

60° VICTORIÆ, 1897.

A BILL

To facilitate and regulate the supply of Electricity for Lighting
and other purposes.

BE it enacted by the Queen'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:—

Powers and authorities of Government in regard to electric and telegraph lines.

1. The Postmaster General, the Secretary for Public Works, and the Railway Commissioners of New South Wales may place and construct such electric lines as may be required for Government purposes, and the placing, construction, and maintenance of such electric lines shall be deemed to be a part of the ordinary business of their departments; and for the purposes of placing, constructing, and maintaining such lines the Postmaster General, the said Secretary, and the said Commissioners respectively shall have and may exercise the like powers and authorities as those conferred by the Act twentieth Victoria number forty-one on the superintending officer with regard to telegraph lines:

Provided that no electric lines shall be placed or constructed by the said secretary or commissioners unless the mode of placing or constructing the lines has been submitted to and approved by the Postmaster General, and the said secretary and commissioners shall not place, construct, or maintain any electric lines whereby any electric line of the Postmaster General is or may be injuriously affected.

Electric lines may be placed for Government purposes subject to approval of Postmaster General.
59 Vic. No. 1,413
(Vict.), s. 3.

For the purposes of this proviso electric lines shall be deemed to be injuriously affected by other electric lines if telegraphic, telephonic, or electric communication by means of such first-mentioned lines is, whether through induction or otherwise, in any manner affected by such last-mentioned lines or by any use made of the same.

2. Nothing in this or any other Act or in any order shall authorise or enable any council, company, or person to transmit any telegraphic message, or to perform any of the incidental services of receiving, collecting, or delivering telegraphic messages, or give to any council, company, or person any power, authority, or facility of any kind whatever in connection with the transmission of telegraphic messages, or the performance of any of the incidental services of receiving, collecting, or delivering telegraphic messages.

Act not to authorise transmission of telegraphic messages. 59 Vic. No. 1,413 (Vict.), s. 4.

Restriction on construction of electric lines and supplying electricity.

3. (I) No council, company, or person shall use, lay, erect, construct, put up, or place any electric line, or supply electricity for public purposes or private purposes except under the authority of an order made pursuant to this Act:

No electric line to be used, constructed, &c., without an order.

Ibid. ss. 5, 6, 7, & 8.

Provided that this section shall not apply—

Provision as to works constructed before this Act.

- (a) where any electric line used, or intended to be used for lighting purposes, is not laid, conveyed, or placed, or intended to be laid, conveyed, or placed beyond the limits of any buildings or premises in which the electricity is generated; or
- (b) to any electric lines or works belonging to any council, company, or person erected before the day when this Act takes effect until the expiration of one year after the said day.

(II) Any council, company, or person shall, as regards any electric lines and works belonging to such council, company, or person erected before the day when this Act takes effect, be entitled to an order.

In the case of any such company or person, every such order shall be for such term not exceeding twenty-five years, as the company or person may require, and be subject to any existing agreement made before the said day between such company or person and any council, except so far as such agreement may be expressly varied by this Act.

(III) Any company or person, after having obtained an order under the last preceding subsection may, subject to the general provisions of this Act, apply for and be granted a further order authorising such company or person to supply electricity for any public or private purposes within any area extending beyond the limits of the area specified in such first-mentioned order; and such further order shall be made so as to expire at the same time as such first-mentioned order.

Power to obtain order for extended area.

(IV) Every council shall be entitled to an order for its municipality.

Council entitled to order.

4. It shall be lawful for the Governor (after the Postmaster General has either heard all parties interested or given them an opportunity to be heard) to cancel and rescind wholly or in part any order granted to any council, company, or person, whenever it is proved to the satisfaction of the Governor that the terms and conditions of such order have not been complied with.

Cancellation of order for breach.

Ibid. s. 9.

Authority for construction of electric lines and supplying electricity.

5. (I) Subject to this Act the Governor may from time to time by order authorise any council, company, or person to supply electricity for any public or private purposes within any area, and in the case of any company or person for such period not exceeding thirty years as the Governor may think proper.

Granting of orders authorising the supply of electricity.

Ibid. s. 10.

(II)

(II) An order may, subject to the provisions of this Act, be granted to any gas company incorporated before the commencement of this Act to be and become undertakers for the supply of electrical energy, and any such company is hereby authorised and empowered to become undertakers under this Act in addition to the powers they are entitled to under the Act or Acts under which they are incorporated.

Power to grant authority to a gas company.

Before any such gas company applies for an order to become undertakers under this Act, it shall be necessary for the company to obtain the sanction of the shareholders thereof by resolution passed pursuant to law at an extraordinary or special general meeting of the shareholders of the company.

(III) Any council, company, or person, which or who, under any of the provisions of this Act, becomes an undertaker, and has previously sold its or his undertaking to a council pursuant to this Act, may, at the expiration of the period limited in the order granted to such council, company, or person, apply, pursuant to this Act, for a further order to act as an undertaker.

Application for further order.

6. (I) Every council, company, or person applying for an order shall publish notice of such application by public advertisement in such manner and including such particulars as the Governor may from time to time direct or approve; and such order shall not be granted by the Governor until after the expiration of a period of three months from the date of the first publication of such advertisement, nor until opportunity has been given within such three months to all parties interested to make representations or objections to the Postmaster General with reference to the application.

Notice of application for order to be advertised.
45 & 46 Vic., c. 56, s. 3.

(II) No application for an order shall be made by any council except in pursuance of a resolution to be passed at a special meeting of the council, and such special meeting shall only be held after fourteen days' previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such council are usually given.

Applications by municipal councils.

(III) An order may, subject to the provisions of this Act, be granted to a council authorising such council to supply electricity within any area, although the same or some part thereof may not be included within the municipality of such council.

Area within which orders operate.

