares, or so much thereof as shall not have been previously paid up, and for an additional amount equal to the amount so subscribed for, and no shareholder shall be liable beyond such extent.

14. No dividend shall in any case be declared or paid out of the subscribed capital for the time being of the said company, otherwise than out of the net gains and profits of the business.

15. Copies of the deed of co-partnership and settlement of the said company, and of every such supplemental deed, as hereinbefore mentioned, attested by the secretary or clerk for the time being of such company, to be true transcripts of the original deeds of co-partnership and settlement of such company, shall be filed in the Supreme Court of South Australia by such secretary or clerk within thirty days from and after the day on which this Act shall commence and take effect, or as soon thereafter as may be practicable, and the same copies shall be open for inspection at all reasonable times by any person requiring to inspect the same, on payment of the fee of One Shilling for each such inspection; and if any such secretary or clerk shall omit or neglect so to file such attested copies of the deed of co-partnership and settlement of the said company, or any such supplemental deed as aforesaid, within the time hereinbefore directed for filing the same, he shall be subject and liable to a penalty of One Hundred Pounds, to be recovered by an action of debt in the Supreme Court, or any other Court of competent jurisdiction in South Australia, by any person who shall sue for the same; and as often as any alteration in or addition to the deeds of co-partnership and settlement of such company, or any such supplemental deed as aforesaid, or the rules and regulations, shall be made, a copy of such alterations and additions, attested as aforesaid, shall, in like manner, be filed in the said Supreme Court for the purposes and subject to the penalty hereinbefore imposed on the party neglecting or omitting duly to make such registry as aforesaid; and the secretary or clerk of the said company shall, within thirty days from and after the first day of January in each and every year, or as soon thereafter as may be practicable, cause a true and correct list of the names of all the persons who shall be then existing proprietors or members of such company, registered as such in the register of shareholders, with their respective places of abode and descriptions as appears in such registers, and the number of shares held by them respectively, and also the date when any such
such shareholder first became a shareholder, and the date of any shareholder ceasing to be such, to be recorded on oath in the said Supreme Court, and the same shall be open for inspection at all reasonable times by any person requiring the same, on payment of a fee of One Shilling for each inspection; and if any such secretary or clerk shall omit or neglect to cause such list to be recorded in manner aforesaid, or falsify any such list, he shall be subject and liable to a penalty of One Hundred Pounds, to be recovered by an action of debt in the said Supreme Court, or any other court of competent jurisdiction in the said Province, by any person who shall sue for the same; and every person whose name shall be so recorded as aforesaid shall be considered, taken, and held to be a member or proprietor of the said company, and shall be liable to be sued as such, subject to the limitation hereinbefore provided, until a new list of the names of the members or proprietors of such company shall be so recorded or filed as aforesaid, or until he or she, having ceased to be a member of the said company, shall have given notice in the South Australian Government Gazette of his or her retirement from such company, and for a period of one year after the recording or filing of such new lists or the giving of such notice as aforesaid, whichever shall first happen: Provided always, that after the expiration of the said period of one year from the time when any member of such company shall cease to be entered on such list so to be recorded or filed as aforesaid as a member of such company, or after the expiration of the said period of one year from the time of so giving such notice as aforesaid, such member shall not be in any way liable to contribute to the assets of the said company, or be responsible or liable for or on account of any contract, engagement, debt, or liability thereof, whether such contract or engagement had been made or entered into, or debt or liability become due or been incurred during the time he or she continued to be a member of such company or otherwise: And provided, also, that no individual proprietor or member of such company shall be liable for any debts incurred by the same, except so far as he or she may be liable under the provisions of this Act, and the said deed of settlement and supplemental deed.

