

VICTORIA.



ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

By His Excellency CHARLES JOSEPH LA TROBE, ESQUIRE, Lieutenant Governor of the Colony of Victoria and its Dependencies, with the advice and consent of the Legislative Council.

An Act for Lighting with Gas the City of Melbourne in the Colony of Victoria and to enable certain persons associated under the name style or title of "The City of Melbourne Gas and Coke Company" to sue and be sued in the name of the Secretary for the time being of the said Company and for other purposes therein mentioned.
[Assented to 12th January, 1853.]

WHEREAS the City of Melbourne in the Colony of Victoria is large and populous and it would be a great advantage to all the Inhabitants thereof if such City were lighted with Gas And whereas several persons have formed themselves into a Company established at Melbourne aforesaid under the name style or firm of "The City of Melbourne Gas and Coke Company," for the purpose of lighting with Gas the said City and a Deed of Settlement for the management of the affairs and concerns of the said company bearing date the fourth day of November in the year of our Lord one thousand eight hundred and fifty has been made and executed by the larger part of the members or shareholders of the said company And whereas it is expedient that the said company should have the power to hold and contract for and purchase either in fee simple or for life or lives or for any term or terms of years for the purposes of the said company any messuages lands tenements and hereditaments situate in the Colony of Victoria aforesaid and also to sell all or any of the said messuages lands tenements and hereditaments as they may think proper and to purchase any other messuages lands tenements and hereditaments for the purposes aforesaid and to borrow by way of mortgage of and from any person or persons Savings Bank or Banking or other Public Company willing to advance the same any sum or sums of money which the Directors of the said company in their discretion may think fit and to secure the repayment of the same and the interest thereof by a charge upon the messuages lands tenements and hereditaments or upon the general revenues of the company And whereas difficulties may arise in recovering debts due to the said company and in maintaining actions or proceedings for damages done to the property of the said company and also in prosecuting any person or persons who may steal or

Preamble.

embezzle the bonds mortgages monies goods chattels or effects of the said company and it would be just and convenient that persons having claims or demands against the said company should be entitled and authorised to sue some officer or member thereof in place or stead of the whole AND whereas the above mentioned objects and purposes cannot be obtained and effected without the aid and authority of the Legislature.

Formation of
the Company.

I. BE it therefore enacted by His Excellency the Lieutenant Governor of the Colony of Victoria by and with the advice and consent of the Legislative Council thereof that all and every person and persons that now have or hereafter shall in such manner as is hereinafter mentioned become a proprietor or proprietors of a share or shares in the undertaking hereby or by the said Deed of Settlement established and their respective successors executors administrators and assigns shall be and they are hereby united into a Company of Proprietors by the name style and title of "The City of Melbourne Gas and Coke Company."

Lands, &c.
belonging to
the Company
vested in
Trustees.

II. That all the present and future freehold and leasehold lands messuages tenements and hereditaments which have been purchased or acquired or which shall or may hereafter be purchased or acquired by or on behalf of the said company or to which the said company are or is or shall become entitled shall and may be conveyed assigned demised or assured (as the case may be) to or vested in the Honorable William Foster Stawell Esquire William Westgarth Esquire and John Hodgson Esquire and their successors and assigns as Trustees for the said company for such estate or estates term or terms of years interest or interests as in the conveyance assignment demise lease or assurance of any such lands messuages tenements and hereditaments shall be mentioned expressed or declared.

Power to
purchase lands
&c.

Not exceeding
at any one time
ten acres.

III. That the Trustees for the time being of the said company may with the consent in writing of the Directors for the time being of the said company purchase in fee simple or for any less estate or may take upon lease or otherwise hire buy or procure any land ground house or building which the Directors for the time being of the said company shall from time to time think requisite or necessary for carrying on and managing the business and objects of the said company Provided always that the quantity of land so to be purchased by the said Directors for the purposes of the said company shall not exceed in the whole at any one time a greater quantity than ten statute acres And all land ground houses and buildings already belonging to the said company or hereafter so to be purchased procured or obtained as aforesaid shall be deemed personal estate and part of the capital of the said company and shall be conveyed to and vested in the Trustees for the time being of the said company for such estate and upon such trusts and purposes as the Directors for the time being of the said company shall direct or appoint.

Power to sell
and mortgage
Lands.

IV. That the Trustees for the time being of the said company shall and may and they are hereby empowered from time to time and at all times hereafter to sell demise convey and assure all and whatsoever lands messuages tenements and hereditaments of what nature or kind soever to which they are or may be entitled or of which they are or may be possessed to any person or persons body corporate or company for such estate or interest (not exceeding the estate or interest of such trustees therein) as the Directors of the said company for the time being shall direct or appoint and may make every or any such sale by public auction or private contract or partly in each such mode as

the Directors for the time being of the said company shall think most advisable and also shall and may upon such direction as aforesaid convey assign and assure by way of mortgage all or any of such lands messuages tenements and hereditaments and also all the revenues of the said company And it shall and may be lawful to and for the proper officer or officers of the Savings Bank of the Colony of Victoria or any banking or other public company in the said colony to lend such sum or sums of money upon the security of the said lands messuages tenements hereditaments and revenues for such period of time and subject to such rate of interest as the officer or officers of such companies respectively may be empowered to do or in the absence of any controlling power as he or they may in his or their discretion think fit And the Trustees for the time being of the said company shall be and they are hereby fully authorized to receive on behalf of the said company all monies now or hereafter belonging or to become due owing or payable to the said company or which the said company is or shall become entitled to receive from any person or persons whomsoever in consideration of any sale mortgage or lease of the freehold or leasehold lands messuages tenements or hereditaments of the said company or otherwise howsoever And that the receipt or receipts in writing of such Trustees for any purchase mortgage or other monies as aforesaid shall exonerate the person or persons paying the same from all liability in respect thereof or of the application or non-application of the same.

V. That all account books accounts minutes records and all other books kept by any officer of the said company and relating to the affairs of the same and all revenues furniture goods and chattels of what nature or kind soever now being or at any time hereafter to become the property of the said company shall be and the same are hereby declared to be vested in the said William Foster Stawell William Westgarth and John Hodgson and their successors as Trustees for the use and benefit of the said company and shall be disposed of by the said Trustees or their successors in such manner as the Directors for the time being of the said company shall direct.

Property of
Company
vested in
Trustees.

VI. That in case of the death resignation or absence from the colony or the incapacity of any or either of the said Trustees or of any other or future Trustee or Trustees the said lands messuages tenements and hereditaments revenues account books furniture and other property belonging to the said company shall without any conveyance assignment demise or assurance vest in the surviving or remaining Trustee or Trustees until some other person or persons shall be elected at a General Meeting of the said company to be held in manner and at the time specified in the before mentioned Deed of Settlement executed by and between the shareholders of the said company in the room or stead of the person or persons so dying resigning or being absent from the Colony or becoming incapable of acting as such Trustee or Trustees and upon such election the said lands messuages tenements and hereditaments revenues account books furniture and other property belonging to such company shall vest in such newly appointed Trustee or Trustees jointly with the surviving or continuing Trustee or Trustees.

Trustees dying
Property to
vest in
Survivors.

VII. That all actions suits petitions and proceedings at Law or in Equity which may be instituted presented and prosecuted by or on behalf of the said company and wherein the said company is or shall be in any way concerned against any person or persons whatsoever whether he be a Member of the said company or otherwise shall and lawfully may be commenced instituted carried on or prosecuted and continued in the name of the person who shall be

Suits by and
against the
Company to be
in the name of
the Secretary.

Secretary of the said company for the time being as the nominal Plaintiff Complainant or Petitioner on behalf of the said company and that all actions suits petitions or other proceedings at Law or in Equity to be commenced instituted prosecuted or presented by any person or persons bodies politic or corporate or others whether Members of the said company or otherwise against the said company shall and lawfully may be commenced instituted prosecuted presented and continued against the Secretary for the time being of the said company as the nominal defendant or respondent on behalf of the said company and that all indictments informations and prosecutions by or on behalf of the said company for the embezzlement robbing or stealing of any books charts maps plans goods chattels and effects of the said company or for destroying injuring damaging or defacing the same or any of the property walls fences works machinery pipes or other apparatus of the said company or for any other offence against or with intent to injure or defraud the said company shall and lawfully may be so had preferred and carried on in the name of the Secretary for the time being on behalf of the said company and that in all informations or indictments to be had or preferred by or on the behalf of such company against any person or persons whomsoever notwithstanding such person or persons may happen to be a Member or Members of the said company it shall be lawful to state the property of the said company to be the property of such Secretary for the time being and any offender or offenders may thereupon be lawfully convicted for any such offence and the death resignation removal or any act of such Secretary shall not abate or prejudice any such action suit indictment information prosecution or other proceeding commenced against or by or on behalf of the said company but the same may be proceeded with continued prosecuted and carried on in the name of or against the Chairman of the said company for the time being until a new Secretary shall be appointed as herein directed and immediately after such new Secretary shall have been appointed and his name shall have been duly recorded in the Supreme Court of the Colony of Victoria as hereinafter directed then and from thenceforth all such actions suits indictments informations prosecutions or other proceedings as aforesaid then commenced against or by or on the behalf of the said company as the case may be and require shall be continued and carried on in the name of such new Secretary.

