

Act No. 10, 1906.

BOROUGH
OF BALMAIN
ELECTRIC LIGHTING.

An Act to enable the Borough of Balmain to establish, maintain, or contract for works for Electric Lighting; for the destruction of garbage, and for other purposes; and to borrow money, and to make a rate for such purposes. [22nd September, 1906.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Borough of Balmain Electric Lighting Act."

Interpretation.

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

"Contractor" shall mean any person or his assigns with whom the council shall contract under this Act to carry out any of the purposes thereof.

"Council" means the borough of Balmain and the council of the said borough.

"Electricity" means electricity, electric current, or any like agency.

"Electric line" means a wire or wires, conductor, or other means used or intended to be used for the purpose of applying, conveying, transmitting, or distributing electricity, and any casing, coating, tube, pipe, or insulator wholly or partly enclosing, surrounding, or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting, or distributing electricity.

"Governor" means the Governor with the advice of the Executive Council.

"Private purposes" means any purposes whatever to which electricity may for the time being be applicable (not being public purposes), except the transmission of any telegram or telephonic message.

"Public purposes" means lighting any place or building belonging to or subject to the control of the council, or any street.

"Public work" means any work carried out by or under the supervision of or on account of the Government or any department of the Government or Minister of the Crown.

"Street"

Borough of Balmain Electric Lighting.

“Street” means any square, court, alley, highway, lane, road, thoroughfare, or public place or passage.

“Works” means and includes electric lines, meters, accumulators, fittings, and apparatus for the supply of electricity, also any buildings, machinery, engines, plant, matters or things of whatever description, required, used, or intended to be used, to generate or supply electricity, and to carry into effect the purposes of this Act.

3. It shall be lawful for the council to generate and supply electricity for any public or private purposes, or for any public purposes and any private purposes within the limits of the borough of Balmain: Provided that electricity may be supplied outside the said limits in manner hereinafter set forth. Council may supply electricity.

4. The council, for the purpose of generating and supplying electricity and destruction of garbage, may use all or any lands now vested in them for any purpose, and may purchase, lease, acquire, and hold all other lands, and construct such works, purchase and acquire all interests in and licenses for the use of any patented or protected processes, inventions, machinery, apparatus, methods, and other things, and enter into all contracts, appoint officers and servants, and generally do all acts and things which they may deem necessary or desirable for the purpose of generating such supply. General powers of council.

5. It shall be lawful, with the approval of the Governor, for the council to sell or exchange any lands acquired under the authority of this Act, or to lease the same upon such terms and conditions as to the council may seem meet. Power to sell, exchange, or lease lands.

6. The council may use the ordinary corporate funds for the purpose of obtaining plans, estimates, or reports as to the cost of purchasing, leasing, acquiring, and constructing works for the generation and supply of electricity and the destruction of garbage, and for the purpose of defraying the expenses incurred in connection with the preparation and introduction of the bill for this Act: Provided that, in the event of such works being proceeded with, such preliminary expenditure shall be charged to a special account of the council to be called “The Electric Light Account.” Corporate funds may be used for preliminary expenses.

7. The council may, for the purpose of constructing, purchasing, or acquiring works for the generation and supply of electricity and destruction of garbage, and otherwise for carrying out the purposes of this Act, borrow moneys by way of special loans in manner hereinafter provided, namely:— Special loans for work, &c.

- (1) It shall be lawful for the council to borrow in manner hereinafter provided, and subject to the conditions hereinafter prescribed, a sum of money not exceeding seventy-five thousand pounds, and all sums lawfully borrowed under this Act shall be deemed to be secured upon the corporate rates and Municipal council empowered to borrow £75,000 for electric lighting and other purposes.

Borough of Balmain Electric Lighting.

and revenues of the said council from whatsoever source arising, and shall be expended for the purpose of this Act and for no other purpose whatever. And the following conditions, qualifications, and provisions shall regulate the borrowing of money and the issue of debentures under this Act.

