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1st Session, 4th Parliament, 16 Victoria, 1853.



BILL.

An Act to Incorporate "The Welland Canal
Gas Light and Water Company."

Received and read first time, Friday, 18th March,
1853.

Second reading, Wednesday, 23rd March, 1853.

[250 Copies.]

HON. J. MORRIS.

QUEBEC.

Printed by Bureau & Marcotte, Buede Street.

BILL.

An Act to Incorporate "The Welland Canal Gas Light and Water Company."

WHEREAS the Lighting of the Line of the Welland Canal, the Town of St. Catharines and the Village of Thorold with Gas, and supplying the said Town with Water, would be of great public advantage ; and whereas, James R. Benson, George Rykert, Henry Mittleberger, William Hamilton Merritt, the younger, John L. Helliwell, Joseph P. Boomer, Thomas Whan, William McGivinn, Richard Wodruff, Thomas Shaw, Theophilus Mack, M.D., and William Eccles, have by their petition prayed that they the said James R. Benson, George Rykert, Henry Mittleberger, William Hamilton Merritt, the younger, John L. Helliwell, Joseph P. Boomer, Thomas Whan, William McGivinn, Richard Wodruff, Thomas Shaw, Theophilus Mack, M.D. and William Eccles, and others, who may become associated with them in their undertaking, may be incorporated under the name of "The Welland Canal Gas Light and Water Company," for the purpose of better enabling them to Light the said Town of Saint Catharines, the said Village of Thorold and the Welland Canal with Gas, and to supply the said Town of Saint Catharines and its vicinity with Water; Be it therefore enacted, &c., That the said James R. Benson George Rykert, Henry Mittleberger, William Hamilton Merritt, the younger, John L. Helliwell, Joseph P. Boomer, Thomas Whan, William McGivinn, Richard Woodruff, Thomas Shaw, Theophilus Mack, M. D., and William Eccles, and all such persons as shall hereafter become stockholders of the said Company hereby established, shall be and are hereby ordained, constituted and declared, to be a body corporate and politic in law, in fact and in name, by the style and title of "The Welland Canal and Gas Light and Water Company," and they and their successors and assigns shall and may have the power to purchase and acquire lands, tenements and hereditaments for them and their assigns and successors for the use of the said Gas and Water Works, and also to sell and convey any lands so purchased or acquired; Provided always, the lands to be holden by the said Company shall be held for the purposes for which the said Company is incorporated, in constructing their necessary works and for no other purposes whatsoever, and shall not at any time exceed in value five thousand pounds.

Preamble.

Certain persons incorporated.

II. And be it enacted, That the said Company may raise and contribute among themselves such sum as shall not exceed the sum of twelve thousand five hundred pounds in shares of ten pounds each, and the money so raised shall be

Capital £12,500 in shares of £10;

appropriated to the purpose of constructing, completing, acquiring and maintaining their said Gas and Water Works and to the purposes of this Act and to no other object or purpose whatever ; Provided always, that if such sum should be found insufficient for the purposes aforesaid, it shall be lawful for the Company to increase their capital stock by a further sum not exceeding twelve thousand five hundred pounds, either among themselves or by the admission of new shareholders, such new shares to be of ten pounds each. 5

III. And be it enacted, That the said Company may borrow any sum or sums of money for the purpose of completing the said undertaking if requisite, or for extending the works of the said Company, not exceeding the sum of twenty thousand pounds, and to pledge, hypothecate and mortgage, the property, income and rents of the said Company for the repayment of the money so borrowed and the interest thereon; and if after having borrowed the whole or any part of such money, the Company pay off the same, it shall be lawful for them to borrow again the amount so paid off, and so from time to time to borrow ; provided that the whole amount borrowed do not at any one time exceed the sum of twenty thousand pounds, and that for the money so borrowed, it shall be lawful for the Company, to give bonds or debentures in such manner and for such sums, not less than fifty pounds, as they may see fit. 10 15 20

Company may borrow £20,000.

Proviso.

IV. And be it enacted, That the respective obligees in such Bonds or Debentures, whereby the income, rents and payments, due to the said Company shall be secured, shall proportionally, according to the amount of money secured thereby, be entitled to be paid out of the rents, and revenue of the Company the respective sums in such Bonds or Debentures mentioned and thereby intended to be secured, without any preference one over another by reason of priority of date, or of the meeting at which the same was authorized or otherwise or howsoever. 25 30

No priority of claim among obligees.