Memorial of
the Secretary's
name to be
enrolled in the
Supreme
Court

VIII. That a Memorial containing the name of the Secretary for the time being of the said company in the form and to the effect set forth in the Schedule hereunto annexed signed by the Chairman Secretary and majority of the Directors of the said company shall be recorded upon the oath of one or more credible witness or witnesses in the Supreme Court of the Colony of Victoria within thirty days from the passing of this Act and when and so often as any vacancy shall occur in the office of Secretary to the said company and a new Secretary shall be elected and appointed to supply such vacancy the name of such newly elected Secretary shall in like manner be recorded in the said Supreme Court within thirty days next following the date of his appointment and until such memorial shall be recorded from time to time as occasion may require in the manner herein directed no action suit or other proceeding of a civil nature shall be brought by the said company in the name of the Secretary for the time being as aforesaid under the authority of this Act but any proceeding of a criminal nature may be commenced and taken on behalf of the said company in the name of the Chairman thereof against any person or persons whomsoever notwithstanding there may be no Secretary of the company at the time or that his name may not have been duly recorded

as aforesaid. And that in the event of any case arising in which it may be expedient for any person to bring any action or suit or to commence any proceeding whatsoever against the said company in the interval between the death resignation or removal of the Secretary and the appointment and recording of his successor then any such act suit or proceeding may be commenced against the Chairman for the time being of the said company as representing the said company and immediately after the new appointment and recording of the name of the new Secretary then all acts suits and proceedings which may have been commenced against the Chairman of the company as last aforesaid shall be continued and carried on against the said company in the name of the new Secretary.

IX. That it shall be lawful for a majority of the Directors of the said company for the time being by writing signed by them and duly entered in the proper books of the proceedings of such Directors to accept the resignation of or wholly to discharge and remove or to suspend from office for a time at the discretion of such Directors any Secretary of the said company and in case of a vacancy in the said office from any cause whatever the same or any other person to appoint to fill the said office for such period and under such stipulations and arrangements as to such Directors shall seem fit and expedient.

Directors to
remove Secre-
tary and ap-
point another.

X. That the fact of the name of the Secretary for the time being of the said company being used as the Plaintiff or Complainant Petitioner or Defendant in any action suit petition or other proceeding as aforesaid on behalf of the said company shall not prevent his being a witness in any such action suit petition or other proceeding in like manner as he might have been if his name had not been made use of as such Plaintiff Complainant Petitioner or Defendant therein nor shall any person in any action suit information prosecution or other proceeding whatsoever instituted by or against the said company or in relation to the affairs thereof or of or concerning the execution of this Act be deemed an incompetent witness by or on account or by reason of his being a proprietor of a share or shares in or an officer clerk or workman of or employed by the said company.

Secretary

or any share-
holder may be
a witness.

XI. That the lands tenements and hereditaments manufactories gasometers machinery apparatus and works chattels and effects of the said company and their successors shall be amenable for and subject to the just debts liabilities engagements and demands of all and every the creditors of the said company Provided always nevertheless that no mortgage judgment or other special or simple contract creditor of the said company shall by reason of any covenant judgment execution or other process authorised by this Act or 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 said company by taking or removing any of the pipes or lamps of the said company laid placed and running in under or through any street in the said City of Melbourne or in any building not being in the occupation of the said company.

Property of
the Company
subject to their
debts.

No creditor
allowed to
take or remove
the Property
of the
company fixed
or laid in
public streets
or buildings
not being the
property of the
said company.

XII. That no execution upon any verdict order decree or judgment in any such action suit petition or other proceeding obtained against the Secretary or Chairman for the time being of the said company whether he be Plaintiff or Defendant Petitioner or Respondent may or shall be issued against and levied

The effects of
the Company
liable in the
first instance
therein to the
demands of
creditors.

If the effects of the Company insufficient then members liable to twice the amount of their shares in the Company.

upon the goods and chattels lands and tenements of the said secretary or chairman by reason of his name being used as such secretary or chairman as aforesaid for the purposes of any such proceedings but that every such execution as aforesaid shall and may be issued against and levied upon the goods and chattels lands and tenements of the said company (except as hereinbefore mentioned) and every such execution shall be first satisfied out of the goods and chattels lands and tenements of the said company (except as aforesaid) so far as the same will extend and if upon any such execution against the property of the said company as aforesaid there shall not be found sufficient whereon to levy and satisfy the whole amount of such execution then the amount of such execution which shall not be recovered upon the levy made on the goods and chattels lands and tenements of the said company shall and may be levied and made upon the goods and chattels lands and tenements of any Shareholder or Shareholders of the said company to the extent of twice the amount of their Shares respectively in the capital of the company Provided always that no such execution shall issue against any shareholder except upon an order of the Court in which the action suit or other proceeding shall have been brought or instituted made upon motion in open Court after sufficient notice in writing to the persons sought to be charged and upon such motion such Court may order execution to issue accordingly and for the purpose of ascertaining the names of the shareholders and the amount of the capital remaining to be paid upon their respective shares it shall be lawful for any person entitled to any such execution at all reasonable times to inspect the Register of shareholders without fee.

Restitution to be made.

XIII. That if by means of any such execution any shareholder shall have paid any sum of money beyond the amount then due from him to the said company in respect of calls or otherwise he shall be forthwith reimbursed by the Directors all sums of money paid by him in respect of such execution over and above any sums of money that may be due from him to the said company together with all costs charges and expences properly incurred by him in respect of the same out of the property and effects of the said company and in the event of such property and effects being found insufficient to repay such sums of money as last aforesaid then such shareholder shall be reimbursed all such monies so paid by him by a general contribution amongst the respective shareholders for the time being of the said company after deducting his proportionate share of the liability of such execution and charges and that nothing in this Act contained shall be deemed or taken to affect or apply to any right of restitution now existing between the several members of the said company.

Shares and interest in the property of the Company to be personal estate.

And Officers of the Company not to be parties to any suits relating thereto.

XIV. That every share in the said company and all interest and advantage derivable from the property of every kind and description of and belonging to the said company shall as regards every shareholder therein be deemed for all purposes whatsoever personal property and shall be from time to time transferable accordingly And no officer or member of the said company shall be obliged to see to or join or be concerned in for form's sake or otherwise the execution of any trust either expressed or implied to which any share or interest in the said company or in the property and effects thereof shall be subject or liable and it shall not be lawful to make any officer or member of the said company a party to any suit at law or in equity by reason or on account thereof.

Act to extend to future Shareholders.

XV. That the provisions in this Act contained shall extend and be construed and taken to extend to the said company at all times during

the continuance thereof whether the same company be now or be hereafter composed of all or some of the persons who were the original members or shareholders thereof or be composed altogether of persons who were not the original members or shareholders thereof Provided always That nothing herein contained shall extend or be deemed taken or construed to extend to incorporate the members of the said company or to relieve or discharge them or any of them from any responsibilities duties contracts or obligations whatsoever which by law they now are or at any time hereafter shall be subject or liable to either between the said company and others or between the individual members of the said company and any of them and others or among themselves or in any other manner whatsoever except so far as the same is effected by the provisions of this present Act and the true intent and meaning of the same.

XVI. That it shall be lawful for the Secretary for the time being of the said company by and under the authority of the Directors of the said company to commence prosecute and continue in the name of the said company such legal proceedings as shall at any time be deemed necessary and advisable against any shareholder officer or other member of the said company for the recovery of any debt sum or sums of money which shall be due and owing to the said company from such shareholder officer or member of the said company notwithstanding he may be a shareholder in the said company and that any plea or defence to that effect shall not be deemed a bar or act as an estoppel to such proceedings.

Shareholders may be sued for debts due to the Company.

XVII. That all officers appointed by the Directors of the said Company shall from time to time when thereunto required deliver to such Directors or to such person or persons as they shall for that purpose appoint true exact and perfect accounts in writing under their respective hands of all monies which they and every of them shall respectively have received by virtue of this Act or of the said Deed of Settlement and how much thereof hath been paid and disbursed and for what purposes together with proper vouchers for such payments and shall pay all such monies as shall then remain in their or any of their hands to the said Directors or to such person or persons as they shall appoint to receive the same and if any such officers shall refuse or neglect to produce or deliver up such accounts and the vouchers relating to the same or shall refuse or neglect to pay the money due on such account or if any such officer shall refuse or neglect to deliver up to the said Directors or to any such person or persons as they shall appoint within ten days after being thereunto required by the said Directors all books papers or writings in his custody or power relating to the objects business and affairs of the said company then and in every or any of the said cases it shall be lawful for any Justice upon complaint made before him by or on behalf of the said Directors and such Justice is hereby required by writing under his hand to summon such officer to appear before any two Justices and upon his or their appearing or not being to be found it shall be lawful for such last mentioned Justices to hear and determine the matter of such complaint in a summary way and to adjust the said account or accounts and if upon confession of the officer against whom any such complaint as aforesaid shall be made or by the oath or oaths of any witness or witnesses (which oath such Justices are hereby empowered and required to administer without fee or reward) or upon inspection of the said accounts if produced it shall appear to such Justices that any of the money or monies of the said company which shall have been collected or received shall