- (2) All moneys borrowed by the council shall be raised by the sale of debentures to be issued in such series, and at such times, and in such manner, as the council shall think fit, and all such debentures shall have a currency not exceeding twenty-five years, and shall bear interest at a rate not exceeding four pounds per centum per annum, and shall be in the form of the Schedule hereto, and at the expiration of the said term of twenty-five years it shall be lawful for the council to issue new debentures to retire or repay the said debentures or any part thereof (such new debentures to be numbered and distinguished in like manner as the ones then due), and the mayor of Balmain for the time being may fix the price, either at above or below par, at which any such original or new debentures may be sold.
- (3) The said debentures may be issued either in London or Sydney, or partly in London and partly in Sydney, and the principal sum secured thereby shall be the sum of one hundred pounds or any less sum, such less sum to be ten pounds, or some multiple of ten pounds.
- (4) Every such series of debentures shall be numbered in regular ascending arithmetical progression, commencing with number one, whereof the common difference shall be one, and shall have annexed for every payment of interest to grow due thereon a coupon bearing the same number as the debenture. The series of debentures for one hundred pounds (and coupons) shall be distinguished by the letter A; that for ninety pounds by the letter B; that for eighty pounds by the letter C; that for seventy pounds by the letter D; that for sixty pounds by the letter E; that for fifty pounds by the letter F; that for forty pounds by the letter G; that for thirty pounds by the letter H; that for twenty pounds by the letter J; and that for ten pounds by the letter K.
- (5) Every such debenture shall name the principal sum secured thereby, the rate at which interest is payable thereon, and the time and place where such principal and interest are payable. And every such debenture shall be under the corporate seal of the council, and be signed by the mayor and council clerk, and shall bear date on the day on which it is sealed, and shall be deemed to have been duly issued, and the holder thereof shall not be bound to inquire whether such issue was in fact duly authorised. (6)

Borough of Balmain Electric Lighting.

- (6) Every such debenture, and any coupon, whether annexed thereto or not, may be transferred by simple delivery.
- (7) If the said debentures are issued partly in Sydney and partly in London, a register shall be kept at Sydney and in London; which registers shall contain particulars showing the series, progressive number, amount, date, place of issue, and place of payment of principal and interest of every debenture issued under the authority of this Act. The said registers shall be open for inspection at all reasonable times by every holder of debentures issued hereunder, or his agent or attorney.

8. The council may discharge the whole or any of the said debentures at any time after the expiration of ten years from the date of such debentures by payment of the principal sums owing thereon, respectively; and interest up to and including the current half-year, or at any earlier time, with the consent of the holders of debentures willing to receive payment for same.

Council may redeem debentures before due date.

9. The holder of any debenture issued under the provisions of this Act shall be entitled to receive payment from the council of the principal sum named therein upon presentation of such debenture on or after the due date thereof at the place where the same is expressed to be made payable. And the holder of any coupon originally annexed to a debenture, and whether separated therefrom or not, shall be entitled to receive payment in like manner of the interest mentioned in such coupon upon presentation of the same at the place where, and on or after the date when, interest is payable.

Payment of debenture and interest.

10. If default shall be made by the council in making any payment, whether of principal or interest, to the holder of any such debenture or coupon, the following provisions shall take effect, namely:—

Provisions on default of payment by council.

- (1) The holder of such debenture or coupon shall have full power to make all necessary applications to, and to procure all necessary orders and directions from, the Supreme Court for and touching the appointment of a receiver; and the said court shall have power to make all such orders for the appointment of a receiver, or for his removal and the appointment of another in his place, as may be necessary, and to make any orders and give any directions which the said court may think proper. And such receiver shall be deemed to be an officer, and shall act under the direction of the Supreme Court.
- (2) Such receiver shall have power to make, levy, and collect all rates and revenues whatsoever payable to the council for or in respect of which he shall have been appointed receiver; but the rates so to be made and levied shall not exceed the maximum limits

Borough of Balmain Electric Lighting.

limits permitted under the provisions of the law in force for the time being. And for such purposes such receiver shall be deemed the municipal council of Balmain, and may exercise all the powers thereof.