V. And be it enacted, That so soon as the sum of six thousand five hundred pounds is subscribed, it shall and may be lawful for any three of the persons above named to call a general meeting of the stockholders of said Company for the purpose of electing five directors for said Company, to act as such for the year in which they are so elected. Provided, that one month's notice of the time, place, and object of such meeting be given in one of the news papers published in the town of Saint Catharines. 35 40

First meeting.

VI. And be it enacted, That the directors of the said Company shall be elected by ballot and by a majority of votes, and that at such election and in every vote that may be taken of the shareholders, each share shall be entitled to one vote, and shareholders may vote by proxy appointed in writing. 45

Election of Directors and mode of voting

VII. And be it enacted, That after the first election of Directors the annual meeting for electing Directors shall be holden on the thirty first day of December in each year, unless that day shall happen to fall on a Sunday, or public holiday or day of thanksgiving, in such case the election shall be held on the day next preceeding such last mentioned day not being a public holiday or day of general thanksgiving, at which meeting and before the election of new Directors the Directors of the then past year shall exhibit a full and unreserved statement of the affairs of the Company and of the funds, property and debts due to and by the Company.

VIII. And be it enacted, That there shall be five Directors to manage the affairs of said Company, and the Directors shall at their first meeting after their election, choose out of their number a President, who shall hold his office until the next election of Directors, unless displaced or superseded by the said Directors ; and it shall be lawful for the said Directors, from time to time, in case of death, resignation, absence from the province, disqualification and any (person disqualified to be elected shall be disqualified from remaining in office) or the removal of any person so chosen to be President or Director or either of them to choose in his or their stead, from among the said Directors another person to be President, or from among the other qualified shareholders another person or persons to be Director or Directors respectively to continue in office until the next annual election; Provided always that upon filling up such vacancies the Directors shall always vote *per capita* and not according to the number of shares they hold, and the President or person presiding at any meeting of the Directors or shareholders shall have a casting vote only.

IX. And be it enacted, That no person shall be qualified to be elected, or be a Director of said Company, unless he owns in his own right ten shares in the Stock of said Company, and such Directors shall remain in office until the next annual meeting succeeding their election, unless they shall sooner resign, be removed or become disqualified under the provisions of this Act ; and any three of such Directors shall form a quorum for the transaction of business, and any majority of such quorum, assembled according to the provisions of this Act, and the by laws of the Company then in force, may exercise any or all of the powers, hereby vested in the Directors and President ; in the absence of the President, the chairman chosen by the Directors present, *pro tempore*, shall preside at the meeting of the Directors.

X. And be it enacted, That any ten shareholders may call a special meeting of the Company upon giving two weeks notice of the object, time and place of such meeting in some one of the public newspapers published in the Town of St. Catharines.

Directors may
appoint offi-
cers and make
by-laws.

XI. And be it enacted, That the Directors shall and may have the power to appoint a manager, clerks and such other persons, as may appear to them necessary for carrying on the business of the said Company, with such powers and duties, salaries and allowances, to each as shall seem meet and advisable, and also shall and may have power to make, repeal or alter such by-laws, to be binding upon members of the Company or their servants, as shall appear to them proper and needful, touching the well ordering of the said Company, the management and disposition of its stock, property, estate and effects, the calling of special meetings of the Directors, and other matters connected with the proper organization of the said Company and the conduct of the affairs thereof, and also shall and may have the power to make calls for instalments on shares, subject to the provisions hereinafter named, and to declare such yearly or half yearly dividend out of the profits of the said undertaking as they may deem expedient, or to make contract or by such by-laws to empower the President or any Director or officer to make contracts on behalf of the Company, and to affix (if need be) the common seal of the Company to such contracts, and generally to manage the affairs of the Company, and to do or empower others to do whatever the Company may lawfully do under this Act, unless it be otherwise herein provided; Provided always, that such by-laws shall be in no wise inconsistent with the true intent and meaning of this Act and the powers hereby granted, nor repugnant to the Laws of this province, and such by-laws may be repealed or amended at a special or annual meeting of the Company.

Proviso.

Subscriptions
already made
valid and
binding.