Officers of the Company to deliver to Directors full accounts &c.

be in the hands of such officer such Justices may and they are hereby authorised and required on non payment thereof by a warrant or warrants under their hands and seals to cause such money or monies to be levied by distress and sale of the goods and chattels of such officer and if no goods or chattels of such officer can be found to answer and satisfy the said money or monies and the charges of distraining and selling the same or in case any goods and chattels which may be found shall be insufficient to satisfy the same or if such officer shall not appear before the said Justices at the time and place by them appointed for that purpose unless for some reason which shall be deemed satisfactory by the, said Justices or if appearing shall refuse or neglect to give and deliver to such Justices an account or accounts of all receipts and payments as aforesaid or to produce and deliver up to such Justices the several vouchers and receipts relating to such accounts respectively or the books accounts papers and writings in his her or their custody or power relating to the objects business and affairs of the said Company then and in either of the said cases such Justices may and they are hereby authorised and required by a warrant under their hands and seals to commit such officer to the common gaol for the said City of Melbourne there to remain without bail or mainprize in case he or they shall be committed for non-payment of any money received by him or them or in his or their hands until he shall have accounted for and paid the full amount thereof or compounded with the said Directors and paid such composition in such manner as such Directors shall appoint (which composition the said Directors are hereby empowered to make) or in case he or they shall be committed for not delivering any accounts books papers and writings as aforesaid until he or they shall deliver up such books papers and writings as aforesaid or make satisfaction in respect thereof to the said Directors Provided that no person who shall be so committed shall be detained in prison by virtue of this Act for a longer space of time than six calendar months.

Treasurer and
Secretary not
to be the same
person.

XVIII. That it shall not be lawful for the Directors of the said company to appoint the person who may be their Secretary or the partner of any such Secretary or any person in the employ of any such Secretary or his partner to be the Treasurer of the funds of the said company or to appoint the person who may be appointed Treasurer or the partner of any such Treasurer or any person in the employ of any such Treasurer or his partner to be the Secretary of the said company And if any person shall accept both the offices of Secretary and Treasurer or if any person being a partner or in the service or employ of any such Secretary or of his partner shall accept the office of Treasurer or being the Treasurer or partner of any such Treasurer or in the service or employ of such Treasurer or his partner shall accept the office of Secretary to the said company or if any such Treasurer shall hold or accept any place or office of profit or trust under the said company other than that of Treasurer every such person so offending shall for every such offence forfeit and pay the sum of one hundred pounds to any person who shall sue for the same to be recovered with full costs of suit in her Majesty's Supreme Court of the Colony of Victoria by action of debt or on the case or by Bill suit or information and shall for ever be disqualified from holding any office or place under the said company.

Persons
having only a
limited estate
may contract
with the
Company.

XIX. That it shall be lawful for all Tenants for life and in fee-tail general or special for any term or terms of years absolute or determinable on any life or lives and all feoffees in trust executors administrators husbands guardians committee for lunatics and idiots and all other trustees whomsoever not only for and on behalf of their *cestuique* trusts

respectively whether infants or issue unborn lunatics idiots or *femes covert* and so and for all other persons whomsoever who are or who shall be seised or possessed of or interested in any buildings lands tenements ground-rents or hereditaments or any part thereof which shall be thought necessary by the Directors of the said company to be purchased for the uses and purposes of this Act or of the said Deed of Settlement to contract and agree with the said Directors for the sale thereof or any part thereof and to sell and convey all or any part thereof to the Trustees of the said company for the purposes thereof And all conveyances demises assignments and assurances which shall be made by virtue of this Act shall without any other assurance in the law whatsoever be good valid and effectual to all intents and purposes.

XX. That all conveyances demises assignments and assurances of any lands tenements and hereditaments to be made to the said company shall be made in the form or to the effect following that is to say "I (or 'we' as the case may be) in consideration of the sum of £ (or the payment of the yearly sum of £ on the day of in each year as the case may be) by the Company of Proprietors called 'The City of Melbourne Gas and Coke Company' united under or by virtue of an Act passed in the sixteenth year of the reign of Her Majesty Queen Victoria intituled 'An Act for lighting with Gas the City of Melbourne in the Colony of Victoria and to enable certain persons associated under the name style or title of 'The City of Melbourne Gas and Coke Company' to sue and be sued in the name of the Secretary for the time being of the said company and for other purposes therein mentioned" do hereby grant and release (or demise or assign as the case may be) to Trustees duly nominated and appointed by and for the said Company of Proprietors and their successors all and all right title and interest in and to the same and every part thereof To hold to the said as such Trustees of and for the said Company of Proprietors and their successors and assigns for ever (or during the term of years or during all the remainder of the term estate or interest in the said premises as the case may be) In witness whereof have hereunto set hand and seal this day of in the year of our Lord one thousand eight hundred and

Form of conveyance.

XXI. That it shall be lawful for the Directors of the said company and they are hereby fully authorised and empowered subject to the provisions and restrictions hereinafter mentioned by their servants agents workmen and others from time to time and at any time after the passing of this Act to make erect sink cut lay place and fix such retorts gasometers receivers buildings cisterns engines machines drains sewers watercourses mains pipes meters reservoirs lamps and other apparatus works and devices of such construction and in such manner in the City of Melbourne and the suburbs thereof as the said Directors shall think necessary and proper for the purpose of carrying the objects and purposes of the said company into execution and under such superintendence as hereinafter mentioned to break up the ground of any street or of any part thereof situate lying and being within the City of Melbourne and the suburbs thereof and to erect lamps and other apparatus in upon or against

Power to erect Gasometers and break up the soil of streets.

all fit proper and usual places walls and buildings or remove the same and re-erect them or any of them if necessary in the same street and to dig out and sink trenches and drains and to lay pipes therein and also with such consent as hereinafter mentioned in under across and along any private way in such manner as shall be necessary for the purpose of carrying this Act or the powers objects and purposes contained in the said Deed of Settlement into effect and execution or of supplying and lighting with gas any building and to alter the position of and to repair relay and maintain such pipes or other necessary apparatus from any pipe laid in any street or private way by the said company by virtue of this Act into or through any building as aforesaid for the purpose of lighting the same or any other public or private lamp or lamps from any such pipe or to erect and set up any machine or other apparatus necessary for securing to any building as aforesaid a proper and competent supply of gas or of measuring and ascertaining the extent of such supply and also to alter or amend any bad or imperfect work which shall have been placed or which shall be injured or damaged in such building as aforesaid and to do all such other acts matters and things as the said company shall from time to time think necessary and convenient for completing amending repairing improving supplying and using the said works pipes lamps and apparatus before mentioned and every or any part thereof and for carrying into effect the objects and purposes of the said company Provided nevertheless that nothing herein contained shall authorise or empower the said company to carry or lay any pipe into or against any building as aforesaid or there to continue the same without the consent of the owner and owners occupier and occupiers for the time being or the trustees managers or directors of any such building as aforesaid nor shall anything herein contained authorise or empower the said company to carry or lay any pipe or to dig or sink any trenches drains or gutters either open or covered or to lay any pipe through any building for the purpose of conveying Gas to any building of any description or other place or places than that or those through which such pipe shall be laid or made without the previous consent of the owners and occupiers of every such building through which the same may be carried or laid for the purpose of lighting such other building Provided also that before the Directors of the said Company shall proceed to open or break or to lay any pipe in under across or along any street in the said City the Secretary of the said company shall give three days' notice in writing to the Surveyor for the time being of the said City or to the Commissioners Trustees Surveyors or other persons having control or management of such street of the intention of the Directors of the said company to open or break up the same or to lay any pipe in under across or along the same and the particular portion of the street intended to be so opened or broken up except in cases of emergency arising from defects in any of the pipes and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

Notice to be
given of
breaking up
pavement, &c.

XXII. That except in the cases of emergency aforesaid it shall not be lawful for the Directors of the said company to break or take up or disturb any of the ground of any street for the purpose of laying down or repairing any pipe or of altering the position of any such pipe, except under the superintendence of the Surveyor of the City of Melbourne Commissioners Trustees Surveyors or other persons having control direction or management of the street within the limits of this Act, the ground

of which the Directors of the said company shall be desirous of breaking or taking up or disturbing as aforesaid and according to such plan as shall be approved of by such City Surveyor, with the consent of the City Council Commissioners Trustees Surveyors or other persons as the case may be or in case of any difference respecting such plan then according to such plan as shall be determined by three or more Justices in Petty Sessions Provided always that if the said City Surveyor Commissioners Trustees Surveyors or other persons as the case may be shall fail to attend at the time fixed for the breaking or taking up or disturbing of the ground of any such street after having had such notice of the said Directors' intention as aforesaid or shall not propose any plan for breaking or taking up or disturbing such ground or shall refuse or neglect to superintend the operation the Directors of the said company may cause the works specified in such notice to be performed without the superintendence of such City Surveyor Commissioners Trustees Surveyors or other persons as the case may be and if the said Directors shall break take up or disturb or cause to be broken taken up or disturbed any such ground without such consent as aforesaid and without such notice being given as aforesaid or in a manner different from that which shall have been approved of or determined as aforesaid except in the cases in which the said Directors are hereby authorised to perform such work without any superintendence or notice then and in every such case the said company shall forfeit and pay a sum not exceeding the sum of forty shillings for every square yard of ground which shall be so broken or taken up or disturbed to be recovered levied and applied in such manner as other penalties or forfeitures by this Act imposed not specially provided for are directed to be recovered levied and applied.