(IV) Where in any area or part of an area in which any undertakers are authorised to supply electricity under any order the undertakers are not themselves the council of any municipality either wholly or partly included in such area, the order may contain such provisions and restrictions for enabling the council of the municipality within which such area or part of an area may be to exercise any of the powers of the undertakers under this Act with respect to the breaking up of any street repairable by such council within such area or part of an area, and the alteration of the position of any pipes or wires being under such street, and not being the pipes or wires of the undertakers, on behalf and at the expense of the undertakers, and for limiting the powers and prescribing the liabilities of the undertakers in relation thereto, as the Governor thinks expedient.

Powers of council when not "undertakers."

(V) Every order may make such conditions as to the limits within which and the terms under which a supply of electricity is to be compulsory or permissive, and for enforcing the performance by the undertakers of their duties in relation to such supply, and generally may contain such conditions as the Governor thinks expedient.

Conditions, &c., of orders.

7. (I) No order shall authorise the supply of electricity by any undertakers within any municipality (the council of which are not themselves the undertakers) unless notice that such order is intended to be applied for has been given to such council by the applicants.

Notice to municipalities before order can be made.
Ibid. s. 4.

(II)

(II) No order authorising the supply of electricity by any undertakers within any municipality shall be granted by the Governor, except with the consent of the council of such municipality unless the Governor in any case in which the consent of such council is refused is of opinion after the Postmaster General has either heard all parties interested or given them an opportunity to be heard that, having regard to all the circumstances of the case, such consent ought to be dispensed with, and in such case the grounds upon which such consent is dispensed with shall be set out in the order. Such consent of the council shall not be necessary in the case of councils, companies, or persons entitled to obtain an order under subsection two of section three of this Act.

Consent of local authority generally required to order.

51 & 52 Vic. c. 12, s. 1.

(III) The grant of an order to any undertakers to supply electricity within any area shall not in any way hinder or restrict the granting of an order to the council of any municipality or to any other company or person within the same area.

No order to have an exclusive effect.

Ibid. s. 1.

8. The undertakers shall be subject to such conditions, restrictions, and liabilities as may be inserted in or prescribed by any order affecting their undertaking with regard to the following matters:—

Conditions to be inserted in order.

45 & 46 Vic. c. 56, s. 6.

- (a) The limits within which and the conditions, restrictions, and liabilities under which a supply of electricity is to be compulsory or permissive.
- (b) The securing of a regular and efficient supply of electricity.
- (c) The securing of the safety of the persons and property of the public from injury from fire or otherwise.
- (d) The limitation of the prices to be charged in respect of the supply of electricity.
- (e) The authorising of inspection and inquiry at any time or from time to time, by direction either of the Postmaster General or of the council of any municipality within which the undertakers are authorised to supply electricity.
- (f) The enforcement of the due performance of the duties of the undertakers in relation to the supply of electricity by the imposition of penalties or otherwise, and the revocation of the order where the undertakers have in the opinion of the Governor practically failed to carry the powers granted to them into effect within a reasonable time, or have discontinued the exercise of such powers; and
- (g) Generally with regard to any other matters whatsoever in connection with the undertakings.

Regulations and by-laws.

9. (I) The Governor may make such regulations as he may think expedient for securing the safety of the persons and property of the public from injury from fire or otherwise, and may by any regulation amend or repeal any condition in relation thereto contained in any order.

Regulations to secure safety of public.

Ibid. s. 6.

(II) Any condition so amended in any order shall from and after the date of such amendment have the like effect in every respect as though it had been originally inserted in such order.

(III) Where a regulation or condition is repealed such repeal shall not affect any liability or penalty incurred in respect thereof prior to the date of such repeal, or any proceeding or remedy which might have been had in relation thereto.

10. In addition to any regulations which may from time to time be made by the Governor for securing the safety of the persons and property of the public, any council within any part of whose municipality electricity is authorised to be supplied under any order may, subject to those regulations, make by-laws for further securing such safety. And the provisions of the Municipalities Act of 1867 in respect of by-laws shall apply to any by-laws made under the authority of this section.

Municipal by-laws to secure safety of public.

Ibid. s. 6.

Expenses, borrowings, and accounts.

11. (I) The expenses incurred by any council under this Act and not otherwise provided for, including any expenses incurred in connection with the obtaining by them or any opposition to the obtaining by any other council, company, or person of any order may be defrayed out of the town or corporate fund of the municipality.

Expenses of municipal council.
45 & 46 Vic., c. 56, s. 7.

(II) A council authorised to supply electricity by any order may, pursuant to the Municipalities Act of 1867, or to any Act relating to the municipality of such council, borrow money for the purposes of this Act upon the credit of the municipality; and the works constructed by such council pursuant to this Act shall be deemed to be permanent works and undertakings within the meaning of section one hundred and ninety of the said Act, or to be purposes for which such council may borrow money pursuant to any such Act, as the case may be.

Power of municipal council to borrow money.
45 & 46 Vic., c. 56, s. 8.

12. (I) The undertakers shall, on or before the thirtieth day of September in every year, fill up an annual statement of accounts of the undertaking made up to the thirtieth day of June then next preceding, or up to such other day as the Governor may in any case direct; and such statement shall be in such form, and shall contain such particulars, and shall be published in such manner as may be prescribed in that behalf by the Governor, and shall also be published in a newspaper circulating in the area within which the undertakers are authorised to supply electricity.

Accounts.
Ibid. s. 9.

(II) The undertakers shall keep copies of such annual statement at their office, and sell the same to any applicant at a price not exceeding one shilling a copy.

(III) In case the undertakers make default in complying with the provisions of this section, they shall be liable to a penalty not exceeding *two* pounds for each day during which such default continues.

Acquisition of land and power to contract.

13. The undertakers may, subject to and in accordance with the provisions and restrictions of this Act, and of any regulations and by-laws made thereunder, and of any order authorising or affecting their undertaking, and for the purpose of supplying electricity, acquire such lands by agreement, construct such works, acquire such licenses for the use of any patented or protected processes, inventions, machinery, apparatus, methods, materials, or other things, enter into such contracts, and generally do all such acts and things as may be necessary and incidental to such supply.

General powers of undertakers under order.
Ibid. s. 10.

