

New Zealand.



ANALYSIS.

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1903, No. 18.—*Local.*

AN ACT to empower the Mayor, Councillors, and Burgesses of the Borough of Wanganui, a Corporation constituted under the Provisions of "The Municipal Corporations Act, 1886," to produce and supply Gas or Electric Lighting in and for the District surrounding or adjoining the Borough of Wanganui, and for doing all such Acts as are incidental or conducive to the Attainment of the above Objects. [20th November, 1903.]

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

1. The Short Title of this Act is "The Wanganui Suburbs Lighting Act, 1903."

Title.

Short Title.

Interpretation.

2. In this Act, unless inconsistent with the context,—
 “Borough” shall mean the Borough of Wanganui, including any extension thereof to be hereafter made :
 “Council” shall mean the Wanganui Borough Council, and also the Corporation of the Mayor, Councillors, and Burgesses of the Borough of Wanganui :
 “The said Act” shall mean “The Municipal Corporations Act, 1900,” or any amendment thereof :
 The word “person” shall include corporations, whether aggregate or sole, and also any local authority :
 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.

Lands included within limits of Act.

3. The limits of this Act shall extend to and include all lands within the Purua and Kaitoke Road Districts lying within a radius of four miles from the present site of the General Post-office situated in the Borough of Wanganui.

Council may produce and supply gas.

4. The Council may produce and supply gas and do all things necessary to light the streets and public places within the limits of this Act with gas or electricity, and to supply gas or electricity for lighting or domestic purposes, or for motive power, or otherwise, and also all products incidental to the manufacture and supply of gas or electricity to the inhabitants thereof or such of them as the Council may agree to supply ; and the Council shall, in addition to the powers herein given, have all the powers within such limits which could be exercised within the Borough of Wanganui under Part XXX. of “The Municipal Corporations Act, 1900.”

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

5. 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, poles, wires, 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 pillars, lamps, and other works, and do all other acts which the Council shall from time to time deem necessary for supplying gas or electricity 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 : Provided always that nothing herein shall authorise or empower the Council to lay down or place any pipe, wire, 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, except that the Council may at any time enter upon and lay or place any new pipe or wire in the place of any existing pipe or wire in any

land wherein any pipe or wire 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 any Act of the Imperial Parliament, and may repair or alter any pipes or wires so laid down.

6. Before the Council proceed to open or break up any street, bridge, sewer, drain, or tunnel the Council shall give to the local authority under whose control or management the portion so to be opened or broken up may be, or to their surveyor or other officer, notice in writing of the intention of the Council to open or break up the same, not less than forty-eight hours before such works shall be begun, except in cases of emergency.

Council to give notice in writing of intention to break up streets.

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.

When Council opens up streets, the works to be completed with reasonable speed.

Provision during such term to be made against accidents.

8. Any local authority or other person under whose control or management the portion so to be opened or broken up may be, if they deem it necessary to raise, sink, or otherwise alter the situation of any gaspipes or other gasworks or poles or wires laid in or erected upon any of the streets, may from time to time, by notice in writing, require the Council to cause forthwith, or as soon as conveniently may be, any such pipes, poles, wires, or works to be raised, sunk, or otherwise altered in position in such manner as such local authority or such other person as aforesaid may direct: Provided that such alteration be not such as to permanently injure such works, or to prevent the gas or electric current 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 such local authority or such other person as aforesaid as well to the Council as to all other persons.

Local authority or other person to give Council notice of intention to raise pipes, &c.

9. If the Council do not proceed forthwith, or as soon as conveniently may be after receipt of such notice, to cause the same to be raised, sunk, or altered in such manner as such local authority or other person under whose control or management the portions so to be opened or broken up may be requires, such local authority or other person as aforesaid 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 or electric current prevented from flowing as freely and conveniently as before.

Upon neglect of Council to do work, local authority or other person may proceed with it.

Council may contract to supply gas.