16. Any action or suit may be brought by the said company against any shareholder or shareholders to recover any sums of money due and payable to the said company for or in respect of any call or calls made by virtue of this Act, or of the said deed of settlement, or of any such supplemental deed of settlement as aforesaid; and in any such action or suit, it shall not be necessary to set forth the special matter; but it shall be sufficient for the said company to declare and allege that the defendant or defendants is or are the holder or holders of such or so many share or shares in the capital of the said company, and is or are indebted to the said company in such sum or sums of money as the call or calls in arrear shall amount to for such and so many call or calls of such or so many sum or sums of money, upon such or so many share or shares belonging to the said defendant or defendants (as the case may be)
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whereby an action had accrued to the said company by virtue of this Act; and on the trial or hearing of such action or suit, it shall not be necessary to prove the appointment of the directors or any of them who made such call or calls, or any other matters, except that the defendant or defendants, at the time of making any such call, was or were a holder or holders of the share or shares in the capital of the said company (of which fact the books of the said company shall be conclusive evidence), and that such call or calls was or were in fact made, and that such notice thereof was given, as directed by the said deed of settlement in that behalf, and the said company shall thereupon be entitled to recover what shall appear due upon such call or calls.

17. The following sections of "The Companies Act, 1864," save so far as they shall be expressly varied by this Act, shall be and the same 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—Sections numbered respectively 30, 31, 32, 34, 35, 45, 46, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 66, and 68; and the said sections shall, so far as the same are applicable and capable of taking effect, be deemed and taken to apply to the company by this Act incorporated.

18. 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 Twelve Pounds per centum per annum, from the day appointed for the payment of such call to the time of the actual payment thereof.

19. It shall be lawful for the company, if they shall think fit, to receive from any of the shareholders willing to advance the same, all or any part of the moneys 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 moneys so paid in advance, or so much thereof as shall from time to time exceed the amount of the call then made upon the shares in respect of which such advances shall be made.

20. There shall be five directors of the company, and the qualification of a director shall be the possession in his own right of at least fifty shares in the company's undertaking, and three shall be a quorum of the directors.

21. The following persons, that is to say—William Henry Charnock, Joseph Fisher, John Hodgkiss, William Hanson, and Nathaniel Oldham, shall be the first directors of the company, and such directors shall continue in office until the first ordinary general meeting of the company, to be holden in the month of January, one thousand eight hundred and seventy, at which time the three of the said directors who have attended the least number of meetings of the said directors shall retire, and the shareholders present at such meeting, personally or
or by proxy, may elect new directors in the place of the three directors so retiring, and may either continue in office the remaining two directors appointed by this Act, or may elect a new body of directors to supply the place of the directors appointed by this Act; and at every ordinary general meeting of the company, the three directors, who have attended the least number of meetings of directors during the then past year, shall retire, and the shareholders present at such meeting, personally or by proxy, may elect new directors in the place of the three directors so retiring, and may either continue in office the remaining two directors, or may elect a new body of directors to supply the place of those directors not continued in office; and no person shall be a director of the said company for more than three years without re-election.

22. It shall be lawful for a general meeting of the company, from time to time, after due notice for that purpose, to increase the number of directors, provided that the increased number of directors be not more than nine.

23. At the general meetings of the company every shareholder shall be entitled to vote according to the scale following, that is to say, if he shall hold—

Not less than five nor more than nine shares he shall have one vote:

Not less than ten nor more than nineteen shares he shall have two votes:

Not less than twenty nor more than forty-nine shares he shall have three votes:

Not less than fifty nor more than ninety-nine shares he shall have four votes:

Not less than one hundred nor more than one hundred and ninety-nine shares he shall have five votes:

Not less than two hundred nor more than two hundred and ninety-nine shares he shall have six votes:

And if he shall hold three hundred shares and upwards he shall have seven votes:

And no shareholder shall be entitled to more than seven votes however great a number of shares he may hold.

24. The vote or votes of any shareholder may, during his absence from the said Province, be given by his attorney legally 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 the said Province of a shareholder during his absence abroad, and such attorney shall be deemed the lawful proxy of such absent shareholder, provided that such power or letter of attorney shall
shall be left with the Secretary for inspection two clear days before the meeting at which the same is intended to be first acted upon, and the vote or votes of any shareholder not absent from the Province may be taken by proxy, provided that no person shall vote at any meeting as proxy for more than five shareholders.

25. The directors shall produce to the auditors, for the purpose of auditing and examining, the yearly and other periodical accounts and balance-sheet, and all books and vouchers of the company.

26. Such accounts shall be open, at all reasonable hours, to the inspection of the public, on payment of a fee of Two Shillings and Sixpence for such inspection.

