

*Hon. Mr. Mitchelson.*

### HAMILTON GASWORKS.

[PRIVATE BILL.]

#### ANALYSIS.

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(Private).—No. 2—1.

## A BILL INTITULED

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|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| Title.          | AN ACT to enable the establishment of Gasworks at the Town of Hamilton, in the Provincial District of Auckland, to supply the said Town and its Suburbs with Gas.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                           |
| Preamble.       | <p>WHEREAS Henry Atkinson, of the City of Auckland, in the said district, gas engineer, proposes to produce and supply gas in and for the Town of Hamilton and its suburbs, and also to manufacture and supply coke, and other products, incidental to the manufacture of gas, or to which gas is applicable, and to do all such other acts, deeds, matters, and things as from time to time may be incidental or conducive to the carrying out fully and effectually the said proposals: And whereas it is expedient that provision should be made authorising the said Henry Atkinson to break up the soil, pavement, and flooring of streets and bridges in and through the said Town of Hamilton, and the suburbs thereof, for a radius of five miles from the post-office situated in that part of the said Town of Hamilton called "Hamilton West," and to open and break up any sewers, drains, or tunnels within or under any such streets or bridges, and, within the same limits, lay down and place pipes, conduits, service-pipes, and to make and construct and maintain other works for producing and supplying the said Town of Hamilton and suburbs with gas, and <i>for</i> the manufacture and supply of coke, and other products incidental to the manufacture of gas, or to which gas is applicable, and to do all such other acts, deeds, matters, and things from time to time as are hereinafter more specifically enumerated, including such as are incidental or conducive to carrying out fully and effectually the proposals as aforesaid of the said Henry Atkinson:</p> | 5<br>10<br>15<br>20<br>25 |
|                 | BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 30                        |
| Short Title.    | <p>1. The Short Title of this Act is "The Hamilton Gasworks Act, 1895."</p> <p><del>2. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject, or context, repugnant to such a construction, that is to say, words importing the singular number only shall include the plural number, words importing the plural number only shall include the singular number and words importing the masculine gender shall include females:—</del></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 35                        |
| Interpretation. | <p>2. <i>In this Act, if not inconsistent with the context,—</i></p> <p>The words "Henry Atkinson" shall include <del>his</del> <i>the</i> executors, administrators, and assigns of the said Henry Atkinson:</p> <p>The word "person" shall include Corporations whether aggregate or sole:</p> <p>The word "lands" shall include messuages, lands, tenements, and hereditaments:</p> <p>The word "street" shall include any street, court, alley, highway, lane, road, thoroughfare, public passage, or place, within the limits of this Act:</p> <p>The expression "the gasworks" shall mean the gasworks belonging to the said Henry Atkinson, at the Town of Hamilton aforesaid, and the works connected therewith:</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 40<br>45<br>50            |

The expression "rent" shall include any reward or payment to be made to the said Henry Atkinson for a supply of gas :

~~The word "month" shall mean calendar month:~~

5 The expression "two Justices" shall mean two or more Justices of the Peace met and acting together, or a Stipendiary Magistrate :

The word "district" shall mean any lands within the limits of this Act.

10 The limits of this Act shall extend to and include all lands lying within a radius of five miles from the site of the present Post-office in that part of the Town of Hamilton aforesaid, called Hamilton West aforesaid.

15 3. The said Henry Atkinson may construct and maintain works for the production and supplying of gas, and also for the manufacture and supply of coke, and other products incidental to the manufacture of gas, or to which gas is applicable, and may do all such other acts, deeds, matters, and things, as may be incidental or conducive to carrying out fully and effectually the proposals as aforesaid of the  
20 said Henry Atkinson, upon a piece of land containing about one acre, being Allotment numbered three hundred and twenty-two of the said Town of Hamilton, the said land being situate in Clarence Street, in that part of the said Town of Hamilton which is called Hamilton West.

