

An Act to incorporate the City of Goulburn Gas and Coke Company (Limited) and to enable the said City of Goulburn Gas and Coke Company (Limited) to construct Gas-works within the municipal boundaries and suburbs of the City of Goulburn. [20th March, 1879.]

CITY OF GOULBURN
GAS AND COKE
COMPANY'S
INCORPORATION.

WHEREAS it is expedient that the City of Goulburn and its suburbs in the Colony of New South Wales should be supplied and lighted with gas Preamble. And whereas for the carrying out of the works necessary for such supply of gas a Joint Stock Company called the City of Goulburn Gas and Coke Company (Limited) has lately been established at Goulburn in the Colony of New South Wales under and subject to the rules regulations restrictions and provisions contained in a certain deed

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deed of settlement bearing date the first July one thousand eight hundred and seventy-eight and purporting to be and being the deed of settlement of the said Company And whereas by the said deed of settlement the several parties thereto have respectively and mutually covenanted and agreed that they whilst holding shares in the said Company should be and continue until the said Company be dissolved under the provisions in that behalf therein contained a Joint Stock Company or partnership under the name and style of the City of Goulburn Gas and Coke Company (Limited) for the purpose of creating and establishing and exercising a business for the purpose of producing inflammable air or gas from coal oil tar pitch or other material and for lighting and supplying with gas all public and private places roads streets and buildings within the town of Goulburn and suburbs and also for manufacturing selling and disposing of all and every product refuse and residuum to be obtained from the material used by the said Company in such business and for the said purposes to purchase or lease lands offices and buildings and make erect sink lay place and fix such retorts gasometers meters or gas-holders pipes reservoirs and buildings of such construction and in such manner as shall be deemed necessary and proper for the purpose of carrying the objects of the said Company into execution And whereas by the said deed of settlement it was further agreed that the capital of the said Company should consist of three thousand pounds to be contributed in three thousand shares of one pound each And whereas by the said deed of settlement provision has been made for the payment of dividends and bonuses for increasing the capital of the Company and for the disposal and application of the profits and also for the due management of the affairs of the said Company And whereas the said Company is desirous of being incorporated and it is expedient that it should be incorporated accordingly and empowered to construct gas-works within the municipal boundaries and suburbs of the City of Goulburn but subject to the provisions hereinafter contained Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Company incor-
porated.

1. Such and so many persons as have already become or may in the manner provided by and subject to the rules regulations and provisions contained in the deed of settlement become proprietors of shares of or in the capital for the time being of the said Company shall for the purposes aforesaid but subject nevertheless to the conditions restrictions regulations and provisions hereinafter contained be one body politic and corporate in name and in deed by the name of "The City of Goulburn Gas and Coke Company (Limited)" and by that name shall and may sue any person or persons body or bodies politic or corporate whether a member or members of the said corporation or not and may sue and be sued implead and be impleaded in all Courts whatsoever at law or in Equity and may prefer lay or prosecute any indictment information and prosecution against any person or persons whomsoever for any stealing embezzlement fraud forgery crime or offence and in all indictments informations and prosecutions it shall be lawful to state the money and goods effects bills notes securities or other property of the said Company to be the money goods effects bills notes securities or other property of the said Corporation and to designate the said Company or co-partnership by its corporate name whenever for the purpose of any allegation of any intent to defraud or otherwise howsoever such designation shall be necessary and the said Corporation shall have perpetual succession with a common seal which may be altered varied and changed from time to time at the pleasure of the said Corporation.

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2. The several laws rules regulations clauses and agreements contained in the said deed of settlement or to be made under or by virtue or in pursuance thereof shall be deemed and considered to be and shall be the by-laws for the time being of the said Corporation save and except in so far as any of them are or shall be or may be altered varied or repealed by or are or shall be or may be inconsistent or incompatible with or repugnant to any of the provisions of this Act or of any of the laws or statutes now or hereafter to be in force in the said Colony but no rule or by-law shall on any account or pretence whatsoever be made by the said Corporation either under or by virtue of the said deed of settlement or of this Act in opposition to the general scope or true intent and meaning of this Act or of any of the laws or statutes in force in the said Colony and the production of a written or printed copy of the said deed of settlement or of any rules by-laws or regulations to be made in pursuance thereof or in pursuance of this Act having the common seal of the Company affixed thereto shall be sufficient evidence in every Court of civil or criminal jurisdiction of such deed of settlement or of such by-laws rules or regulations.

