

New Zealand.



ANALYSIS.

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1899, No. 28.—Local.

Title.

AN ACT to empower the Mayor, Councillors, and Burgesses of the Borough of Melrose, a Corporation constituted under the Provisions of "The Municipal Corporations Act, 1886," to produce and supply Gas in and for the Borough of Melrose.

[23rd October, 1899.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act is "The Melrose Borough Gas Act, 1899."

Interpretation.

2. In this Act, unless inconsistent with the context,—
 "Council" shall mean the Melrose Borough Council;
 "Borough" shall mean the Borough of Melrose, including any extension thereof to be hereafter made:

“The said Act” shall mean “The Municipal Corporations Act, 1886”:

The word “person” shall include corporations, whether aggregate or sole:

The word “lands” shall include messuages, lands, tenements, and hereditaments:

The words “street” and “road” shall include any street, court, or alley, highway, lane, road, thoroughfare, or public passage or place within the limits of this Act:

The word “month” shall mean calendar month.

3. The Council may construct and maintain works for the manufacture, supply, and distribution of gas, and the manufacture and supply of coke and other products incidental to the manufacture of gas, or to which gas is applicable, and buy and sell any materials requisite for or incidental to the manufacture thereof, and may do all things necessary to light the streets and public places within the limits of this Act with gas, and to supply gas for lighting purposes and for motive-power to the inhabitants thereof, or such of them as the Council may agree to supply.

Power to construct works

4. The Council may open and break up the soil and pavement of the several streets and bridges within the limits of this Act, and may open and break up any sewers, drains, or tunnels within or under any such streets and bridges, and lay down and place within the same limits pipes, conduits, service-pipes, and other works, and from time to time repair, alter, or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the gas; and for the purposes aforesaid may remove and use all earth and material in and under such streets and bridges, and may in such streets erect any pillar-lamps and other works, and do all other acts which the Council shall from time to time deem necessary for supplying gas within the limits aforesaid, doing as little damage and interrupting traffic as little as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

Power to break up streets, &c., and open drains.

5. Provided always that nothing herein shall authorise or empower the Council to lay down or place any pipe or other works into, through, or against any buildings or in any land not dedicated to public use without the consent of the owners and occupiers thereof, except that the Council may at any time enter upon and lay or place any new pipe in the place of any existing pipe in any land wherein any pipe hath been already lawfully laid down or placed by the Council in pursuance of this Act or any other Act of the General Assembly of New Zealand, or in any Act of the Imperial Parliament, and may repair or alter any pipes so laid down.

Not to enter on private grounds without consent.

6. Provided, further, that it shall be lawful for any owner or occupier of any building or land not dedicated to public use, into, through, or against or in which any pipe or other works shall have been laid down or placed with such consent as aforesaid, at any time thereafter, if such owner or occupier shall deem it necessary or expedient, upon giving forty-eight hours' notice in writing to the Council, at his own cost and charges, but under the superintendence

Owners and occupiers of private grounds may alter position of pipes.

of the Council, to alter and vary the position of such pipes or other works and to relay and place the same, so that full compensation be made for any damage done thereby to the Council, or for any hindrance or obstruction which may thereby be occasioned to the lighting of any public or private lamp.

Streets, &c, broken up to be reinstated without delay.

7. When the Council opens or breaks up the road or pavement of any street or bridge, sewer, drain, or tunnel, the Council shall with all reasonable speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the road or pavement, or the bridge, sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times whilst any such road or pavement shall be opened or broken up cause the same to be fenced in and guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement, where the same shall be open or broken up, every night during which the same shall be continued open or broken up from daylight to daylight, and shall keep the road or pavement which has been so opened or broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so opened or broken up shall continue to subside.

A majority of the inhabitants of any district may require the Council to extend their gaspipes.

8. The inhabitants of any district within the limits of this Act may require the Council to extend their gaspipes to any distance within the said limits, being not less than half a mile in a continuous line, if they shall so desire, and a majority of the said inhabitants being ratepayers shall sign a memorial addressed to the Council requiring them to make such extension, and shall show to the satisfaction of two Justices of the Peace that the net profits of the Council to arise from such extension will not be less than fifteen pounds per centum per annum on the cost of such extension as aforesaid and on a reasonable proportion of the cost of all works connected therewith; and such two Justices may, upon being satisfied thereon, make an order requiring the Council to commence and prosecute the works necessary for such extension from a time to be mentioned in such order, and the Council shall from time to time use all due diligence in the prosecution of such works in compliance with such order.