XXIII. That when and as often as the Directors of the said company shall have lawfully broken taken up or disturbed the ground in or of any street or any part thereof the said Directors shall and they are hereby required with all convenient speed to complete the work for which the same shall have been broken taken up or disturbed and immediately thereafter reinstate and make good such ground to the satisfaction of the City Surveyor Commissioners Trustees Surveyors or other persons having the control or superintendence of such ground and carry or cause to be carried away all surplus earth filth and rubbish occasioned thereby at the costs and charges of the said company and during the time such works are carrying on and until such ground is reinstated as aforesaid the said Directors shall provide necessary lights every night during which the same shall be continued broken or disturbed and otherwise guard the said works so as to prevent any accident damage or inconvenience happening to passengers cattle or carriages and if the Directors make any delay in completing such work or in reinstating and making good such ground as aforesaid or in carrying away all surplus earth filth and rubbish occasioned thereby or in providing such lights at night or otherwise in guarding the said works so as to prevent accident damage or inconvenience to passengers cattle or carriages then it shall be lawful for the said City Surveyor Commissioners Trustees Surveyors or other persons having such control direction or superintendence as aforesaid to reinstate such ground and carry away all surplus earth filth and rubbish occasioned thereby and during the time such works are carried on to provide necessary lights at night and the expenses thereof shall be repaid by the said company to the person or persons so reinstating such ground and carrying away such

Company to
reinstate
ground after
being broken
up.

surplus earth filth and rubbish and in default of payment within twenty-eight days next after demand thereof in writing shall have been made for or on behalf of such City Surveyor Commissioners Trustees Surveyors or other persons as aforesaid from the Secretary of the said company for the time being or if there shall be no Secretary then from the Chairman of Directors of the said company (proof being made thereof by the oath of one credible witness before one or more Justice or Justices) all such sum or sums of money so paid together with any sum not exceeding twenty shillings by way of penalty shall and may be levied and recovered for the use of such person or party by distress and sale of the goods and chattels of the said company (except as aforesaid) together with the charges of such distress and sale by warrant under the hand and seal or hands and seals of any such Justice or Justices who is and are hereby empowered and required to grant the same.

Power to persons having control of streets to alter pipes laid contrary to provisions of this Act.

XXIV. That if it shall at any time or times be deemed necessary or expedient by the Surveyor of the City of Melbourne Commissioners Trustees Surveyors or other person or persons having the control direction or superintendence of the streets to require the Directors of the said company to raise or sink or otherwise alter the situation of any of the pipes which shall be laid down for the purposes aforesaid or to alter the situation line or direction of any pipe which shall have been laid contrary to any of the provisions hereof the Directors of the said company shall at their own expense within ten days next after being required so to do by notice in writing to them given by the said City Surveyor Commissioners Trustees Surveyors or other person or persons aforesaid raise or sink or alter the situation line or direction of such pipes according to such notice and in default thereof it shall be lawful for the said City Surveyor Commissioners Trustees Surveyors or other person or persons aforesaid to cause such pipes to be raised or sunk or the situation line or direction of such pipes to be altered as the case may require and the reasonable costs and charges of doing the same shall immediately thereafter be paid by the Directors of the said company and if the same be not paid within twenty-eight days next after demand shall be made by the said City Surveyor Commissioners Trustees Surveyors or other person or persons as aforesaid by writing left at the office of the said company proof of such demand being made by oath of one credible witness or before one or more Justice or Justices all such reasonable costs and charges shall and may be levied and recovered by distress and sale of the goods and chattels of the said company except as aforesaid together with the charges of such distress and sale by warrant under the hand and seal or hands and seals of such Justice or Justices which warrant such Justice or Justices is and are hereby empowered to grant and such costs and charges shall be paid to the said City Surveyor or other person or persons aforesaid. Provided that if by the raising or sinking or altering any of the pipes of the said company any damage or injury shall be wilfully or negligently done to the same by the said City Surveyor or his servants or by such Commissioners Trustees Surveyors or other person or persons as aforesaid then and in such case such damage or injury shall immediately be made good to the said company and the costs charges and expenses thereof shall be paid to them on demand by the said City Surveyor Commissioners Trustees Surveyors or other person or persons aforesaid and recovered in the same manner as any penalty hereby inflicted not specially provided for is to be recovered.

Power for the Company to contract for lighting any streets or houses.

XXV. That it shall be lawful for the Directors of the said company to contract with the Corporate authorities of the City of Melbourne or the Commissioners Trustees Surveyors or persons having control direction or

management of the highways or any of them within the limits of this Act and with any other person or persons whomsoever for supplying or lighting with Gas any street or building whatsoever belonging to them or in which they or any of them are interested or over which they or any of them have the direction or control within the said limits in such manner and under such stipulations as such Directors shall think proper consistently with the powers and authorities hereby granted Provided always that if the charges that may be made by the said Directors under and by virtue of this act for such supply of Gas shall be found to produce a greater sum than twenty-five pounds per annum for every one hundred pounds of the paid up capital of the said company then and in such case the said Directors shall at their first meeting after it shall have been ascertained that such greater sum has been produced reduce the said charges so as that the same shall not produce to the said company a greater rate of clear annual profits divisible upon the subscribed and paid up capital stock of the said company than the said sum of twenty-five pounds annually for every one hundred pounds of such capital and in order that the true state of such profits may be known it shall be the duty of the Directors of the said company so soon as the profits of the said company exceed twenty-five pounds for every one hundred pounds by the year to publish in the "Government Gazette" annually 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 of the said company by solemn declaration to be made before a Justice of the Peace Provided that it shall not be compulsory on the said Directors to reduce the said charges before the sum of twenty five pounds per annum for every one hundred pounds of the paid up capital of the said company shall have been received by each shareholder in the said company in respect of his or her share or shares therein from the commencement of the said company.

Limitation of Charges.

XXVI. That it shall be lawful for the Directors of the said company and they are hereby fully authorised and empowered (subject to the regulations herein contained) from time to time with the consent of the owner or occupier of any building to carry fit up and furnish any branch pipe and all necessary apparatus from any pipe laid by or belonging to the said company in or through any building for the purpose of lighting such building last mentioned or for the purpose of lighting any public or private lamp.

Company may lay pipes of communication from main pipes.

XXVII. That in all cases (where it is not otherwise stipulated and agreed) the Directors of the said company shall at the expense of the said company on the expiration or determination of the tenancy or tenancies of any occupier or occupiers so giving consent as aforesaid or within ten days after the expiration or determination of such tenancy or tenancies upon receiving notice in writing for that purpose for or on behalf of the owner or owners or succeeding occupier or occupiers of any such building as aforesaid remove take and carry away or cause to be removed taken or carried away any pipe and other apparatus which shall have been introduced or laid by such Directors in any building pursuant to the power for that purpose hereinbefore contained and repair and make good all damage that may arise or occur to such building and every part thereof by the introduction and removal of such pipe and other apparatus any thing herein contained to the contrary thereof in anywise notwithstanding and in default thereof it shall be lawful for such owner or owners or such new occupier or occupiers as the case may require to cause such pipe and apparatus to be removed taken and carried away and the building where the same shall have been introduced to be repaired and made good the reasonable costs and charges attending which shall be immediately paid by the said company to such owner or owners occupier or occupiers as the

Company to remove pipes when Tenants quit, if required.

case may require and if the same costs and charges be not paid within twenty-eight days next after the same shall have been demanded by such owner or owners occupier or occupiers from the Secretary of the said company for the time being or if there shall be no Secretary then from the Chairman of the Directors of the said company proof of such demand being made by the oath of one credible witness before one or more Justice or Justices such costs and charges may be levied and recovered at the discretion of the said Justice or Justices by distress and sale of the goods and chattels of the said company together with the costs and charges of such distress and sale by warrant made under the hand and seal or hands and seals of such Justice or Justices and which warrant such Justice or Justices is and are hereby empowered to grant.

No pipes of communication to be laid without the consent of the Company.

XXVIII. That if any person shall lay any pipe to communicate with any pipe belonging to the said company without the consent in writing first had and obtained of the secretary or other person duly authorised for such purpose by the said company or use burners of larger dimensions or in any other manner than he she or they shall contract to pay for or supply any inhabitant or other person with any part of such gas such person so offending shall forfeit and pay to the Directors of the said company the sum of forty shillings per day for every day such pipe shall so remain or such excess be committed or such supply shall be furnished to be recovered and levied in such manner as other penalties and forfeitures by this Act imposed are directed to be levied and recovered.

Damaging pipes, &c.

