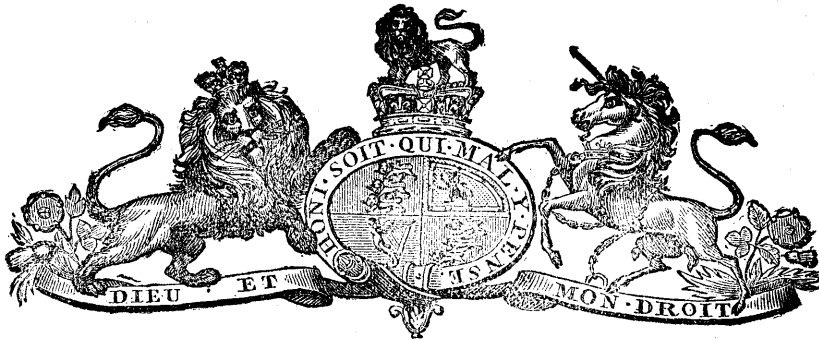


NEW ZEALAND.



TRICESIMO QUINTO

VICTORIÆ REGINÆ.

[Local and Personal.]

No. I.

ANALYSIS.

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AN ACT to authorize "The Auckland Gas Company (Limited)" to break up Streets and Bridges and to lay down and maintain Pipes Conduits and Service-

Title.

Auckland Gas Company.

pipes and to make and construct other Works for supplying the City of Auckland and its Vicinity with Gas. [13th October 1871.]

Preamble.

WHEREAS a Joint Stock Company has been incorporated under the provisions of "The Joint Stock Companies Act 1860" by the name of "The Auckland Gas Company Limited" having for its object the production of gas and the supply thereof within the City of Auckland and its vicinity: And whereas it is expedient that powers should be given to enable the said Company to carry out the object for which it was established:

BE IT THEREFORE 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 shall be "The Auckland Gas Company's Act 1871."

Interpretation.

2. The following words and expressions in this Act shall have the meanings hereby respectively assigned to them unless there be something in the subject or context repugnant to such construction:—

The word "Company" shall mean the Auckland Gas Company (Limited).

The word "lands" shall include messuages lands tenements and hereditaments.

The word "street" shall include any square court or alley highway lane road thoroughfare wharf jetty dock and public passage or place.

The expression "Gasworks" shall mean the gasworks belonging to the said Company and the works connected therewith.

The word "rent" shall include any reward or payment to be made to the said Company for a supply of gas.

The expression "Resident Magistrate" shall also mean two or more Justices of the Peace met and acting together.

Power under
superintendence to
break up streets &c.
and open drains &c.

3. The Company under such superintendence as is hereinafter specified 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 such streets and bridges and lay down and place pipes conduits service-pipes and other works and from time to time repair alter or remove any pipes conduits service-pipes or other works heretofore or hereafter to be laid down or placed 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 materials in and under such streets and bridges and may in such streets erect any pillars lamps and other works and do all other acts which the Company shall from time to time deem necessary for supplying gas within the limits aforesaid doing as little damage as may be in the execution of the powers hereby granted and making compensation for any damage that may be done in the execution of such powers.

Not to enter on
private lands
without consent.

4. Provided always that nothing herein shall authorize or empower the Company 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 or occupiers thereof but the Company may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe hath heretofore been or hereafter may be lawfully laid down or placed by the Company and may repair or alter any pipe or work so laid down and placed.

Auckland Gas Company.

5. 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 which any pipe or other works shall have been laid down or placed with the consent of the owner or occupier thereof for the time being at any time thereafter if such owner or occupier for the time being shall deem it necessary or expedient upon giving forty-eight hours' notice to the Company at his own costs and charges but under the superintendence of the Company to alter and vary the position of such pipe or other works and to relay and replace the same so that full compensation be made for any damage done thereby to the Company or for any hindrance or obstruction which may thereby be occasioned to the lighting of any public or private lamp.

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

6. Before the Company proceed to open or break up any street bridge sewer drain or tunnel the Company shall give to the person under whose control or management the same may be or to their Clerk Surveyor or other officer notice in writing of their intention to open or break up the same not less than forty-eight hours before beginning such work except in cases of emergency arising from defects in any of the pipes or other works and then as soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

Before breaking up streets notice to be given.