- (3) Such receiver shall be entitled to such commission, payable out of the rates of the said council, as remuneration for his services as the Supreme Court may appoint.
- (4) Such receiver shall, subject to any order of the Supreme Court, pay over all moneys received by him to such holder, and if there be any balance in hand over and above the amount due and payable to him under the provisions of this Act, the receiver shall pay such balance over to the council.

Sinking fund to be established to pay off loan.

11. A sinking fund for the repayment of the principal sums borrowed under the authority of this Act and of the interest due on debentures issued thereunder, shall, subject to conditions to be approved by the Governor with the advice of the Executive Council, be established by the said council before they shall proceed to exercise the borrowing powers conferred by this Act, and in each and every year during the currency of such debentures, the council shall pay into such sinking fund a sum of one pound for every one hundred pounds borrowed under the authority of this Act, and the sum so to be paid shall be invested in the purchase of Government securities or debentures, or securities of the said council, or debentures or securities of any municipality or borough in the State of New South Wales, or of such other securities as the Governor by writing under his hand shall approve; and the produce of all such investments shall be reinvested in like manner. The council may at any time after the expiration of ten years from the date of the said debentures, or at any earlier time, with the consent of holders of debentures willing to receive payment for the same, apply the whole or any part of such sinking fund in or towards the discharge of any moneys borrowed under this Act, but they shall in every such case recoup the fund by paying into it half-yearly a sum equal to the interest which any sum so applied would have produced if left invested; if in any such year as aforesaid, the council shall not, within seven days after notice in that behalf under the hand of the Colonial Treasurer shall have been given to the council clerk, show to the satisfaction of the Treasurer or an officer to be appointed by him that the annual payments and investments required by this Act for the formation of the said sinking fund have been duly complied with, it shall be lawful for the Governor, with the advice of the Executive Council, to apply to the Supreme Court for the appointment of a receiver of the rates and other revenue of the said council, and in such case the said court and the receiver so to be appointed shall have all such powers, mutatis mutandis, as are hereinbefore provided for the benefit of holders of unpaid debentures.

Borough of Balmain Electric Lighting.

12. For all or any of the purposes aforesaid, the council may, Electric light rate. on the assessment made under the Municipalities Act of 1897, cause such lighting rate to be raised as to them may seem proper, not exceeding fourpence in the pound upon the said assessment, and such rate shall be payable and recoverable at like time and place and in like manner as provided with regard to the municipal rate by the said Act.

13. A separate account, to be called the "Electric Light Separate account to be kept. Account," shall be kept of all moneys received from such lighting rates, and in respect of the supply of electricity and otherwise in pursuance of this Act, all which money shall be charged as follows:—

- (1) With the cost of maintaining the works in good repair, and all the expenses connected with generating and supplying electricity as herein provided and otherwise arising under this Act.
- (2) With such sums (to be transferred to an interest and sinking fund account) as shall be sufficient to satisfy the interest payable on any loan raised under the authority of this Act, and to meet the payments to the sinking fund hereinbefore provided.

14. The council may open and break up the soil and pavement Power to break up streets, &c. of any street, and open and break up any sewers, drains, or tunnels within or under such streets, and may construct subways and drains, and may lay down and place under or over any street any electric lines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid may remove and use all earth and materials in and under such streets, and may in any such street erect any posts, pillars, standards, lamps, street boxes, and other works, and do all other acts which they may from time to time reasonably deem necessary for supplying electricity, and may lay any electric line, branch, or other apparatus from any main or branch electric line into, through, or against any place or building for the purpose of lighting the same, and provide and set up any works in their opinion necessary for securing thereto a complete supply of electricity, and for measuring and ascertaining the extent of such supply: Provided that nothing herein shall authorise or empower the council to construct or place any works into, through, against, or in any place, building, or land not dedicated to public use without the consent of the owners and occupiers thereof, except that the council may at any time make entry, and construct and place any new works instead of such works as shall have been lawfully constructed or placed, and may repair or alter any works so constructed or placed.