27. The said company shall not be bound in any manner by any trusts, charges, or equitable interests or demands affecting any share or shares of the capital standing in the name of any person or persons as the ostensible owner or proprietor thereof, or be required to take notice of such trusts or equitable interests or demands, but the receipt of the persons or first of several joint persons in whose name or names the shares shall stand in the books of the company, shall, notwithstanding such trusts or equitable interests or demands and notice thereof to the said company, be a good, valid, and conclusive discharge to the company for or in respect of any dividend or other money payable by the said company in respect of such shares, and a transfer of the said shares by the person or persons in whose name or names such shares shall so stand, shall be binding and conclusive, so far as the said company is concerned, against all persons claiming by virtue of such trusts or equitable interests, or demands, or otherwise: Provided always, that it shall be competent to the board of directors of the said company, if they shall think fit so to do, to withhold payment of the dividends on any such shares, and to refuse to sanction the transfer of such shares in any case in which the said company shall have had notice of any claim under an alleged trust or equitable interest or demand, if such claim shall appear to the said board of directors to be well founded: Provided also, that nothing herein contained shall be deemed or taken to interfere with or abridge the right or power of a Court of Equity to restrain the payment of any dividend or other money payable by the said company in respect of any shares, or the transfer of any shares, or to direct the payment of such dividends or other money by the company, or the transfer of any shares by the person or persons in whose name or names they may stand, in such mode as such Court may think fit.

28. Every secretary, accountant, or other officer, clerk, or servant of the said company shall, notwithstanding such secretary, accountant, or other officer, clerk, or servant of such company shall or may be a shareholder, and have a joint interest in the property of the said company, be liable to be proceeded against criminally for any offence committed by such secretary, accountant, or other officer.
officer, clerk, or servant, in respect of the property of the said company, in like manner, and in all respects as if such secretary, accountant, or other officer, clerk, or servant, were not a shareholder, and had no such joint interest.

29. Nothing herein contained shall prejudice, or be deemed to prejudice any call made, or any contract, or other act, deed, matter, or thing entered into, made, or done by the said company, or by the secretary or directors thereof, or other the person or persons acting in the conduct and management of such company, under or by virtue of the said deed of settlement, or any such supplemental deed of settlement, as aforesaid, before the passing of this Act; but the same call, contract, act, deed, matter, or thing shall be as valid and effectual to all intents and purposes, and may be enforced in like manner as if the said company had been incorporated and authorized to carry on the business as herein mentioned, before the same call, contract, act, deed, matter, or thing had been made, entered into, or done; and every contract heretofore made by or with any persons for or on behalf of the said company or otherwise for its benefit, shall be performed by or to the said company, and the said company shall and may sue and be sued at law and in equity, on every such contract respectively; and judgment shall be given or a decree shall be made in every such suit, in the same manner as if such contract had been made by or with the said company after the passing of this Act.

30. Subject to the provisions of this Act, it shall be lawful for the company to agree with the owners of any lands considered by the company requisite to be purchased or taken for the purpose of the undertaking, and with all parties having any estate or interest in such lands or by this Act enabled to sell and convey the same for the absolute purchase for a consideration in money of any such lands, and of all estates and interests in such lands of what kind soever, and the power hereinafter given to release lands from any rent, charge, or incumbrance, and to agree for the appointment of any such rent, charge, or incumbrance shall extend to and may lawfully be exercised by every party enabled in and by this Act to sell and convey or release lands to the company.

31. The following sections of "The Lands Clauses Consolidation Act," being an Ordinance No. 6 of 1847 (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 sections 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)—

Sections numbered respectively from 7 to 10, both inclusive:
Sections numbered respectively from 12 to 15, both inclusive:
Sections numbered respectively from 18 to 56, both inclusive:
Sections numbered respectively from 63 to 87, both inclusive:
Sections numbered respectively from 89 to 92, both inclusive:
Sections numbered respectively from 95 to 101, both inclusive:
Sections numbered respectively from 102 to 105, both inclusive:
Sections numbered respectively from 106 to 110, both inclusive:
Sections numbered respectively from 111 to 113, both inclusive:
Sections numbered respectively from 114 to 122, both inclusive.