10. The Council may contract to light or supply 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; and may also from time to time enter into any contract with any local authority or other persons having the control of any of the streets within the limits aforesaid for lighting the same or any of them with gas or electricity, and providing such local authority or other persons with lamps, lamp-posts, burners, and pipes or wires for such purpose, and for the repairs thereof, in such manner and upon such terms as shall be agreed upon between the Council and such local authority or other persons, and such local authorities are hereby empowered to enter into and execute any such contract as before mentioned. Any such contract may be for such time and subject to such terms and conditions generally as may be agreed upon between the Council and such local authority.

Council may let for hire gas-meter and fittings.

11. The Council may let for hire any meter for ascertaining the quantity of gas or electric current consumed or supplied, and any fittings for the gas or electricity, 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, and shall, notwithstanding the same may be affixed to the freehold, always remain and be the property of the Council or the Wanganui Corporation, and removable by such Council or Corporation.

Power to officers of Council to enter buildings to inspect fittings, &c.

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 to which gas or electricity is supplied by the Council in order to inspect the fittings and works for regulating the supply of gas or electricity, and for the purpose of ascertaining the quantity of gas or electric current 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.

Penalty in case of obstruction.

Council empowered to cut off gas in case of default in payment of rent.

13. If any person supplied with gas or electric current neglects to pay the rent due for the same to the Council, the Council may stop the gas or electric current from entering the premises of such person by cutting off the service pipe or wire, 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 or electric current and the costs of recovering the rent, by action in any Court of law of competent jurisdiction.

Power to Council to remove fittings, &c.

14. In all cases in which the Council are authorised to cut off and take away the supply of gas or electric current 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 four in the afternoon and remove and carry away any pipes, wires, meters, fittings, or other works the property of the Council.

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

Notice to discontinue supply of gas to be in writing.

16. Every person who shall lay or cause to be laid any pipe or wire to communicate with any pipe or wire belonging to the Council, without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the gas or electric current supplied by the Council is not ascertained by meter, shall use any burner or lamp 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 burn or use such gas or electric current, or shall supply any other person with any part of the gas or electric current supplied to him by the Council, shall forfeit to the Council the sum of five pounds for every such offence, and also the sum of forty shillings for every day such pipe or wire 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 or electric current from the house and premises of the person so offending, notwithstanding any contract or agreement which may have been previously entered into.

Penalty for fraud by persons using gas or electric current.

17. Before any person connects or disconnects any meter through which any gas or electric current 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.

Penalty on person who interferes with meter without giving Council notice in writing.

18. Every person who shall wilfully disconnect, remove, destroy, break, throw down, or damage any pipe, pillar, plug, post, lamp, wire, or other work of the Council for supplying gas or electric current, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas or electric current 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.

Penalty for destroying property of the Council.

19. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, post, wire, 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 as any two Justices shall think reasonable.

Damages may be recovered against persons for destroying property of Council.

20. (1.) The Council may from time to time make, alter, or repeal such by-laws as to them shall seem meet for all or any of the following purposes:—

By-laws.

(a.) Providing that consumers of gas or electricity shall provide proper fittings and appliances for the proper and

economical use of gas or electricity, and for keeping the same in good repair ;

(b.) Generally for the more effectually carrying out the objects and provisions of this Act ;

(c.) Regulating any of the subject-matters of this Act ;

(d.) Protecting any gasworks or electric works or other property belonging to the Council or controlled by the Council from damage or injury.

Certain sections of "The Municipal Corporations Act, 1900," to apply.

(2.) The provisions of sections four hundred and five, four hundred and six, four hundred and seven, four hundred and nine, and four hundred and ten of "The Municipal Corporations Act, 1900," shall apply to all by-laws made hereunder.

Penalty for breach of by-law.

21. (1.) Every person guilty of a breach of any by-law made under this Act shall be liable to a penalty not exceeding twenty pounds ; or, where the offence is a continuing one, then to a penalty not exceeding five pounds for every day or part of a day during which such breach continues.