15. Subject to the provisions of this Act—

- (a) the council may alter the position of any pipes, wires, sewers, drains, or tunnels being made under any street Power to alter position of pipes, wires, &c. or place which may

Borough of Balmain Electric Lighting.

may interfere with the exercise of their powers under this Act on previously making or securing such compensation to the owners of such pipes, wires, sewers, drains, or tunnels, and on complying with such conditions as to the mode of making such alterations as may before the commencement of such alterations be agreed upon between the council and such owners, or in case of difference as may be determined by arbitration ;

- (b) Any person or public authority lawfully competent so to do may in like manner alter the position of any works of the council, being under or over any such street or place as aforesaid, which may interfere with the lawful exercise of any powers vested in such person or authority in relation to such street or place, subject to the like provisions, conditions, and restrictions as are in the first subsection of this section contained.

Streets, &c., to be reinstated.

16. When the council opens or breaks up the road or pavement of any street, or any sewer, drain, or tunnel, they shall, with all possible speed, complete the work for which the same shall have been opened or broken up, and fill in the ground and reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall, at night time, 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.

Protection to telegraph and telephone lines and other public works.

17. The council shall not, in the exercise of the powers conferred by this Act, construct, lay down, or place any works for the supply of electricity whereby any public telegraph or telephone line or other public work is or may be injuriously affected. And the council and its agents shall conform with such reasonable requirements, either general or special, as may from time to time be made by the Postmaster-General or Secretary for Public Works or the Railway Commissioners for the purpose of preventing any such telegraph or telephone line or other public work from being injuriously affected by the works of the council; and on failure to conform with the said requirements, or any of them, the Postmaster-General or Secretary for Public Works or the Railway Commissioners may forthwith remove any works of the council for the supply of electricity by which any public telegraph or telephone line or other public work is or may be injuriously affected. Any difference which arises between the Postmaster-General or Secretary for Public Works or the Railway Commissioners and the council shall be determined by arbitration. In the event of any contravention of this section by the council or their agents, the council

Borough of Balmain Electric Lighting.

council shall be liable to a fine not exceeding ten pounds for every day during which such contravention continues, or if the telegraphic or telephonic communication is wilfully interrupted not exceeding ten pounds for every day on which such interruption continues. For the purpose of this section a telegraph or telephone line, or other public line, shall be deemed to be injuriously affected if telegraphic or telephonic communication by means of such line, whether through induction or otherwise, is affected by any electric line or work of the council, or by any use made of such electric line or work.

18. One month at least before commencing the execution of any works which involve the placing of works in, under, along, or across any street, highway, or public bridge on which any telegraph, telephone, or railway line may be (not being repairs to or renewals of then existing works of which the character and positions are not altered), the council or its agents shall serve upon the Secretary for Public Works, the Railway Commissioners, and Postmaster-General, the Metropolitan Board of Water Supply and Sewerage, the Australian Gaslight Company, and such other person or corporation as the Secretary for Public Works or the Railway Commissioners may, by writing under his hand addressed to the council, require to be notified, or leave at their respective offices addressed to them notices describing the proposed works, and the gauge of any electric line and the current and potential to be carried, together with a plan of the proposed works showing the position of the said works and the mode in which the works are intended to be executed, and the manner in which it is intended that the street, highway, or bridge shall be interfered with, and shall at the request of the Secretary for Public Works, the Railway Commissioners, or Postmaster-General, made at any time, give them such further information with reference to the works as they may desire. If any works are commenced before the requirements of this section have been complied with, the Secretary for Public Works, the Railway Commissioners, or Postmaster-General may cause the said works to be removed, and the council shall be liable to a penalty not exceeding fifty pounds, which may be recovered before any stipendiary magistrate in a summary way.