Penalty on Council refusing or neglecting to do so.

9. If the Council shall refuse or neglect to comply with such order, the Council shall forfeit a sum not exceeding five pounds, to be recovered with costs in any Court of competent jurisdiction, for each day during which they shall refuse or neglect to comply with such order, from the time when notice of such neglect or refusal shall have been served on the said Council by any of such inhabitants, being ratepayers as aforesaid, unless it shall appear to such Court that the delay arose from circumstances beyond the control of the Council.

Power of the Council to contract for lighting streets, &c.

10. The Council may from time to time enter into any contract with any person for lighting or supplying with gas any public or private buildings, or for providing any person with pipes, burners, meters, and lamps, and for the repair thereof, or for supplying any person with any products incidental to the manufacture of gas, or for which gas is applicable.

Power of the Council to let meters.

11. The Council may let for hire any meter for ascertaining the quantity of gas consumed or supplied, and any fittings for the

gas, for such remuneration in money as shall be agreed upon between the Council and any person to whom the same may be so let; and such remuneration shall be recoverable in the same manner as the rents or sums due to the Council for gas; and such meters and fittings shall not be subject to distress for rent of the premises where the same may be used, nor to be taken in execution under any process or proceeding of a Court of law or equity or in bankruptcy against the person in whose possession the same may be.

12. The Clerk, Engineer, or other officer duly appointed for the purpose by the Council, may at all reasonable times enter any building or place lighted with gas supplied by the Council in order to inspect the fittings and works for regulating the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time he shall for every such offence forfeit to the Council a sum not exceeding five pounds.

Council may enter buildings for ascertaining quantity of gas consumed.

13. If any person supplied with gas neglect to pay the rent due for the same to the Council, the Council may stop the gas from entering the premises of such person by cutting off the service-pipe, or by such means as the Council shall think fit, and recover the rent due from such person, together with the expense of cutting off the gas and the costs of recovering the rent, by action in any Court of law of competent jurisdiction.

Recovery of rents due for gas.

14. In all cases in which the Council are authorised to cut off and take away the supply of gas from any house, building, or premises under the provisions of this Act, the Council, their agents or workmen, after giving forty-eight hours' previous notice in writing to the occupier, or, if no occupier, then after leaving such notice on any portion of the premises, may enter into any such house, building, or premises between the hours of nine in the forenoon and five in the afternoon and remove and carry away any pipe, meter, fittings, or other works the property of the Council.

Power to take away pipes, &c., when supply of gas is discontinued.

15. Notice to the Council from a consumer for the discontinuance of a supply of gas shall not be of any effect unless it be in writing and be left at the registered office for the time being of the Council.

Consumer to give notice in writing to Council when he intends discontinuing to use gas.

16. Every person who shall lay or cause to be laid any pipe to communicate with any pipe belonging to the Council, without their consent, or shall intentionally injure any such meter as aforesaid, or who, in case the gas supplied by the Council is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the Council, or of larger dimensions than he has contracted or agreed to pay for, or shall keep the lights burning for a longer time than he has contracted or agreed to pay for, or shall otherwise improperly use or burn such gas, or shall supply any other person with any part of the gas supplied to him by the Council, shall forfeit to the Council a sum not exceeding five pounds for every such offence, and also a sum not exceeding forty shillings for every day such pipe shall so remain, or such works or burners shall be so used, or such excess be so committed or continued, or such supply furnished; and the Council may take off the gas from the

Penalty for fraudulently using gas.

house and premises of the person so offending, notwithstanding any contract or agreement which may have been previously entered into.

Notice to be given to Council before meter connected or disconnected, under penalty of £5

17. Before any person connects or disconnects any meter through which any gas of the Council is intended to be or has been registered, he shall give not less than twenty-four hours' notice in writing to the Council of his intention to do so, and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding five pounds.

No remedy against incoming tenant for arrears of gas-rent.

18. In case any consumer of gas supplied by the Council leaves the premises where such gas has been supplied to him without paying the gas-rent or meter-rent due from him, the Council shall not be entitled to require from the next tenant of such premises the arrears left unpaid by the former tenant, if such incoming tenant before he consumes any gas shall have given to the Council twenty-four hours' notice of his intention to consume gas, or unless such incoming tenant has undertaken with the former tenant to pay or exonerate him from the payment of such arrears.

Penalty for wilfully damaging pipes.

19. Every person who shall wilfully disconnect, remove, destroy, break, throw down, or damage any pipe, pillar, plug, post, lamp, or other work of the Council for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the Council, shall for each such offence forfeit to the Council any sum not exceeding five pounds, in addition to the amount of the damage done.

