

No. , 1899.

A BILL

To facilitate and regulate the supply of Electricity.

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 of Government in regard to electric lines.

1. The Postmaster-General, the Secretary for Public Works, and the Railway Commissioners shall, with regard to the construction, maintenance, and protection by them of any electric lines, have the like powers as those conferred by the Act twentieth Victoria number forty-one on the superintending officer in that Act mentioned with regard to the construction, maintenance, and protection of telegraphic lines; and the provisions of the said Act with regard to telegraphic lines and works constructed and things done in pursuance of that Act shall so far as possible apply with regard to electric lines and works constructed and things done in relation to such construction by the Postmaster-General, or the said secretary or commissioners.

2. (1) Except where expressly provided, nothing hereinafter in this Act contained shall apply to the placing, construction, maintenance, or use of any electric lines or works placed, constructed, maintained, or used by the Postmaster-General, the Secretary for Public Works, or the Railway Commissioners.

Application of
20 Vic. No. 41 to
Government electric
lines.

Act not to apply to
Government works.

14—A (3)

(2)

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

(2) Nothing in this or any other Act or in any order shall authorise or enable any council or person to transmit any telegraphic message, or to perform any services of or incidental to or in connection with the receiving, collecting, or delivering of telegraphic messages.

Restriction on placing electric lines and supplying electricity.

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

3. With the exceptions hereinbefore in this Act mentioned, no electric lines or works shall be placed, constructed, or used for the supply of electricity except under the authority of an order granted in pursuance of this Act.

Saving.

But this section shall not apply—

- (a) until the expiration of twelve months after the commencement of this Act to any electric lines or works placed or constructed before the said commencement; or
- (b) to any electric lines or works, where such lines or works are not intended to be used and are not used for purposes other than lighting purposes, and no electricity is intended to be supplied or is supplied beyond the limits of the building or premises or ship or other vessel in which the electricity is intended to be generated or is generated; or
- (c) to any electric lines or works, where such lines or works are not intended to be used and are not used for purposes other than telephonic purposes, and no electricity for those purposes is intended to be supplied or is supplied beyond the limits of the building or premises in which the electricity is intended to be generated or is generated.

Orders for supplying electricity.

Governor may grant orders.

4. Subject to the provisions of this Act the Governor by order may authorise any council or person to supply electricity for any purpose and within any area specified in the order, and whenever it is proved to the satisfaction of the Postmaster-General (after the Postmaster-General has either heard all parties interested or given them an opportunity to be heard) that any of the terms of the order have been contravened or have not been complied with, may revoke in whole or in part any such order.

What orders granted as of course.

5. Subject to the provisions of this Act any council or person shall, as regards any electric lines and works belonging to such council or person placed or constructed before the commencement of this Act, be entitled to an order authorising the continuation of the supply or the supply of electricity for the purposes for which electricity was supplied or was intended to be supplied by means of such lines and works. But in the case of any such person, not being a council, the order

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order shall be subject to any existing agreements made before the commencement of this Act between such person and any council, except so far as such agreement may be varied by this Act.

Subject to the provisions of this Act, every council shall be entitled to an order authorising the supply by the council of electricity for any purpose which the Governor may think proper, whether by means of electric lines or works placed or constructed before or after the commencement of this Act.

6. The term of an order granted under the last preceding section Term of orders. to a person not being a council shall be such term, not exceeding thirty years, as the said person requires.

The term of any other order granted to a person not being a council shall be such term, not exceeding forty-two years, as the Governor thinks proper.

The term of any order granted to a council shall be such term as the Governor thinks proper.

7. Subject to the provisions of this Act a gas company incorporated before the commencement of this Act is hereby empowered Orders to gas companies. to become an undertaker for the supply of electrical energy notwithstanding anything contained in any statute relating to such gas company.

But before any such company applies for an order, the sanction of the shareholders of the company to the application must be obtained by resolution passed pursuant to law at an extraordinary or special general meeting of the shareholders.

8. (1) Every council 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. The provisions of this subsection shall not have effect where the application is for an order to which a council or person is entitled under section five. Conditions of applications, advertisement. 45 & 46 Vic., c. 56, s. 3, subs. 5.

(2) 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 councils. Ibid. subs. 6.