19. In the exercise of its powers under this Act, the council shall cause as little detriment and inconvenience, and do as little damage as possible; and shall make full compensation to all persons for all damage sustained by them by reason or in consequence of the exercise of such powers; the amount of such compensation in case of difference to be determined by arbitration or action at law, at the election of the party aggrieved: Provided that the council may in all cases be at liberty to set up by way of defence, or in mitigation of damages, as the case may be, that the person claiming compensation has by his own act, neglect, or default, caused or contributed to the damages in respect of which he claims to be compensated.

Borough of Balmain Electric Lighting.

Governor may make regulations for securing safety of public.

20. The Governor may make regulations to be observed during the construction, alteration, repair or maintenance of works for securing the safety of persons and private or public property from injury from fire or otherwise, and may in those regulations impose any penalty not exceeding one hundred pounds for any breach of the same, which penalties may be recovered in a summary way before any stipendiary magistrate.

Power to contract for supply of electricity and fittings.

21. The council may from time to time enter into any contract with any person for supplying with electricity any place or building, or for providing any person with electric lines, burners, meters, lamps, or other fittings and things, and for the repair thereof in such manner and upon such terms as to charges, place, and mode of payment and otherwise in security of the council as shall be agreed upon.

Power to let meters.

22. The council may let any meter for ascertaining the quantity of electricity consumed or supplied, and any fittings thereto, for such remuneration, and on such terms in respect of the repair of such meter and fittings, and for securing the safety and return thereof to the council as the council may appoint, and such remuneration and other moneys payable under the terms agreed upon shall be recoverable in the same manner as charges due to the council for electricity.

Council to keep meters in repair.

23. The council shall do all things reasonable to keep all meters on hire to any consumer in proper order for correctly registering the quantity of electricity supplied, and in default of the council so doing, the consumer shall not be liable to pay remuneration for the use of the same during such time as such default continues.

Meter, &c., not to be interfered with.

24. Every meter used for ascertaining the quantity of electricity supplied by the council shall, during the continuance of such supply and until all charges in respect thereof have been paid, be under the control of the council, whether such meter be the property of the council or not, and no person shall be at liberty to cut, connect, tap, fix, alter, remove, or tamper with any electric line, lamp, meter, or fittings used in connection with the supply of electricity by the council unless authorised in writing by the council or its agents duly authorised in that behalf: Provided that nothing in this section shall affect the lawful exercise of any power in that behalf vested in any competent person or public authority.

Register of meter evidence.

25. The register of the meter used for ascertaining the quantity of electricity supplied by the council shall be prima facie evidence of such quantity.

Council not to prescribe manner of using electricity.

26. The council shall not be entitled to prescribe any special form of lamp or burner to be used by any person, or in any way to control or interfere with the manner in which electricity supplied by it in pursuance of this Act is used: Provided always that no person shall be at liberty to use any form of lamp or burner, or to use the electricity supplied to him for any purposes, or to deal with it in any manner

Borough of Balmain Electric Lighting.

manner so as to unduly or improperly interfere with the supply of electricity to any other person; and if any dispute or difference as to the matters aforesaid arises between the council and any person entitled to be supplied with electricity in pursuance of this Act, such dispute or difference shall be determined by arbitration.

27. Where a supply of electricity is provided in any locality for private purposes, all persons within such locality shall on application be entitled to a supply on the same terms as the terms on which any other person in such locality is under similar circumstances entitled to a corresponding supply. No preference.

28. If any person neglect to pay any electric light rate, or any charge for electricity, or any other sum due to the council in respect of or incidental to the supply of electricity to such person, the council may without notice cut off his supply of electricity, and for that purpose may cut, disconnect, or remove any works, and may, until such charge or other sum, together with any expenses incurred by the council in cutting off such supply of electricity as aforesaid, is fully paid, but no longer, discontinue the supply of electricity to such person. Power to cut off supply.