(2.) But the Council may, after conviction for the continuing breach of any by-law, apply to the Supreme Court for an injunction to restrain the further continuance of such breach by the person or persons so convicted.

(3.) The continued existence of a state contrary to any by-law of any work or thing shall be deemed a continuing offence within the meaning of this section.

Recovery of fines, &c.

22. 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.

Limitation of time in which action may be taken.

23. 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.

Price of gas.

24. The price to be paid by private consumers of gas or electricity shall not exceed the price for the time being payable by ordinary private consumers of gas or electricity within the borough.

Procedure where extension of works desired

25. If the inhabitants of any district within the limits of this Act shall desire the Council to extend their gaspipes or electric-light works to any distance within the said limits, being not less than one mile in a continuous line, any number (not less than twenty) of such inhabitants, being ratepayers, may sign a memorial to the Council requiring such extension. If the Council shall decline to make such extension the question shall be referred to the decision of a Stipendiary Magistrate, and if such Magistrate is satisfied that it is equitable that the Council should be required to make such extension or any modification thereof, and that the net profits of the Council to arise from such extension will not be less than five pounds per centum per annum on the cost of such extension and on a

reasonable proportion of the cost of all works connected therewith, he may make an order requiring the Council to make such extension, or a modification thereof, and to commence and prosecute the works necessary therefor 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: Provided that the said Magistrate may at any time discharge or vary such order.

26. If the Council shall refuse or neglect to comply with such order, the Council shall be liable to a penalty not exceeding five pounds for each day during which it 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 Council by any of such inhabitants, being ratepayers as aforesaid, unless it shall appear to the Court that the delay arose from circumstances beyond the control of the Council.

Penalty where Council neglects to comply with order of Court.

27. If through any act, neglect, or default, on account whereof any person shall have incurred 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.

Damages for destruction of property, as well as penalty, recoverable by Council.

28. 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.

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

Regarding quashing of proceedings.

30. Notwithstanding anything contained in any Act of the General Assembly, it shall not be lawful for any person or company other than the Wanganui Borough Council or its successors or assigns, for a period of forty-two years from the date of the passing of this Act, to establish gasworks, or works for the supply of electric lighting or power, or manufacture or supply gas or electricity for lighting, heating, or motive power, within the limits of this Act, except by the joint consent of the Wanganui Borough Council and the local authority or authorities for the time being having jurisdiction within the said prescribed limits, such consent to be testified by special order of the said local authorities respectively: Provided, however, that nothing in the foregoing provisions of this section shall render it necessary for any private person, company, or corporation to obtain any such consent as above mentioned before constructing works or providing plant and machinery for the supply of gas or electricity for lighting, heat, or motive power to be used only for the purposes of and in connection with the business or premises of the person or company constructing such works or providing such machinery, and not for the purpose of sale to or use by any other person, company, or corporation.

Wanganui Borough Council alone empowered to erect works during a certain period of years.

31. The Council may exercise all the powers conferred upon the Council by the foregoing sections of this Act so far as such

Sections to apply for supply of electricity as well as of gas.

sections are applicable to the construction and maintenance of the works necessary for electric lighting and to the supply of electricity as aforesaid; and all the provisions of the said sections shall, so far as applicable, extend and apply to such lighting by and supply of electricity in such a manner as if such sections had provided for such lighting by and supply of electricity in addition to the lighting and supply of gas.

Act subject to provisions of "The Electric Lines Act, 1884."

Water-rights of Crown protected.

32. The powers conferred on the borough by this Act by which electric energy may be used for lighting or motive power shall be subject to the provisions of "The Electric Lines Act, 1884."

33. Nothing in this Act shall be deemed in any way to interfere with or affect or abridge the rights of His Majesty under "The Water-power Act, 1903."

Schedule.

SCHEDULE.

Form of conviction.

Provincial District of Wellington, }
New Zealand, to wit. }

BE it remembered that on the day of , in the year of our Lord one thousand nine 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 Wanganui Suburbs Lighting Act, 1903."

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].