14. Any council authorised by order to supply electricity may contract with any company or person for the execution and maintenance of any works needed for the purposes of such supply, or for the supply of electricity within any area mentioned in such order, or in any part of such area; but no council shall, by any contract or assignment, transfer to any company or person, or divest themselves of any legal powers given to them or any legal liabilities imposed on them by this Act or by any order, without the consent of the Governor.

Power for municipal council to contract in certain cases, and restrictions on assignments of powers, &c.
Ibid. s. 11.

Powers and responsibilities of undertakers as regards the execution of works.

15. (I) The undertakers, under such superintendence as is hereinafter specified, may, within any area mentioned in any order, open and break up the road, path, or pavement of the several streets within such area, and may open and break up any sewers, drains, or tunnels within or under such streets, and lay down and place within the

Power to break up streets under superintendence and to open drains.
See 10 & 11 Vic. c. 15, s.s. 6 & 7.

the same limits electric lines and other works, and renew, repair, alter, or remove the same, and also make, renew, repair, alter, or remove any sewers that may be necessary, and for the purposes of this Act may remove and use all earth and materials in or under such streets.

And the undertakers may in any such street erect any pillars, lamps, or works, and do all other acts which the undertakers may from time to time deem necessary for such purposes.

And it shall be lawful for the undertakers to lay any electric line from any main or branch electric line into, through, or against any building for the purpose of lighting the same, and to provide and set up any apparatus necessary for securing to any building a proper and complete supply of electricity, and for measuring and ascertaining the extent of such supply. And to lay pipes for lighting buildings.

(II) Nothing herein shall authorise the undertakers, unless the council be the undertakers, to lay down or place any electric line or any works into, through, or against any building, or in any land not dedicated to public use, without the consent of the owners and occupiers thereof; except that the undertakers may at any time enter upon any land for the purpose of laying or placing, and may lay or place, any new electric line in the place of an existing electric line in any land wherein any electric line has been lawfully laid down or placed, and may repair or alter any electric line so laid down or placed. Not to enter on private land without consent.

(III) No footpath shall be broken up for the purpose of laying any electric lines other than service lines without the consent of the council of the municipality within which such footpath is situated. Or footpaths.

16. Before the undertakers proceed to open or break up the road, path, or pavement of any street, or any sewer, drain, or tunnel, they shall give to any council under whose management or control the same may be, or to its clerk, secretary, surveyor, or other officer, notice in writing of their intention to open or break up the same not less than three clear days before beginning the work, except in cases of emergency arising from accidents to or defects in any of the pipes or works, and then so soon as is possible after the beginning of the work, or after the necessity for the same has arisen. Notice of intention to be served on council having control, &c., before breaking up streets or opening drains. See 10 & 11 Vic., c 15, s. 8.

17. (I) No such road, path, or pavement of any street, or such sewer, drain, or tunnel, shall, except in cases of emergency as aforesaid, and except as hereinafter provided, be opened or broken up except under the superintendence of the council having the management or control thereof or of its surveyor or other officer, and according to such plan as may be approved of by the council or its surveyor or other officer, or, in case of any difference respecting the plan, then according to such plan as may be determined by a court of petty sessions. Streets or drains not to be broken up except under the superintendence of municipal council or of its officer. Ibid. s. 9.

(II) Such court may, on the application of the council or its surveyor or other officer, require the undertakers to make such temporary or other works as the council may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any sewer or drain.

(III) If no officer appointed by the council for the purpose attends at the time fixed for the opening of the road, path, or pavement of any such street, or any sewer, drain, or tunnel after such notice of the undertaker's intention as aforesaid has been duly given, or if the council or its officer does not propose any plan for breaking up or opening the same, or refuses or neglects to superintend the operation, the undertakers may perform the work specified in the notice without the superintendence of the council or its officer.

18. (I) When the undertakers open or break up the road, path, or pavement of any street, or any sewer, drain, or tunnel, the undertakers shall, with all convenient speed, complete the work for which Streets or drains broken up to be reinstated without delay. Ibid. s. 10.

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the same is broken up, and fill in the ground and reinstate and make good, to the satisfaction of the council or its surveyor or other officer, the road, path, or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned by the work.

(II) The undertakers shall at all times whilst any such road, path, or pavement, sewer, drain, or tunnel is so opened or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road, path, or pavement, sewer, drain, or tunnel where the same is open or broken up every night during which the same continues open or broken up, and shall keep the road, path, or pavement, or sewer, drain, or tunnel which has been so broken up in good repair for nine months after replacing and making good the same, and for the further time (if any), not being more than twelve months in the whole, during which the soil so broken up continues to subside.

19. If the undertakers—

- (a) open or break up the road, path, or pavement of any street, or any sewer, drain, or tunnel without giving such notice as aforesaid, or in a manner different from that which has 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 undertakers are hereby authorised to perform such works without any such superintendence or notice, or
- (b) make any delay in completing any such work or in filling in the ground or reinstating and making good the road, path, or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned by the work, or
- (c) neglect to cause the place where such road, path, or pavement, or sewer, drain, or tunnel has been broken up to be fenced, guarded, and lighted, or
- (d) neglect to keep the road, path, or pavement, sewer, drain, or tunnel in repair for the space of nine months next after the same is made good, or such further time as aforesaid,

the undertakers shall incur a penalty not exceeding *five* pounds for every such offence, and an additional penalty of *two* pounds for each day during which any such delay as aforesaid continues after the undertakers have received notice thereof.

20. If any such delay or omission as aforesaid takes place the council having the management or control of the road, path, or pavement of any street or any sewer, drain, or tunnel, in respect of which such delay or omission has taken place, may cause the work so delayed or omitted to be executed; and the expenses of executing the same shall be repaid to such council by the undertakers; and such expenses shall be recoverable in any court of competent jurisdiction.

In case of delay the council may reinstate and recover the expenses.
Ibid. s. 12.

21. In any municipality in which there are any sewers, drains, or tunnels which are not under the management or control of the council, but are under the charge or control of some Minister of the Crown, public board, commissioners, or trustees other than the council, then in the application of the six next preceding sections of this Act to such sewers, drains, or tunnels such sections shall be read and construed as if for the word "council" wherever it occurs therein there were substituted the word "Minister" or "board," or "commissioners" or "trustees," as the case may be.