29. Any person who unlawfully and maliciously cuts or injures any electric line or work erected in pursuance of this Act, with intent to cut off any supply of electricity, shall be guilty of felony, and be liable to be kept in penal servitude for any term not exceeding three years, or to be imprisoned with or without hard labour for any term not exceeding one year; but nothing in this section shall exempt a person in respect of any offence which is punishable under any other provision of this Act, or under any other Act, or at common law, so that no person be punished twice for the same offence. Injuring works with intent to cut off supply.

30. Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes, or uses any electricity provided in pursuance of this Act, shall be guilty of simple larceny, and punishable accordingly. Stealing electricity.

31. Any person who wilfully and unlawfully removes, destroys, or damages any electric line, or any pillar, post, lamp, meter, or other works connected with or relating to the supply of electricity by the council in pursuance of this Act, or who wilfully and unlawfully extinguishes any of the public lamps or lights maintained by the council in pursuance of this Act, or wastes, or wilfully and wrongfully uses any of the electricity supplied by the council in pursuance of this Act, shall, for each such offence, forfeit to the council a sum not exceeding fifty pounds in addition to the amount of damage done. Penalty for removing electric lines, &c.

32. Any person who carelessly or accidentally breaks, throws down, or damages any electric line, or any pillar, post, lamp, or other works belonging to the council, or under their control, shall forfeit and pay such sum of money by way of satisfaction to the council for the damage Penalty for breaking electric line, &c.

Borough of Balmain Electric Lighting.

damage done, not exceeding fifty pounds, as a stipendiary magistrate shall think reasonable: Provided that this section shall not affect any other remedy.

Penalty for tampering with meter, &c.

33. Any person who wilfully or fraudulently, or by culpable negligence, injures, or suffers to be injured, any electric line or any meter, fittings, or works belonging to the council, or alters the index to any meter, or prevents any meter from duly registering the quantity of electricity supplied by the council, shall, without prejudice to any other right or remedy for the protection of the council or the punishment of the offender, for every such offence, forfeit to the council a sum not exceeding twenty-five pounds in addition to the amount of damage.

Supply of electricity may also be cut off.

34. In any case in which any person has been convicted of wilfully or fraudulently injuring, or suffering to be injured, any electric line or any meter, fittings, or works belonging to the council, or altering the index to any meter, or preventing any meter from duly registering the quantity of electricity supplied, the council may also, until the matter complained of has been remedied, but no longer, discontinue the supply of electricity to the person so offending, notwithstanding any contract previously existing.

Evidence that meter has been tampered with.

35. The existence of artificial means for causing such alteration or prevention, or for abstracting, consuming, or using electricity supplied by the council when the meter is under the custody or control of the consumer, shall be prima facie evidence that such alteration, prevention, abstraction, or consumption (as the case may be) was within the knowledge of the consumer.

Power to enter premises and inspect or remove fittings, &c.

36. Any officer appointed by the council in that behalf may, at all reasonable times, enter any place or building to which electricity is or has been supplied by the council, in pursuance of this Act, for the purpose of inspecting and testing the electric lines, meters, accumulators, fittings, apparatus, and works for the supply of electricity belonging to the council, and of ascertaining the quantity of electricity consumed or supplied, or, where a supply of electricity is no longer required, or where the council is authorised to take away and cut off the supply of electricity from any premises, for the purpose of removing any electric lines, accumulators, fittings, apparatus, or works belonging to the council, and repairing all damage caused by such entry, inspection, or removal.

Council's fittings not to be subject to distress, execution, &c.

37. Where any electric lines, meters, accumulators, fittings, apparatus, or works belonging to the council are placed in or upon any place or building (not being in the possession of the council) for the purpose of supplying electricity in pursuance of this Act, such electric lines, meters, accumulators, fittings, apparatus, or works shall not be subject to distress or to the landlord's remedy for rent of the premises where the same may be, nor to be taken in execution under any

Borough of Balmain Electric Lighting.

any process of a court of law or equity, or any proceedings in bankruptcy against the person in whose possession the same may be: Provided that nothing in this section shall affect any distress or execution lawfully made or issued upon or against the council.