XII. And be it enacted, That all subscriptions for the capital stock of the Company, or to the undertaking for carrying out which the said Company is incorporated, shall be good and valid and binding on the shareholders or subscribers whether made before or after the passing of this Act; and the several persons who have subscribed or who may hereafter subscribe for shares in the said undertaking or Company, shall and they are hereby required to pay, the sum or sums of money by them respectively subscribed or such part or portions thereof, as shall from time to time be called for by the Directors of the Company, under and by virtue of the powers and directions of this Act, to such person or persons and at such times and places, as shall be directed and required by the Directors, and in case any person or persons shall neglect or refuse to pay the same at the time and in the manner required for that purpose, it shall be lawful for the Directors to cause the same to be sued for and recovered in any court of law in this province, having jurisdiction in civil cases to the amount; and in such actions whether for the subscriptions already made or hereafter to be made, it shall not be necessary to set forth the special matter, in the declaration, but it shall be sufficient to

allege that the defendant is the holder of one or more shares in the stock (stating the number of shares) and is indebted to the Company in the sum to which the calls in arrear may amount ; and in any such action it shall be sufficient to maintain the same that the signature of the defendant to some book or paper by which it shall appear that such defendant subscribed for a share or a certain number of shares of the stock of the said Company or undertaking, be proved by one witness whether in the employment of the Company or not, and that the number of calls in arrear have been made, and the suit may be brought in the corporate name of the Company.

XIII. And be it enacted, That no one instalment to be paid on account of the shares of the stock of the Company shall exceed two pounds and ten shillings on each share, and notice thereof shall be given by advertisement in at least one news paper published in the town of Saint Catharines during two consecutive weeks before such instalment shall be called for ; Provided always, that no instalment shall be called for, except after the lapse of at least one month from the time when the last instalment was called for, and if any person shall neglect or refuse to pay his share or shares of such money called for and to be paid in as aforesaid at the time and places appointed for that purpose, such person so neglecting or refusing may be sued as aforesaid, or at the option of the Directors, shall thereby incur a forfeiture of not more than ten, nor less than five per cent, on the amount of his respective share or shares, and if such person shall refuse or neglect to pay his proportion of the installment demanded for the space of two calendar months after the time fixed for the payment thereof, then and in that case such person shall forfeit to the Company his share or shares upon which former instalments shall have been paid, and such share or shares shall be sold by order of the Directors, by public auction, and the proceeds of the sale, after deduction as well of the costs and the forfeiture above mentioned as of all calls due in respect of such shares and interest thereon, from the times at which such calls were respectively made payable, which calls and interest the said Company are hereby authorized first to deduct and retain, shall be paid over to such Defaulter and the President or other proper officer appointed for that purpose, shall have power to transfer the stock to the purchaser, and it is hereby provided that it shall and may be lawful for the Directors to declare at any of their meetings any share duly forfeited to the Company for the cause aforesaid, and every such forfeiture shall be an indemnification to and for every proprietor so forfeiting against all action or actions, suits or prosecutions whatever to be commenced or prosecuted for any breach of contract or other agreement between such proprietor and the other proprietors with regard to carrying on the said Gas and Water Works.

Instalments
not to exceed
£2 10 0.

Proviso.

Shares personal property and assignable XIV. And be it enacted, That the shares in the stock of the said Company shall be assignable and transferable according to such rules, restrictions and regulations as shall from time to time be made and established by the by-laws of the Company, and shall be considered as personal property, notwithstanding the conversion of the funds into real estate, and shall go to the personal representatives of such shareholders ;
Proviso. Provided also, that such transfer shall not be valid unless entered and registered in a book or books to be kept for that purpose in the manner provided by the said by-laws, and it is further provided, that it shall not be lawful for any shareholder who is or shall become indebted to the Company for Gas, Water rent, fixtures or otherwise, to transfer any shares of stock held by him until payment be made to the Company of all sums of money due by such stockholder.

Municipalities may take stock XV. And be it enacted, That it shall and may be lawful for any of the Municipalities in which the works of the said Company are erected or placed to subscribe to, or take stock in the said Company or to loan any sum of money, on mortgage or otherwise, to said Company, or to contribute in any manner towards advancing the object for which the said Company is hereby incorporated.

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

Company may break up streets, &c. XVII. And be it enacted, That it shall and may be lawful for the said Company to break up, dig and trench so much and so many of the streets, squares, highways, lanes and public places of the town of St. Catherines, the village of Thorold and the townships of Grantham and Thorold, as will be necessary for laying the mains and pipes to conduct the Gas and Water from the works of the Company to the consumers thereof, doing no unnecessary damage in the premises and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares, highways lanes and public places, while the works are in progress.