Satisfaction for accidentally damaging pipes.

20. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the Council or under their control, shall pay such sum of money by way of satisfaction to the Council for the damage done, not exceeding ten pounds, as any two Justices shall think reasonable.

Penalty on consumer for wasting gas.

21. Every person supplied with gas by the Council who wilfully suffers any pipe, meter, or other gas-fitting to be out of repair, so that the gas supplied to him is wasted, shall for every such offence forfeit and pay to the Council any sum not exceeding five pounds, over and above the loss which the Council sustained by reason of such waste.

Penalty on Council for escape of gas after notice.

22. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the Council, they shall, immediately after receiving notice thereof in writing, prevent such gas from escaping; and in case the Council shall not, within forty-eight hours next after service of such notice, effectually prevent the gas from escaping, and wholly remove the cause of complaint, they shall for every such offence forfeit to Her Majesty, her heirs and successors, a sum not exceeding five pounds for every day during which the gas shall be suffered to escape after the expiration of forty-eight hours from the service of such notice, unless reasonable cause for such delay be shown to two Justices of the Peace.

Power to examine gaspipes to ascertain cause of contamination of water, if notice be given of the same.

23. For the purpose of ascertaining whether water be fouled by the gas of the Council, the person to whom the water supposed to be fouled shall belong may dig up the ground and examine the pipes, conduits, and works of the Council: Provided that such person, before proceeding so to dig up and examine, shall give forty-eight hours' notice to the Council of the time and place at which such

digging and examination are intended to take place, and shall give the like notice to the persons aforesaid having the control and management of the road, pavement, or place where such digging is to take place, and shall be subject to the like obligation of fencing, guarding, lighting, and reinstating the said road and pavement, and the same penalty for delay or nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the Council.

24. If, upon any such examination, it appears that such water has been fouled by any gas belonging to the Council, the expenses of the digging, examination, fencing, guarding, lighting, and reinstatement of the roads, pavement, or place disturbed in any such examination shall be paid by the Council; but if, upon such examination, it do not so appear, the person causing the examination to be made shall pay all such expenses, and shall also make good to the Council any injury which may be occasioned to the works by such examination.

Expenses to abide result of examination

25. The amount of the expenses of such digging, examination, fencing, guarding, lighting, and reinstatement, and of any injury done to the Council, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are to be ascertained and recovered.

How expenses to be ascertained

26. Nothing contained in this Act shall prevent the Council from being liable to an indictment for nuisance, or to any action or other legal proceeding to which, but for this Act, they would be liable in respect of any nuisance committed by them.

Nothing to exempt from being indicted for a nuisance.

27. The Council may make by-laws and regulations, provided the same shall not be repugnant to this Act, or to any Act of the General Assembly, and may impose any penalty not exceeding the sum of five pounds for the breach of any by-law or regulation of the Council.

Council may make by-laws and regulations.

28. The Council shall publish the short particulars of the several offences for which any penalty is imposed by any by-law of the Council, and of the amount of every such penalty, and shall cause such particulars to be painted on a board to be hung up or affixed on some conspicuous part of the principal place of business of the Council; and, when any of such penalties are of local application, shall cause such board to be fixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and the Council shall renew such particulars as often as the same or any part thereof are obliterated or destroyed, and no such penalty shall be recoverable unless such particulars shall have been published and kept published in the manner hereinbefore required.

Publication of penalties

29. If any person pull down or injure any board put up or affixed as required by this Act for the purpose of publishing any by-law or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalties for defacing board used for such publication.

Penalties, &c., how to be recovered.

30. All fines, penalties, forfeitures, or sums of money which, under or by virtue of this Act, or any by-law or regulation of the Council, are or shall be authorised or directed to be imposed on any person, shall and may be recovered in a summary way before any two Justices of the Peace, in the manner provided by "The Justices of the Peace Act, 1882," so far as the same relates to summary convictions; or by any Act repealing or amending the same, or for the like purposes, or by action at law before a Stipendiary Magistrate.

Penalties to be sued for within six months.

31. No person shall be liable to the payment of any penalty or forfeiture imposed by or by virtue of this Act, or by any by-law made in pursuance thereof, unless the complaint respecting the offence shall have been made before a Stipendiary Magistrate or two Justices of the Peace within six months after the commission thereof.

Damages to be made good, in addition to penalty.

