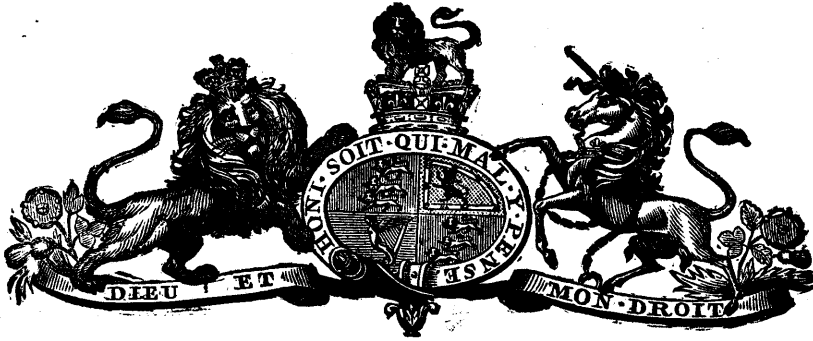


NEW ZEALAND.



TRICESIMO NONO

VICTORIÆ REGINÆ.

[Local and Personal.]

No. III.

ANALYSIS.

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Napier Gas Company.

Title.

AN ACT to enable "The Napier Gas Company Limited" to supply the Town of Napier with Gas.

[12th October, 1875.]

Preamble.

WHEREAS a Joint Stock Company has been incorporated under the provisions of "The Joint Stock Companies Act, 1860," by the name of "The Napier Gas Company Limited," having for its object, amongst other things, the manufacturing and producing of inflammable air or gas from coal or other material, and the supplying of the same to the Town of Napier, and for lighting the same town, or for any other purpose to which such air or gas is or shall be applicable: And whereas it is expedient that provisions should be made for authorizing the said Company to supply the said Town of Napier and the inhabitants thereof with gas and for other purposes relating thereto, and to the objects for which the said Company has been 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 Napier Gas Company's Act 1875."

Interpretation.

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

The word "Company," shall mean the Napier Gas Company Limited.

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

The word "street," shall include any street court or alley highway lane road thoroughfare or public passage or place, within the limits mentioned in this Act.

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

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

The expression "two Justices," shall mean two or more Justices, met and acting together, or a Resident Magistrate.

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

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 the Town of Napier, and may open and break up any sewers drains or tunnels within or under 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 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 and interrupting traffic as little as may be in the exercise of the powers hereby granted, and making compensation for any damage to the person or persons affected thereby.

4. Provided always that nothing herein shall authorize or em-

Not to enter on private land without consent.

Napier Gas Company.

power the Company to lay down or place any pipe or other works into through or against any building or on any land not dedicated to public use without the consent of the owners and 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 shall thereinbefore have been lawfully laid down or placed by the Company, and may repair or alter any pipe so laid down.

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 owners and occupiers thereof for the time being, at any time thereafter, if such owner or occupier shall deem it necessary or expedient, upon giving forty-eight hours' notice to the Company, at his own cost 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 private or public lamp.

Owners and occupiers of private grounds 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, except in cases of emergency, give to the Corporation of the Town of Napier or other body corporate, or person under whose control and management the portion so opened and broken up may be, or to their surveyor or other officer, notice in writing of the intention of the Company to open or break up the same not less than forty-eight hours before such works shall be begun.

Notice to be served on persons having control &c. before breaking up streets or opening drains.

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 said Corporation or other body corporate or person, and according to such plan as may be approved of by such Corporation or other body corporate as aforesaid, or in case of any difference respecting such plan then according to such plan as shall be determined by two Justices, and such notices may, on the application of the said Corporation or other body corporate or person as aforesaid, require the Company to make such temporary or other works as such Justices may think necessary for guarding against any interruption of the traffic or drainage during the execution of any works which interfere with any such street bridge sewer drain or tunnel: Provided always that if the said Corporation or other body corporate or person as aforesaid fail to attend at the time and place mentioned in such notice for the opening or breaking up of any such street bridge sewer drain or tunnel, or shall not give notice of any objection to the 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 Corporation or other body corporate or person.

Streets or drains not to be broken up except under superintendence of persons having control of same.