Pipes may be carried to customers over intermediate property. XVIII. And be it enacted, That where there are buildings within the said municipalities of St. Catherines, Thorold village, Thorold township and Grantham, the different parts whereof shall belong to different proprietors, or shall be in possession of different tenants or lessees, the Company shall have power to carry pipes to any part of any building so situate, passing over the property of one or more proprietors or in possession or one or more tenants to convey the Water or Gas to that of another, or in the possession of another, the pipes being carried up and attached to the outside of the building and also to break up and uplift all passages which may be

common to neighbouring proprietors or tenants and to dig or cut trenches therein for the purpose of laying down pipes or taking up or repairing the same, the said Company doing as little damage as may be in the execution of the powers granted by this Act and making satisfaction to the owners or proprietors
 5 of buildings or other property, or the public for all damages to be by them sustained in or by the execution of all or any of the said powers, subject to which provisions this Act shall be sufficient to indemnify the said Company or their servants, or those by them employed, for what they or any of them shall
 10 do in pursuance of the powers granted by this Act.

XIX. And be it enacted, That the said Company shall construct and locate their Gas and Water Works and all apparatus and appurtenances thereunto belonging or appertaining or therewith connected and wheresoever situated as in
 15 no wise to endanger the public health or safety.

Works not to endanger public health or safety.

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

Penalty for obtaining Gas or Water without consent of the Company.

XXI. And be it enacted, That if any person shall wilfully or maliciously break up, pull down, or damage, injure, put out of order or destroy, any main pipe, engine, water house, pipe plug or other works or apparatus, appurtenances or dependencies thereof, or any matter or thing already made and provided, or which shall be made and provided, for the purpose aforesaid, or any of the materials used and provided for the same, or ordered to be erected, laid down or belonging to the said Company, or shall in anywise, wilfully do any other injury
 30 or damage, for the purpose of obstructing, hindering, or embarrassing the construction, completion, maintaining or repairing of the said works, or shall cause or procure the same to be done, or shall bathe, or wash, or clean any cloth, wool, leather, skins, animals, or any nauseous or offensive thing, or
 40 cast, throw or put any filth, dirt or any nauseous thing, or cause, permit or suffer, the Water of any sink, sewer or drain, to run or be conveyed into, or cause any other annoyance to be done to the water within any reservoir, cisterns, ponds, sources or fountains from which the water belonging to said Company
 45 is to be supplied or conveyed, or shall increase the supply of Gas or Water, agreed for with the said Company, by increasing the number or size of the holes in the Gas Burners,

Penalty for injuring property of Company.

or using the Gas without Burners, or otherwise wrongfully, negligently or wastefully burning the same, or by wrongfully or improperly burning the same, or by wrongfully or improperly wasting the water or Gas, every such person or persons shall on conviction thereof before a Justice of the Peace for the County wherein the offence may be committed, be compelled to pay for the use of the company a penalty not exceeding five pounds together with costs of prosecution or to be confined in the Common Gaol of such County for a space of time not exceeding three months as to such Justice may seem meet.

Act not to interfere with private Gas or Water Works.

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

Property of company not to be liable for rent or debt of customers.

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

Penalty for injuring meters so as to defraud company of Gas.

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

Penalty for wilfully extinguishing public lamps, &c.

XXV. And be it enacted, That if any person or persons shall wilfully extinguish any of the public lamps or lights, or shall wilfully remove, destroy damage fraudulently alter or in any way injure, any pipe, pedestal, post, plug, lamp or other apparatus or thing belonging to the Company, such person or persons shall forfeit and pay to the use of the Company a penalty not less than one pound, nor more than five pounds and shall also be liable to make good all damages and charges to be recovered with costs as hereinafter provided.

XXVI. And be it enacted, That if any person supplied with Gas or Water by the Company, shall neglect to pay any rent, rate or charge due to the said Company at any of the times fixed for the payment thereof, it shall be lawful for the

5 Company or any person acting under their authority, on giving twenty four hours previous notice, to stop the supply of Gas and Water from entering the premises of such person in arrear as aforesaid, by cutting off the service pipe or pipes, or by such other means as the said Company or its officers shall see fit,

10 and to recover the said rent or charge due up to such time together with the expenses of cutting off the Gas or Water as the case may be, in any competent court notwithstanding any contract to furnish for a longer time, and in all cases where it shall be lawful for the Company to cut off and take away the

15 supply of Gas or Water from any house, building or premises, under the provisions of this Act, it shall be lawful for the Company, their agents and workmen, upon giving twenty four hours previous notice to the person in charge or occupier, to enter into any such house building or premises between the hours

20 of nine o'clock in the forenoon and four in the afternoon, making as little disturbance and inconvenience as possible, and to remove and take away any pipe, meter, cock, branch, lamp, fittings or apparatus, the property of and belonging to the said Company, and it shall also be lawful for any servant of

25 the Company duly authorized to enter any house into which Gas or Water may have been or be taken, between the hours aforesaid, for the purpose of repairing and making good any such house, building or premises or for the purpose of examining any meter, pipe or apparatus belonging to the said Company

30 or used for their gas, and if any person refuses to permit or does not permit the servants and officers of the Company to enter and perform the acts aforesaid, every such person so refusing or obstructing shall incur a penalty to the said Company for every such offence of ten pounds and a further penalty

53 of one pound for every day during which such neglect refusal or obstruction shall continue, to be recovered with costs as hereinafter provided.