Deed of settlement confirmed.

3. It shall be lawful for the said Corporation from time to time to extend or increase its capital for the time being by the creation and disposal of new shares in the manner specified and set forth and subject to the rules regulations and provisions contained in the said deed of settlement.

Increase of capital.

4. The Company shall keep a book to be called the "Share Register" and in such book shall be fairly and distinctly entered from time to time the names and addresses of the several persons entitled to shares in the Company together with the number of shares to which such shareholders shall be respectively entitled.

Share register to be kept.

5. The production of the share register shall be admitted in all Courts of civil and criminal jurisdiction as *prima facie* evidence of the person named therein as a shareholder being such shareholder and of the number of his shares and every shareholder or other person having a judgment at law or a decree in equity against the Company may at all convenient times peruse the share register gratis and may require a copy thereof or any part thereof and for every one hundred words or part of one hundred words so required to be copied the Company may demand a sum not exceeding one shilling.

Production of share register to be *prima facie* evidence.

6. The capital or joint stock for the time being and all the funds and property of the said Corporation and the several shares therein and the profits and advantages to be derived therefrom shall be and be deemed to be personal estate and be transmissible accordingly subject to the regulations of the said deed of settlement.

Capital and shares to be personalty.

7. The Corporation shall not be bound in any manner by any trusts or equitable interests or demands affecting any shares of the capital standing in the name of any person as the ostensible proprietor thereof or be required to take any notice of such trusts or equitable interests or demands but the receipt of the person in whose name the shares shall stand in the books of the said Corporation shall notwithstanding such trusts or equitable interests or demands and notice thereof to the said Corporation be a good valid and conclusive discharge to the Corporation for or in respect of any dividend or for money payable by the said Corporation in respect of such shares and a transfer of the said shares in accordance with the regulations in that behalf contained in the said deed of settlement by the person in whose name such shares shall so stand shall notwithstanding as aforesaid be binding and conclusive as far as may concern the said Corporation against all persons claiming by virtue of such trusts or equitable interests or demands Provided always that nothing herein contained shall be deemed or taken to interfere with or abridge the right and power of a Court

Trusts or equitable interests affecting shares.

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Court of Equity to restrain the payment of any such dividend or other money payable thereafter by the Corporation in respect of any such shares or the transfer thereafter of any such shares or to direct the payment of such dividends or other money by the Corporation or the transfer of such shares by the person in whose name they may stand to such other person as such Court may think fit.

Power to hold lands.

8. It shall be lawful for the said Corporation any statute or law to the contrary notwithstanding to purchase take hold and enjoy to them and their successors for any estate term or interest all such houses offices buildings lands and hereditaments as may be necessary or proper for the purpose of managing and conducting and carrying on the affairs concerns and business of the said Corporation and to sell convey assign assure lease and otherwise dispose of or act in respect of such houses offices buildings lands and hereditaments as occasion may require for the purposes of the said Corporation.

Conveyance to the Corporation.

9. It shall be lawful for all persons who are or shall be otherwise competent so to do to grant sell alien convey demise assign and dispose of unto and to the use of the said Corporation and their successors for the purposes aforesaid or any of them any such houses offices lands hereditaments and other real estate whatsoever as aforesaid accordingly.

Dividend from the profits.

10. No dividend or bonus shall in any case be declared or paid out of the subscribers capital for the time being of the said Company or otherwise than out of the declared surplus capital net gains and profits of the business.

Actions or suits for calls.

11. In any action or suit to be brought by the said Corporation against any proprietor of any shares in the capital of the said Corporation to recover any sum of money due and payable to the said Corporation for or by reason of any call or the arrears thereof made by virtue of this Act or of the said deed of settlement it shall be sufficient for the Corporation to declare and allege that the defendant being the proprietor of such or so many shares in the capital of the said Corporation is indebted to the said Corporation in such sum of money (as the call in arrears shall amount to) for such call of such sum of money upon such share or so many shares belonging to the said defendant whereby an action hath accrued to the said Corporation without setting forth any special matter and on the trial of such action or in person or by proxy specially given for the occasion shall hold shares representing not less than one-third of the paid-up capital of the Company.

