

Mr. Arnold.

DUNEDIN SUBURBAN GAS COMPANY EMPOWERING.

[PRIVATE BILL.]

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A BILL INTITULED

AN ACT to authorise the Dunedin Suburban Gas Company (Limited) to continue to supply Gas to the Boroughs of St. Kilda, Mornington, and Roslyn, and in the Caversham Ward of the City of Dunedin. Title.

5 WHEREAS in the year eighteen hundred and eighty-one the several contracts specified in the *First* Schedule hereto were entered into with the above-named company's predecessor in title by the Boroughs of St. Kilda, Mornington, and Roslyn respectively, and Preamble.

10 also by the Borough of Caversham, which is now part of the City of Dunedin, and identical with the Caversham Ward of that city: And whereas on the footing of the said contracts works for the manufacture of gas were erected on a site situated within the then Borough of Caversham, and mains and pipes were laid down

15 in various streets of the said several boroughs, and on the first day of April, eighteen hundred and eighty-three, the supply of gas from the said works began and was thereafter continued: And whereas the several periods of twenty-one years mentioned in the contracts specified in the *First* Schedule hereto expired in the year nine-

20 teen hundred and four: And whereas the said company has continued to supply gas within the said boroughs and the said Caversham Ward up to the present time: And whereas it is proper that provision should be made authorising the said company to continue to supply gas within the limits of the said

25 boroughs and the said Caversham Ward, and that such other provisions should be made as are hereinafter contained:

No. 3—1 (*Private*).

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. This Act may be cited as the Dunedin Suburban Gas Company Empowering Act, 1907. 5
- Interpretation. 2. In the construction of this Act and of the Schedules hereto, unless inconsistent with the context,—
 “Company” includes the said company, its successors and assigns :
 “Street” includes any street, road, bridge, lane, thoroughfare, or public passage or place within any of the said boroughs or the said Caversham Ward :
 “District” includes the areas within the said boroughs and the said ward, and any area outside thereof within which the local authority having jurisdiction in respect thereof shall authorise the company to supply gas :
 “Magistrate” means a Stipendiary Magistrate, and includes two Justices of the Peace acting together :
 “Local authority” means the governing body of the City of Dunedin and the governing body of any borough or part of a borough within the district. 15
- Power to continue to manufacture and supply gas within the district. 3. Subject to the conditions and provisions contained in the *Second* Schedule hereto, the company shall have power and be entitled to continue to manufacture gas within the said Ward of Caversham and to continue to supply gas for public and private purposes within the limits of the district, and for the purpose of supplying gas as aforesaid to lay down and maintain in and under the streets within the limits of the district gas-mains, service pipes, and other apparatus. 25
- Illuminating-power of gas. 4. The illuminating-power of the gas to be supplied by the company shall not be less than that of fourteen candles, each burning one hundred and twenty grains of sperm per hour, and there shall be affixed at the principal works an apparatus for testing such illuminating-power open at all reasonable times to any local authority or any officer whom it may appoint in writing for the purpose of ascertaining the illuminating-power thereof. 30
- Maximum prices for supply of gas and discounts. 5. The price for gas for private consumption shall not be more than ten shillings per thousand cubic feet, and shall be subject to a discount of not less than three shillings per thousand cubic feet upon all gas accounts paid at the gas office on or before the twentieth day of the month following that of the supply, or a discount of not less than one shilling and sixpence per thousand cubic feet if paid at such office on or before the last day of such month ; but the company shall not be bound to allow any such discount in respect of any account if the person liable thereon is in arrear with the payment of his account for any previous month, unless his arrears be paid together with the current account. 35
- Rateable reduction in price of gas when profits exceed 10 per cent. 6. The profits of the company to be divided amongst its shareholders shall not exceed ten pounds per centum per annum on the paid-up capital of the company unless a larger retention of profit be at any time necessary to make up the deficiency in the profits of any preceding year ; and if it be that the divisible profits of the company, after providing for such deficiency as aforesaid, exceed ten pounds 45 50

per centum per annum on the paid-up capital, then the company shall make a rateable increase in the discount provided for by section five of gas to be furnished by the company, so that such rates when reduced shall insure to the said company a profit as near as may be to the prescribed rate.