Gas or Water may be cut off in case of non-payment and company's servants may enter premises for that purpose.

XXVII. And be it enacted, That it shall and may be lawful for the Directors of the Company, from time to time, and

40 as often as they may see fit, without the formality of passing a by-law, by a resolution to that effect, to be entered upon the books of the said Company, to authorize the President or Manager of the said Company, to sign such particular bonds, mortgages, contracts, or instruments as it may in the opinion

45 of the Directors be necessary or expedient so to sign, and to affix the common seal of the Company thereto, and it shall also be lawful in like manner for the President or the Manager of the Company to be from time to time authorized as aforesaid, to draw, sign or accept such promissory notes or bills

President may be authorized by a resolution to sign bonds or become a party to promissory notes in name of company.

of exchange for the purpose of the said Company, without seal as it may in the opinion of the Directors be necessary or expedient so to sign or accept, and all such bonds, contracts mortgages and instruments so signed and sealed by the person authorized as aforesaid, and also such notes and bills so signed, drawn or accepted by the person authorized as aforesaid, shall be valid and binding on the Company, and be held to be the Act and deed of the Company.

Recovery of fines, &c. XXVIII. And be it enacted, That all fines, penalties and forfeitures imposed by this Act, may be sued for and recovered with costs by the said Company to and for their own use, or by any person whose property may be injured, to and for the use of such person, either in the manner hereinbefore directed, or before one or more Justice of the Peace for the County where the offence is committed, on the oath of any one credible witness, and all actions for damages or penalties or both given by this Act, shall be brought in Courts having jurisdiction to the amount involved in such suit, unless otherwise specially provided and authorized by this Act, and where damages as well as a penalty may be given, such damages and penalty may be sued for separately, and such fines penalties and damages may be levied by distress from the goods of the defendant, and in case the defendant may have no goods to satisfy the same, then and in that case he shall be committed to the Common Gaol for such period not exceeding two months, as the Justice or Court may direct.

Shareholders competent witnesses. XXIX. And be it enacted, That in any action brought by or on behalf of the said Company, in any Court or in any proceeding before a Justice of the Peace on the behalf of the said Company, the President and any shareholder shall be competent witnesses, notwithstanding their interest in such suit or otherwise.

Tender and deposit of Compensation XXX. And be it enacted, That if it be found necessary or deemed proper to conduct any of the pipes or carry any of the works of the Company through the lands of any person, and the consent of such person cannot be obtained for that purpose, then it shall be lawful for the Company to tender to such person such a sum of money as in the opinion of the Company would compensate him for the damage which would be occasioned to his property by laying such pipes or works of the Company, and upon the refusal of such person to receive the sum tendered the Company may deposit the same with the clerk of the Division Court within which division the said property is situate, within five days from such tender being made, and at the time of such deposit the Company may obtain from the clerk of said Court, a summons directed to the occupant of such property or person in charge thereof calling upon him to show cause at the next sittings of the Court,

why he should not receive the money so deposited in full satisfaction of the privileges required by the Company, and upon the hearing of such summons either party can have a jury upon the same terms as other causes in said Court, and if the judgment shall not be for more than the sum so deposited, the Company shall recover their costs and if for more, then the claimant shall be entitled to costs, and such judgment shall and may be enforced as other judgments in said Court, and such judgment shall be final and conclusive between the parties in respect of such damages or privileges ; Provided always, that after such tender and deposit it shall and may be lawful for the Company to proceed with their works as if the money so tendered had been received by such person, and no action shall be brought either in law or in equity against the Company for any act done in pursuance of the power granted them by this section.

XXXI. And be it enacted, That the gas works hereinbefore mentioned shall be in full operation within three years, and the Water Works shall be in operation within nine years from the passing of this act, and in default thereof, the privileges and advantages granted by this act to the said Company, shall cease and be of no effect.

Commencement & completion of works.

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

Duration of Act.