32. If, through any act, neglect, or default on account whereof any person shall have recovered any penalty imposed by this Act, or by virtue of any by-law made in pursuance thereof, any damage to the property of the Council shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty. The amount of such damage shall, in case of dispute, be determined by the Stipendiary Magistrate or two Justices of the Peace by whom the party incurring such penalty shall have been convicted, and shall be leviable by distress and sale as in the case of a judgment by a Stipendiary Magistrate.

Form of conviction.

33. Any conviction for any offence under this Act may be drawn as in the form in the Schedule to this Act annexed.

Conviction not to be quashed for want of form.

34. No proceeding under this Act shall be quashed or vacated for want of form.

Council to have power to contract with Wellington Gas Company, and to delegate powers and authorities.

35. The Council may contract with the Wellington Gas Company (Limited) to construct and maintain works for the manufacture, supply, and distribution of gas, and the manufacture and supply of coke and other products incidental to the manufacture of gas, or to which gas is applicable, and to light the streets and public places within the borough, and to supply gas to the inhabitants of the borough upon and subject to such terms, conditions, and stipulations and agreements as shall from time to time be agreed upon between the Council and the said company; and for such purposes may delegate all or any of the powers, rights, and authorities conferred on the Council by this Act to the Wellington Gas Company (Limited); and upon such delegation being made under the seal of the Council, the Wellington Gas Company shall have, so far as such delegation shall extend, and subject to the terms, conditions, and stipulations of the contract for the time being subsisting between the Council and the said company, all the rights, powers, and authorities of the Council under this Act. The terms, conditions, and stipulations of the contract for the time being subsisting between the Council and the said company shall be valid and binding both on the Council and the said company, and such contract may contain such provisions and agreements as may be agreed upon between the parties thereto for the acquisition and purchase by the Council from the said company of all mains and service-pipes, meters, gasworks, buildings and erections, and land used in connection therewith, belonging to the company, situate within the boundaries of the borough.

36. In the event of the Council entering into a contract with the Wellington Gas Company (Limited), under section thirty-five hereof, the Wellington Gas Company shall have power, subject in each case to the approval of the Wellington City Council, to extend its mains through any reserve now vested in the Wellington City Corporation.

Mains may run through Wellington City reserves.

37. The Council shall have power to purchase and acquire all mains and service-pipes, meters, gasworks, buildings, and erections, and the lands used in connection therewith respectively belonging to the said company, its successors or assigns, within the boundaries of the borough, upon such terms, conditions, stipulations, and agreements as shall be contained in any contract which may be entered into pursuant to section thirty-five of this Act, subject nevertheless to such modifications thereof as may at any time after the making of such contract be mutually agreed upon in writing between the said company, its successors and assigns, and the Council.

Power of Council to purchase undertaking of Wellington Gas Company.

38. Notwithstanding anything to the contrary contained in any Act, it shall be lawful for the Council to borrow any sum or sums of money by way of special loan for the purpose of acquiring or purchasing all mains and service-pipes, meters, gasworks, buildings and erections, and the land used in connection therewith, within the borough, which may belong to the Wellington Gas Company (Limited); or, in the alternative, of constructing gasworks, within the borough; and the acquisition or purchase of all mains, service-pipes, plant, rights, and other property in connection therewith or for the purposes thereof, if three-fifths of the votes actually given upon the taking of any poll required by law to be taken on the proposal to borrow any such sum shall be in favour of such proposal.

Power of Council to borrow.

39. Any poll taken on a proposal to raise any sum of money under section thirty-eight may be taken at polling-booths situate within the borough and at one polling-booth in the City of Wellington, such polling-booths to be at such convenient places in the said borough and city as the Returning Officer shall appoint, anything in subsection three of section one hundred and eighty-one of "The Municipal Corporations Act, 1886," notwithstanding.

Polling-booth.

40. Nothing in this Act contained shall be held to take away from the Council or borough any power to raise money by way of special loan or otherwise that the Council or borough possesses under any general, private, or local Act.

Borrowing-powers not lessened.

SCHEDULE.

Schedule.

PROVINCIAL DISTRICT OF WELLINGTON,
NEW ZEALAND, TO WIT

BE it remembered that on the _____ day of _____, in the year of our Lord one thousand _____ hundred and _____, _____ is convicted before me, a Stipendiary Magistrate [or, before us, two Justices of the Peace for the Colony of New Zealand], for that [*Here describe the offence generally, and the place and time when and where committed*], contrary to "The Melrose Borough Gas Act, 1899"

Given under my hand and seal [or our hands and seals] the day and year first above written

[L s.]

A.B.,
Stipendiary Magistrate
[or Justices of the Peace].