



ANALYSIS

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1958, No. 3—*Private*

An Act to enable the Hastings Gas Company Limited to supply the City of Hastings and the immediately surrounding district with gas [25 September 1958]

WHEREAS a public company has been incorporated under the provisions of the Companies Act 1933 under the name of the Hastings Gas Company Limited, having for its objects, amongst other things, first, the acquisition of the gas works and holder at Hastings, together with the freehold land whereon the same are situated, and the mains, services, and meters and certain other assets at the thirty-first day of July, nineteen hundred and fifty-four, used by the Napier Gas Company Limited in making and supplying gas in Hastings and the surrounding district, and, secondly, the manufacturing and supplying of gas to the City of Hastings and the surrounding district: And whereas by an agreement bearing date the fifteenth day of March, nineteen hundred and fifty-four, as amended by an agreement bearing date the eighteenth day of August, nineteen hundred and fifty-four, the Hastings Gas Company Limited purchased from the Napier Gas Company Limited the gas-manufacturing plant and the land whereon the same is situated: And whereas it is expedient that provision should be made for authorising the Hastings Gas Company Limited to supply the City of Hastings and the surrounding district 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:

1. Short Title—This Act may be cited as the Hastings Gas Company Act 1958.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Company” means the Hastings Gas Company Limited:

“Council” means the Hastings City Council:

“Rent” includes any reward or payment to be made to the company for a supply of gas:

“Street” includes any street, court, alley, highway, lane, road, thoroughfare, or public passage or place within the limits mentioned in this Act:

“The surrounding district” means all lands outside the City of Hastings lying within a radius of ten miles from the north-eastern corner of Section No. 220, South Hastings, but not including any land lying to the north of the Ngaruroro River.

3. Power to break up streets, etc., under superintendence, and open drains—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 City of Hastings and the surrounding district, 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 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. Company not to enter on private land without consent—Nothing in this Act shall authorise or empower 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 at any time previously have been lawfully laid down or placed by the company or by the Napier Gas Company Limited and repair or alter any pipe so laid down:

Provided that nothing in this section shall authorise the company to enter upon or to execute any work upon or affecting any railway work or railway land except with the previous consent and approval of the Minister of Railways who, in giving his consent and approval as aforesaid, may impose such conditions as he thinks fit for the protection and safety and generally in the interests of the railway.

5. Owners and occupiers of private grounds may alter position of pipes—Notwithstanding anything in this Act, 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 have been laid down or placed, whether before or after the passing of this Act, 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, on 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 supply of gas for any private or public use.

6. Notice to be served on persons having control, etc., before breaking up streets or opening drains—Before the company proceeds to open or break up any street, bridge, sewer, drain, or tunnel the company shall, except in cases of emergency, give to the Hastings City Council, or to such other local authority as may have the control and management of the portion so opened and broken up, or to their engineer or other officer, notice in writing of the intention of the company to open or break up that portion not less than forty-eight hours before the work is begun.

7. Streets or drains not to be broken up except under superintendence of persons having control of same. Power of company to perform work on failure to superintend—No street, bridge, sewer, drain, or tunnel shall, except in cases of emergency, be opened or broken up except under the superintendence of the Council or such other local authority as aforesaid, as the case may require, and according to such plan as may be approved of by the Council or such other local authority or, in case of any difference respecting any such plan, then according to such plan as shall be determined by a Magistrate's Court on the application of either party; and such notice may on the application of the Council or other local authority require the company to carry out such temporary or other works as the Magistrate thinks 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 that if such Council or other local authority as aforesaid fails to attend, by its officer or employee, 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 does not give notice of any objection to the plan for breaking up or opening the same, or refuses or neglects to superintend the operation, the company may perform the work specified in such notice without such superintendence as aforesaid.

8. Streets, etc., broken up to be reinstated without delay—When the company opens or breaks 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 is 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 while any such road or pavement is so opened or broken up cause it to be fenced and guarded, and shall cause a light sufficient for the warning of persons to be set up and maintained against or near such road or pavement where it is opened or broken up every night during which it remains 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 continues to subside.