32. In the sections lastly hereinbefore incorporated with this Act 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 sentence by which such word shall occur shall be construed as if instead of the word prescribed the expression "prescribed for that purpose in this Act" had been used, and the expression "The promoters of the undertaking," shall apply to and be construed to mean the company incorporated by this Act, and the word "Treasurer" shall be read as Secretary.

33. 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 purchased or held by them, and to do all and 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 corporations supplied therewith, and to sell and dispose of the coke and residuum arising from the materials used in the manufacture of gas in such manner as the company may think proper; and all gas-tar or ammoniacal liquor created in the process of making gas shall be kept in covered tanks.

34. The company, under such superintendence as hereinafter specified, may open and break up the soil and pavement of the several streets and roads within the limit of this Act, 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 any such streets erect any pillar 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 within the limits of this Act; 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 light-
ing the same, and to provide and set up any apparatus necessary for securing to any building a proper and complete supply of gas, and for measuring and ascertaining the extent of such supply: Provided always that nothing herein shall authorize or empower the company to lay down or place any pipes 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; 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: Provided also that nothing in this Act contained shall authorize the company to open or break up any street, road, sewer, drain, or tunnel, without the assent of the authorities having jurisdiction over such streets, roads, sewers, drains, or tunnels, except in the said townships of Gawler, Kapunda, and Strathalbyn.

35. 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 seven clear days before beginning such work, except in cases of emergency arising in 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 have arisen; and also, except for the purpose of connecting service-pipes to mains which have been previously laid, and in such cases one clear day's notice shall be sufficient.

36. 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, or 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 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 officers.

37. When the company open or break up the road or pavement of Streets broken up to be reinstated without delay.
of any street, or any sewer, drain, or tunnel, they shall with all possible 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, 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.

38. 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 reinstate or 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 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, road, sewer, drain, or tunnel, in respect of which such default is made, a sum not exceeding Ten 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.

39. 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.

40. The company shall do as little damage as may be in the execution of the powers by this Act granted, and shall make compensation for any damage which may be done in the execution of such powers.
41. 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, or lamps, and other gas fittings and things, and for the repairs thereof; and may also, from time to time, enter into any contract, with the Municipal Councils, or District Councils, or other quasi corporate bodies or associations, as the case may be or with the trustees, or other persons having the control of the streets within the limits of this Act, for lighting the same, or any of them, with gas, and for providing any such Council, or such trustees, or persons with lamps, lamp-posts, burners, and pipes, and other gas fittings and things 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 Council, trustees, or other persons.

42. 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 let; and such remuneration shall be recoverable in the same manner as the rent or sums due to the company for gas, and such meters and fittings shall not be subject to distress for rent 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.

43. The maximum price at which gas shall be sold by the company to all persons who shall burn the same by meter, shall not exceed Twenty-five Shillings per thousand cubic feet, and the company shall not be entitled to charge a higher rate for gas supplied by contract to any person; and the maximum rent on meters supplied by the Company shall not exceed Twenty-five Pounds per centum on the cost price in Adelaide for the meter used.

44. All the gas to be supplied by the company shall be of such minimum quality as to produce from an argand burner, having fifteen holes and a seven-inch chimney, or other approved burner and chimney, and consuming five cubic feet of gas per hour, a light equal in intensity to the light produced by twelve sperm candles of six in the pound, burning one hundred and twenty grains per hour.

45. It shall be lawful for the Corporation, or other quasi corporate body, having the management of any town or village, within which the company may establish gasworks, to appoint, and from time to time to remove and again appoint, an inspector of meters, to be paid by them, and such inspector shall have at all times, on the application and at the expense of any consumer of gas supplied by the company, a right to inspect and test the meters, fittings, and works, placed or erected by the company on the premises of the person making such request, after giving forty-eight hours' notice of such intended inspection to the company, or to their
their secretary, superintendent, or other officer; and before such inspection the person requiring such examination shall deposit in the hands of the inspector, all money due, or appearing to be due, by such person to the company, on an account delivered, and in case such deposit shall appear to be in excess of the sum found to be due to the company, such excess shall be returned to the consumer, with all charges for inspection paid by him.