XXIX. That if any person or persons shall wilfully maliciously or negligently do or commit or cause to be done or committed any injury or damage to any of the pipes of the said company either by removing or disturbing the ground whereon or wherein the same are laid or placed or by the compression or subsequently setting or lowering of the same at any time or times afterwards or by any other means whatsoever or if any person or persons whomsoever shall wilfully and maliciously remove destroy damage or injure any or any part of any pipe lamp or other apparatus belonging to the said company or shall wilfully or maliciously waste or improperly use any of the inflammable air or gas supplied by the said company or shall alter exchange or remove the burners from the pipes of supply every person so offending in any of the respective premises and being thereof lawfully convicted on the oath of one credible witness before one or more Justice or Justices shall for every separate act or offence forfeit and pay to the said company any sum not exceeding five pounds and also three times the amount of damage done and suffered as the same shall be ascertained by such Justice or Justices such penalty and damages together with reasonable costs to be recovered and levied in such manner as other penalties by this Act imposed are directed to be recovered and levied or such offender shall or may be committed to the common gaol or house of correction at Melbourne aforesaid for any time not exceeding three calendar months at the discretion of the Justice or Justices before whom such offender shall be convicted.

Satisfaction for accidental damage to lamps, &c.

XXX. That if any person or persons shall carelessly or accidentally break destroy throw down damage or injure any lamp belonging to the said company or to any other person or persons and set up by such person or persons at his her or their private expense, or any part of any pipe lamp or other apparatus matter or thing set up or belonging to the said company or belonging to any such other last mentioned person or persons or carelessly or accidentally waste any of the inflammable air or gas supplied by the said company or keep the light or lights burning for a longer time than such person or persons shall contract to pay for and shall not upon any demand by the said Directors of the said company secretary or other person or persons authorised by them or him

make satisfaction for the damage done or for the excess of gas so wasted or used or keeping the lights burning longer than they shall have contracted for as aforesaid then and in every such case it shall and may be lawful to and for any one or more Justice or Justices and he or they is and are hereby empowered and required upon complaint to him or them made to summon before him or them the party or parties against whom such complaint shall be preferred and upon hearing the allegations and proofs on both sides or on non-appearance of the party or parties so complained against to proceed *ex parte* and to award such sum or sums of money by way of satisfaction to the said company or to such other person or persons (as the case may require) for such damage or excess or waste as such Justice or Justices shall think reasonable not exceeding the sum of twenty pounds and in case of neglect or refusal to pay any sum or sums so awarded within five days after demand it shall and may be lawful to and for such Justice or Justices and he and they is and are hereby required to cause the same to be recovered and levied in such manner as other penalties by this Act imposed are directed to be recovered and levied.

XXXI. That in all cases where it shall be unavoidably necessary to lay the pipes of the said City of Melbourne Gas and Coke Company across any of the pipes used for the conveyance of water the said pipes of the said City of Melbourne Gas and Coke Company shall be laid over and above such water pipes at the greatest practicable distance therefrom and shall form therewith as near as possible a right angle and all joints in the pipes of the said City of Melbourne Gas and Coke Company so crossing such water pipes shall be three feet at least from any part of such water pipes and in laying down the said pipes the said Directors of the said company shall in no case join two or more gas pipes together previous to their being laid in the trench but shall lay each pipe as near as may be in its place in the trench and shall in such trench form the jointing with the other pipes to be added thereto with proper and sufficient materials, and shall also make and keep all and every pipe and pipes connected or communicating therewith and all the joints thereof respectively air tight and in every respect prevent the gas from escaping therefrom upon pain of forfeiting for any such offence if the said company shall neglect or refuse to make such gas pipes air tight within twenty-four hours after notice thereof given to them in writing a sum not exceeding ten pounds to be recovered levied and applied in like manner as any penalty hereby inflicted not specially provided for is to be recovered levied and applied.

For the protection of water pipes.

XXXII. That when any Gas shall be found to escape from any pipe which shall be laid down in any street within the said City of Melbourne or the suburbs thereof the Directors of the said company shall immediately after notice given to them or the Secretary for the time being of the said company by parol or in writing of any such escape of Gas from any inhabitant or inhabitants of the said City of Melbourne or the suburbs thereof cause the most speedy and effectual measures to be taken to stop and prevent such Gas from escaping and in case the said Directors shall not within twenty-four hours next after such notice given effectually stop and prevent any future escape and wholly and satisfactorily remove the cause of complaint then and in every such case the said company or person or persons as aforesaid shall for every such offence forfeit and pay any sum not exceeding five pounds for each day after the expiration of twenty-four hours from the time of giving any such notice during which the Gas shall be suffered to escape as aforesaid which penalty or penalties shall be recovered and levied in such manner as other penalties or forfeitures by this Act imposed not specially provided for are directed to be recovered levied and applied.

For preventing the escape of gas.

Gas Company
to prevent con-
tamination of
water.

XXXIII. That whenever the water which may hereafter be supplied for the use of the City of Melbourne or of the inhabitants thereof or any part thereof shall be contaminated or affected by the Gas of the said company such company shall forfeit and pay for every such offence a sum not exceeding fifty pounds to be sued for and recovered and applied to and for the use of the owners or proprietors of the water works affected thereby and in case any such water shall be contaminated or affected by Gas in any way whatsoever and the said Directors shall not within twenty-four hours next after notice thereof in writing (signed by any person or persons consuming the said water) to be left at the usual office or place of transacting business of the said company effectually stop and prevent Gas from so escaping and wholly and satisfactorily remove the cause of every such complaint and prevent all and every such contamination whereof such notice shall be given as aforesaid then and in every such case the said company shall on each and every complaint whereof notice shall be given as aforesaid forfeit and pay to the Colonial Treasurer or to the owners or proprietors of such water works for the use and benefit of the Government or of the same owners or proprietors as the case may be over and above the before-mentioned penalty of fifty pounds any sum not exceeding the sum of ten pounds for each and every day during which the said water shall be and remain contaminated tainted or affected by the Gas of the said company as aforesaid and in default of payment thereof as aforesaid such penalty or penalties shall and may be recovered and levied in such manner as the penalties and forfeitures by this Act imposed are directed to be recovered and levied.

Power for
owners of
Water Works
to dig streets
and examine
the pipes of
Gas Company.

XXXIV. That in case a question shall arise upon such complaint as aforesaid whether the said water be contaminated or affected by the Gas of the said company it shall be lawful to and for the said Surveyor of the said City of Melbourne or other duly authorised persons or for the said owners or proprietors so supplying water as aforesaid to dig to and about and search and examine the pipes of the said company for the purpose of ascertaining whether such contamination proceed or be occasioned by the Gas of the said company and if it shall appear that the said water has been contaminated by any escape of Gas of the said company the costs and expenses of the said digging search and examination and repair of the ground of the street which shall be taken up and disturbed shall be borne and paid by the said company which costs and expenses shall be ascertained and determined if necessary by such Justice as aforesaid and be recovered in like manner as any penalty may be recovered by virtue of this Act Provided always that if upon such examination it shall appear that such contamination has not arisen from any such escape of Gas from any pipe of the said company then and in such case the City Surveyor or other authorised person aforesaid or such owners or proprietors of such water works as the case may be shall bear and pay all the expenses of such examination repair and search and also shall make good to the said company any injury loss or damage which may be occasioned to the said pipes of the said company in and by such search and examination (and also to the ground of the street so broken or disturbed in such search or examination) the amount of such injury loss or damage to be ascertained and determined if necessary by such Justice as aforesaid and to be recovered and levied in like manner as any penalty may be recovered and levied by virtue of this Act.

Penalty for
conveying
washings in to
any river.

XXXV. That if any washings or other waste liquid substances or things whatsoever which shall arise or be produced in the prosecution of any Gas works or in the manufacture or process of making or procuring Gas shall at any time be emptied drained or conveyed or caused or suffered to be emptied

drained or conveyed or to run or flow from any Gas works or other buildings belonging to the said company into any river whereby the water of such river or any part thereof shall or may be soiled fouled or corrupted then and in every such case the Directors of the said company shall forfeit and pay for every such offence a sum not exceeding One hundred pounds and such penalty or forfeiture shall and may be sued for and recovered together with full costs of suit in Her Majesty's Supreme Court of and in the Colony of Victoria by action on the case the whole whereof shall be paid to the person or persons who shall inform or sue for the same. Provided always that no such penalty or forfeiture shall be recoverable unless the same shall be sued for within three calendar months from the time that such emptying draining or flowing shall have ceased and determined. Provided also that over and above and in addition to the said penalty of One Hundred pounds (and whether such penalty shall have been sued for or not) in case any of the said washings or other waste liquid substances or things shall be emptied drained conducted or conveyed or caused or suffered to run or flow in manner aforesaid into any river and notice in writing shall have been given by any person or persons to whom the same shall belong or by any other person or persons whomsoever to the said Directors of the said company and the said Directors shall not within twenty-four hours after such notice shall have been given to them as aforesaid stop hinder or prevent all and every such washings waste liquid substances or things from being emptied drained conducted or conveyed or from running or flowing in manner aforesaid then and in every such case the said Directors shall forfeit and pay the sum of Ten pounds for each and every day such washings waste liquid substances or things shall be so drained conducted or conveyed or caused or suffered to run or flow in manner aforesaid and such last-mentioned penalty shall and may be recovered and levied in such and the like manner as any other penalty or forfeiture is in and by this Act directed to be recovered and levied and shall be paid to the informer or the person or persons who in the judgment of the Justice or Justices before whom the conviction shall take place shall have sustained any annoyance injury or damage by any act so done or committed.