If persons having control of same fail to superintend, the Company may perform the work.

8. When the Company shall have opened or broken up the road or pavement of any street or bridge or any sewer drain or tunnel, the Company shall with all reasonable speed complete the work for which the same shall have been opened or 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 where the same shall be opened or broken up every night during which the same shall remain open or broken up from daylight to daylight, and shall

Streets &c. broken to be reinstated without delay.

Napier Gas Company.

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.

9. If the Company open or break up any street or bridge or any sewer drain or tunnel without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined 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 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 delay or omission 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.

10. If any such delay or omission as aforesaid take place, the persons having the control and 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 recoverable by an action or plaint in any Court of law of competent jurisdiction.

11. The Borough Council of the Town of Napier, 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.

12. 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 Napier 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.

13. 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 for providing any person with pipes burners meters and lamps, and for the repair thereof and may also from time to time enter into any contract with the said Corporation, or other body corporate or person having the control of any of the streets within the limits aforesaid, for lighting the same, or any of them with gas, and for providing such Corporation or other body corporate or person with lamps lamp posts burners and pipes for such purpose, and for the repair thereof, in such manner and upon such terms as shall be agreed upon between the Company and the said Corporation or other body corporate or person.

Penalty for delay
in reinstating
streets &c.

In case of delay
other parties may
reinstating and recover
the expenses.

Alteration of pipes
on notice from
Napier Borough
Council.

Napier Borough
Council may act
on default.

Power of the Com-
pany to contract for
lighting streets &c.

Napier Gas Company.

14. 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 upon 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 where the same may be used, nor 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.

Power of the Company to let meters.

Meters not liable to distraint for rent.

15. The clerk engineer or other officer duly appointed for the purpose by the Company may, with any police constable for the time being on duty whom he may require to accompany him, at all reasonable times enter any building or place supplied by the Company with gas 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 hinder such officers as aforesaid from entering and making such inspection as aforesaid at any reasonable time he shall for every such offence forfeit to the Company a sum not exceeding five pounds.

Company may enter buildings for ascertaining quantities of gas consumed.

16. If any person whose premises may be supplied with gas neglects to pay the rent due for the same to the Company, the Company may stop the gas from entering the premises of such person by cutting off the service pipe, or by such means as the Company may think fit, and recover the rent due from such person, together with the expenses of cutting off the gas and costs of recovering the rent, by action in any Court of law of competent jurisdiction.

Recovery of rents due for gas.

17. In all cases in which the Company are authorized to cut off and take away the supply of gas from any house building or premises under the provisions of this Act, the Company 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, with any police constable for the time being on duty who may be required to accompany them, 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.

18. 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, or at the office of the Company's manager at the Company's works at Napier.

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

19. 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 maliciously injure any such meter as aforesaid, 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 that 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 works or burner shall be so used, or such excess be so committed or continued, or such supply furnished, and the Company may cut off the supply of gas from the house and premises of the person so offending notwithstanding any contract which may have been previously entered into.

Penalty for fraudulently using the gas of the Company.

20. Before any person connects or disconnects any meter through

Notice to be given

Napier Gas Company.

to Company before meter connected or disconnected under penalty of £5.

If consumer leaves premises without giving notice to Company, next tenant liable for amount due if he use gas without first giving notice.

Penalty for wilfully damaging pipes.

Satisfaction for accidentally damaging pipes.

Penalty on Company for causing water to be corrupted.

Daily penalty during the continuance of the offence.

Power to enter and inspect gasworks to ascertain origin of nuisance.

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.

21. 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 the 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.

22. 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 each such offence, forfeit to the Company any sum not exceeding five pounds in addition to the amount of the damage done.

23. Every person who shall carelessly or accidentally break throw down or damage any pipe pillar 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 two Justices shall think reasonable.

24. If the Company shall at any time cause or suffer to be brought or to flow into the harbour, or 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 do any act connected with the making or supplying of gas whereby the water in any such harbour river stream reservoir well pond or place for water shall be fouled, the Company shall forfeit to any person or corporate body having the ownership or control of the waters into which such washing or other substance shall be brought or flow, or which shall be so fouled as aforesaid, for every such offence 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 harbour river stream reservoir well pond or place for water or drain into 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.