Application of preceding sections to sewers, drains, or tunnels of public bodies.
59 Vic. No. 1,413 (Vict.) s. 27.

22. In all cases where it is unavoidably necessary to lay the electric lines of the undertakers across any pipes used for the conveyance of water, gas, steam, air, drainage, or sewage, then unless otherwise authorised by the council, company, or person having the charge

For the protection of water, gas, steam, and other pipes.
Ibid. s. 28.

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or control of or owning such pipes, the electric lines of the undertakers shall be laid at the greatest practicable distance therefrom, and shall form therewith as near as possible a right angle, and all joints in the electric lines of the undertakers so crossing such pipes shall be three feet at least from any part of such pipes.

If any council, company, or person refuses an authorisation under this section, then the Governor, after the Postmaster General has either heard all parties interested or given them an opportunity to be heard, and having regard to all the circumstances of the case, may give such authorisation in lieu of such council, company, or person, and it shall have the like effect.

23. (I) Nothing in this Act shall authorise or empower the undertakers to break up any tramway or railway without the consent of the council, company, or person by whom such tramway or railway is repairable, unless in pursuance of special powers in that behalf inserted in the order or with the written consent of the Governor.

Restriction on breaking up of tramways and railways.

45 & 46 Vic., c. 56, s. 13.

(II) The Governor shall not in any case insert any such special powers in any order or give any such consent until notice has been given to such council, company, or person by advertisement or otherwise as the Governor may direct, and an opportunity has been given to such council, company, or person to state any objections they may have thereto.

24. (I) Notwithstanding anything in this Act, the undertakers shall not place any electric line above ground, along, over, or across any street in any municipality without the consent of the Postmaster General and also of the council of such municipality, unless in any case in which the consent of such council is refused, the Governor, after the Postmaster General has either heard all parties interested or given them an opportunity to be heard, and having regard to all the circumstances of the case, orders the consent of such council to be dispensed with.

Restrictions as to above-ground works.

45 & 46 Vic., c. 56, s. 14.

(II) The Postmaster General or the council may require the undertakers to forthwith remove any electric line placed by them contrary to the provisions of this section, or the Postmaster General or such council may remove the same, and recover the expenses of such removal from the undertakers in any court of competent jurisdiction.

(III) Where any electric line has been placed above ground by the undertakers in any position, a court of petty sessions upon complaint made by any person with the consent of the Postmaster General if of opinion that such electric line is or is likely to become dangerous to the public safety may, notwithstanding that the consent of the council has been given or dispensed with as aforesaid, make an order directing and authorising the removal of such electric line by the undertakers, or failing their compliance with such order, by the said person, who may recover the expenses of such removal from the undertakers in any court of competent jurisdiction.

25. (I) Subject to the provisions of this Act, and of the order authorising them to supply electricity, and to any regulations or by-laws made pursuant to this Act, the undertakers may alter the position of any pipes or wires being under any street or place authorised to be broken up by them which may interfere with the exercise of their powers under this Act on previously making or securing such compensation to any council, company, or person having the charge or control, or owning such pipes or wires, 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 undertakers and such council, company, or person, or in case of difference as may be determined in manner prescribed by the order authorising the undertakers to supply electricity, or where no such manner is prescribed as may be determined by arbitration.

Power of undertakers to alter position of pipes and wires.

Ibid. s. 15.

(II)

(II) Any council, company, or person may in like manner alter the position of any electric lines or works of the undertakers being under any such street or place as aforesaid which may interfere with the lawful exercise of the powers of such council, company, or person in relation to such street or place, subject to the like provisions, conditions, and restrictions as are in this section contained with reference to the alteration of the position of any pipes or wires by the undertakers.

Power of councils, &c., to alter electric lines or works.

26. In the exercise of the powers in relation to the execution or works given them under this Act or any order, the undertakers shall cause as little detriment and inconvenience and do as little damage as may be, and shall make full compensation to all councils, companies, and persons interested for all damage sustained by them by reason or in consequence of the exercise of such powers, the amount and application of such compensation in case of difference to be determined by arbitration.

Undertakers liable to make compensation for damage.
Ibid. s. 17.

Arbitration.

27. Where any matter is by any section of this Act or by any order directed to be determined by arbitration, such matter shall, except as otherwise expressly provided, be determined by some fit person to be nominated as arbitrator by the Postmaster General on the application of either party upon notice to the other party, and the expenses of the arbitration shall be borne and paid as the arbitrator directs.

Arbitration.
51 & 52 Vic., c. 12, s. 28.

28. The undertakers shall be alone answerable for all accidents, damages, and injuries happening through their act or default, or through the act or default of any person in their employment, by reason or in consequence of any of their works or apparatus, and shall save harmless all councils, companies, or persons, collectively and individually, and their officers and servants, from all damages and costs in respect of such accidents, damages, or injuries.

Undertakers alone responsible for damages.
59 Vic., No. 1413 (Vict.), s. 34.

Protection of public telegraphic and electric lines.

29. (I) No alteration in any telegraph or electric line of the Postmaster General, the Secretary for Public Works, or the Railway Commissioners of New South Wales shall be made by the undertakers, except with the written permission of the Postmaster General, or the said Secretary, or Commissioners (as the case may be), and subject to such conditions as may be imposed in such permission.

Provision for protection of lines of the Postmaster General, Secretary for Public Works, and Railway Commissioners.
45 & 46 Vic., c. 56, s. 26.

(II) The undertakers shall not, in the exercise of the powers conferred by this Act or by any order, lay down any electric line, or do any other work for the supply of electricity whereby any telegraphic or electric line of the Postmaster General, or the said Secretary, or Commissioners is or may be injuriously affected.