7. The company shall annually prepare a balance-sheet showing the receipts and expenditure for the past year and the total amount of paid-up capital, and furnish a copy of such balance-sheet to the Council of the City of Dunedin and to the Council of each borough within the district. The company shall upon demand by any such Council produce to any officer of the Council all the company's books of account and vouchers for the purpose of enabling such Council to verify such balance-sheet.

Company to furnish balance-sheets annually and allow inspection of books.

8. The Council of the City of Dunedin or the Council of any borough within the limits of supply, or any two or more of such local authorities acting for that purpose in conjunction, upon such terms as between or amongst each other as they shall agree upon, shall be entitled, at any time after the expiration of six calendar months' notice in writing to the company of its or their intention so to do, to purchase the whole of the company's gasworks and undertaking at a price which if not agreed on shall be determined by arbitration; and, in the event of such notice being given, the purchase shall be deemed to have been made on the date of the expiration of such notice, and the purchase-money shall be paid within three calendar months after that date, but the company shall be entitled to retain possession and supply gas and carry on its business until the purchase-money is actually paid. The arbitration shall be an arbitration by two persons or their umpire, and the notice of intention to purchase shall be deemed a submission to arbitration, and the Arbitration Act, 1890, shall apply accordingly.

Right of pre-emption.

9. The clauses contained in the *Second* Schedule hereto are and shall be deemed to be part of this Act and shall be operative accordingly.

Second Schedule incorporated.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

1. Contract dated the 13th day of January, 1881, and made between the Mayor, Councillors, and Burgesses of the Borough of Roslyn of the one part and Stephen Stamp Hutchison of the other part.

2. Contract dated the 19th day of January, 1881, and made between the Mayor, Councillors, and Burgesses of the Borough of Mornington of the one part and Stephen Stamp Hutchison of the other part.

3. Contract dated the 18th day of March, 1881, and made between the Mayor, Councillors, and Burgesses of the Borough of Caversham of the one part and Stephen Stamp Hutchison of the other part.

4. Deed of covenant dated the 19th day of November, 1896, and made between the Mayor, Councillors, and Burgesses of the Borough of Caversham of the one part and the Dunedin Suburban Gas Company (Limited) of the other part.

5. Contract, dated the 30th day of May, 1881, and made between the Mayor, Councillors, and Burgesses of the Borough of St. Kilda of the one part and Stephen Stamp Hutchison of the other part.

SECOND SCHEDULE.

1. The company under such superintendence as is hereinafter specified may open and break up the soil and pavement of the several streets within the limits of the district, and may also open and break up any drains or tunnels within or under such streets, 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 for the purposes aforesaid may remove and use all earth and material in and under such streets, 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 execution of the powers hereby granted, and making any compensation for any damage which may be done in the execution of such powers.

2. Provided always that nothing herein shall authorise 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 and occupiers thereof, except that the company may at any time enter upon and lay or place any new pipe in the place of any existing pipe in any land wherein any pipe had been already lawfully laid down or placed by the company or its predecessors in title, and may repair or alter any pipes so laid down.

3. Provided further that it shall be lawful for any owner or occupier of any building or land not dedicated to public use in, to, through, or against, or in which any pipe or other works shall have been laid down or placed with such consent as aforesaid, at any time thereafter, if such owner or occupier shall deem it necessary or expedient, upon giving forty-eight hours' notice in writing to the company, at his own cost and charges, but under the superintendence of the company, to alter and vary the position of such pipes or other works, and to relay and place the same so that full compensation be made for any damage done thereby to the company, or for any hindrance or obstruction which may thereby be occasioned to the lighting of any public or private lamp.