XXXVI. That it shall be lawful for the Directors of the said company and they are hereby fully authorised and empowered at any time hereafter to make and erect a covered brick sewer or drain in through or under any street of the said City or any public wharf thereof of sufficient width and depth for the removal and carrying off of all washings and other waste liquid substances and filth into the river Yarra Yarra from the said works. Provided that prior to making or erecting any such sewer or drain the direction and dimensions thereof shall be approved of by the Surveyor or Corporate Authorities of the said City of Melbourne and that the several powers and provisions in this Act contained with regard to the remaking and reinstating of any ground broken up for the purpose of laying any pipe in any street and for repairing any such pipe shall apply in all respects to the making and repairing of such sewer or drain and the remaking and reinstating of the ground of any street so broken or taken up for the purpose of making or repairing of such sewer or drain as aforesaid.

Power to make
a Sewer or
Drain to the
river Yarra
Yarra.

Power to
repair.

XXXVII. That in case any body or bodies Commissioners Trustees Surveyors or any other person or persons who shall contract with the said Company or agree to take or who shall use and enjoy the said Gas in any building shall refuse or neglect for the space of twenty-one days after demand to pay the sum or sums of money then due to the said company under their his or her contract for the same according to the terms and stipulations of the said respective parties with the said company such body or bodies Commissioners Trustees Surveyors or other person or persons may be summoned by the said company before

Remedy for
the recovery
of rents.

any Justice not being a shareholder in the said company and it shall be lawful for such Justice to hear and determine the complaint of the said company and upon confession or upon proof on the oath of one or more credible witness or witnesses of any sum or sums of money being due to such company and of such demand having been made to direct that such sum or sums be paid to the said company and if the same be not paid within fourteen days it shall be recovered and levied in such manner as the penalties and forfeitures by this Act imposed are directed to be recovered and levied And it shall also be lawful for the said company to cut off and take away the supply of Gas from the building of every such person so making default in payment of any sum or sums of money due under his her or their contract to the said company for the space of twenty-one days after such demand as aforesaid and thenceforth to discontinue the supply of Gas to such person or persons.

Gas to afford
a better light
than oil.

XXXVIII. That in case the said Directors of the said company shall contract with the Corporate Authorities of the City of Melbourne or the Commissioners Trustees Surveyors or persons having control direction or management of the Highways or any of them for supplying or lighting with Gas any street within the limits of this Act the said company shall and they are hereby directed and required to supply such street with Gas of such quality as shall at all times afford a better light than can be obtained from oil lamps and whenever the said company shall fail so to do the power and authority hereby given to them to break up the ground of any street shall from thenceforth during such failure cease and determine and every contract or agreement which shall be entered into for lighting with Gas such public lamps by the said company shall contain a clause or covenant providing that it shall be obligatory on the said company that such public lamps shall at all times be better lighted by the said company than can be done by oil lamps.

Penalty for
interrupting
Company's
workmen.

XXXIX. That if any person shall wantonly or maliciously hinder or interrupt the said company or their respective agents workmen or servants or any of them in legally doing or performing any of the works or in exercise of any of the powers and authorities by this Act granted or shall in any wise cause or procure such interruption to take place and shall be thereof convicted before any Justice either on confession or on the oath of one or more credible witness or witnesses every such person so offending shall for every such offence forfeit and pay to Her Majesty Her Heirs and Successors for the public uses of the Colony and in support of the Government thereof such sum or sums of money as shall be adjudged by such Justice not exceeding five pounds and also shall pay to the said company the full amount of the damage which shall be sustained by such hindrance or interruption and such fine and sum or sums of money so adjudged shall be recovered in like manner as any penalty or forfeiture can or may by virtue of this Act be recovered or the said company may at their own option sue for the damages sustained by them by or through such hindrance or interruption Provided always that nothing herein contained shall prevent the Surveyor of the said City of Melbourne or other duly authorised persons from preventing the said company from infringing on or interfering with the regulations of the Corporation for the improvement of the Streets of the City of Melbourne.

Damages
and charges in
case of dispute
to be settled
by Justices.

XL. That where by this Act any damages or charges are directed or authorised to be paid or recovered in addition to any penalty or penalties for any offence or offences in this Act mentioned the amount of such

damages or charges in case of dispute respecting the same shall be settled ascertained and determined by the Justice or Justices by or before whom any offender shall be convicted of any such offence or offences and which Justice or Justices are hereby authorised and required on non-payment thereof to grant his or their warrant or warrants under his or their hand or hands seal or seals to cause such damage or charges to be levied by distress and sale of the offender's goods and chattels in manner directed by this Act for the levying of any penalties or forfeitures.

XLI. That when and as often as any sum or sums of money shall be directed or ordered by any Justice or Justices in pursuance of this Act to be paid by the said company or the Directors thereof as or by way of compensation or satisfaction for any materials or cost or for any damage spoil or injury of any nature or kind whatsoever done or committed by the said company or by any person or persons acting by or under their authority and such sum or sums of money shall not be paid within ten days after demand thereof in writing shall have been made in pursuance of the direction or order made by such Justice or Justices (and in which demand the order of such Justice or Justices shall be stated) then and in every such case the amount of such compensation or satisfaction shall or may be recovered by action at law against the said company or levied by distress and sale of the goods and chattels vested in the Directors of the said company by virtue of the said Deed of Settlement (except as aforesaid) and if no sufficient goods and chattels of the said company can be found on which to levy such distress then by distress and sale of the goods and chattels of any member or members of the said company under a warrant to be issued for that purpose by such Justice or Justices which warrant any such Justice or Justices is and are hereby authorised and required to grant under his hand and seal or their hands and seals on application made to him or them for that purpose by the party or parties entitled to receive such sum or sums of money and in case any surplus shall remain after payment of such sum or sums of money and the costs and expenses of such distress and sale then in such case such overplus shall be returned on demand to the said company's Secretary for the time being or Member or Members as the case may be Provided that the amount to be levied as aforesaid upon the goods and chattels of any member of the said company shall not at the time of such levy exceed twice the amount of his or her share or shares in the capital of the said company.

In cases of non-payment of compensation of damages &c. the same to be levied by distress of the goods of the Company or of any member or members thereof.

XLII. That all fines penalties and forfeitures inflicted or imposed for all and every offence in this Act mentioned in relation to which the manner of convicting the offender or offenders or of applying the penalty or penalties is not particularly mentioned or directed and all fines penalties and forfeitures which shall be inflicted or imposed by any rule order or bye-law to be made under the authority of this Act shall be adjudged by and in case of non-payment be recovered before any Justice in a summary way and every such Justice is hereby authorised and empowered to convict the offender or offenders upon information by the oath of any person or persons (which oath such Justice is hereby authorised to administer) or on confession of the party offending and in default of payment of any such fine penalty or forfeiture the same together with the costs charges and expenses attendant thereon shall be levied by distress and sale of the offender's goods and chattels or of the goods and chattels

Recovery and application of penalties.

of the said company (except as aforesaid) or of any member or members thereof (within the limit aforesaid) as the case may be by warrant under the hand and seal of such Justice and where the manner of applying any fine penalty or forfeiture inflicted or imposed under the provisions of this Act is not particularly mentioned or directed one moiety thereof shall be paid to the informer and the other moiety thereof shall be paid to the Colonial Treasurer for the time being for the use of Her Majesty Her Heirs and Successors for the public uses of the said Colony and in support of the Government thereof and in case such sufficient distress cannot be found and such fines penalties and forfeitures or any of them shall not be paid within the time fixed for payment thereof or in case it shall appear to the satisfaction of any Justice either by the confession of the offender or offenders or otherwise that he she or they hath or have not sufficient goods and chattels whereon such fines penalties forfeitures costs and charges can be levied if a warrant of distress be issued it shall be lawful for any such a Justice and he is hereby authorised and required by warrant under his hand and seal to commit such offender or offenders to the Common Gaol or House of Correction for any time not exceeding three months.

For compelling witnesses to attend.

XLIII. That if any person or persons who shall be lawfully summoned as a witness or witnesses to attend and give evidence before any Justice or Justices touching any matter or fact contained in any information or complaint for any offence committed against this Act either on the part of the prosecutor or on behalf of the person or persons accused shall refuse or neglect to appear at the time and place to be for that purpose appointed after having been paid or tendered a reasonable sum for his her or their loss of time charges and expenses without a reasonable excuse for his her or their refusal or neglect or appearing shall refuse to be examined upon oath (or in case of a Quaker or Moravian) on solemn affirmation which oath or affirmation such Justice or Justices is and are hereby authorised to administer or to give evidence before such Justice of the Peace then and in every such case every such person shall forfeit and pay for every such offence any sum not exceeding five pounds to be recovered levied and applied in like manner as any penalty imposed by this Act not specially provided for may be recovered levied and applied.

Appeal to General and Quarter Sessions.