38. All actions or other proceedings against the council, their officers, agents, or servants, for anything done or reasonably supposed to have been done in pursuance of this Act, shall be commenced within twelve months after the matter complained of was committed and not otherwise; and notice in writing of any such action or proceedings and of the cause thereof shall be given to the defendant one month at least before the commencement of the proceeding; and in every such proceeding the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such proceeding if tender of such sufficient amends shall have been made before the same was commenced, or if a sufficient sum of money shall have been paid into a court after such commencement by or on behalf of the defendant, together with costs as between party and party incurred up to that time. And if a verdict shall be entered for the defendant, or the plaintiff shall become nonsuit or discontinue such proceeding, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his costs and have the like remedy for the same as any defendant has in law in like cases. Limitation of actions.

39. Any arbitration in pursuance of this Act shall be conducted in accordance with, and subject to the provisions of, the Arbitration Act of 1902, and for the purposes of reference to arbitration thereunder this Act shall be deemed to be a submission between the parties within the meaning of the same. The arbitrator shall in every case have power to direct how and by whom the cost of the reference and award shall be paid. Arbitration.

40. Whenever by any section of this Act any person is made liable to any fine or forfeiture or to pay any sum of money, whether as compensation or in any other way, and the mode of recovering such fine, forfeiture, or sum is not specified, the same may be recovered before any stipendiary magistrate, together with such costs as he may see fit to grant. And all sums of money ordered by any such magistrate to be paid, and all costs and expenses awarded by such magistrate may be recovered and enforced by distress and sale of the goods and chattels of the person ordered to pay the same; and in default of sufficient distress such person shall be liable, in the event of the conviction being for an offence under this Act, to be imprisoned with or without hard labour for any term not exceeding three months, unless such money, costs, or expenses be sooner paid: Provided that nothing in this section shall prevent proceedings for the recovery of Procedure for recovery of penalties, &c.

Borough of Balmain Electric Lighting.

any fine, forfeiture, or sum as aforesaid being taken in any other court of competent jurisdiction when the amount sought to be recovered exceeds ten pounds.

Sums recovered to go to electric light account.

41. All fines, forfeitures, or other sums recovered by the council in pursuance of this Act shall be carried to the credit of the electric light account, or of a contractor, as the council shall decide.

Appeals.

42. In any case in which any summary conviction has been had, or any order for the payment of money has been made in pursuance of this Act before any stipendiary magistrate, the defendant may appeal to the Court of Quarter Sessions. The provisions of the Justices Act, 1902, in respect of appeals from summary convictions thereunder, shall apply and extend to all appeals under this section, and shall be observed in the making of every such appeal, and all proceedings thereupon.

By-laws.

43. The council may, for the purposes of this Act, but subject nevertheless to any regulations made by the Governor as herein provided, make all such by-laws, and do all such other necessary matters and things as may be necessary for carrying out the objects of this Act. And the council may by any such by-laws fix the maximum penalty for every offence against such by-laws, or any of them, not exceeding the penalty, if any, already lawfully fixed for the same offence, and in any other case not exceeding ten pounds. And the council may contract with a contractor not to alter (without his consent) such by-laws during the continuance of the contract: Provided that no by-laws made as aforesaid shall have any force unless they have been first approved of by the Governor.

Council may extend operation into other municipalities with consent.

44. It shall be lawful for the council to supply electricity outside the limits of the borough, and for such purposes to exercise any power conferred upon it by this Act other than the power to raise a lighting rate within or without the limits of any borough adjoining the said borough of Balmain, subject, however, to the following provisions:—

- (1) The aforesaid powers shall not be exercised within the limits of any such borough, except with the consent of the council thereof (which consent it is hereby empowered to give), and upon such terms and conditions as may be mutually agreed upon.
- (2) The supply of electricity for the purpose of lighting any place, building, or street belonging to or subject to the control of the council of such borough shall, for the purposes of this Act, be deemed to be a supply for private purposes or use, and all provisions of this Act in such behalf shall extend and apply thereto.
- (3) The council of such borough shall, for the purposes of this section, have power to enter into all such contracts, and to levy all such rates, as it is by law empowered to enter into or levy in respect of a supply of gas.