9. (1) 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. Conditions precedent to granting order. 45 & 46 Vic. c. 56, s. 4, subs. 1.

(2)

Consent of local authority generally required to order.
51 & 52 Vic. c. 12, s. 1.

(2) 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 is not necessary in the case of any order to which, under this Act, the undertakers are entitled in respect of electric lines or works placed or constructed before the commencement of this Act.

No order to have an exclusive effect.
Ibid. s. 1.

(3) 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 any other council or person within the same area.

Terms and conditions of order.
45 & 46 Vic., c. 56, s. 3, subs. 7.

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

Powers of council when not undertakers.
Ibid. subs. 9.

(2) Where any area or part of an area in which any undertakers are authorised to supply electricity under any order forms part of a municipality and the undertakers are not themselves the council of that municipality, the order may contain such provisions and restrictions for enabling the said council 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.

Conditions as to supply being compulsory or permissive.
Ibid. subs. 8.

(3) 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 to be inserted in order.
45 & 46 Vic. c. 56, s. 6.

11. (1) Subject to the provisions of this Act 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:—

(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)

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- (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.

(2) Provided that 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 authorise the imposition of any penalty not exceeding *fifty* pounds for any breach of the same, 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.

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

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.

(3) 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, the council of any municipality within any part of which electricity is authorised to be supplied under any order may, subject to those regulations and with the approval of the Governor, make by-laws for further securing such safety, and may authorise the imposition of any penalty not exceeding *fifty* pounds for any breach of the same.

Municipal by-laws to secure safety of public.
Ibid. s. 6.

Expenses, borrowings, and accounts.

12. (1) 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 or person of any order may be defrayed out of the corporate fund of the municipality.

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

(2)

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

(2) A council authorised by any order to supply electricity may, with the approval of the Governor, and upon such terms and subject to such conditions and upon such security as the Governor, in giving his approval, or otherwise may specify, borrow money for the purposes of the supply of electricity under an order granted in pursuance of this Act.

Accounts.
Ibid. s. 9.

13. 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.

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.

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.

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

14. 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.

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

15. Any council authorised by order to supply electricity may contract with any 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 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.

Powers of undertakers in executing works.

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

16: (1) The undertakers, under such superintendence as is hereinafter in this Act specified, may, within the area in respect of which their order applies, place and construct electric lines and works, and
renew,

renew, repair, alter, and remove the same, and open and break up the soil and pavement of any streets, and open and break up any sewers, drains, or tunnels under any streets, and make, renew, repair, alter, or remove the same, and any pipes, drains, and sewers that may be necessary for or incidental to the carrying out of such works, and remove and use all earth and materials in or under any streets.

And within any such area the undertakers may in any street construct and 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, within any such area, 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.

(2) Provided that nothing herein shall authorise the undertakers (not being the council of the municipality within which the building or land is situate) to place any electric line or construct any works in, or against any building, or in any land not dedicated to public use, without the consent of the owners and occupiers thereof; except that any undertakers may at any time enter upon any land for the purpose of placing, and may place, any new electric line in lieu of any existing electric line in any land wherein any electric line has been lawfully placed, and may repair or alter any electric line so placed. Not to enter on private land without consent.

(3) Provided also that 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.

17. Before the undertakers proceed to open or break up the soil or pavement of any street, or any sewer, drain, or tunnel, they shall give to any council or person under whose management or control the same is, or to its or his clerk or surveyor, 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 electric lines 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 before breaking up streets or opening drains. See 10 & 11 Vic., c 15, s. 8.

18. No such street, 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 or person having the management or control thereof, or of its or his surveyor or other officer, and according to such plan as may be approved of by the council or person, or its or his 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 council or of its officer. Ibid. s. 9.

Such

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

If no officer appointed by the council or person for the purpose attends at the time fixed for the opening of the street, sewer, drain, or tunnel after such notice of the undertaker's intention as aforesaid has been duly given, or if the council or person, or its or his 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 person, or its or his officer.

Streets or drains broken up to be reinstated without delay.

Ibid. s. 10.

19. (1) When the undertakers open or break up the soil or pavement of any street, or any sewer, drain, or tunnel, the undertakers shall, with all convenient speed, complete the work for which the same is opened or broken up, and fill in the ground and reinstate and make good, to the satisfaction of the council or person or its or his surveyor or other officer, the street, sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned by the work.