7. No street bridge sewer drain or tunnel shall except in cases of emergency be opened or broken up except under the superintendence of the persons aforesaid having the control or management thereof or of the part thereof which may be opened or broken up or of their officer and according to such plans as shall be approved by such person or their officer or in case of any difficulty respecting such plans then according to such plans as shall be determined by a Resident Magistrate and such Resident Magistrate may on the application of the persons having the control or management of any street bridge sewer drain or tunnel or their officer require the Company to make such temporary or other works as such Resident Magistrate may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such street bridge sewer drain or tunnel: Provided always that if the persons having such control or management as aforesaid and their officers fail to attend at the time fixed for the opening or breaking up of any such street bridge sewer drain or tunnel after having had such notice of the Company's intention as aforesaid or shall not propose any plan for breaking up or opening the same or shall refuse or neglect to superintend the operation the Company may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets &c. not to be broken up except under superintendence of persons having control of same.

If persons having control fail to superintend Company may perform the work without them.

8. When the Company open or break up the road or pavement of any street or bridge or any sewer drain or tunnel they shall with all convenient 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 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 so opened or broken up cause the same to be fenced 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 when the same shall be open or broken up every night during which the same shall be continued open or broken up and shall keep the road or pavement which has been so 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 broken up shall continue to subside.

Streets broken up to be reinstated without delay.

9. If the Company open or break up any street or bridge or any sewer drain or tunnel without such notice as aforesaid or in a manner

Penalty for delay in reinstating streets &c.

Auckland Gas Company.

different from that which shall have been approved of or determined as aforesaid or without making such temporary or other works as aforesaid when so required except in the cases in which the Company are hereby authorized to perform such works without any superintendence or notice or if the Company make any unnecessary delay in completing any such work or in filling in the ground or reinstating or making good the road or pavement or the sewer drain or tunnel so opened or broken up or in carrying away the rubbish occasioned thereby or if they neglect to cause the place where such road or pavement has been broken up to be fenced guarded and lighted or neglect to keep the road or pavement in repair for the space of three months next after the same is made good or such further time as aforesaid they shall forfeit to the persons having the control or management of the street bridge sewer drain or tunnel in respect of which such default is made a sum not exceeding five pounds for each day during which any such default delay or omission as aforesaid shall continue after they shall have received notice thereof.

Alteration of pipes
on notice from
Auckland Borough
Council.

10. The Borough Council of the City of Auckland if they deem it necessary to raise sink or otherwise alter the situation of any gas pipes or other works laid in any of the streets may from time to time by notice in writing require the Company to cause forthwith or as soon as conveniently may be any such pipes or works to be raised sunk or otherwise altered in position in such manner as the Council directs: Provided that such alteration be not such as permanently to injure such works or to prevent the gas from flowing as freely and conveniently as before and the expenses attending such raising sinking or altering and full compensation for every damage done thereby shall be paid by the Council as well to the Company as to all other persons.

Auckland Borough
Council may act
on default.

11. If the Company do not proceed forthwith or as soon as conveniently may be after the receipt of such notice to cause the same to be raised sunk or altered in such manner as the Auckland Borough Council require the Council may themselves cause such pipes or works to be raised sunk or altered as they think fit: Provided that such works be not permanently injured thereby or the gas prevented from flowing as freely and conveniently as before.

The majority of the
inhabitants of any
district may require
the Company to
extend their gas pipes.

12. The inhabitants of any district within the limits of this Act may require the Company to extend their gas pipes to any distance within the said limits being not less than one mile in a continuous line if they shall so desire and a majority of the said inhabitants being rate-payers shall sign a memorial addressed to the Company requiring them to make such extensions and shall show to the satisfaction of a Resident Magistrate that the net profits of the Company 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 in a reasonable proportion of the cost of the works connected therewith and such Resident Magistrate may upon being satisfied thereon make an order requiring the Company to commence and prosecute the works necessary for such extension from a time to be mentioned in such order and the Company shall from such time use all due diligence in the prosecution of such works in compliance with the said order.

Penalty on Company
for refusing or neglect-
ing to do so.

