

## CHAPTER 214.

## THE TOWN OF SCHALLER.

H. F. 489.

AN ACT legalizing the acts and proceedings of the council of the incorporated town of Schaller, Iowa, in granting a franchise to the Schaller Gas Light and Fuel Company and contracting with said gas light and fuel company for lights, and legalizing the ordinance granting such franchise and the franchise so granted, and the contract made between said town and the Schaller Gas Light and Fuel Company, and the levy of a tax by said town to defray the expense of lighting the streets thereof.

WHEREAS at a meeting of the council of the incorporated town of Schaller, Sac county, Iowa, on the 5th day of January, 1903, W. R. Brooks made application for a franchise for building and maintaining a light and heating plant in said town, and that the question of granting such franchise be submitted to the voters of said town at the regular municipal election in the March following, which said application was made for and on behalf of the Schaller Gas Light and Fuel Company, a prospective corporation then in process of organization and not incorporated under the laws of the state; and,

WHEREAS at the time of making such application the said W. R. Brooks was a member of said town council and was also interested in the proposed corporation, and upon the incorporation of the Schaller Gas Light and Fuel Company then being organized, became a stockholder and officer thereof, and one other member of said town council was likewise interested; and,

WHEREAS the said application was granted as petitioned for; and,

WHEREAS in the record made by the clerk it was made to erroneously appear that such application was made and the franchise asked by W. R. Brooks individually instead of on behalf of the Schaller Gas Light and Fuel Company as was in truth and fact the purport and substance of such application; and,

WHEREAS the Schaller Gas Light and Fuel Company was duly organized and incorporated under the laws of the state of Iowa on the 21st day of January, 1903; and,

WHEREAS on the 3d day of February, 1903, the council of the incorporated town of Schaller did enact an ordinance granting to the said Schaller Gas Light and Fuel Company a franchise to erect and maintain a light and heating plant in the said town and under and upon the streets thereof, subject to a ratification by a vote of the said town in accordance with the provisions of section seven hundred and seventy-six (776) of the code, which said ordinance was duly published as required by law, on the 5th day of February, 1903; and,

WHEREAS proper proclamation was made and notice given for the holding of an election upon the question of granting such franchise under such ordinance, in the manner required by law; and,

WHEREAS at the time of the passage of such ordinance, and the granting of the franchise hereinbefore set out, two members of the town council of Schaller were stockholders and officers of the Schaller Gas Light and Fuel Company; and,

WHEREAS in the preparation of the ballots for the election to determine upon the granting of the said franchise separate ballots were not used, but same were printed upon the official ballot for the election of officers of the town, and such ballots recited that said proposed franchise was to be granted to W. R. Brooks instead of the Schaller Gas Light and Fuel Company; and,

WHEREAS after eighteen (18) ballots had been cast at such election, the error in said ballots was discovered and new ballots were prepared and printed in conformity with law, and each of the eighteen (18) voters who had voted such irregular ballots, was given the opportunity to vote anew upon

the question of such franchise, of which privilege sixteen (16) of said voters availed themselves; and,

WHEREAS none of said eighteen (18) votes first cast were counted, and after the preparation and printing of ballots in conformity to law, there was cast for the granting of such franchise seventy-three (73) ballots, and against the granting of such franchise ten (10) ballots; upon which vote the town council declared the franchise granted as set out in the ordinance with reference thereto; and,

WHEREAS after the granting of the said franchise the Schaller Gas Light and Fuel Company did, under and by virtue thereof and in good faith, construct and establish in the said town a plant for furnishing light and heat for the said town and the citizens thereof; and,

WHEREAS on the 20th day of July, 1903, the town council did contract with the said Schaller Gas Light and Fuel company to light the streets of said town for a certain period at a certain agreed and stipulated price, which said contract was renewed on the first day of October, 1903, for a period of one year thereafter, at a regular meeting of said town council; and,

WHEREAS on the 3d day of August, 1903, at a regular meeting, the town council did vote to levy a tax of five (5) mills on all taxable property in said town for the purpose of paying the expense of lighting the streets, which levy was certified by the proper authorities as having been duly made according to law; and,

WHEREAS at the time of making such contract with the Schaller Gas Light and Fuel company, the extension thereof, and the levying of a tax to pay the expense of lighting the streets, one member of the said town council was a stockholder in the Schaller Gas Light and Fuel company, which said member, however, did not vote upon any of the questions; and,