Power to construct works.

25 4. The said Henry Atkinson, under such superintendence as is hereinafter specified, may open and break up the soil, pavement, and flooring of the several streets and bridges within the limits of this Act, and may also open and break up any sewers, drains, or tunnels within or under any such streets and bridges, and lay down and  
30 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  
35 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 said Henry Atkinson 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  
40 of the powers hereby granted, and making any compensation for any damage which may be done in the execution of such powers.

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

5. Provided always that nothing herein shall authorise or empower the said Henry Atkinson to lay down or place any pipe, or other works, into, through, or against any buildings or in any land not  
45 dedicated to public use without the consent of the owners and occupiers thereof, except that the said Henry Atkinson 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~~ had been already lawfully laid down or placed by the said Henry Atkinson in pursuance  
50 of this Act, ~~or of any Act of the Imperial Parliament~~, and may repair or alter any pipes so laid down.

Not to enter on private lands without consent.

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

6. 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 said Henry Atkinson, at his own cost and charges, but under the superintendance of the said Henry Atkinson, 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 said Henry Atkinson, or for any hindrance or obstruction which may thereby be occasioned to the lighting of any public or private lamp.

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

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

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

8. No street, sewer, bridge, drain, or tunnel shall, except in cases of emergency, be opened or broken up except under the superintendence of the persons aforesaid having the control or management thereof, or of the part thereof which may be opened or broken up, or of their officer, and according to such plans as shall be approved of by such persons or their officers, or, in case of any difference respecting such plan, then according to such plan as shall be determined by two Justices; and such Justices may, on the application of the persons having the control or management of any such street, bridge, sewer, drain, or tunnel, or their officer, require the said Henry Atkinson 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:

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

Provided always that if the persons having such control or management as aforesaid, or their officer, 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 said Henry Atkinson may perform the work specified in such notice, without the superintendence of such persons or their officers.

Streets, &c., broken up to be reinstated without delay.

9. When the said Henry Atkinson opens or breaks up the road or pavement of any street, bridge, sewer, drain, or tunnel, the said Henry Atkinson 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, 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.

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10. If the said Henry Atkinson open or break up any street, 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, or without making such temporary or other works as aforesaid when so required, except in the cases in which the said Henry Atkinson is hereby authorised to perform such works without any superintendence or notice; or if the said Henry Atkinson 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 if he 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, he shall forfeit to the person having the control or management of the street, bridge, drain, sewer, 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 he shall have received notice thereof.

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Penalty for delay in reinstating streets.

11. If any such delay or omission as aforesaid take place, the person having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed, and the expenses of executing the same shall be repaid to such persons by the said Henry Atkinson; 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.

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

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12. The Hamilton Borough Council, or other person under whose control or management the portion so to be opened or broken up may be, if they or he deem it necessary to use, sink, or otherwise alter the situation of any gaspipes or other gasworks laid in any of the streets, may, from time to time, by notice in writing, require the said Henry Atkinson 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 or other such person as aforesaid 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 the Council or other such person as aforesaid as well to the said Henry Atkinson as to all other persons.

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Alteration of pipes on notice from Hamilton Borough Council.

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13. If the said Henry Atkinson 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

Hamilton Borough Council may act on default.

Hamilton Borough Council, or other person under whose control or management the portions so to be opened or broken up may be, require, the Council 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 prevented from flowing as freely and conveniently as before. 5

A majority of the inhabitants of any district may require the said Henry Atkinson to extend his gaspipes.