And fenced and guarded.

(2) The undertakers shall at all times whilst any such street, 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 street, 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 street, 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.

Penalty for delay, &c., in reinstating streets, &c.

10 & 11 Vic. c. 15, s. 11.

20. If the undertakers—

- (a) open or break up the soil 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 street, sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned by the work, or
- (c)

(c) neglect to cause the place where such street, sewer, drain, or tunnel has been broken up to be fenced, guarded, and lighted, or

(d) neglect to keep the street, 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.

21. If any such delay or omission as aforesaid takes place, the council or person having the management or control of the street, 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 or person 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.

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, or person having the charge 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.

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

Ibid. s. 28.

If any council 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 or person, and it shall have the like effect.

23. Nothing in this Act shall authorise or empower the undertakers to break up any tramway or railway under the control of the Railway Commissioners unless by the authority of the said Commissioners, or to break up any other tramway or railway without the consent of the council or person by whom such tramway or railway is repairable, unless in pursuance of special powers in that behalf inserted in the order or by the authority of the Governor.

Restriction on breaking up of tramways and railways.

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

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

24. (1) Notwithstanding anything in this Act, the undertakers shall not place any electric line above ground, along, over, or across

Restrictions as to above-ground works.

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

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.

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.

Court of petty sessions may order removal of electric line.

(2) 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.

Power of undertakers to alter position of pipes and wires.
Ibid. s. 15.

25. (1) 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 or person having the charge or control of, 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 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 councils, &c., to alter electric lines or works.

(2) Any council 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 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.

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

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

shall cause as little detriment and inconvenience and do as little damage as may be, and shall make full compensation to all councils 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.

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, in respect of any of their electric lines or works, and shall save harmless all councils and persons, 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
(Vic.), s. 34.

Protection of public electric lines in the execution of works.

29. (1) 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 electric line of the Postmaster General, or the Secretary for Public Works, or the Railway Commissioners is or may be injuriously affected.

Lines not to
injuriously affect
Government lines.
See 45 & 46 Vic.,
c. 56, s. 26.

(2) No alteration in any electric line of the Postmaster General, or of the said Secretary, or Commissioners 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.

Alteration in
Government lines.

(3) 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

Protection of
telegraphic lines.

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.

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.

Penalty for contra-
vention.

(4) 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 communication or the electric communication along the telegraph line is wilfully interrupted, not exceeding *fifty* pounds for every day on which such interruption continues.

Saving.

(5) 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, or 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.

Restrictions as to placing electric lines, &c

Restrictions as to
placing of lines, &c.
See 51 & 52 Vic.,
c. 12, s. 4 (1).

30. (1) Where in any case any electric line or other work has been placed or constructed in, over, along, across, or under any street for the purpose of supplying electricity, or may have been placed or constructed 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 placed or constructed may be 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 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
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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, 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.

In case of non-compliance with the said conditions, restrictions, and provisions, the Postmaster General may require such council or person to remove such electric line or work. Removal of line. *Ibid.* s. 4 (1).

Nothing heretofore provided in this section shall apply to any line or work placed or constructed by any council or person for the supply of electricity generated upon any premises occupied by such council or person to any other part of such premises. Saving. *Ibid.* s. 4 (1).

(2) 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 electric line of the Postmaster General, or the said Secretary, or Commissioners, the Postmaster General, Secretary, or Commissioners, as the case may be, may, by notice to be served upon the council 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 the electric lines of the Postmaster General, Secretary, or Commissioners, and the communication through the same as he or they may, by or in pursuance of such notice, prescribe. Line injuriously affecting Government line. *Ibid.* s. 4 (2).

In case of non-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 placed previous to the construction of the telegraph or electric line so affected.

(3) If any council or person fails to comply with the requirements of any notice which may be served upon them or him under this section, such council 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 failure to comply with the requirements aforesaid 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 or person upon such terms as such Court may think fit. Penalty. *Ibid.* s. 4 (3).

(4) Nothing in this section shall apply to any electric line or work, except by way of protection, as in this section provided. Saving. *Ibid.* s. 4 (6).

Obligations

Obligations and powers of undertakers in the supply of electricity.