(III) Before any electric line of the undertakers is laid down or such work as aforesaid is done within four yards of any part of a telegraphic line of the Postmaster General, or of the said Secretary or Commissioners (other than repairs or the laying of connections with mains where the direction of the electric lines so laid down crosses a line of the Postmaster General, Secretary, or Commissioners, as the case may be, at right angles at the point of shortest distance, and continues the same for a distance of six feet on each side of such point, and where the connecting wires so crossing are not within three feet of any telegraphic wire), the undertakers or their agents, not more than twenty-eight, nor except in cases of emergency less than seven clear days before commencing such work, shall give written notice to the Postmaster General, or the said Secretary, or Commissioners, as the case may be, specifying the course and nature of the work, including the gauge of any electric lines; and the undertakers and their agents shall conform with such reasonable requirements, either general or special,

as may from time to time be made by the Postmaster General, Secretary, or Commissioners, as the case may be, for the purpose of preventing any telegraphic lines of the Postmaster General, Secretary, or Commissioners, as the case may be, from being injuriously affected by the said work.

(iv) Any difference which arises between the Postmaster General, Secretary, or Commissioners, and the undertakers or their agents, with respect to any requirements so made, shall be determined by such District Court Judge as the Governor may appoint.

(v) In the event of any contravention of or wilful non-compliance with this section by the undertakers or their agents, the undertakers shall be liable on conviction to a penalty not exceeding *ten* pounds for every day during which such contravention or non-compliance continues, or if the telegraphic or electric communication is wilfully interrupted, not exceeding *fifty* pounds for every day on which such interruption continues.

(vi) Nothing in this section shall subject the undertakers or their agents to a penalty under this section if they satisfy the Court having cognisance of the case that the immediate execution of the work was required to avoid an accident, or otherwise was a work of emergency, and that they forthwith served on the postmaster or officer in charge of the nearest post or telegraph office, and in the case of lines of the said Secretary or Commissioners, on the station-master of the railway station nearest to the place where the work was done, a notice of the execution thereof, stating the reason for executing the same without previous notice.

(vii) For the purposes of this section, a telegraphic or electric line of the Postmaster General, Secretary, or Commissioners shall be deemed to be injuriously affected by a work if telegraphic or electric communication by means of such line is, whether through induction or otherwise, in any manner affected by such work or by any use made of such work.

Restrictions as to placing electric lines, &c.

30. (i) Where in any case any electric line or other work has been laid down, or erected in, over, along, across, or under any street for the purpose of supplying electricity, or has been laid down or erected in any other position for such purpose in such a manner as not to be entirely enclosed within any building or buildings, or where any electric line or work so laid down or erected is used for such purpose otherwise than under and subject to the provisions of an order, the Postmaster General, if he thinks fit, may, by notice in writing under his hand, to be served upon any council, company, or person having the charge or control of, or owning or using, or entitled to use such electric line or work, require that such electric line or work shall be continued and used only in accordance with such conditions and subject to such restrictions and provisions for the protection of the safety of the persons and property of the public, and of the telegraphic or electric lines and works of the Postmaster General, the Secretary for Public Works, and the Railway Commissioners of New South Wales, and of other electric lines and works lawfully placed in any position and used for telegraphic or electric communication as the Postmaster General may, by or in pursuance of such notice, prescribe.

(ii) In default of compliance with the said conditions, restrictions, and provisions, then the Postmaster General may require such council, company, or person to remove such electric line or work.

(iii) Nothing heretofore provided in this section shall apply to any line or work laid down or erected by any council, company, or person for the supply of electricity generated upon any premises occupied by such council, company, or person to any other part of such premises.

(iv)

Restrictions as to
placing of lines, &c.
51 & 52 Vic.,
c. 12, s. 4.

(IV) Where in any case any electric line or work is used for the supply of electricity in such a manner as to injuriously affect any telegraphic or electric line of the Postmaster General, or the said Secretary, or Commissioners, or to affect the telegraphic or electric communication through any such line, the Postmaster General, Secretary, or Commissioners, as the case may be, may, by notice to be served upon the council, company, or person owning or using, or entitled to use such electric line or work, require that such supply be continued only in accordance with such conditions, restrictions, and provisions for the protection of such post office or railways, telegraphic or electric lines, and the communication through the same as he or they may, by or in pursuance of such notice, prescribe.

In default of compliance with such conditions, restrictions, and provisions, the Postmaster General, Secretary, or Commissioners, as the case may be, may require that the supply of electricity through such electric line or work shall be forthwith discontinued.

This subsection shall not apply to the supply of electricity through any electric line or work laid down previous to the erection of the telegraph or electric line so affected.

(V) If any council, company, or person fails to comply with the requirements of any notice which may be served upon them or him under this section, such council, company, or person shall be liable on conviction to a penalty not exceeding *twenty* pounds for every such offence, and also to a further penalty not exceeding *five* pounds for every day during which such non-compliance continues after conviction; and any court of petty sessions on complaint made may make an order directing and authorising the removal of any electric line or work specified in such notice by such council, company, or person upon such terms as such Court may think fit. Penalty.

(VI) Nothing in this section shall apply to any telegraphic or electric line or work of the Postmaster General, Secretary, or Commissioners, or to any other line or work used or to be used solely for telegraphic or electric purposes, except by way of protection, as in this section provided.

Obligations and powers of undertakers.

31. (I) The undertakers shall not be entitled to prescribe any special form of lamp or burner to be used by any company or person, or in any way to control or interfere with the manner in which electricity supplied by them under any order is used. Undertakers not to prescribe special form of lamp or burner.

(II) No council, company, or person shall be at liberty to use any form of lamp or burner, or to use the electricity supplied to them for any purposes, or to deal with it in any manner so as to unduly or improperly interfere with the supply of electricity supplied to any other council, company, or person by the undertakers.

(III) If any dispute or difference arises between the undertakers and any council, company, or person entitled to be supplied with electricity under any order as to the matters aforesaid, such dispute or difference shall be determined by such District Court Judge as the Governor may appoint.

32. (I) Where a supply of electricity is provided in any part of an area for private purposes, then, except in so far as is otherwise provided by the terms of the order authorising such supply, every council, company, or person within that part of the area shall on application be entitled to a supply on the same terms on which any other council, company, or person in such part of the area is entitled under similar circumstances to a corresponding supply. Obligation on undertakers to supply electricity. *Ibid.* s. 19.