XLIV. That any person or persons thinking himself herself or themselves aggrieved by the judgment order or determination of any Justice or Justices in pursuance of this Act may appeal to the Justices of the Peace at any General or Quarter Sessions of the Peace to be holden for the said Colony of Victoria within four calendar months after the cause of appeal shall have arisen (the person or persons appealing having first given notice in writing of such appeal and the particular nature and matter thereof to the person or persons appealed against and entering into a recognizance before the convicting Justice or Justices with two sufficient sureties conditioned to try such appeal and to abide the order and award of the said Court thereon) and the said Justices upon due proof of such notice having been given shall in a summary manner hear and determine such appeal at such General or Quarter Sessions of the Peace or if they think proper may adjourn the hearing thereof to the next General or Quarter Sessions of the Peace to be held for the said Colony of Victoria and if they see cause may reverse any such judgment order or determination or mitigate any forfeiture or fine and may order any money to be returned which shall have been levied in pursuance of any such judgment order rule bye-law or

determination and shall and may also award such further satisfaction to be made to the party injured or such costs to either of the parties as they shall think reasonable and proper and all such determinations of the said Justices of such General or Quarter Sessions shall be binding final and conclusive upon all parties to all intents and purposes whatsoever.

XIV. That no person or persons shall be subject or liable to the payment of any of the penalties or forfeitures adjudged to be paid by virtue of this Act for any offence or offences against this Act unless an action shall have been brought or information respecting such offence or offences shall have been lodged before some Justice of the Peace within three calendar months next after such offence committed.

Proceedings to be within three calendar months

XLVI. That in all cases wherein it may be requisite or necessary for any person or persons to serve any summons or notice upon the said company or any writ or other proceeding at law or in equity the service thereof upon the Secretary of the said company or if there should be no Secretary upon the Chairman of the Directors or by leaving such notice at any of the offices of the said company or at the last or usual place of abode of the Secretary or Chairman of the Directors of the said company as the case may be shall be deemed good and sufficient service of the same respectively on the said company.

What shall be deemed service of notices on the company.

XLVII. That no proceedings to be had and taken in pursuance of this Act shall be quashed or vacated for want of form or be removed by *Certiorari* or any writ or process whatsoever into Her Majesty's Supreme Court of the Colony of Victoria.

Proceedings not to be quashed for want of form or removed by *certiorari*.

XLVIII. That when any distress shall be made for any sum or sums of money to be levied under the authority of this Act or any order or bye-law made in pursuance thereof the distress itself shall not be deemed unlawful nor shall the party or parties making the same be deemed a trespasser or trespassers on account of any defect or want of form in the information summons conviction warrant or distress or any other proceeding relating thereto nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio* on account of any subsequent irregularity which shall be afterwards done by the party or parties distraining but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage in an action on the case.

Persons making distress irregularly not to be deemed trespassers *ab initio*.

XLIX. That nothing herein contained shall extend or be construed to extend to prevent any person or persons from proceeding against the Directors of the said company or against any of their officers or servants or workmen in respect of any works of the said company or the method which shall be employed by them for furnishing such light as aforesaid as a public or private nuisance or from bringing any action against the Directors of the said company or against any of their officers or servants or workmen for any injury sustained by reason of any such works or method of lighting whether such injury shall proceed from the nature of such method of lighting or the carelessness or want of skill of the person or persons to be employed thereon.

Nothing in this Act to prevent the Company being indicted for a nuisance.

L. That in all cases in which it may be necessary for the said company to give any notice to any Corporation or to any person whomsoever under the provisions or directions contained in this Act such notice shall be in writing and be signed by the Secretary or by the Chairman of Directors for the time being.

How notices are to be given to any Corporation.

Notices to be given to the Surveyor may be given to other competent persons.

LI. That all notices which in and by this Act are directed to be given to the Surveyor of the City of Melbourne shall and lawfully may be given to the City Surveyor or to the person or persons who for the time being shall or may be invested with such or the like powers or authority which are or is invested in the said City Surveyor or such notices shall and lawfully may be left at the office of the said City Surveyor or other person or persons as last aforesaid.

How and in what form the declaration in any action for the recovery of the amount of arrears shall be framed.

LII. That in any action to be brought by or by the direction of the Directors of the said company against any proprietor of any share or shares in the said undertaking to recover any money due and payable to the said company for or by reason of any call made by virtue of the powers and authorities contained in the said Deed of Settlement it shall be sufficient for the said Secretary on behalf of the said company to declare and allege that the defendant is a proprietor of a share or so many shares in the said undertaking and is indebted to the said company in the sum or sums of money to which the call or calls in arrear shall amount or in respect of one call or more upon one share or more stating the number and amount of such call or calls whereby an action hath accrued to the Directors of the said company by virtue of the said Deed of Settlement without setting forth the special matter and on the trial of such action it shall be sufficient to prove that the Defendant at the time of making such call or calls was a proprietor of one share or more in the said undertaking and that such call or calls were in fact made without proving the appointment of the Directors who made such call or calls or any other matter whatsoever and the said Secretary on behalf of the said company shall thereupon be entitled to recover what shall be due in respect of such call or calls with interest thereon unless it shall appear either that any such call exceeds the prescribed amount or that due notice of such call was not given or that the prescribed interval between two successive calls had not elapsed and in order to prove that such defendant was a proprietor of one share or more in the said undertaking as alleged the production of the book in which the Secretary of the said company shall enter and keep the names and additions of the several proprietors of the shares in the said undertaking with the number of shares they are respectively entitled to hold and of the locality or places of abode of the several proprietors of shares in the said undertaking and of the several persons who shall from time to time become proprietors thereof or be entitled to any share therein shall be *prima facie* evidence that such defendant is a proprietor and of the number and amount of his shares therein.

How notices are to be given to persons possessing shares by any other means than by the transfer thereof.

LIII. That in case any share or shares shall become vested in any person or persons or Corporation claiming through the original subscriber or subscribers thereof and such share or shares shall have passed by any other legal means than by a transfer thereof in pursuance of the said Deed of Settlement and the name or names of such person or persons or Corporation shall have been entered and registered by the Secretary of the said company in the book to be kept for that purpose in pursuance of the said Deed of Settlement and notice in writing shall be given by the said Secretary on behalf of the said company to such person or persons or Corporation (in the manner herein pointed out in respect of such notices by Directors to proprietors) containing a demand of payment of his her or their proportion of money to be called for and the said call or calls be not paid within Ten days after the expiration of such notice it shall be lawful for the said company at any General or Special Meeting after the expiration of such notice to declare such share or shares to be forfeited and in such case the same shall become forfeited and shall and may be disposed of in such manner as in other cases of sale of forfeited share or shares or such share or shares shall become consolidated in the general fund of the

said company and in case there shall be no proof by affidavit of the manner by which any share or shares shall have passed then such notice as hereinbefore directed to be given shall and may be served or sent in manner aforesaid upon or to the executors or administrators of a proprietor or proprietors dying or upon or to the assignees or trustees of a proprietor or proprietors becoming bankrupt or insolvent or upon or to the husband of any proprietor or proprietors marrying or in the event of the share or shares being disposed of upon or to the last proprietor appearing in the books of the said company to have been in possession of the same and after such notice and default being made the said share or shares shall be forfeited and shall and may be sold or otherwise become consolidated in the general fund of the said company in manner aforesaid. Provided that in case of proprietors being out of the colony the share or shares shall not be forfeited until the expiration of two years after the day on which such notice shall have been left or given as aforesaid.

LIV. That a conviction in the form or to the effect following shall be good without alleging more than the substance of the offence, that is to say :— Form of conviction.

To Wit { Be it remembered, that on the
day of _____ in the year of our
Lord _____ : is
convicted before _____
of Her Majesty's Justices of
the Peace for the said
by virtue of an Act passed in the
year of the Reign of Her Majesty Queen Victoria,
intituled _____
_____, of having
and for which
do adjudge the said _____
to forfeit and pay
the sum of _____
(*stating the penalty and also the compensation if
any*) to be paid and applied
And if the said several sums be not paid forth-
with (*or on or before* _____ *next*)
I (*or we*) order that the same be levied by
distress and sale of the goods and chattels of the
said _____
and in default of sufficient distress I (*or we*) ad-
judge the said _____
to be imprisoned in the Gaol at _____
in the said Colony (there to be kept to hard
labor) for the space of _____
unless the said several sums and all costs and
charges of the said distress shall be sooner paid.
Given under _____ hand and seal the
day and year first above written.

LV. That if any witness or witnesses who shall be examined by or before any Justice or Justices under this Act upon oath or affirmation shall wilfully and corruptly give false evidence and shall be thereof convicted he she or they shall be subject to the same punishments as persons convicted of wilful and corrupt perjury. Persons giving false evidence to be guilty of perjury.

Power to make
Bye Laws.