14. The inhabitants of any district within the limits of this Act may require the said Henry Atkinson to extend his gaspipes to any distance within the said limits, being not less than one mile in a continuous line, if they shall so desire; and if a majority of the said inhabitants, being ratepayers, shall sign a memorial addressed to the said Henry Atkinson requiring him to make such extension, and shall show to the satisfaction of two Justices of the Peace that the net profits of the said Henry Atkinson to arise from such extension will not be less than fifteen pounds per centum per annum on the cost of such extension as aforesaid, and on a reasonable proportion of the cost of all works connected therewith, then such two Justices may, upon being satisfied thereon, make an order requiring the said Henry Atkinson to commence and prosecute the works necessary for such extension from a time to be mentioned in such order, and the said Henry Atkinson shall, from time to time, use all due diligence in the prosecution of such works in compliance with such order. 10 15 20

Penalty on the said Henry Atkinson for refusing or neglecting to do so.

15. If the said Henry Atkinson shall refuse or neglect to comply with such order, the said Henry Atkinson shall forfeit a sum not exceeding *five* pounds, to be recovered with costs in any Court of competent jurisdiction, for each day during which he 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 said Henry Atkinson by any of such inhabitants, being ratepayers as aforesaid, unless it shall appear to such Court that the delay arose from circumstances beyond the control of the said Henry Atkinson. 25 30

Power of the said Henry Atkinson to contract for lighting streets, &c.

16. The said Henry Atkinson 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 lighting or supplying with 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 the Hamilton Borough Council, or with any Road Board, or other body, or any persons 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 Hamilton Borough Council, Road Board, or other body, or any persons 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 said Henry Atkinson and the said Council, Road Board, or other body, or any persons. 35 40 45

Power of the said Henry Atkinson to let meters.

17. The said Henry Atkinson may let for hire any meter for ascertaining the quantity of gas consumed or supplied, and any fittings for gas, for such remuneration in money as shall be agreed upon 50

between the said Henry Atkinson 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 said Henry Atkinson for gas; and such meters and fittings shall not be subject to distress  
 5 for rent of the premises where the same may be used, nor to be taken in execution under any process or proceeding of any Court of law or equity, or in bankruptcy, against the person in whose possession the same may be.

Meters not liable to distraint for rent, &c.

18. The clerk, engineer, or other employé, duly appointed for  
 10 the purpose by the said Henry Atkinson, may at all reasonable times enter any building or place lighted with gas by the said Henry Atkinson 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 hinder such  
 15 employé as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall for every such offence forfeit to the said Henry Atkinson a sum not exceeding *five* pounds.

The said Henry Atkinson may enter buildings for ascertaining quantity of gas consumed.

19. If any person supplied with gas neglect to pay the rent due  
 20 for the same to the said Henry Atkinson, the said Henry Atkinson may stop the gas from entering the premises of such person by cutting off the service-pipe, or by such means as the said Henry Atkinson 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 juris-  
 25 diction.

Recovery of rents due for gas.

20. In all cases in which the said Henry Atkinson 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 said Henry Atkinson, his agents, or workmen, after giving forty-eight hours'  
 30 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  
 35 said Henry Atkinson.

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

21. Notice to the said Henry Atkinson 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 office for the time being of the said  
 40 Henry Atkinson, or at the office of his manager at the works of the said Henry Atkinson, at Hamilton West aforesaid.

Consumer to give notice to the said Henry Atkinson in writing, when he intends discontinuing to use gas.

22. Every person who shall lay, or cause to be laid, any pipe to  
 communicate with any pipe belonging to the said Henry Atkinson without his consent, or shall fraudulently injure any such meter as  
 45 aforesaid, or who, in case the gas supplied by the said Henry Atkinson is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said Henry Atkinson, 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  
 50 use or burn such gas, or shall supply any other with any part of the gas supplied to him by the said Henry Atkinson, shall forfeit to the said Henry Atkinson the sum of *five* pounds for every such offence, and also the sum of *forty* shillings for every day such pipe shall so

Penalty for fraudulently using gas.

remain, or such works or burners shall be so used, or such excess be so committed or continued, or such supply furnished, and the said Henry Atkinson may take off the gas from the house and premises of the person so offending, notwithstanding any contract or agreement which may have been previously entered into. 5

Notice to be given to the said Henry Atkinson before meter connected, or disconnected, under a penalty of £5.