(II)

(II) If it be reported to the Postmaster General that the wiring or fitting up of any building is so carried out that it would be dangerous to supply or to continue to supply electricity to such building, the Postmaster General may direct some officer to make an inspection of such building and its premises.

(III) If the officer so directed to make an inspection reports that the wiring or fitting up of such building is carried out so that it would be dangerous to supply, or continue to supply, electricity to such building, the Postmaster General may direct that no electricity be supplied to such building, and that the connection (if any) made with any supply main shall be cut off from such building.

33. The undertakers shall not, in making any agreements for a supply of electricity, show any undue preference to any council, company, or person, but save as aforesaid, they may make such charges for the supply of electricity as may be agreed upon, not exceeding the limits of price imposed by or in pursuance of the order authorising them to supply electricity.

Charges for electricity.
Ibid. s. 20.

34. (I) If any council, company, or person neglects to pay any charge for electricity or any other sum due from them to the undertakers in respect of the supply of electricity to such council, company, or person, the undertakers may cut off such supply, and for that purpose may cut or disconnect any electric line or other work through which electricity may be supplied, and may until such charge or other sum is fully paid, but no longer, discontinue the supply of electricity to such council, company, or person.

Power to cut off supply.
45 & 46 Vic. c. 56, s. 21.

(II) The undertakers may in any Court of competent jurisdiction recover any expenses lawfully incurred by them in so cutting off the supply of electricity, and also, whether they have cut off such supply or not, any charge for electricity or other sum due to them.

Recovery of charges, &c.
Secs. 34 & 35 Vic. c. 41, ss. 40 & 41.

35. Any officer appointed by the undertakers may at all reasonable times enter any premises to which electricity is or has been supplied by the undertakers in order to inspect the electric lines, meters, accumulators, transformers, fittings, apparatus, and works for the supply of electricity belonging to the undertakers, and for the purpose of ascertaining the quantity of electricity consumed or supplied, or where a supply of electricity is no longer required, or where the undertakers are authorised to take away and cut off the supply of electricity from any premises for the purpose of removing any electric lines, meters, accumulators, transformers, fittings, apparatus, or works belonging to the undertakers, repairing all damage caused by such entry, inspection, or removal.

Power to enter lands or premises for ascertaining quantities of electricity consumed, or to remove fittings, &c.
45 & 46 Vic. c. 56, s. 24.

36. Where any electric lines, meters, accumulators, transformers, fittings, apparatus, or works belonging to the undertakers are placed in or upon any premises not being in the possession of the undertakers for the purpose of supplying electricity under any order, such electric lines, meters, accumulators, transformers, 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 warrant of distress or any process of a Court of law or equity or any proceedings in bankruptcy against or in the estate of the person in whose possession the same may be.

Electric lines, &c., not to be subject to distress in certain cases.
Ibid. s. 25.

Right of municipal councils to purchase undertakings.

37. (I) Where any undertakers are authorised by an order to supply electricity within any area, any council either alone or in conjunction with any other council within whose municipality such area or any part thereof is situated may, within six months before the expiration

Purchase of undertaking by council or councils.
See 51 & 52 Vic. c. 12, s. 2.

expiration of a period of thirty years, or such shorter period as is specified in that behalf in the order, from the date of the order, and within six months before the expiration of every subsequent period of ten years or such shorter period as is specified in that behalf in the order, by notice in writing require such undertakers to sell, and thereupon such undertakers shall sell to such council or councils the whole of their undertaking wheresoever situate upon terms of paying the then value of all lands, buildings, materials, plant, and works of such undertakers suitable to and used by them for the purposes of their undertaking, such value to be in case of difference determined by three arbitrators or any two of them, one of whom shall be appointed by the said council or councils so purchasing, another by the undertakers, and the third by such other two arbitrators before they proceed in the arbitration.

(II) If either the council or councils so purchasing or the undertakers neglect or refuse to appoint an arbitrator pursuant to the above provision for two calendar months after the other of them has appointed an arbitrator and given notice thereof to the party neglecting or refusing as aforesaid, then the arbitrator already appointed shall appoint a second arbitrator, and such two arbitrators shall jointly appoint the third arbitrator.

(III) Where any undertakers consist of a company or person, which or who has obtained an order by virtue of the provisions of this Act entitling such company or person to an order in respect of electric lines or works erected within any area before the commencement of this Act, then any council either alone or in conjunction with any other council within whose municipality such area or any part thereof is situated may, within two years from the date of the said order, or within six months before the expiration of twelve years from the date of the said order, or within six months before the expiration of twenty-five years from the said date, by notice in writing require such undertakers to sell, and thereupon such undertakers shall sell to such council or councils the whole of their undertaking wheresoever situate, upon terms of paying the then value of all lands, buildings, materials, plant, and works of such undertakers suitable to and used by them for the purposes of their undertaking, such value to be in case of difference determined by arbitration in the manner aforesaid.

Where such sale is made within two years as aforesaid, the undertakers shall in addition to the amount of the said value be entitled also to receive from such council or councils a further sum of ten pounds per centum on such value, or where such sale is made within twelve years as aforesaid the undertakers shall in like manner be entitled also to receive a further sum of five pounds per centum on such value.

(IV) The value of such lands, buildings, materials, plant, and works shall be deemed to be their fair market value at the time of the purchase, due regard being had to the nature and then condition of such buildings, materials, plant, and works, and to the state of repair thereof, and the suitability of the same to the purposes of the undertaking, but without any addition in respect of compulsory purchase or of good will or of any profits which may or might have been or be made from the undertaking or of any similar considerations.

(V) Such council or councils may pay the purchase money and all expenses incurred by them in the purchase of the undertaking out of their rates, and shall have full powers pursuant to the Municipalities Act of 1867, or to any Act relating to the municipality of such council, to borrow money for the purposes aforesaid upon the credit of such municipality, and the said undertaking shall be deemed to be a permanent improvement within the meaning of section one hundred

As to payment of purchase money and power of borrowing.

hundred and ninety of the said Act, or to be a purpose for which such council may borrow money pursuant to any such Act as the case may be.