Undertakers not to prescribe special form of lamp or burner.

45 & 46 Vic., c. 56, s. 18.

31. The undertakers 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 them under any order is used.

No council 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 or person by the undertakers.

If any dispute or difference arises between the undertakers and any council 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 appoints.

Obligation on undertakers to supply electricity.

Ibid. s. 19.

32. 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 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 or person in such part of the area is entitled under similar circumstances to a corresponding supply.

Charges for electricity.

Ibid. s. 20.

33. The undertakers shall not, in making any agreements for a supply of electricity, show any undue preference to any council 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.

Power to cut off supply.

Ibid. s. 21.

34. If any council or person neglect 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 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 or person.

Recovery of charges, &c.

See 34 & 35 Vic., c. 41, ss. 40 & 41.

35. 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.

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. 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, and repairing all damage caused by such entry, inspection, or removal.

37. 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.

38. If it is reported to the Postmaster General that the wiring or fitting up of any building is so carried out that it would tend to endanger the safety of any person or property that electricity should be supplied or should continue to be supplied to such building, the Postmaster General may direct some officer to make an inspection of such building and its premises.

Where supply of electricity is dangerous.

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 tend to endanger the safety of any person or property, that electricity should be supplied or should continue to be supplied to such building, the Postmaster General may direct that no electricity be supplied to such building, and may cause the connection (if any) made with any supply main to be cut off from such building.

Right of municipal councils to purchase undertakings.

39. (1) Where any undertakers are, in respect of any electric line or works placed or constructed after the commencement of this Act, authorised by an order to supply electricity within any area, the council of any municipality within which such area or any part thereof is situated may, either alone or in conjunction with any other such council, within six months before the expiration of a period of forty-two 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

Purchase by council or councils of undertaking constructed after commencement of Act.

See 51 & 52 Vic., c. 12, ss. 2 & 3.

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.

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.

*Purchase of undertaking constructed before commencement of Act.

(2) Where any undertakers, not being a council, have obtained an order in respect of electric lines or works placed or constructed within any area before the commencement of this Act, then the council of any municipality within which such area or any part thereof is situated, either alone or in conjunction with any other such council, may, within twelve months from the date of the said order, or within six months before the expiration of a period of thirty years, or such shorter period as is specified in that behalf in the order, from the said date, 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 arbitration in the manner aforesaid.

Where such sale is made within twelve months from the date of the order, 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.

Valuation.

(3) 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.

Payment of purchase money and power of borrowing.

(4) Such council or councils may pay the purchase money and all expenses incurred by them in the purchase of the undertaking out

out of their rates, and may, with the approval of the Governor, and upon such terms and subject to such conditions and upon such security as the Governor in giving his approval or otherwise may specify, borrow money for the purposes aforesaid.

(5) 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 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.

Powers of Governor
in relation to
purchase.

(6) Provided that the Governor may by any order, if he thinks fit, vary the terms upon which any council or councils may require the undertakers to sell, and upon which the undertakers shall be required to sell to such council or councils their undertaking, or so much of the same as is within the boundaries of the municipality or municipalities in such manner as may have been agreed upon between such council or councils and the undertakers.

Powers of Governor
to vary terms of
purchase.

Relief of gas companies.

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

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

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 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.

If

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 company, and that it is just that such gas company should be relieved from the obligation to supply gas upon demand as aforesaid, the Postmaster General may recommend the Governor accordingly.

Thereupon the Governor may make an order relieving the gas 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.

After the date of such order such gas company shall be so relieved accordingly.

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

Offences.

Penalties.

59 Vic., No. 1,413
(Vict.), s. 46.

41. Any undertakers, council, or person disobeying any provision of this Act, or any regulation or by-law thereunder, or any order thereunder, 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.

If in any case no penalty is specially provided, such undertakers, council, or person shall be liable to pay all costs and expenses which have been incurred in taking proceedings against such undertakers, council, or person, as well as any costs and expenses that have lawfully been incurred in remedying the default of such undertakers, council, 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.

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, or person.

Penalty for
injuring line, meters,
or fittings.
See 34 & 35 Vic.
c. 41, s. 38.

42. (1) 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 the 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.

(2)

(2) 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).

Power to cut off supply of electricity.