45.

Borough of Balmain Electric Lighting.

45. Nothing in this Act shall authorise or enable the council, Saving clause. its officers, agents, or servants to transmit any telegram or telephonic message, or to perform any of the incidental services of receiving, collecting, or delivering telegrams or telephonic messages, or give to the council, its officers, agents, or servants any power, authority, or facility of any kind whatever in connection with such transmission or performance as aforesaid. Any person holding any civic office under the Municipalities Act, 1897, is hereby empowered to contract, directly or indirectly, for the supply to him of electricity under the provisions of this Act, and shall not be liable in respect of such contract to any fine, penalty, or disqualification, any Act to the contrary notwithstanding.

46. No alteration in any telegraphic line or telephonic line or work of the Postmaster-General shall be made by the council or its agents, except with the written permission of the Postmaster-General, or in any other public work except with the written permission of the Secretary for Public Works, and, in cases where they are affected, of the Railway Commissioners, and subject to such reasonable conditions as may be imposed in such permission. And nothing in this Act contained shall exempt the council from the provisions of any public Act which may be passed by the Parliament of New South Wales, applying generally to the manufacture or generating of electricity, or the sale or supply of the same, or to the method of installation or distribution thereof. No alteration of public lines without permission.

47. It shall be lawful for the council, instead of themselves Council may substitute contractor. exercising the powers and discharging the duties conferred or imposed on them by this Act, to enter into any contract with any contractor who or whose assigns shall contract to erect and maintain the generator lines, cables, and other works necessary for supplying, and shall contract to supply the said borough and the members of the public with electricity upon such terms and for such period as the said council shall see fit, and with such contract may be combined provisions for the destruction of garbage and an option of or agreement for the purchase by the said council of the works to be erected and rights acquired under the said agreement.

48. The council may contract for the exercise of such option Council may contract. to purchase as aforesaid at any time, notwithstanding any rule or law as to perpetuities, and such contract shall be valid and binding on the contractor and his assigns.

49. Upon the execution of the said contract (but subject to Powers of such contractor. any exceptions made therein) all the powers, authorities, provisions, and liabilities mentioned in this Act, except in sections five, six, seven, eight, nine, ten, eleven, twelve, thirteen, and forty-three, shall, during the continuance of such contract, apply to such contractor and his assigns as if his name were inserted in this Act instead of the word

Act No. 11, 1906.

Consolidated Revenue Fund and Public Works Fund.

word "council," and all liability on the part of the council shall cease or not begin until and after they shall have acquired the said works in fee simple, and thereupon they shall become liable for any negligence occurring afterwards.

Right to third parties
to sue.

50. Any person in whose favour a provision is inserted in such contract, may, with the permission of the council, sue thereon in his own name as if he were a party thereto.

SCHEDULE.

No.	Series.	Debenture £
ISSUED by the municipal council of Balmain under the provisions of the Borough of Balmain Electric Lighting Act.		

TRANSFERABLE BY DELIVERY.

This debenture was issued by the above named council in pursuance of the provisions of the above-mentioned Act, and is to secure to the bearer a principal sum of _____ pounds, payable at the _____, on the _____ day of _____, 19____. Interest at the rate of _____ pounds per centum per annum on such principal sum in the meantime is payable by equal half-yearly payments on the _____ day of _____, and the _____ day of _____, at _____, and a coupon is annexed for each payment which entitles the bearer of such coupon thereto.

Dated this _____ day of _____.

(L.S.)

A. B., Mayor.

C. D., Town Clerk.