4. Before the company proceeds to open or break up any street, bridge, drain, or tunnel the company 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 company to open or break up the same not less than forty-eight hours before such works shall be begun, except in cases of emergency; or, in the case of laying down a new service, not less than twenty-four hours before such work shall be begun, except in cases of emergency for repairs.

5. No street, bridge, drain, or tunnel shall, except in cases of emergency, be opened or broken up except under the superintendence of the local authority having the control or management thereof, or of the part thereof which is to be opened or broken up, or of their officer, and according to such plans as shall be approved of by such local authority or their officers, or in case of any difference respecting such plan, then according to such plan as shall be determined by a Magistrate; and such Magistrate may, on the application of a local authority having the control or management of any such street, bridge, drain, or tunnel, or their officer, require the company to make such temporary or other works as such Magistrate 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, drain, or tunnel.

6. Provided always that if the officer of the local authority having such control or management 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, 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 local authority or their officers.

7. When the company opens or breaks up the soil or pavement of any street, or any drain or tunnel, the company 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 bridge, 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 restore the road or pavement which has been so opened or broken up to as good a state of repair and condition as the same was in prior to such opening or breaking up, and maintain the same in the like repair and condition for such time (if any), not being more than twelve months in the whole, as the soil so opened or broken up shall continue to subside.

8. If the company open or break up any street, bridge, drain, or tunnel without giving such notice as aforesaid, or in a manner materially 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 is hereby authorised to perform such works without any superintendence or notice, or if the company makes any undue or reasonably avoidable delay in completing any such work, or in filling in the ground, or reinstating or making good the road or pavement or the drain or tunnel so opened or broken up, or if it neglects to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted when necessary for the public safety, or neglects to restore and keep the road or pavement in repair as hereinbefore provided, the company shall forfeit to the local authority having the control or management of the street, bridge, 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 the company shall have received notice thereof.

9. If any such delay or omission as aforesaid takes place, the local authority having the control or management of the street, bridge, 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 expenses 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.

10. The local authority under whose control or management the portion so to be opened or broken up may be, if it deems it necessary to raise, sink, or otherwise alter the situation of any gas-pipes or other gasworks 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 such local authority may direct :

Provided that such alteration be not such as to permanently 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 such local authority as well to the company as to all other persons.

11. If the company 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 the local authority under whose control or management the portions so to be opened up may be may require, such local authority may themselves cause such pipes or works to be raised, sunk, or altered as they think fit :

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

12. 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 any other appliances connected with the supply or use of gas 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 having the control of any of the streets within the limits aforesaid for lighting the same or any of them with gas, and providing such authority with lamps, lamp-posts, burners, pipes, and any other appliances connected with the lighting or supplying with gas and for the repairs thereof, in such manner and upon such terms as shall be agreed upon between the company and the said local authority.

13. The company shall, at its own expense, provide and fix all gas-meters necessary for registering the quantity of gas consumed by its customers, such meters to remain the property of the company ; and the company shall also, at its own expense, provide at its principal works a proper and efficient apparatus for the

testing of gas-meters, and should any consumer of gas within the district be in doubt or dissatisfied as to the accuracy of the working of or the registration by any gas-meter through which he takes his supply of gas, he may, on giving twenty-four hours' notice in writing to the company, have such meter tested by such apparatus either in his own presence or in the presence of any officer whom the local authority having jurisdiction over the portion of the district where his premises are situated shall have appointed for that purpose; and if such meter is found to be wrongly registering, the company shall bear the cost of the testing, and shall adjust the consumer's account accordingly, but if it is found to be substantially correct the person applying for the test shall pay the cost.

14. No meters or fittings the property of the company shall 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 proceedings of any Court of law or equity, or in bankruptcy, against the person in whose possession the same may be.