WHEREAS doubts have arisen as to the legality of the proceedings and actions of said town council in receiving and acting upon the application for the franchise by said W. R. Brooks in behalf of the Schaller Gas Light and Fuel company and in adopting the ordinance with reference thereto, and in calling the election thereupon, and in granting the said franchise as hereinbefore set out, and in making the contract between the incorporated town of Schaller and the Schaller Gas Light and Fuel company and making the renewal or extension thereof, and in levying a tax of five (5) mills to pay the expense of lighting the streets under such contract; and,

WHEREAS there is also doubts as to the validity and legality of the election held on the 30th day of March, 1903, upon the question of granting such franchise; and,

WHEREAS there is also doubt as to the validity and legality and binding force of the ordinance granting to the Schaller Gas Light and Fuel company the franchise to establish and maintain its heating and lighting plant, and as to the franchise granted and given by said town to the Schaller Gas Light and Fuel company, and as to the contract for street lighting made and entered into between said town and the Schaller Gas Light and Fuel company, and as to the levy of tax by the said town to pay the expense of lighting its streets; and,

WHEREAS All of said proceedings, transactions and contracts were made and entered into in good faith by all parties thereto, and the said Schaller Gas Light and Fuel Company is now maintaining and operating its heating and lighting plant in the said town, under and by virtue of the franchise granted to it and the contract with reference thereto between the said company and the said town; therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

**SECTION 1. Acts and proceedings legalized—pending litigation.** That all proceedings of the council of the incorporated town of Schaller, Iowa, with reference to the granting of a franchise, adoption of an ordinance

and submitting to a vote the question of a franchise to the Schaller Gas Light and Fuel Company, as set out in the preamble hereto, are hereby legalized and made of the same validity, force and effect as if all the the requirements and provisions of the law applicable thereto had been fully and specifically complied with, and the said election is declared to have the same force, effect and validity as if held in all respects in strict compliance with the provisions of the law with reference thereto, and that the contract made and entered into between the Schaller Gas Light and Fuel Company and the incorporated town of Schaller be, and is hereby declared to be valid and legal, and that the levy of tax by the incorporated town of Schaller, Iowa, to pay the expense of lighting the streets of said town is likewise legalized and declared valid and binding, and that the franchise now held by said Schaller Gas Light and Fuel Company, together with all rights and privileges purported to be granted thereby, is hereby legalized and validated so as to be of the same force and effect as if each and every provision of the statute of the state of Iowa with reference thereto, had been especially and particularly complied with in granting the same, provided, nothing in this act shall in any way affect pending litigation.

**SEC. 2. In effect.** This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Des Moines Register and Leader, a newspaper published in Des Moines, Iowa, and the Schaller Herald, a newspaper published in Schaller, Iowa.

Approved April 12, A. D. 1904.

I hereby certify that the foregoing act was published in the Register and Leader, April 14, 1904, and the Schaller Herald, April 21, 1904.

W. B. MARTIN,  
*Secretary of State.*

## CHAPTER 215.

### THE TOWN OF TITONKA.

H. F. 416.

AN ACT to legalize the incorporation of the town of Titonka, Kossuth county, Iowa, the election of its officers and all acts done and ordinances passed by the council of said town.

WHEREAS, Doubts have arisen as to the legality of the incorporation of the town of Titonka, Kossuth county, Iowa, the election of its officers, and the ordinances and resolutions passed by the town council of said town; therefore,

*Be it enacted by the General Assembly of the State of Iowa:*

**SECTION 1. Incorporation, election, acts and ordinances legalized—pending litigation.** That the incorporation of the town of Titonka, Kossuth county, Iowa, the election of its officers and all official acts done, and the ordinances and resolutions passed by the town council of said town, not in conflict with the laws of Iowa, are hereby legalized and the same are hereby declared to be valid and binding the same as though the law had been in all respects strictly complied with in the incorporation of said town, the election of its officers and official acts done, and the passage of its ordinances and resolutions. But nothing in this act shall in any manner affect any pending litigation.

**SEC. 2. In effect.** This act, being deemed of immediate importance, shall be in force and effect from and after its publication in the Des Moines