

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
8th October, 1908.*

Hon. Mr. McGowan.

THAMES BOROUGH GAS.

[LOCAL BILL.]

ANALYSIS.

Title.	
1. Short Title.	18. Penalty for certain offences.
2. Interpretation.	19. Written notices to be given to do certain acts.
3. Boundaries of lands affected by Act.	20. When second tenant liable for arrears.
4. Powers of Council and authority to extend works.	21. Penalty in case of damage done.
5. Powers to acquire lands and do certain works.	22. Further penalty.
6. Powers of Council to open streets, &c.	23. Penalty in case of using damaged pipes, &c.
7. Proviso in regard to works through private property.	24. Council to take steps to prevent waste of gas. Penalty.
8. Further proviso.	25. Proceedings in case of fouled water.
9. Council to repair roads, &c., which were affected by works.	26. Liability for expenses.
10. Extension of works.	27. Recovery of expenses.
11. Penalty for refusal to extend works.	28. Council not exempted from liability.
12. Council may enter into contracts in connection of works.	29. By-laws and regulations.
13. Council may lease meters and fittings.	30. Council to publish particulars of offences affected by by-laws.
14. Council empowered to enter and inspect buildings and fittings.	31. Penalty for damaging notice-boards.
15. Powers of Council when payment for gas in arrear.	32. Recovery of penalties.
16. Power of Council to enter buildings and carry away fittings.	33. Recovery of amount of damages and penalties.
17. Notice for discontinuance of gas-supply to be in writing.	34. Form of conviction.
	35. Validity of proceedings.
	36. Incorporation of certain provisions, Local Bodies' Loans Act. Schedule.

A BILL INTITULED

AN ACT to empower the Mayor, Councillors, and Burgesses of the Borough of Thames, to produce and supply Gas in and for the Borough of Thames and in and for the District surrounding and adjoining the Borough of Thames, and to do all such Acts as are incidental or conducive to the Attainment of the Above Objects. Title.

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

1. This Act may be cited as the Thames Borough Gas Act, Short Title.
1908.

Interpretation.

2. In this Act, unless inconsistent with the context,—

“Borough” means the Borough of Thames, and includes any extension thereof to be hereafter made:

“Council” means the Thames Borough Council, and also the Corporation of the Mayor, Councillors, and Burgesses of the Borough of Thames: 5

“The said Act” means the Municipal Corporations Act, 1908, and all amendments thereof:

“Person” includes corporations, whether aggregate or sole, and also any local authority: 10

“Lands” includes messuages, lands, tenements and hereditaments:

“Street” and “road” include any street, court, or alley, highway, lane, road, thoroughfare, wharf, jetty, or public passage or place within the limits of this Act. 15

The word “month” shall mean calendar month.

Boundaries of lands affected by Act.

3. The limits of this Act shall comprise, extend to, and include all lands within the Borough of Thames and also all lands within the County of Thames that are situated within the boundaries for the time being of the Parawai Riding and of the Kauaeranga Riding of the said County of Thames. 20

Powers of Council and authority to extend works.

4. The provisions of subsection two of section three hundred and thirty-two of the said Act shall not apply to the locality comprised within the limits of this Act, and the Council shall, within such locality, notwithstanding the provisions of the said subsection and the Thames Gas Company Act, 1873, have and may exercise in addition to the powers herein given all and every of the powers, rights, authorities, and privileges which by the said Act may be exercised within a borough by the Council of a borough in which gasworks for the supply of gas have not been established under the authority of an Act of the General Assembly. 25 30

Powers to acquire lands and do certain works.

5. The Council may acquire land either within or without the borough, and may procure and thereon or upon any other land either within or without the borough erect, construct, and maintain buildings, plant, machinery, and works for the manufacture, supply, and distribution of gas within the limits of this Act, and within such limits may sell and supply gas for lighting or domestic purposes or for motive power or otherwise, and also all products incidental to the manufacture and supply of gas or to which gas is applicable, to the inhabitants thereof or to such of them as the Council may agree to supply, and may buy and sell any materials requisite for or incidental to the manufacture thereof, and may do all things necessary to light with gas the roads and streets and public places within the limits of this Act. 35 40

Powers of Council to open streets, &c.

6. 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, and other works, and from time 45

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
 5 such streets and bridges, and may in such streets erect any pillar-lamps and other works, and do all other acts which the Council 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
 10 making compensation for any damage which may be done in the execution of such powers.