15. The engineer, inspector, clerk, or other employee duly appointed for the purpose by the said company may at all reasonable times enter any building or place lighted with gas by the company in order to inspect the meter, 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 employee 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.

16. If any person supplied with gas neglect 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 shall think fit, and 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 law of competent jurisdiction.

17. In all cases in which the said 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, its 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 pipe, meter, fittings, or other works the property of the company.

18. Notice to the said 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 offices for the time being of the said company, or at the office of its manager at the office of the company.

19. Every person who shall lay or cause to be laid any pipe to communicate with any pipe belonging to the company without its consent, or shall fraudulently 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 said company, 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 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 burners 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 person so offending, notwithstanding any contract or agreement which may have previously been entered into.

20. Before any person connects or disconnects any meter through which any of the gas supplied by 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. Every person who shall wilfully disconnect, remove, destroy, break, throw down, or damage any pipe, pillar, plug, post, 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.

22. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the company or under its control shall pay such sum of money, by way of satisfaction to the company for the damage done, not exceeding *ten* pounds as a Magistrate shall think reasonable.

23. If the company shall at any time cause or suffer to be brought or to flow into any public stream, reservoir, well, pond, or place for water, or into any public drain communicating therewith, any washing or other substance produced in the making or supplying of gas, or shall do any act connected with the making or supplying of gas whereby the water in any such stream, river, reservoir, well, pond, or place for water shall be fouled, the company shall forfeit to the 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 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.

24. In addition to any sum which may be received 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 wash 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 owners of the banks along which such stream shall flow.

25. It shall be lawful for the surveyor of or any other person acting by or under the authority of any local authority having jurisdiction within the limits of the district at any time or times in the daytime, after giving 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 stream, reservoir, well, 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 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 a sum not exceeding *five* pounds, to be recoverable with costs by such local authority before a Magistrate.

26. Every person supplied with gas by the company who wilfully suffers any pipe, meter, or other gas-fittings 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 such sum as a Magistrate shall determine, not exceeding *five* pounds over and above the loss which the company sustained by reason of such waste.

27. Whenever any gas shall escape from any pipe laid down or set up by and belonging to the company, it shall, immediately after receiving notice thereof in writing, take such steps as shall be requisite to 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, it shall for every such offence forfeit to His Majesty, his heirs and successors, 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 a Magistrate.

28. 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 up and examine shall give forty-eight hours' notice in writing to the company of the time and place at which such digging and examination are intended to take place, and shall give the like notice to the local authority having the control and management of the road, pavement, or place where such digging is to take place, and shall be subject to the like obligation of fencing, guarding, lighting, and reinstating the said road and pavement, and the same penalties for delay or any non-feasance or misfeasance therein as are

hereinbefore provided with respect to roads and pavements broken up by the company.

29. 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 roads, pavements, or place disturbed in any such examination shall be paid by the company; but if upon 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.

30. The amount of the expenses of 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.

31. Nothing contained in this Act 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 it would be liable in respect of any nuisance committed by it.

32. No person shall be liable to the payment of any penalty or forfeiture imposed by or by virtue of this Act unless the information or complaint respecting the offence shall have been made before a Magistrate within six months from the commission thereof.

33. The company shall at all times after the expiration of six months from the passing of this Act keep in its principal office of business a copy of this Act printed under the authority of the Government of New Zealand, and shall also within the space aforesaid deposit in the office of the Registrar of the Supreme Court of New Zealand, at Dunedin, and in the offices of the Magistrate's Court at Dunedin, and in the offices of the Town Clerk of the City of Dunedin, and of each borough within the limits of the district, a copy of this Act so printed as aforesaid; and the said company, Registrar, Clerk of the Court, and Town Clerk respectively shall keep the said copies, and 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 for every such inspection, and *sixpence* per folio for every folio of seventy-two words thereof copied or extracted.

34. 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 hour of the day upon such payment as aforesaid, the 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.