Execution against shareholders.

12. If any execution either at law or in equity shall be or shall have been issued against the property or effects of the Company and if there cannot be found after due diligence sufficient whereon to levy such execution then such execution may be issued against any of the shareholders for the time-being or any former shareholder until such execution shall be fully satisfied Provided that no such execution shall be issued against any shareholder or former shareholder for any amount beyond the sum due by such shareholder in respect of the amount agreed to be subscribed for towards the capital of the said Company and unpaid by him and no such shareholder or his real or personal estate shall be liable for any debt or demand whatsoever due or to become due by the said Company beyond the extent of his shares in the capital of the Company not then paid up Provided always that no such execution shall issue against any such shareholder or former 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 person sought to be charged And upon such motion such Court may order execution to issue accordingly Provided further that in case of execution

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execution against any former shareholder it shall be shown that such former shareholder was a shareholder of the Company at the time when the contract or engagement was entered into for breach of which contract or engagement such execution shall have issued or became a shareholder during the time such contract or engagement was unexecuted or unsatisfied or was a shareholder at the time the judgment or decree was obtained upon which judgment or decree such execution shall have issued. Provided also that in no case shall such execution be issued against the person property or effects of any former shareholder after the expiration of one year after the person sought to be charged shall have ceased to be a shareholder of the Company.

13. Every shareholder against whom or against whose property or effects execution upon any judgment decree or order obtained as aforesaid shall have been issued as aforesaid shall be entitled to recover against the Company all loss damages costs and charges which such shareholder may have incurred by reason of such execution and after due diligence used to obtain satisfaction thereof against the property and effects of the Company such shareholder shall be entitled to contribution for so much of such loss damages costs and charges as shall remain unsatisfied from the several other shareholders against whom execution upon such judgment decree or order obtained against the Company might also have been issued under the provision in that behalf aforesaid as and subject to the limitation herein provided and such contribution may be recovered as aforesaid according to the provisions in that behalf in the said deed of settlement contained.

Re-imbusement
when execution
issued against a
shareholder.

14. In the cases provided by this Act for execution of any judgment decree or order in any action or suit against the Company to be issued against the person or against the property and effects of any shareholder or former shareholder of the Company or against the property and effects of the Company at the suit of any shareholder or former shareholder in satisfaction of any money damages costs and expenses paid or incurred by him as aforesaid in any action or suit against the Company such execution may be issued by leave of the Court or of a Judge of the Court in which such judgment decree or order shall have been obtained upon motion or summons for a rule to show cause or other motion or summons consistent with the practice of the Court without any suggestion or *scire facias* in that behalf and it shall be lawful for such Court or Judge to make absolute or discharge such rule or allow or dismiss such motion (as the case may be) and to direct the costs of the application to be paid by either party or to make such other order therein as to such Court or Judge shall seem fit and in such cases such forms of writs of execution shall be sued out of the Courts of Law and Equity respectively for giving effect to the provisions in that behalf aforesaid as the Judges of such Courts respectively shall from time to time think fit to order and the execution of such writs shall be enforced in like manner as writs of execution are now enforced. Provided that any order made by a Judge as aforesaid may be discharged or varied by the Court on application made thereto by either party dissatisfied with such order. Provided also that no such motion shall be made nor summons granted for the purpose of charging any shareholder or former shareholder until ten days notice thereof shall have been given to the person sought to be charged thereby.

Execution against
shareholders.

15. In all cases in which by any Act of Parliament or of the Colonial Legislature or by any rule or order of the practice of the Supreme Court or any other Court now or hereafter to be in force in this Colony the plaintiff complainant or defendant in any action suit or other proceeding civil criminal or otherwise or any creditor of an insolvent estate or any person being a party to or interested in any process or proceeding whatsoever is or shall be authorized empowered

Power to Secretary
or other officer.