(vi) The Governor may determine any other questions which may arise in relation to such purchase, and may fix the date from which such purchase is to take effect; and from and after the date so fixed or such other date as may be agreed upon between the parties, all lands, buildings, materials, plant, and works so purchased as aforesaid shall vest in the council or councils which has or have made the purchase, freed from any debts, mortgages, or similar obligations of such undertakers or attaching to the undertaking; and the powers of such undertakers in relation to the supply of electricity under this Act, or such order as aforesaid within such area or part thereof as aforesaid shall absolutely cease and determine, and shall vest in the council or councils aforesaid.

38. The Governor may by any order, if he thinks fit, vary the terms upon which any council may require the undertakers to sell, and upon which the undertakers shall be required to sell to such council their undertaking, or so much of the same as is within the jurisdiction of such council in such manner as may have been agreed upon between such council and the undertakers.

Power to vary terms of sale by undertakers to council. See 51 & 52 Vic., c. 12, s. 3.

Relief of gas companies.

39. (i) Where a supply of electricity is authorised in any area by any order, and a supply of gas by any gas undertakers or company is also authorised within such area or any part thereof by any Act, under the provisions of which such gas undertakers or company are under any general or limited obligation to supply gas upon demand, the Postmaster General may, upon the application of such gas undertakers or company, inquire into the circumstances of the case.

Power for Governor to relieve gas undertakers from obligation to supply gas in certain cases. See 45 & 46 Vic., c. 56, s. 29.

(ii) Such application shall not be considered by the Postmaster General until after the expiration of one month from the publication of an advertisement in two newspapers published nearest to and circulating in the area affected by such application, stating that such application is to be made, and giving shortly the details and grounds thereof. Any council, company, or person prejudicially affected by such application shall be at liberty to oppose the same, and on giving notice in writing of its or his intention to do so, the Postmaster General shall appoint a day to consider the case when either party shall be at liberty to produce such evidence as it or he may deem requisite.

(iii) If satisfied that any specified part of such area is sufficiently supplied with electric light, and that the supply of gas in such specified part has ceased to be remunerative to the gas undertakers or company, and that it is just that such gas undertakers or company should be relieved from the obligation to supply gas upon demand as aforesaid, the Postmaster General may recommend the Governor accordingly.

(iv) Thereupon the Governor may make an order relieving the gas undertakers or company from such obligation within such specified part of such area either wholly or in part and upon such terms and conditions as he may think proper.

(v) From and after the date of such order such gas undertakers or company shall be so relieved accordingly.

(vi) All expenses in connection with any such inquiry or order shall be borne and paid by the gas undertakers or company upon whose application the inquiry or order was made, or the council, company, or person opposing the same in such amounts or proportions as the Minister may order at such inquiry.

Offences.

Offences.

40. (I) Any undertakers, council, company, or person disobeying any provision of this Act, or any regulation or by-law hereunder, or any order hereunder, or any direction of the Postmaster General made pursuant to this Act shall be guilty of an offence against this Act, and shall be liable to the penalty specially provided for such offence. Penalties. 59 Vic., No. 1,413 (Vict.), s. 46.

(II) If in any case no penalty be specially provided, such undertakers, council, company, or person shall be liable to pay all costs and expenses which may be incurred in taking proceedings against such undertakers, council, company, or person, as well as any costs and expenses that may be lawfully incurred in remedying the default of such undertakers, council, company, or person, and in addition to pay a penalty of not more than *twenty* pounds and a further penalty of not more than *five* pounds or less than *one* pound for each day such offence is continued after any conviction.

(III) Such penalties shall be recoverable either after the exercise or notwithstanding the non-exercise of any power to remedy the default of such undertakers, council, company, or person.

41. (I) Every person who wilfully, fraudulently, or by culpable negligence injures or suffers to be injured any electric line, meter, accumulator, transformer, fittings, apparatus, or works belonging to any undertakers, or alters the index to any meter, or prevents any meter from duly registering the quantity of electricity supplied, or fraudulently abstracts, consumes, or uses electricity of any undertakers shall on conviction (without prejudice to any other right or remedy for the protection of the undertakers or the punishment of the offender) for every such offence forfeit and pay a penalty not exceeding *five* pounds, and in addition the undertakers may recover the amount of any damage by them sustained. Penalty to company for injuring line, meters, or fittings. See 34 & 35 Vic. c. 41, s. 38.

(II) In any case in which any person has wilfully or fraudulently injured or suffered to be injured any electric line, meter, accumulator, transformer, fittings, apparatus, or works belonging to any undertakers, or altered the index to any meter, or prevented any meter from duly registering the quantity of electricity supplied, any undertakers 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).

(III) The existence of artificial means for causing such alteration or prevention, or for abstracting, consuming, or using electricity of any undertakers when such 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, has been fraudulently, knowingly, and wilfully caused by the consumer using such meter.

(IV) Any person who fits up any apparatus or fittings whereby electricity or electrical energy is obtained from any main or electric line of the undertakers without the consent in writing of some proper officer of the undertakers first had and obtained for that purpose shall, for every such offence, forfeit and pay a penalty not exceeding *five* pounds, and in addition the undertakers may recover from such person the amount of any damage by them sustained.

42. Any person who unlawfully and maliciously cuts or injures any electric line or work with intent to cut off any supply of electricity shall be guilty of a misdemeanour and shall be liable at the discretion of the court before which he is convicted to be imprisoned for any term not exceeding two years or to a penalty not exceeding *one hundred* pounds or to both imprisonment and penalty; but nothing in this section shall exempt a person from any proceeding for any offence which Injuring works with intent to cut off supply of electricity. 45 & 46 Vic. c. 56, s. 22.

which is punishable under any other provisions of this or any other Act or at common law, so that such person be not punished twice for the same offence.

43. Any person who wilfully or fraudulently abstracts, causes to be wasted or diverted, consumes or uses any electricity shall be guilty of simple larceny and punishable accordingly. Stealing electricity. *Ibid.* s. 23.