23. Before any person connects or disconnects any meter through which any of the gas supplied by the said Henry Atkinson is intended to be or has been registered, he shall give not less than twenty-four hours' notice in writing to the said Henry Atkinson 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. 10

No remedy against incoming tenants for arrears of gas-rent.

24. In case any consumer of gas supplied by the said Henry Atkinson leaves the premises where such gas has been supplied to him without paying the gas-rent or meter-rent due from him, the said Henry Atkinson shall not be entitled to require from the next tenant of such premises the arrears left unpaid by the former tenant, if such incoming tenant, before he consumes any gas, shall have given to the said Henry Atkinson twenty-four hours' notice of his intention to consume gas, or unless such incoming tenant has undertaken with the former tenant to pay or exonerate him from the payment of such arrears. 15

Penalty for wilfully damaging pipes.

25. Every person who shall wilfully disconnect, remove, destroy, break, throw down, or damage any pipe, pillar, plug, post, lamp, or other work of the said Henry Atkinson 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 said Henry Atkinson, shall, for each such offence, forfeit to the said Henry Atkinson any sum not exceeding five pounds, in addition to the amount of the damage done. 25

Satisfaction for accidentally damaging pipes.

26. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the said Henry Atkinson, or under his control, shall pay such sum of money by way of satisfaction to the said Henry Atkinson for the damage done, not exceeding ten pounds, as any two Justices shall think reasonable. 30

Penalty on the said Henry Atkinson for causing water to be polluted.

27. If the said Henry Atkinson shall at any time cause or suffer to be brought or to flow into any public river, stream, reservoir, well, pond, or place for water, or into any public drain communicating therewith, any washing or other substance produced in 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 of water shall be fouled, the said Henry Atkinson shall forfeit to the Hamilton Borough Council, or 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 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 40 45 50

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.

28. In addition to any sum which may be received as aforesaid, and whether any sum shall have been recovered or not, the said Henry Atkinson 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 said Henry Atkinson 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 river or stream as last aforesaid shall flow.

Daily penalty for continuance of offence.

29. It shall be lawful for the Surveyor of or any other person acting by or under the authority of the Hamilton Borough Council, at any time or times in the day-time, after giving twenty-four hours' notice to the said Henry Atkinson, to enter into any manufactory, gasometer, receiver, or other building belonging to the said Henry Atkinson, in order to inspect and examine if there be any escape of gas, or any washing or other substance produced in the making or supplying of gas, into any river, stream, public sewer, or drain, reservoir, well, pond, or place of 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 said Henry Atkinson shall forfeit and pay, for every such offence, a sum not exceeding *five* pounds, to be recoverable with costs by the Hamilton Borough Council before two Justices.

Power to Hamilton Borough Council to enter and inspect gasworks to ascertain origin of nuisance.

30. Every person supplied with gas by the said Henry Atkinson 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 said Henry Atkinson any sum not exceeding *five* pounds, over and above the loss which the said Henry Atkinson sustained by reason of such waste.

Penalty on consumer for wasting gas.

31. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the said Henry Atkinson, he shall, immediately after receiving notice thereof in writing, prevent such gas from escaping ; and, in case the said Henry Atkinson 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, he shall for every such offence forfeit to Her Majesty, her 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 two Justices of the Peace.

Penalty on the said Henry Atkinson for escape of gas after notice.

32. For the purpose of ascertaining whether water be fouled by the gas of the said Henry Atkinson, 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 said Henry Atkinson : Provided that such person, before proceeding so to dig up and examine, shall

Power to examine gas-pipes to ascertain cause of contamination of water, if notice be given of the same.

give forty-eight hours' notice in writing to the said Henry Atkinson of the time and place at which such digging and examination are intended to take place, and shall give the like notice to the persons 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 nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the said Henry Atkinson. 5

Expenses to abide result of examination.