13. If the Company shall refuse or neglect to comply with such order the Company shall forfeit a sum not exceeding five pounds to be recoverable 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 Company 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 Company.

Auckland Gas Company.

14. If any such delay or omission as aforesaid take place the persons having the control or management of the street bridge sewer drain or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed and the expense of executing the same shall be repaid to such persons by the Company and such expenses may be recovered in the same manner as damages are recovered by an action or plaint in any Court of Law of competent jurisdiction.

In cases of delay persons having control &c. may reinstate and recover expenses.

15. The Company may from time to time enter into any contract with any person for lighting or supplying with gas any public or private buildings or providing any person with pipes burners meters and lamps and for the repairs thereof and may also from time to time enter into any contract with the persons having the control of any streets for lighting the same or any of them with gas and providing such persons with lamps lamp posts burners and pipes for such purpose and for the repairs thereof in such manner upon such terms as shall be agreed on between the Company and the said persons.

Power of Company to contract for lighting.

16. The Company 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 on between the Company 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 Company for gas and such meters and fittings shall not be subject to distress for rent of the premises wherein the same may be used nor to be taken in execution of any process of a Court of Law or Equity or in Bankruptcy against the person in whose possession the same may be.

Company may let meters.

17. The Clerk Engineer or other person duly appointed for the purpose by the Company may at all reasonable times enter any building or place lighted with gas supplied by the Company in order to inspect the meters 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 hinders such officer or person as aforesaid from entering and making inspection as aforesaid at any reasonable time he shall for every such offence forfeit to the Company a sum not exceeding five pounds.

Officers of Company may enter buildings for ascertaining quantities of gas consumed.

18. If any person supplied with gas by the Company neglect to pay the rent due for the same the Company may stop the gas from entering the premises of such person by cutting off the main pipe or by such measures as the Company shall think fit and may recover the rent due from such person together with the expense of cutting off the gas and the cost of recovering the rent by action in any Court of competent jurisdiction.

Recovery of rent due for gas.

19. Notice to the Company 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 Company.

Notice of discontinuance.

20. In all cases in which the Company are authorized to cut off and take away the supply of gas from any house or building or premises under the provisions of this Act the Company their agents or workmen after giving twenty-four hours' previous notice to the occupier may enter into any such house building or premises between the hours of nine in the forenoon and four in the afternoon and remove and carry away any pipe meter fittings or other works the property of the Company.

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

21. Every person who shall lay or cause to be laid any pipe to communicate with any pipe belonging to the Company without their consent or shall fraudulently alter or injure any such meter as aforesaid or part thereof or shall fraudulently wilfully or knowingly prevent such

Penalty for fraudulently using the gas of the Company.

Auckland Gas Company.

meter from duly registering the quantity of gas supplied or who in case the gas supplied by the Company is not ascertained by meter shall use any burner other than such as has been provided or approved of by the Company or of larger dimensions than he has contracted to pay for or shall keep the lights burning for a longer time than he has contracted to pay for or who 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 Company shall forfeit to the Company the sum of five pounds for every such offence and also the sum of forty shillings for every day such pipe shall so remain or such burner shall be so used or such excess be so committed or continued or such supply furnished and the Company may take off the gas from the house and premises of the persons so offending notwithstanding any contract which may have been previously entered into.

Notice to Company of intended connection or disconnection of meter.

22. Before any person connects or disconnects any meter through which any of the gas of the Company is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Company 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.

Incoming tenant consuming gas without notice liable for arrears.

23. When any consumer leaves the premises where gas has been supplied to him without paying to the Company the gas rent due from him the Company shall be entitled to require from the next tenant payment of the arrears accruing since meter shall have been last taken by the Company and left unpaid by the former tenant if such next tenant shall consume any gas of the Company without having first given to the Company twenty-four hours' notice of his intention to do so and if such notice shall be given such incoming tenant shall not be liable for such arrears as aforesaid.

Penalty for wilfully damaging pipes.

24. Every person who shall wilfully disconnect remove destroy or damage any pipe pillar post plug lamp or other work of the Company 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 Company shall for every such offence forfeit to the Company any sum not exceeding five pounds in addition to the amount of damage done.

Satisfaction for accidentally damaging pipes.