46. The clerk, engineer, or other officer or servant duly appointed for the purpose by the company, may, at all reasonable times, between the hours of eight a.m. and ten p.m., 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 may remove any such meter or fittings for the purpose of testing the accuracy of the same; and if any person hinder such officer or servant as aforesaid from entering and making such inspection, or removing such meters and fittings as aforesaid, at any reasonable time, he shall, for every such offence, forfeit to the company a sum not exceeding Five Pounds.

47. If any person supplied with gas by virtue of this Act neglect to pay the rent due to the company for the same, the company (having first demanded the amount due) may, after the expiration of forty-eight hours, 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, together with the expenses of cutting off the gas, by action in any Court of competent jurisdiction.

48. In all cases in which the company are authorized to cut off and take away the 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 such building or premises between the hours of nine of the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings, or other works the property of the company: Provided that all damages to property, of whatever description, occasioned by such removal as aforesaid, shall be made good by and at the expense of the company.

49. 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 shall otherwise improperly use or burn such gas, or shall supply any other persons with any part of the gas supplied to him by the company, shall forfeit to the company
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 burners 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 person so offending, notwithstanding any contract which may have been previously entered into.

50. 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 lamp 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 damage done.

51. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, lamp, 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.

52. 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.

53. 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 or other officer first obtained for that purpose.

54. 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 the making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas, whereby the water in any river, stream, brook, creek, canal, reservoir, aqueduct, waterway, feeder, pond, spring head, well, waterpipe, or watermain, shall be fouled, the company shall forfeit for every such offence the sum of Twenty Pounds.

55. The said penalty of Twenty Pounds shall be recovered, with full cost of suit, before any Justice in a summary way, or in any Court of competent jurisdiction by Her Majesty, or any person into whose water such washings or other substance shall be conveyed, or shall flow, or whose water shall be fouled by any such act
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.

56. In addition to the said penalty of Twenty Pounds (and whether such penalty shall have been recovered or not), the company shall forfeit any sum not exceeding the sum of Ten Pounds (to be recovered in the like manner), for each day during which such washings 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 on behalf of Her Majesty, or by any person into whose water such washings or other substance shall be brought, or shall flow, or whose water shall be fouled thereby; and such penalty shall be paid to Her Majesty, or to such last mentioned person as the case may be.

57. 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.

58. 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 Ten Pounds, and a further sum not exceeding Five 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.

59. 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.

60. If upon any such examination it appears that such water has been
been fouled by any gas belonging to the company, the expense 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 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.

61. The amount of the expense of every such examination and repairs, 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.

62. 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 sum 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 or road within the limits of this Act, or in any building not being in the occupation of the company.

63. Every proceeding under this Act, for omissions, defaults, acts, or offences to which any penalty is attached, where no other method of proceeding is by this Act provided, shall be had and taken, and may be heard and determined in a summary way by any Special Magistrate or two Justices under the provisions of an Ordinance of the Governor and Legislative Council, No. 6 of 1850, "To facilitate the performance of the duties of Justices of the Peace out of Sessions with respect to Summary Convictions and Orders," or of any Act hereafter to be in force relating to the duties of Justices with respect to summary convictions and orders; and all convictions and orders may be enforced as in the said Ordinance or in any other Act as aforesaid is or shall be provided.

64. Every person who, upon examination on 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.

65. One moiety of all penalties of sums of money recovered under this Act shall, where the application thereof is not otherwise provided for, be paid to the informer, and the other moiety to Her Majesty for the public uses of the said Province, and for the support of the Government thereof.

66. Nothing in this Act contained shall prevent the company from being liable to an indictment for nuisance, or to any other legal proceedings to which they may be liable in consequence of making or supplying gas.

67. Nothing
32° VICTORIÆ, PRIVATE ACT.

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67. Nothing in this Act contained shall be deemed to affect any right, title, or interest of Her Majesty, Her heirs, or successors.

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

69. This Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others within the said Province, without being specially pleaded.

In the name and on behalf of the Queen I hereby assent to this Act.

F. G. HAMLEY, Governor.