33. If, upon any such examination, it appears that such water has been fouled by any gas belonging to the said Henry Atkinson, the expenses of the digging, examination, fencing, guarding, lighting, and reinstating of the roads, pavement, or place disturbed in any such examination, shall be paid by the said Henry Atkinson; 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 said Henry Atkinson any injury which may be occasioned to the works by such examination. 10 15

How expenses to be ascertained.

34. The amount of the expenses of such digging, examination, fencing, guarding, lighting, and reinstatement, and of any injury done to the said Henry Atkinson, 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. 20 25

Nothing to exempt the said Henry Atkinson from being indicted for a nuisance.

35. Nothing contained in this Act shall prevent the said Henry Atkinson from being liable to an indictment for nuisance, or to any action or other legal proceeding to which, but for this Act, he would be liable in respect of any nuisance committed by him.

The said Henry Atkinson may make by-laws and regulations.

36. The said Henry Atkinson may, *with the consent of the Hamilton Borough Council, testified by resolution of such Council*, make by-laws and regulations for the management of the Hamilton Gasworks and its concerns: Provided the same shall not be repugnant to this Act, or to "The Municipal Corporations Act, 1886," or to any Act repealing or amending the same, or to any by-law or regulation which may now or shall hereafter be made thereunder, or to any Road Board or ~~County Council~~ *Counties Act* of the General Assembly, or to any by-law or regulation which may now or shall hereafter be made thereunder, respectively; and may impose any penalty not exceeding the sum of *five* pounds for the breach of any by-law or regulation made as aforesaid by the said Henry Atkinson. *The Hamilton Borough Council may, by resolution, revoke any such by-law or regulation.* 30 35 40

Publication of penalties.

37. The said Henry Atkinson shall publish the short particulars of the several offences for which any penalty is imposed by this Act, or by any by-law of the said Henry Atkinson affecting other persons than the employés of the said Henry Atkinson, 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 said Henry Atkinson; and, when any such penalties are of local application, shall cause such board to be fixed in some conspicuous place in the immediate neighbourhood 45 50

to which such penalties are applicable or have reference ; and the said Henry Atkinson shall renew such particulars as often as the same or any part thereof are obliterated or destroyed ; and no such penalty shall be recoverable unless such particulars shall have been published, and kept published, in the manner heretofore required.

38. 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 penalties, 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 for defacing board used for such publication.

~~39. All fines, penalties, forfeitures, or sums of money, which under or by virtue of this Act, or any by law or regulation of the said Henry Atkinson are or shall be authorised or directed to be imposed on any person 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.~~

40 39. No person shall be liable to the payment of any penalty or forfeiture imposed by or by virtue of this Act, or by any by-law made in pursuance thereof, unless the information or complaint respecting the offence shall have been made before a Stipendiary Magistrate or two Justices of the Peace within six months from the commission thereof.

Penalties to be sued for within six months.

41 40. If through any act, neglect, or default, on account whereof any person shall have recovered any penalty imposed by this Act, or by virtue of any by-law made in pursuance thereof, any damage to the property of the said Henry Atkinson shall have been committed by such person, he shall be liable to make good such damage, as well as 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 penalties shall have been convicted, and shall be liable by distress and sale as in the case of a judgment by a Stipendiary Magistrate.

Damage to be made good in addition to penalties.

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

Form of conviction.

~~43. No proceeding under this Act shall be quashed, or vacated, for want of form.~~

44 42. The said Henry Atkinson 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 said Henry Atkinson, keep in his 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 aforesaid, deposit in the office of the Registrar of the Supreme Court of New Zealand at the City of Auckland, and in the office of the Clerk of the Bench of the Stipendiary Magistrate, at the said Town of Hamilton, and in the office of the Town Clerk of the Hamilton Borough Council, a copy of this Act and of such future Act, so printed as aforesaid : and the said Henry Atkinson, Registrar, Clerk of the Bench, and Town Clerk, respectively, shall keep the said copies, and shall permit all persons interested to inspect the same, and shall fur-

Copy of Act to be kept by the said Henry Atkinson in his office, and deposited with the Registrar of Supreme Court at Auckland, and in office of Clerk of Bench at Town of Hamilton, and in office of Town Clerk for Borough of Hamilton.

nish 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.