9. Penalty for delay in reinstating street, etc.—If the company opens or breaks 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 is approved of or determined as aforesaid when so required, except in the cases in which the company is hereby authorised to perform such works without any superintendence or notice, or if without reasonable cause the company makes 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 it neglects to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or if without reasonable cause it fails

to keep the road or pavement in repair for the space of three months next after it is made good, or such further time as aforesaid, the company commits an offence and shall be liable to a fine not exceeding five pounds for each day during which any such default, delay, or omission as aforesaid has continued.

10. In case of delay other parties may reinstate and recover expenses—If any such delay or omission as aforesaid takes place, the Council or, as the case may be, the other local authority having the control and management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission takes place may cause the work so delayed or omitted to be executed; and the expense of executing the work shall be repaid by the company to the person or body on whose behalf it is done and may be recovered as a debt due by the company.

11. Alteration of pipes on notice from Hastings City Council or other local authority—(1) The Hastings City Council, or any other local authority having jurisdiction within the limits aforesaid, if it deems it necessary to raise, sink, or otherwise alter the situation of any gas pipes or other works laid in any of the streets or roads, may from time to time by notice in writing require the company to forthwith or as soon as conveniently may be cause any such pipes or works to be raised, sunk, or otherwise altered in position in such manner as the Council or local authority directs:

Provided that such alteration shall not be such as to injure the pipes or works permanently or to prevent the gas from flowing as freely and conveniently as before.

(2) The expenses of such raising, sinking, or altering, and full compensation for all damage done thereby, shall be paid by the Council or local authority as well to the company as to all other persons entitled thereto, but nothing in this section shall require any payment by the National Roads Board in respect of the raising, sinking, or altering of any pipes or works.

12. Hastings City Council or other local authority may act on default—If the company does not proceed forthwith or as soon as conveniently may be after the receipt of such notice to cause the pipes or works to be raised, sunk, or altered in such manner as the Council or other local authority requires,

the Council or local authority may itself cause the pipes or works to be raised, sunk, or altered as it thinks fit:

Provided that the pipes or works shall not be permanently injured thereby or the gas prevented from flowing as freely and conveniently as before.

13. Power of company to contract for supplying gas—The company may from time to time enter into any contract with any person for supplying with gas any public or private buildings or for providing any persons with pipes, burners, meters, and any kind of appliance which may be operated by gas, and for the repair thereof.

14. Power of company to let meters. Meters not liable to distress for rent—(1) 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.

(2) Such meters and fittings shall not be subject to distress for rent of the premises where they may be used nor be taken in execution under any process or proceeding of any Court or in bankruptcy against the person in whose possession they may be.

15. Company may enter buildings for ascertaining quantities of gas consumed—(1) The clerk, engineer, or other officer duly appointed for the purpose by the company may 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.

(2) If any person hinders any such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time he commits an offence and shall be liable to a fine not exceeding five pounds.

16. Recovery of rents due for gas—If any person whose premises are supplied with gas neglects to pay the rent due for the same to the company, the company may stop the gas from entering those premises by cutting off the service pipe or by such means as the company thinks fit, and may 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 competent jurisdiction.

17. Power to take away pipes, etc., when supply of gas discontinued—In all cases in which the company is authorised to cut off and take away the supply of gas from any house, building, or premises under the provisions of this Act, the company, by its agents or workmen, after giving forty-eight hours' previous notice in writing to the occupier, or if there is 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 four in the afternoon and remove and carry away any pipe, meter, fittings, appliances, or other works belonging to the company.

18. Consumer to give notice to company in writing when he intends discontinuing use of gas—Notice to the company from a consumer for the discontinuance of a supply of gas shall not be of any effect unless it is in writing and is 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 Hastings.

19. Offences—(1) Every person who—

- (a) Lays or causes to be laid any pipe to communicate with any pipe belonging to the company without the company's consent; or
- (b) Maliciously injures any meter, pipes, fittings, or appliances belonging to the company; or
- (c) Where the gas supplied by the company is not ascertained by meter, uses 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
- (d) Otherwise improperly uses or burns such gas; or
- (e) Furnishes any other person with any part of the gas supplied to him by the company; or
- (f) Wilfully suffers any pipe, meter, or other gas fitting to be out of repair so that the gas supplied to him is wasted,—

commits an offence and shall be liable to a fine not exceeding five pounds, and, if the offence is a continuing one, to a further fine not exceeding two pounds for every day or part of a day during which the offence has continued.