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or required to make any affidavit deposition or information or to sign or present any petition or to do any other act it shall be lawful and competent for the secretary or other officer or agent of the Company where such Company shall be such plaintiff complainant defendant or creditor or be a party to or otherwise interested in any process or proceeding whatsoever as aforesaid for and on behalf of the Company to make any such affidavit deposition complaint or information sign or present any such petition or do any such other act as aforesaid.

Custody and use of
corporate seal.

16. The directors for the time being shall have the custody of the common seal of the Company and the form thereof and all other matters relating thereto shall from time to time be determined by the directors in the same manner as is provided by the said deed of settlement for the determination of other matters by the directors. And the directors present at a Board of Directors of the Company or a majority of them shall have power to use such common seal or authorize the same to be used for the affairs and concerns of the Company and under such seal to authorize and empower any person without such seal to execute any deeds and do all or any such other matters and things as may be required to be executed and done on behalf of the Company in conformity with the provisions of the said deed of settlement and of this Act. But it shall not be necessary to use the corporate seal in respect of any of the ordinary business of the Company or for the appointment of an attorney or solicitor for the prosecution or defence of any action suit or proceeding or of any officer or servant of the Company and such seal may be affixed to any deed or document by any director of the said Company or by the hand of any person whom the directors shall appoint in that behalf and the affixing thereof shall be attested by at least one director and such person so appointed.

Power to erect
gasometers break up
roads streets &c.

17. The said Corporation is hereby fully authorized and empowered by its servants contractors agents workmen and others from time to time to make erect sink lay place and fit such retorts gasometers or gasholders meters receivers cisterns engines machines cuts drains sewers watercourses pipes reservoirs buildings and other works and devices of such construction and in such manner as the said Corporation shall think necessary or proper for the purpose of carrying out the operations of the said Corporation and also to break up the soil and pavement of any footpath highway street road way lane passage or other public place or thoroughfare or of any road way thoroughfare or place dedicated to or used by the public as such or any part or parts thereof and to erect posts pillars lamps lamp-irons and other apparatus in the same highways streets roads ways lanes passages and other thoroughfares and places against any wall or walls erected on or adjoining to any of them and to dig and sink trenches and drains and to lay mains and pipes and put stop-cocks siphons plugs or branches from such mains or pipes in under across or along such highways streets roads ways lanes passages and other thoroughfares and places and also with such consent as hereinafter mentioned to do the like in under across or along any private roads ways lanes passages buildings and places. And from time to time to cut stop remove alter repair replace and relay such main-pipes stop-cocks siphons plugs branches or other apparatus. Provided always that nothing herein contained shall be deemed to authorize the said Corporation its contractors agents or workmen to enter into or upon any private lands buildings or places for any of the purposes aforesaid or thereon to carry out any of the operations of the said corporation without the previous consent of the occupiers thereof. And provided also that the Corporation or the secretary or other officers agents or servants thereof shall give forty-eight hours' notice in writing to the Town Clerk of the Municipality of Goulburn prior to the opening or breaking up of streets lanes or otherwise as aforesaid.