Penalty on failure to keep or deposit such copies.

45 43. In case the said Henry Atkinson 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 said Henry Atkinson shall, for every such offence, forfeit and pay the sum of five pounds, to be recovered with costs in a summary way by 5 10 such person interested.

Rateable reduction in price of gas when profits exceed 15 per cent.

46 44. The profits of the undertaking to be gained by the said Henry Atkinson shall not exceed ~~twenty~~ fifteen pounds per centum per annum on the capital invested in such undertaking by the said Henry Atkinson, unless a larger retention of profit be at any time 15 necessary to make up the deficiency in the profits of any preceding year ; and, if it be that the profits of the said Henry Atkinson, after providing for such deficiency as aforesaid, exceed ~~twenty~~ fifteen pounds per centum per annum on the capital invested in such under- 20 taking, then the said Henry Atkinson shall make a rateable reduction in the price of gas to be furnished by him, so that such rates, when reduced, shall insure to the said Henry Atkinson a profit as near as may be to the prescribed rate.

New Clauses.

Henry Atkinson to deposit balance-sheet and produce accounts.

45. The said Henry Atkinson shall annually prepare a balance- 25 sheet showing his receipts and expenditure for the past year, and the total amount of capital invested by him, and shall deposit a copy of such balance-sheet at the office of the Hamilton Borough Council on or before a day to be appointed for the purpose by the Borough Council. The said Henry Atkinson shall, upon demand by the Town 30 Clerk of the Borough Council, produce to any officer of the Borough Council all his books of account and vouchers for the purpose of enabling the Town Clerk to verify such balance-sheet.

Hamilton Borough Council may purchase gasworks at a valuation after ten years.

46. (1.) The Hamilton Borough Council shall be entitled, at any time after the expiration of ten years from the date of the coming 35 into operation of this Act, to purchase the gasworks and plant, at a price to be determined by arbitration.

(2.) No compensation shall be paid for the goodwill of the gas- works ; but the arbitrators, in determining the price to be paid to the said Henry Atkinson, shall take as a basis the cost of other similar 40 works at the time when the gasworks were constructed, or the plant was acquired, as the case may be, and shall also take into considera- tion the depreciation by use and wear and tear of the works and plant.

(3.) If the said Henry Atkinson shall not have received profit 45 from the gasworks equivalent to an average of ten per centum over the whole period from the date when gas shall first be supplied from the gasworks until the date when the purchase by the Hamilton Borough Council is completed by payment of the purchase-money, after allowing a fair reserve in each year for depreciation, then the arbi- 50 trators shall add to the price assessed as aforesaid a sum which, together with the profit actually received by the said Henry Atkinson, would be the equivalent of such average annual profit of ten per

centum; but, in arriving at such equivalent, interest upon income shall not be computed.

5 (4.) The provisions of "The Arbitration Act, 1890," shall apply to any arbitration held under this section, and this Act shall be deemed to be a submission within that Act, if and when the Hamilton Borough Council shall gave notice to the said Henry Atkinson of their intention to exercise the power of purchase hereby conferred.

SCHEDULE.

Schedule.

PROVINCIAL DISTRICT OF AUCKLAND, }  
NEW ZEALAND, TO WIT :

BE it remembered that, on the            day of            , in the year of our Lord one thousand            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 Hamilton Gasworks Act, 1895."

Given under my [*our*] hand and seal [*or hands and seals*] the day and year first above written.  
Stipendiary Magistrate  
[or Justices of the Peace].