(2) Where any person is convicted of an offence under this section the company may cut off the supply of gas from the house and premises of the persons so offending, notwithstanding any contract which may have been previously entered into.

20. Notice to be given to company before meter connected or disconnected—(1) 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.

(2) Every person who fails to comply with this section commits an offence and shall be liable to a fine not exceeding five pounds.

21. Liability of incoming tenants in certain cases—If any consumer of gas supplied by the company leaves the premises where gas has been supplied to him without paying to the company the gas rent due from him, and if the next tenant of the premises uses any gas of the company without having first given to the company twenty-four hours' notice of his intention to do so, in accordance with section seven of the Gas Supply Act 1908, the company shall be entitled to require from such next tenant payment of the arrears accruing since the meter was last read by the company and left unpaid by the former tenant.

22. Penalty for wilfully damaging pipes, etc.—Every person who wilfully disconnects, removes, destroys, or damages any pipe, meter, plug, appliance, or other work of the company for supplying gas, or who wilfully wastes or improperly uses any of the gas supplied by the company, commits an offence and shall be liable to a fine not exceeding five pounds.

23. Power to enter and inspect gasworks to ascertain origin of nuisance—It shall be lawful for the engineer of or any other person acting by or under the authority of the Council or any other local authority having or exercising municipal powers within the limits of this Act at any time or times in the daytime, after having given forty-eight 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 is any escape of gas or any washing or other substance produced in the making or

supply of gas into any river, stream, public sewer, or drain, well, reservoir, pond, or place for water; and if such engineer or other person having given notice as aforesaid is refused admittance into such manufactory, gasometer, receiver, or other building or is prevented from or obstructed in making such inspection or examination as aforesaid the company shall be deemed to have committed an offence and shall be liable to a fine not exceeding five pounds.

24. Penalty on company during escape of gas after notice—

(1) Whenever any gas escapes from any pipe laid down or set up by or belonging to the company it shall, immediately after receiving notice thereof in writing, prevent such gas from escaping.

(2) If the company does not, within forty-eight hours after the service of such notice on it, effectually prevent the gas from escaping and wholly remove the cause of complaint, it shall be deemed to have committed an offence and shall be liable to a fine not exceeding five pounds for every day during which the gas is suffered to escape after the expiration of forty-eight hours from the service of such notice, unless reasonable cause for such delay is shown to the Court.

25. Power to examine gas pipes to ascertain cause of contamination of water—For the purpose of ascertaining whether water is fouled by the gas of the company the person to whom the water supposed to be fouled belongs 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.

26. Expenses to abide result of examination—(1) If on 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 on such examination it does 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.

(2) 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.

27. Act not to affect other liabilities of company—Nothing in this Act shall prevent the company from being liable to an indictment for nuisance or to any action or legal proceeding to which but for this Act it would be liable in respect of any nuisance committed by it.

28. Offences punishable on summary conviction—Every offence against this Act shall be punishable on summary conviction before a Magistrate's Court presided over by a Magistrate or two Justices.

29. Damage to be made good in addition to penalty—If through any act, neglect, or default on account whereof any person is convicted of an offence under this Act any damage to the property of the company has been committed by such person, he shall be liable, in addition to paying any penalty imposed on his conviction, to pay to the company the whole cost of restoring or repairing the damage, and the amount thereof shall be recoverable as a debt due to the company.

30. Copy of special Act to be kept by company in its office and deposited—(1) 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 its 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 offices of the Registrar of the Supreme Court of New Zealand at Napier and the Registrar of the Magistrate's Court at Hastings and the Hastings City Council and the Hawke's Bay County Council a copy of this Act and of such future Act so printed as aforesaid, and the 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 on payment of a reasonable charge.

(2) If the company contravenes or fails to comply with any provision of this section it commits an offence and shall be liable to a fine not exceeding five pounds.

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

32. Gas Supply Act 1908 not affected—Nothing in this Act shall be construed to limit or affect the provisions of the Gas Supply Act 1908, and this Act shall be read subject to the provisions of that Act.

33. Repeals—The following enactments are hereby repealed, namely:

- (a) The Napier Gas Company's Act 1875 Amendment Act 1885:
- (b) Sections four and six of the Napier Gas Company Amendment and Enlargement Act 1936.

34. Private Act—This Act is hereby declared to be a private Act.