25. 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 or corporate body 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.

26. It shall be lawful for the surveyor of, or any other person acting by or under the authority of the Corporation of the Town of Napier, or any other body corporate having or exercising municipal powers within the said town, at any time or times in the daytime after having given forty-eight hours' notice to the Company, to enter into

Napier Gas Company.

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 supply of gas, into any harbour 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 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 Corporation or other body corporate before two Justices.

27. 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 consumer for wasting gas.

28. 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 the sum of 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 two Justices of the Peace.

Penalty on Company during escape of gas after notice.

29. 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 so 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 person aforesaid 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 to examine gas pipes to ascertain cause of contamination of water if notice be given of same.

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

Expenses to abide result of examination.

31. The amount of the expenses of every 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.

How expenses to be ascertained.

32. Nothing in this Act contained shall prevent the Company 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 in this Act to exempt Company from being indicted for a nuisance.

Napier Gas Company.

Publication of penalties.

33. The Company shall publish the short particulars of the several offences for which any penalty is imposed by this Act 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 shall be obliterated or destroyed, and no such penalty shall be recoverable unless such shall have been published and kept published in the manner hereinbefore required.

Penalty for defacing boards used for such publications.

34. 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 &c. how to be recovered.

35. All fines penalties forfeitures or sums of money which under or by virtue of this Act are or shall be authorized 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, 1866," so far as the same relates to summary proceedings, or by any Act repealing or amending the same or for like purposes.

Penalties to be sued for within six months.

36. No person shall be liable to the payment of any penalty or forfeiture imposed by or by virtue of this Act unless the complaint respecting such offence shall have been made before such two Justices within six months next after the commission of such offence.

Damage to be made good in addition to penalty.

37. If through any act neglect or default on account whereof any person shall have incurred any penalty imposed by or by virtue of this Act, 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, and the amount of such damage shall in case of dispute be determined by the Justices by whom the party incurring such penalty shall have been convicted, and shall be leviable by distress and sale as in the case of judgments by two Justices.

Form of conviction.

38. The Justices before whom any person shall be convicted of any offence against this Act may cause the conviction to be drawn up according to the form in the Schedule to this Act annexed.

Schedule.

39. No proceeding in pursuance of this Act shall be quashed or vacated for want of form.

Proceedings not to be quashed for want of form.

Copy of special Act to be kept by Company in their office and deposited.

40. The Company shall at all times after the expiration of six months from the passing of this Act, or of any future Act amending or repealing the same or otherwise empowering the Company, keep in their principal office of business a copy of this Act and of such future Act printed under the authority of the Government of New Zealand, and shall also within the space of such six months deposit in the office of the Registrar of the Supreme Court of New Zealand, in the Napier district thereof, and in the office of the Clerk to the Bench of the Resident Magistrate for the Town of Napier in the said district, and in the office of the Corporation or other Municipal Corporation of the Town of Napier, a copy of this Act, and of such future Act so printed as aforesaid, and the said Company shall permit all persons interested to inspect the same, and shall furnish copies thereof or extracts therefrom at all reasonable hours in the day upon payment of one shilling.

Penalty on failure to keep or deposit such copies.

41. In case the Company shall fail to keep any copy of this Act or of any future Act as aforesaid, or shall not permit any person interested to inspect the same or to furnish copies thereof or extracts therefrom at any reasonable hour in the day upon such payment as aforesaid, such Company shall for every such offence forfeit and pay the

Napier Gas Company.

sum of five pounds, to be recovered with costs in a summary way before two Justices of the Peace by such interested person.

42. 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.
Schedule.

SCHEDULE.

Schedule.

PROVINCE OF HAWKE'S BAY, NEW ZEALAND, TO WIT.

BE it remembered that on the day of in the year of our Lord one thousand eight hundred and is convicted before two of Her Majesty's Justices of the Peace for the Colony of New Zealand [*or* before Resident Magistrate] for that contrary to "The Napier Gas Company's Act"

Given under our hands and seals the day and year first above written.

(L.S.)
(L.S.)

WELLINGTON, NEW ZEALAND:

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