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18. It shall be lawful for the said Corporation to contract with any persons (whether incorporate or individual) for supplying with gas any such person or persons or any streets ways lanes passages manufactories shops warehouses public or private houses buildings and places and for such purpose from time to time to lay down carry fit up connect and furnish any pipe branch or burner lamp meter or other apparatus from or in connection with any main-pipe or to lay down any new main which for such purposes may be required. Provided always that in all cases (where it is not otherwise expressly stipulated and agreed) the said Corporation its contractors workmen or agents shall at its own expense on the expiration or determination of any tenancy of any occupier so giving consent as aforesaid or on nonpayment of the sums payable by the owner or occupier of any building tenement or place for gas supplied thereto at any time within twelve months from such expiration determination or default within fourteen days after notice in writing for that purpose from or on behalf of the owner or succeeding occupier of such building tenement or place shall have been received by the said Corporation enter into and upon such building tenement or place and remove take and carry away or cause to be removed taken or carried away any pipe burner lamp meter or apparatus which shall have been placed and introduced by the said Corporation therein and repair and make good such portions of such building tenement or place as may be damaged or defaced by such removal. And in case the said Corporation shall neglect so to do for fourteen days after receipt of such notice it shall be lawful for such owner or succeeding occupier (provided free and reasonable access has been given to the agents servants and workmen of the said Corporation for the purpose aforesaid) to remove or cause to be removed all such pipes burners lamps meters or apparatus and to repair and make good the damages and defacements to the said building tenements or place caused thereby the reasonable costs and charges attending which shall immediately be paid by the said Corporation to the owner or occupier making such repairs as aforesaid and in default of such sum being paid by the said Corporation within three days after demand thereof in writing made at the offices of the said Corporation it shall be lawful for the said owner or occupier or his or her agent to make complaint thereof before any Justice who may cause a summons to be issued in the usual form calling on the said Corporation to show cause before the nearest Court of Petty Sessions of the Police District in which such building tenement or place is situated why such demand has not been satisfied. And if the said Corporation fails to show cause accordingly it shall be lawful for the sitting Justices to order or award payment of the demand or any part thereof to such complainant together with such costs and satisfaction for his expense and trouble as to them may seem meet and such order or award to enforce by distress. Provided also that if any owner or occupier of any building tenement or place or any person acting for him shall refuse reasonable access to the contractors agents workmen or servants of the said Corporation for the purpose of removing any such pipe burner meter or apparatus placed or introduced into any such building tenement or place by the said Corporation or shall prevent or obstruct such removal then the said owner occupier or person acting for him shall immediately make payment to the said Corporation for such pipe burner meter or apparatus. And in default of his so doing within three days after demand thereof made at the said building tenement or place or the residence of the party it shall be lawful for the said Corporation to make complaint thereof before any Justice of the Peace who may cause to be issued a summons to the person so making default calling on him to show cause before the

To make contracts
for supply of gas.

Compensation to
owners of premises.

How determined.

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Fraudulent use of
gas.

Court of Petty Sessions of the Police District where the building tenements or place is situated why he refuses to pay such demand And thereupon the said Court shall proceed to the adjudication and enforcement of such demand in the manner in this clause set forth And if any person shall place or lay any pipe to communicate with any main-pipe meter or other apparatus already laid placed or erected by the said Corporation or shall use additional burners or burners of larger dimensions or of other kind or description than that he has contracted to pay for or shall supply any person with any of the gas supplied to him by the said Corporation without the consent in writing of the said Corporation first obtained or if any person shall wantonly or maliciously hinder or interrupt the contractors workmen agents or servants of the said Corporation in legally doing or performing any of the works aforesaid or in exercising the powers and authorities by this Act given or if any person shall wilfully negligently or accidentally do or cause to be done any injury or damage to any of the buildings machinery pipes burners lamps meters or apparatus of the said Corporation or remove the same or cause a waste or improper use of gas supplied by the said Corporation it shall be lawful for the said Corporation to make complaint thereof before any Justice of the Peace who may cause to be issued a summons to the person so offending to appear before the Court of Petty Sessions of the police district where such offence shall be committed and being thereof lawfully convicted such person shall forfeit and pay to the said Corporation any sum not exceeding five pounds over and above all damages done and over and above all costs to be ascertained by such Court and to be enforced in the manner in this clause before set forth And all proceedings under this Act not herein expressly provided for shall be regulated and conducted in accordance with the powers of the law in force for the time being respecting summary proceedings before Justices of the Peace and all such provisions shall so far as the same are applicable be enforced and observed in all proceedings under this Act not herein expressly provided for.

Materials of roads
&c. broken up to be
replaced.

19. When and so often as the said Corporation its contractors agents or workmen shall have broken up or removed any pavement stone or other material of any highway road street way lane passage or other public place or thoroughfare or of any road way thoroughfare or place dedicated to or used by the public as such the said Corporation shall make all reasonable despatch in performance of the work to be done and shall on completion of such work forthwith carry away all rubbish and waste or surplus material and to reinstate each pavement stone or other material and render such highway road street way lane passage or other place as nearly as possible in the same condition as it was in previously to the disturbance thereof And during the continuance of such work and until such reinstatement to set up barriers and keep lamps or fires burning at night in order to prevent accidents And also when and so often as any gas pitch waste liquid or other things shall escape or flow from any pipe receiver or drain so as to contaminate the air or water and render the same unhealthy or offensive it shall be lawful for any person to give notice thereof in writing to the said Corporation who shall immediately take the most speedy and effectual measures to remedy and prevent the same And if the said Corporation shall make default in any of the matters so required by it to be performed it shall be lawful for any person to lodge complaint thereof before any Justice of the Peace who may summon the said Corporation before the nearest Court of Petty Sessions and on proof of such default the said Court of Petty Sessions shall order and direct that the same shall be done by the said Corporation within a reasonable time to be named by such Court and in default of compliance with such order any Justice of the Peace on
proof