25. Every person who shall carelessly or accidentally break throw down or damage any pipe pillar post plug or lamp belonging to the Company or under their control shall pay such sum of money by way of satisfaction to the Company for the damage done not exceeding ten pounds as any Resident Magistrate shall deem reasonable.

Penalty for suffering pipes &c. to be out of repair.

26. Every person supplied with gas by the Company 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 Company any sum not exceeding five pounds over and above the loss which the Company sustain by reason of such waste.

Penalty on Company for causing water to be corrupted.

27. If the Company shall at any time suffer or cause to be brought or to flow into any public river stream reservoir well pond or place for water or into any public drain communicating therewith any washing or other substance produced in making or supplying gas or shall wilfully do any act connected with the making or supply of gas whereby the water in any such river stream reservoir well pond or place for water shall be fouled the Company shall forfeit to the persons having the ownership control or management thereof a sum not exceeding two hundred pounds to be recoverable with full costs of suit in any Court of competent jurisdiction and to be assessed on the principle of covering the reasonable expenses of restoring and making free from pollution the river stream reservoir well pond or place for water or drain into

Auckland Gas Company.

which such washing or other substance shall be brought or flow or which shall be fouled as aforesaid. But such penalty shall not be recoverable unless it be sued for during the continuance of the offence or within six months after it shall have ceased to exist.

28. In addition to any sum which may be recovered as aforesaid and whether any sum shall have been recovered or not the Company shall forfeit the sum of ten pounds to be recoverable with costs in any Court of competent jurisdiction for each day during which such washing or other substance shall be brought or flow as aforesaid or the act by which such water shall be fouled shall continue after the expiration of forty-eight hours from the time when notice of the offence shall have been served on the Company by any person having the ownership or control of the water aforesaid or being the owner of the banks along which such river or stream as last aforesaid shall flow.

Daily penalty during the continuance of offence.

29. It shall be lawful for the Surveyor or any other person authorized by the Borough Council of the City of Auckland or any person having municipal powers within the said city at any time or times in the day-time after having given twenty-four hours' notice to the Company to enter into any manufactory gasometer receiver or other building belonging to the Company in order to inspect and examine if there be any escape of gas or any washing or other substance produced in the making or supplying of gas into any river stream public sewer or drain well reservoir pond or place for water and if such Surveyor or other person having given such notice as aforesaid be refused admittance into any such manufactory gasometer receiver or other building or be prevented from or obstructed in making such inspection or examination as aforesaid the Company shall forfeit and pay for every such offence the sum of five pounds to be recoverable with costs by the said Borough Council before any Resident Magistrate.

Surveyors &c. of Borough Council may enter and inspect gasworks to ascertain origin of nuisance.

30. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the Company they shall immediately after receiving notice thereof in writing prevent such gas from escaping and in case the Company 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 a penalty not exceeding five pounds for each 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 the Resident Magistrate before whom such penalty is sought to be recovered.

Penalty for permitting escape of gas after notice.

31. For the purpose of ascertaining whether water be fouled by the gas of the Company 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 Company: Provided that such person before proceeding to dig and examine shall give forty-eight hours' notice in writing to the Company of the time and place at which such digging and examination is intended to take place and shall give the like notice to the persons having the control or 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 penalties for delay or any nonfeasance or misfeasance therein as are hereinbefore provided with respect to roads and pavements broken up by the Company.

Power after notice to examine gas pipes to ascertain cause of contamination of water.

32. If upon any such examination it appears that such water has been fouled by any gas belonging to the Company the expenses of the digging examination fencing guarding lighting and reinstating of the street road pavement or place disturbed in any such examination shall be paid by the Company but if upon such examination it do not so

Expenses to abide result of examination.

Auckland Gas Company.

appear the person causing the examination to be made shall pay all such expenses to the Company and shall also make good to the Company any injury which may be occasioned to the works by such examination.

How expenses to be ascertained.

33. The amount of expense of any such digging examination fencing guarding lighting and reinstatement and of any injury done to the Company 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.

Company not exempt from indictment for nuisance.

34. Nothing in this Act contained shall prevent the Company from being liable to an indictment for nuisance or any other legal processes to which they may be liable in consequence of making or supplying gas.

Directors of Company may make by-laws and impose penalties.