7. Nothing herein shall authorise or empower the Council 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
 15 the consent of the owners and occupiers thereof, except that the Council 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 has been already lawfully laid down or placed by the Council in pursuance of this Act or any other Act, and may repair or alter any pipes so laid
 20 down.

Proviso in regard works through private property.

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

Further proviso.

9. When the Council opens or breaks up the road or pavement of any street or bridge, sewer, drain, or tunnel, the Council shall
 35 with all reasonable speed complete the work for which the same was 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 is opened
 40 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 is opened or broken up, every night during which the same continues open or broken up from daylight to daylight,
 45 and shall keep the road or pavement which has been so opened or broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so opened or broken up continues to subside.

Council to repair roads, &c., which were affected by works.

Extension of works.

10. The inhabitants of any district within the limits of this Act may require the Council to extend their gaspipes to any distance within the said limits, being not less than half a mile in a continuous line, if they so desire, and a majority of the said inhabitants being ratepayers sign a memorial addressed to the Council requiring them to make such extension, and show to the satisfaction of two Justices of the Peace that the net profits of the Council 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; and such two Justices may, upon being satisfied thereon, make an order requiring the Council to commence and prosecute the works necessary for such extension 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. 5 10 15

Penalty for refusal to extend works.

11. If the Council refuses or neglects to comply with such order, the Council shall forfeit a sum not exceeding *five* pounds, to be recovered with costs in any Court of competent jurisdiction, for each day during which it refuses or neglects to comply with such order, from the time when notice of such neglect or refusal has been served on the Council by any of such inhabitants, being ratepayers as aforesaid, unless it appears to such Court that the delay arose from circumstances beyond the control of the Council. 20

Council may enter into contracts in connection of works.

12. The Council may from time to time enter into any contract with any person for lighting or supplying with gas any public or private buildings, or for providing any person with pipes, burners, meters, and lamps, and for the repair thereof, or for supplying any person with any products incidental to the manufacture of gas or for which gas is applicable. 25 30

Council may lease meters and fittings.

13. The Council may let for hire any meter for ascertaining the quantity of gas consumed or supplied, and any fittings for the gas, for such remuneration in money as may 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 are 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. 35 40

Council empowered to enter and inspect buildings and fittings.

14. The Clerk, Engineer, or other officer duly appointed for the purpose by the Council may at all reasonable times enter any building or place lighted with gas supplied by the Council in order to inspect the fittings and works for regulating the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied, and every person who hinders such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time is liable for every such offence to a fine not exceeding *five* pounds. 45

Powers of Council when payment for gas in arrear.

15. If any person supplied with gas neglects to pay the rent due for the same to the Council, the Council may stop the gas from entering the premises of such person by cutting off the service-pipe, or by such means as the Council thinks fit, and recover the rent 50

due from such person, together with the expense of cutting off the gas and the costs of recovering the rent, by action in any Court of law of competent jurisdiction.

5 16. In all cases in which the Council 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 Council, 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 10 premises between the hours of nine in the forenoon and five in the afternoon, and remove and carry away any pipe, meter, fittings, or other works the property of the Council.

Power of Council to enter buildings and carry away fittings.

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

Notice for discontinuance of gas supply to be in writing.

18. Every person who lays or causes to be laid any pipe to communicate with any pipe belonging to the Council, without its consent, or intentionally injures any such meter as aforesaid, or who, in case the gas supplied by the Council is not ascertained by 20 meter, uses any burner 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 keeps the lights burning for a longer time than he has contracted or agreed to pay for, or otherwise improperly uses or burns such gas, or supplies any other 25 person with any part of the gas supplied to him by the Council, is liable to a fine not exceeding *five* pounds for every such offence, and also a sum not exceeding *forty* shillings for every day such pipe is so committed or continued, or such supply furnished; and the 30 Council 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.

Penalty for certain offences.

35 19. Before any person connects or disconnects any meter through which any gas 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 is liable for every such offence to a fine not exceeding *five* pounds.

Written notices to be given to do certain ac s.

40 20. In case any consumer of gas supplied by the Council leaves the premises where such gas has been supplied to him without paying the gas-rent or meter-rent due from him, the Council 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 give to the Council twenty-four hours' 45 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.

When second tenant liable for arrears.

50 21. Every person who wilfully disconnects, removes, destroys, breaks, throws down, or damages any pipe, pillar, plug, post, lamp, or other work of the Council for supplying gas, or who wilfully extinguishes any of the public lamps or lights, or wastes or improperly

Penalty in case of damage done.

uses any of the gas supplied by the Council, is liable for each such offence to a fine not exceeding *five* pounds, in addition to the amount of the damage done.