LVI. That at any general meeting of the company the said company shall and they are hereby authorised and empowered from time to time to make such rules orders bye-laws and regulations as to them shall seem fit and proper for the government carrying on superintendence and management of the said undertaking and of the business of the said company and regulating the proceedings of the said Directors and the duties and conduct of all officers workmen and servants to be employed in and about the affairs and business of the said company and from time to time to alter or repeal such rules orders bye-laws and regulations or any of them and to make new or other rules bye-laws and regulations and also to impose such reasonable fines and forfeitures upon all officers workmen servants and other persons to be employed in and about the affairs and business of the said company or in the superintendence or management of the said undertaking not exceeding the sum of five pounds for any one offence as to the said general meeting shall seem fit and expedient and all rules orders bye-laws and regulations to be made as aforesaid shall be reduced into writing and signed by the Chairman and Secretary and shall be binding upon all such officers workmen servants and other persons and shall be sufficient authority in any court of law or equity to justify all persons who shall act under the same and a copy of such rules orders bye-laws and regulations shall be given to every officer or servant of the said company. Provided such rules orders bye-laws and regulations be not repugnant to the laws or statutes of the Colony of Victoria or of that part of the United Kingdom of Great Britain and Ireland called England for the time being in force in such Colony or to any of the express directions and provisions of this Act.

Directors may
alter the num-
ber required
to form a quo-
tum.

LVII. That the Directors of the said company shall at any time have a right to make such bye-law rule or regulation and from time to time to alter or vary the same touching or concerning the number of Directors required to form a quorum as to such Directors shall seem fit and convenient for the general working and carrying out the objects and purposes of the said company notwithstanding anything contained in the Deed of Settlement of the said company to the contrary.

Power to in-
crease the Cap-
ital to £40,000
by creating
new shares.

LVIII. That it shall and may be lawful for the Directors of the said company for the time being with the consent of the majority of the shareholders present at a public meeting duly held for that purpose at which shall be present and vote the holders of not less than six hundred shares and forty or more shareholders to increase the capital of the company to any amount not exceeding forty thousand pounds in the whole and to raise such increased capital by creating an additional number of shares of five pounds each and to cause the same shares to be sold or allotted to such persons as the Directors shall approve of and on such terms and at such prices as they can obtain for the same and such shares when sold shall be subject to the provisions of the said Deed of Settlement and of this Act and shall entitle the holders to the same benefits rights and privileges in respect thereof as if the same had been originally subscribed for on the formation of this company.

Power to enter
and inspect
miners.

LIX. That the Directors for the time being of the said company shall have full power and authority either by themselves or their agents surveyors or other officer appointed for that purpose at all reasonable times and as often as they shall think necessary to inspect and examine all pipes and lamps in any building and on any part of the same in the occupation or possession of any public or corporate bodies person or persons with whom the said company shall at any time enter or have entered into any contract or agreement for the sale

or supply of Gas and to repair and amend such pipes and lamps in all respects if necessary and to take account of the amount of cubic feet of Gas consumed under all or any of such contract or agreement as aforesaid and to compare the amount so ascertained to be consumed with the tenor and nature of the contract in relation to such supply and consumption and to regulate the same in accordance therewith and for any other lawful and reasonable purpose consistent with and relating to any contract entered into by the said company under the powers contained in the said Deed of Settlement or in this Act.

LX. That it shall be lawful for the Directors of the said company or their duly authorised Surveyors or servants to inspect and examine at all reasonable times any Gas fittings or works which shall have been made erected and put up by any person or parties with whom the said Directors shall have contracted for the supply of Gas And if such Surveyor or other servant of the said company shall consider any such Gas fittings or works to be incomplete or otherwise defective the person or party so contracting with the said company and having erected and put up such fittings or works shall not be entitled to call on the said Directors for the fulfilment of any contract for the supply of Gas until such fittings and such works shall have been amended and altered or removed and other fittings and works substituted in lieu thereof to the satisfaction of the Surveyor or other officer of the said company inspecting the same.

Power to inspect all fittings and to order the removal of bad work.

LXI. That it shall be lawful for the Mayor Aldermen Councillors and Citizens of the City of Melbourne 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 seventy-six to purchase all the land buildings works hereditaments, lamps pipes stock and appurtenances of and belonging to the said company in the name and on the behalf of the said Corporation upon giving to the Directors of the said company twelve calendar months notice in writing of such intention so to do and upon such terms and conditions as shall or may be mutually agreed upon between the said Directors of the said company and the said Corporation but in case of any dispute or disagreement arising between the said Directors of the said company and the said Corporation respecting such purchase as aforesaid then it shall be lawful for the said Directors of the said company or the said Corporation 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 said Directors of the said company and in the event of such arbitration being required the said Corporation shall name one person and the said Directors of the said company another, and if such two persons cannot agree upon the amount to be paid to the said 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.

Power for Corporation of City of Melbourne to purchase works.

LXII. That all mortgages or assignments for monies borrowed by the Directors of the said company under the powers for that purpose hereinbefore contained shall be made by the Trustees for the time being of the said company and in the words or to the effect following that is to say

Form of mortgage.

The City of Melbourne Gas and Coke Company by virtue of an act passed in the sixteenth year of the Reign of Her Majesty Queen Victoria intituled An Act for Lighting with Gas the City of Melbourne in the Colony of Victoria and

to enable certain persons associated under the name style or title of the City of Melbourne Gas and Coke Company to sue and be sued in the name of the Secretary for the time being of the said company and for other purposes therein mentioned We the Trustees of the said company in consideration of the sum of

pounds paid to the said company by

of

do release or assign

(as the case may be) unto the said

his (or her) heirs and assigns (or executors administrators and assigns) all and singular (describe the land if it be a mortgage of real estate) or chattels (or if the revenue and rates arising to the said company from supplying gas to the bodies corporate and persons resident in the City of Melbourne (and elsewhere) And all the estate right title and interest of in and to the same To hold unto the said

his

heirs and assigns (or executors administrators and assigns) until the said sum of

together with interest for the

same after the rate of

for every one hundred

pounds by the year payable half-yearly shall be fully paid and satisfied.

Given under our hands and seals the

day

in the year of Our Lord one

thousand

Form of transfer of mortgage.

LXIII. That every person to whom such mortgage or assignment shall have been made as aforesaid shall and may from time to time transfer his right and interest therein to any person whomsoever which transfer shall or may be in the words or to the effect following that is to say

I (or we)

of

in consideration of the sum

of

paid by

of

do

hereby transfer a certain mortgage made by the City of Melbourne Gas and Coke Company bearing date the

day of

for securing the sum of

pounds

and interest and all my (or our) right and property therein to the aforesaid

his (or her) heirs and assigns

(executors administrators and assigns)

Dated this

day

of

in the year of Our Lord one

thousand

Re-conveyances unnecessary.

LXIV. That it shall be lawful for any such mortgagee or transferee as the case may be to endorse upon any mortgage given upon behalf of the said company as aforesaid a receipt for all money intended to be secured by such mortgage which receipt shall be sufficient to vacate and satisfy the same and such receipt shall absolutely vest the estate of and in the property comprised in such security in the person or persons for the time being entitled to the equity of redemption without its being necessary for the mortgagee or transferee to give or execute any re-conveyance of the property so mortgaged.

Interpretation Clause.

LXV. That the following words and expressions in this Act shall have the several meanings hereby assigned to them unless there be something in the subject or the context repugnant to such a construction (that is to say)

The word "street" shall mean public street market place square crescent highway roadway lane passage or other public place.

The word "lamp" shall mean lamp whether on a post or affixed to any building lamp post pillar pilaster or lamp iron.

The expression "private way" shall mean private way lane building passage or grounds.

The word "Building" shall mean place of public worship or public amusement public institution public or private office manufactory house shop dwelling inn tavern or other building whatsoever court garden or yard.

The word "pipe" shall mean main main pipe stop cock meter cock syphon plug branch apparatus conduit.

The word "ground" shall mean stones ground soil pavement or roadway of any street.

The word "river" shall mean fresh water river brook or running stream reservoir canal aqueduct waterway feeder pond or spring head well open drain or ditch

The word "justice" shall mean Justice of the Peace for the City of Melbourne or Justices of the Peace for the Colony of Victoria as the case may require.

LXVI. That nothing in this Act contained shall be deemed to affect Not to affect other rights than those herein mentioned.

or apply to any right title or interest of Her Majesty Her Heirs and Successors or of the body corporate and politic known by the name style and title of the Mayor Aldermen Councillors and Citizens of the City of Melbourne or of any body or bodies politic or corporate whomsoever or of any other person or persons excepting such as are mentioned therein or of those claiming by or under her it or them.

SCHEDULE REFERRED TO.

MEMORIAL of the name of the Secretary of the City of Melbourne Gas and Coke Company to be recorded in the Supreme Court in and for the Colony of Victoria pursuant to an Act of the Lieutenant-Governor and Council passed in the sixteenth year of the Reign of Her Majesty Queen Victoria intituled An Act for Lighting with Gas the City of Melbourne in the Colony of Victoria and to enable certain persons associated under the name style or title of the City of Melbourne Gas and Coke Company to sue and be sued in the name of the Secretary for the time being of the said company and for other purposes therein mentioned.

Name of Secretary. P. Q.
A. B., Chairman.

C. D.	}	Directors.	}	J. K.
E. F.				L. M.
G. H.				N. O.

of Melbourne Gentleman
the above named Company makeh oath and saith that he was present and did see the foregoing memorial signed by the above named Chairman and Directors respectively whose names appear hereunto.

Sworn this day of
in
the year of Our Lord One Thousand