35. The Directors of the Company may make by-laws and regulations for the management of the Company and its concerns: Provided the same shall not be repugnant to this Act or to "The Municipal Corporation Act 1867" or to any by-law or regulation which may have been or hereafter may be made thereunder or to any Road Board Act of the General Assembly or of the Provincial Council of the Province of Auckland or to any by-law or regulation which may now or hereafter be made thereunder respectively and may impose any penalty not exceeding the sum of five pounds for the breach of any by-law or regulation of the Company.

Publication of penalties.

36. The Company shall publish the short particulars of the several offences for which any penalty is imposed by this Act or by any by-law of the Company affecting other persons than the shareholders officers or servants of the Company 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 Company and the Company shall renew such particulars as often as the same or any part thereof is obliterated or destroyed and that no such penalty shall be recoverable unless such particulars shall have been published and kept published in the manner hereinbefore required.

Penalty for defacing boards used for publication.

37. If any person pull down or injure any board put up or affixed as required by this Act for the purpose of publishing any 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 cost attending the restoration of such board.

Penalties &c. how to be recovered.

38. Except in cases hereinbefore specially provided for all fines and penalties forfeitures or sums of money which under or by virtue of this Act or any by-law or regulation of the Company are or shall be authorized or ordered to be imposed on any person shall or may be recovered in a summary way before any Resident Magistrate in accordance with the law for the time being in force in reference to summary convictions.

Penalties to be sued for within six months.

39. 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 Resident Magistrate within six months after the commission thereof.

Damages to be made good in addition to penalty.

40. If through any act neglect or default on account whereof any person shall have recovered any penalty imposed by or by virtue of any by-law made in pursuance thereof any damage to the property of the Company 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 Resident

Auckland Gas Company.

Magistrate 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 Resident Magistrate.

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

42. No proceeding under this Act shall be quashed or vacated for want of form. Proceedings not to be quashed for want of form.

43. The Company shall at all times after the expiration of six months from the passing of this Act keep at their registered office a copy of this Act printed under the authority of the Government of New Zealand and shall also within the said space of six months deposit in the office of the Registrar of the Supreme Court of New Zealand in Auckland and in the office of the Clerk of the Resident Magistrate's Court in Auckland and in the office of the Borough Council of the City of Auckland copies of this Act and all persons interested shall be permitted to inspect the copies so to be supplied and kept at all reasonable times of the day and shall be furnished with copies thereof or extracts therefrom upon payment of one shilling for every such inspection and sixpence for every folio of seventy-two words thereof copied or extracted. Copies of this Act to be kept by Company in their office and deposited in Supreme Court &c.

44. In case the Company shall fail to keep any copy of this Act or shall not permit any person interested to inspect the same or shall fail to furnish copies thereof or extracts therefrom at any reasonable hours of the day upon such payment as aforesaid such Company shall for every such offence forfeit and pay the sum of five pounds to be recovered with costs in a summary way by such person interested. Penalty on failure to keep or deposit copies of Act.

45. The profits of the undertaking to be divided amongst the shareholders shall not exceed twenty pounds per centum per annum on the paid-up capital of the Company unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate and if it shall appear that the profits of the Company are sufficient to pay a larger dividend than that above specified then the Company shall make a rateable reduction in the price of gas to be furnished by them so that such rates when reduced shall insure to the shareholders a profit as near as may be to the prescribed rate. Rateable reduction in the price of gas when profits exceed 20 per cent.

46. This Act shall extend to and include the City of Auckland and such parts of the suburbs and vicinity thereof as lie within a radius of ten miles from a centre at the Post Office Shortland Street Auckland. Limits of Act.

SCHEDULE.

Schedule.

Province of Auckland }
New Zealand to wit. }

BE it remembered that on the day of in the year of our Lord one thousand eight hundred and seventy is convicted before me a Resident Magistrate [or before us two Justices of the Peace for the Colony of New Zealand] for that [Here describe offence generally and the place and time and when and where committed] contrary to "The Auckland Gas Act 1871."

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

Resident Magistrate.
[Justices of the Peace.]

WELLINGTON, NEW ZEALAND :

Printed under the authority of the New Zealand Government, by GEORGE DIDSBUY, Government Printer.