44. Any person who carelessly or accidentally cuts, breaks, throws down or damages any electric line, post, lamp, meter, or fittings belonging to or under the control of the undertakers shall pay such sum of money by way of satisfaction to the undertakers for the damage done, with such costs and expenses of the proceedings as any two justices sitting in petty sessions may deem reasonable. Damaging electric line, &c. 59 Vic. No. 1413 (Vict.), s. 50.

Miscellaneous.

45: (I) The Governor may make regulations in relation to applications for orders, and to the fees and charges to be paid to the Postmaster General in respect thereof, and to the publication of notices and advertisements, and the manner in which and the time within which representations or objections with reference to any application are to be made, and to the holding of local inquiries in such cases as he may think it advisable, and to any other matters arising under this Act. Making of general regulations as to application, &c., under Act. 45 & 46 Vic. c. 56, s. 5.

(II) All regulations made in pursuance of this Act shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act.

(III) All such regulations shall be laid before Parliament within three weeks after they are made if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the next session of Parliament.

46. The profits which may be divided amongst the shareholders of any company being an undertaker under this Act, so far only as such profits are derived from supplying electricity, shall not in any year exceed ten pounds per centum on so much of the paid-up capital of such company as has been appropriated for the works or expenditure of such company as an undertaker under this Act: Distribution of profits limited. 59 Vic. No. 1413, s. 52.

Provided that whenever throughout any half-year any company charges for electricity supplied to consumers a less price than the maximum charge fixed by the order authorising the undertaking, such company may increase such rate of dividend for such half-year by one-half per centum on the paid-up capital for each and every reduction of one farthing per unit in the price of electricity.

47. Every notice which by this Act or by any order is required to be served upon or given to any person, shall be served or given by being delivered to the person for whom it is intended or by being left at the usual or last-known place of abode or business of such person, or sent by post addressed to such person at such place. If in any case any such person or his address be not known to the authority or person serving or giving any notice, and cannot after due inquiry be found or ascertained, then such notice may be served by being affixed for three days to some conspicuous part of any premises to which such notice relates. Service of notices. 34 & 35 Vic. c. 41, s. 45.

48. All penalties imposed by this Act may be recovered in a summary way before a police or stipendiary magistrate or any two justices of the peace in petty sessions. Recovery of penalties.

49. The councils of any two or more municipalities may jointly become undertakers under this Act or may jointly exercise the power of purchasing any undertaking by this Act conferred on any council, and as such undertakers or in or for the exercise of any such power of purchase may jointly sue or be sued in any court of competent jurisdiction. Joint power of two or more councils. 59 Vic. No. 1413 (Vict.), s. 54.

50. Any council shall have power to become an undertaker under this Act, and to supply electricity for public or private purposes.

Power of any council supply electricity for public or private purposes.

51. No judge of any court and no justice shall be disqualified from acting in the execution of this Act by reason of his being liable to the payment of any electricity, rent, or charge under this Act.

Ibid. s. 55.
Liability to charges not to disqualify just from acting.

52. Not later than the first day of July in each year the Postmaster General shall cause to be laid before both Houses of Parliament a report respecting all applications and proceedings under this Act during the year ended on the thirty-first day of December then last past.

34 & 35 Vic. c. 41 s. 46.
Annual report.

53. Nothing in this Act shall limit or interfere with the rights (if any) of any owner, lessee, or occupier of any mines or minerals lying under or adjacent to any street along or across which any electric line is laid to work such mines and minerals.

45 & 46 Vic. c. 56, s. 30.
For the protection of mines.
Ibid. s. 33.

54. Nothing in this Act shall exempt any undertakers or their undertaking or works from the provisions of any Act relating to the supply of electricity which may be passed by Parliament after the commencement of this Act.

Provision as to future Acts.
45 & 46 Vic. c. 56, s. 34

Definitions.

55. In this Act unless the context otherwise requires—

Interpretation.

“Company” means any body of persons corporate or unincorporate and includes any corporation other than the body corporate of a municipality;

50 Vic. No. 1413 (Vict.) s. 1.

“Council” means the council of any municipality, and all acts of any council shall be deemed to be acts of the municipality governed by such council;

“Electric line” means a wire or wires or conductor or other means used for the purpose of conveying, transmitting, or distributing electricity with any casing, coating, covering, tube, pipe, pole, post, frame, bracket, or insulator enclosing, surrounding, or supporting the same, or any part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting, or distributing electricity or electric currents;

“Electrical energy” means the capacity for doing work by electricity;

“Electricity” means electricity, electric current, or any like agency;

“Gas undertakers” means any company authorised to supply gas;

“Governor” means Governor with the advice of the Executive Council;

“Municipality” means a borough or municipal district and includes the city of Sydney;

“Order” means any order of the Governor granted or made pursuant to this Act;

“Private purposes” includes any purposes whatever to which electricity may for the time being be applicable, not being public purposes, except the transmission of any telegraphic message;

“Public Purposes” means lighting any street or any place belonging to or subject to the control of any council, or any church, chapel, or place of public worship, or any hall or building belonging to or subject to the control of any council or public body, or any licensed theatre, but shall not include any other purpose to which electricity may be applied;

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- “Government purposes” means the purposes for which works carried out under the authority of the Postmaster General, the Secretary for Public Works, or the Railway Commissioners of New South Wales are ordinarily used ;
- “Street” includes any square, court, or alley, highway, lane, road, thoroughfare, or public passage, or place within the area in which the undertakers are authorised to supply electricity by any order ;
- “Telegraph” and “telegraphic” include telephone and telephonic respectively ;
- “Telegraphic line” means line of communication of electric telegraph or telephone, constructed and maintained for or by the Postmaster General, the Secretary for Public Works, or the Railway Commissioners of New South Wales.
- “Undertakers” means and includes any council, company or person who may by an order under this Act be authorised to supply electricity within any area ; and
- “Works” means and includes electric lights, also any buildings, machinery, engines, works, matters, or things of whatever description required to supply electricity and to carry into effect the object of any undertakers under this Act.

Short title.

56. This Act may be cited as the “Electric Light and Power Short title. Act, 1897.”