Further penalty. 22. Every person who carelessly or accidentally breaks, throws down, or damages any pipe, pillar, 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, not exceeding *ten* pounds, as any two Justices think reasonable. 5

Penalty in case of using damaged pipes, &c. 23. Every person supplied with gas by the Council who wilfully suffers any pipe, meter, or other gas-fitting to be out of repair so that the gas supplied to him is wasted, is liable for every such offence to a fine not exceeding *five* pounds over and above the loss which the Council sustained by reason of such waste. 10

Council to take steps to prevent waste of gas. 24. Whenever any gas escapes from any pipe laid down or set up by or belonging to the Council, the Council shall, immediately after receiving notice thereof in writing, prevent such gas from escaping; and in case the Council does 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 a sum not exceeding *five* pounds for every day during which the gas is suffered to escape after the expiration of forty-eight hours from the service of such notice, unless reasonable cause for such delay be shown to two Justices of the Peace. 15 20

Proceedings in case of fouled water. 25. (1.) For the purposes of ascertaining whether water is fouled by the gas of the Council, the person to whom the water supposed to be fouled belongs may dig up the ground and examine the pipes, conduits, and works of the Council. 25

(2.) Such person, before proceeding so to dig up and examine, shall give forty-eight hours' notice to the Council 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 aforesaid 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 penalty for delay or nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the Council. 30 35

Liability for expenses. 26. If, upon any such examination, it appears that such water has been fouled by any gas belonging to the Council, the expenses of the digging, examination, fencing, guarding, lighting, and reinstatement of the roads, pavement, or place disturbed in any such examination shall be paid by the Council; 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 Council any injury which may be occasioned to the works by such examination. 40 45

Recovery of expenses. 27. The amount of the expenses of such digging, examination, fencing, guarding, lighting, and reinstatement, and of any injury done to the Council, 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. 50

28. Nothing in this Act shall prevent the Council 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. Council not exempted from liability.
- 5 29. The Council may make by-laws not inconsistent with this Act, or to any Act of the General Assembly, and may impose any fine not exceeding the sum of *five* pounds for the breach of any such by-law. By-laws and regulations.
- 10 30. The Council shall publish the short particulars of the several offences for which any fine is imposed by any by-law of the Council, and of the amount of every such fine, 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 Council; and, when any of such fines are of local application, shall 15 cause such board to be fixed in some conspicuous place in the immediate neighbourhood to which such fines are applicable or have reference; and the Council 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 have been published and kept published in the manner hereinbefore required. Council to publish particulars of offences affected by by-laws.
- 20 31. Every person who pulls down or injures any board put up or affixed as required by this Act for the purpose of publishing any by-law or fine, or obliterates any of the letters or figures thereon, is liable for every such offence to a fine not exceeding *five* pounds, and 25 shall defray the expenses attending the restoration of such board. Penalty for damaging notice boards.
- 30 32. All fines or other sums of money which, under or by virtue of this Act, or any by-law of the Council, are authorised or directed to be imposed on any person, 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 action at law before a Magistrate's Court. Recovery of penalties.
- 35 33. If, through any act, neglect, or default on account whereof any person has recovered any fine imposed by this Act, or by virtue of any by-law made in pursuance thereof, any damage to the property of the Council has been committed by such person, he shall be liable to make good such damage, as well as to pay such fine. The amount of such damage shall, in case of dispute, be determined by the Magistrate or two Justices of the Peace by whom the party incurring such penalty is convicted, and shall be leviable by distress and sale 40 as in the case of a judgment by a Magistrate's Court. Recovery of amount of damage and penalties.
34. 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.
35. No proceeding under this Act shall be quashed or vacated for want of form. Validity of proceedings.
- 45 36. The provisions of Part II of the Local Bodies' Loans Act, 1908, shall, so far as they are not inconsistent with this Act, be incorporated with and form part of it. Incorporation of certain provisions, Local Bodies' Loans Act.

Schedule.

SCHEDULE.

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

BE it remembered that on the day of , one thousand
 hundred and , is convicted before me, a Stipendiary Magistrate [or,
 before us, two Justices of the Peace for New Zealand] for that [*Here describe the
 offence generally, and the place and time when and where committed*] contrary to the
 Thames Borough Gas Act, 1908.

Given under my hand and seal [or our hands and seals] the day and year first
 above written.

A. B.,
 Stipendiary Magistrate
 [or Justices of the Peace].