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proof thereof and on proof that the complainant or any other person has performed the said work so to be done and of the costs charges and expenses attending the same shall issue a distress warrant against the goods and chattels of the said Corporation for any amount not exceeding the said charges and expenses and the costs of prosecuting such complaint to be paid to the person performing the said work as aforesaid.

20. And in case any body or bodies corporate commissioners trustees surveyors or any other person or persons who shall contract with the said Corporation or agree to take or shall take or use and enjoy the gas of the said Corporation either in private dwellings shops inns taverns or other public or private buildings or manufactories grounds or premises or otherwise shall refuse or neglect to pay the sum or sums of money due under their his or her contract for the same to the said Corporation according to the terms and stipulations of the said respective parties with the said Corporation it shall be lawful for the said Corporation without prejudice to any other remedy to make complaint thereof before any Justice of the Peace who may issue a summons to the party so refusing or neglecting to pay as aforesaid calling on him to shew cause before the Court of Petty Sessions in the Police District in which such building tenement or place is situated why he refuses to pay such sum or sums And thereupon the said Court shall proceed to the adjudication and enforcement of the said demand and costs charges and expenses incurred in the prosecution thereof by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same rendering the surplus if any to such person or persons so neglecting or refusing And it shall be lawful for the said Corporation after seven days notice to cut off and take away the supply of gas from the house or houses inn tavern shop manufactory warehouse or other buildings premises or places of every such person so making default in payment of such sum or sums of money then due by his her or their contract to the said Corporation and thenceforth to discontinue the supply of gas contracted for with the said Corporation by such person or persons.

Remedy for the recovery of rents.

21. No pipe burner lamp meter or other apparatus of the said Corporation being set up in any building tenement or place shall be subject to distress for rent or shall be taken in execution under any process or proceeding of any Court of Law of Equity or under any proceedings in bankruptcy or insolvency save so far as any processes or proceedings against the promoters are concerned.

Apparatus not liable for distress execution &c.

22. Any person may appeal from the judgment or conviction of the said Court of Petty Sessions under this Act in the form and manner set forth in the Act of Council fifth William Fourth number twenty-two.

Appeal.

23. In the event of the wrongful exercise of any powers given by this Act nothing in this Act contained shall be construed to prevent any person from indicting or otherwise proceeding against the said Corporation for nuisance or otherwise in respect of the works or means used or employed by the said Corporation in exercising the privileges hereby on it conferred nor shall anything herein contained limit restrict or in any manner affect the right of any municipality or of any other person or Company hereafter empowered by the Legislature to supply gas to the said city of Goulburn or to exercise any powers which it may be deemed expedient or necessary to grant for that purpose.

Indictment for nuisance.

24. The following words and expressions in this Act shall have the meaning hereby assigned to them unless there be something either in the subject or context repugnant to such construction The word "Corporation" shall mean the City of Goulburn Gas and Coke Company (Limited) as incorporated by this Act The expression "Gas-works" shall mean the gas-works and the works connected therewith by this Act authorized to be constructed The word "street" shall include

Interpretation clause.

Chippendale Roman Catholic Church Land Sale.

include any square court or alley highway lane road thoroughfare or other passage or place within the limits of this Act The expression "city and suburbs of Goulburn" shall comprise all that district which is included within a radius of ten miles from the centre of the market-square of the said city.

Act to be deemed a
public Act.

25. This Act shall be deemed and taken to be a public Act and shall be taken judicial notice of as such by the Judges of the Supreme Court of New South Wales and by all other Judges Justices and others within the Colony of New South Wales and its dependencies without being specially pleaded and the same whenever cited shall be sufficiently described as "The City of Goulburn Gas and Coke Company's Incorporation Act."