(3) The existence of artificial means for causing such alteration or prevention, or for abstracting, consuming, or using the 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.

Evidence.

(4) Any person who fits up any apparatus or fittings whereby electricity or electrical energy is obtained from any 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.

Penalty for fitting up apparatus to obtain electricity.

43. 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 liable, on indictment, 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 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.

Injuring works with intent to cut off supply of electricity. 45 & 46 Vic. c. 56, s. 22.

44. Any person who fraudulently abstracts, consumes, or uses any electricity shall be liable, on indictment, to imprisonment for any term not exceeding *five* years.

Abstracting or wasting electricity. See *Ibid.* s. 23.

Any person who wilfully or fraudulently causes to be wasted or diverted any electricity shall be liable, on indictment, 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.

45. 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 the Court may deem reasonable.

Damaging electric line, &c. 59 Vic. No. 1413 (Vict.), s. 50.

Miscellaneous.

Miscellaneous.

Power of any council
to supply electricity.
Ibid., s. 55.

Joint power of two
or more councils.

59 Vic. No. 1413
(Vic.), s. 54.

Distribution of
profits limited.

Ibid., s. 52.

Annual report.

45 & 46 Vic., c. 56,
s. 30.

Service of notices.

34 & 35 Vic., c. 41,
s. 45.

Making of general
regulations as to
applications, &c.,
under Act.

45 & 46 Vic., c. 56,
s. 5.

46. Any council may become an undertaker under this Act, and supply electricity for public or private purposes.

47. The councils of any two or more municipalities may jointly become undertakers under this Act or may jointly exercise the power conferred by this Act on any council of purchasing any undertaking, 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.

48. 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 such amount 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:

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 said amount of the paid-up capital for each and every reduction of one farthing per unit in the price of electricity.

49. 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.

50. 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 is 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.

51. 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.

Such

Such regulations shall be published in the Gazette, and shall thereupon have the force of law. All such regulations shall be laid before Parliament within three weeks after they have been so published if Parliament is then sitting, and if Parliament is not then sitting, within three weeks after the next meeting of Parliament.

52. All penalties to which any person is made liable by this Act, or by any order granted or regulation or by-law made thereunder, and all costs, damages, and expenses made payable by this Act, may be imposed and recovered in a summary way before a stipendiary or police magistrate or any two justices of the peace in petty sessions. Recovery of penalties.

53. No judge of any court and no justice of the peace shall be disqualified from acting in the execution of this Act by reason of his being liable to pay for or in respect of the supply of electricity. No disqualification of judges. 34 & 35 Vic., c. 41, s. 46.

54. 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. For the protection of mines. Ibid. s. 33.

55. 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. Ibid. s. 34.

Definitions.

56. (1) In this Act unless the context otherwise requires— Definitions.
- “Council” means the council of any municipality, and all things done, or suffered, or omitted to be done by any council shall be deemed to be done, or suffered, or omitted to be done by the municipality governed by such council; 59 Vic. No. 1413 (Vict.), s. 1.
- “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;
- “Municipality” means a borough or municipal district and includes the city of Sydney;
- “Order” means order of the Governor granted or made pursuant to this Act;

“Person”

Electric Light and Power.

- “ Person ” or “ persons ” does not include a council ;
- “ Private purposes ” includes any purposes whatever to which electricity may for the time being be applicable, not being public purposes, and not being 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 ;
- “ Street ” includes any square, court, or alley, highway, lane, road, footway, footpath, thoroughfare, or public passage, or place within the area in which the undertakers are authorised by any order to supply electricity ;
- “ Telegraph ” and “ telegraphic ” include telephone and telephonic respectively ;
- “ Telegraphic line ” means line of communication of electric telegraph or telephone, and all other works connected therewith ;
- “ Undertakers ” means and includes any council or person who are by an order under this Act 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.

(2) For the purposes of this Act, a telegraphic or electric line of the Postmaster General, Secretary for Public Works, or Railway Commissioners shall be deemed to be injuriously affected by an electric line or work if telegraphic or electric communication by means of such first-mentioned line is, whether through induction or otherwise, in any manner affected by such last-mentioned line or work or by any use made thereof.

Short title.

Short title.

57. This Act may be cited as the “ Electric Light and Power Act, 1899.”
