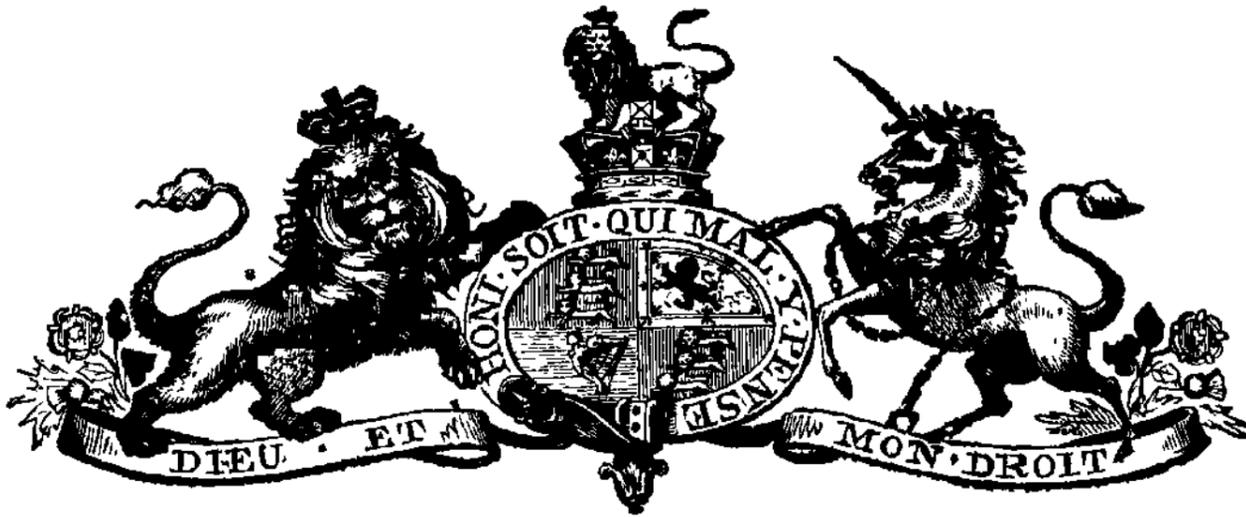


VICTORIA.



ANNO QUINQUAGESIMO NONO

VICTORIÆ REGINÆ.

No. 1413.

An Act to facilitate and regulate the supply of Electricity for Lighting and for other purposes.

[10th February, 1896.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Electric Light and Power Act* Short title, 1896.

Preliminary.

2. In this Act unless the context otherwise requires—

Interpretation.

- (1) "Company" means any body of persons corporate or unincorporate and includes any corporation other than a municipality :
- (2) "Council" means the council of any municipal district, and all acts of any council shall be deemed to be acts of the municipality governed by such council :
- (3) "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 :
- (4) "Electrical energy" means the capacity for doing work by electricity :
- (5) "Electricity"

- (5) "Electricity" means electricity electric current or any like agency :
- (6) "Gas undertakers" means any company authorized to supply gas :
- (7) "Municipal district" includes the city of, Melbourne and town of Geelong :
- (8) "Order" means any order of the Governor in Council granted or made pursuant to this Act :
- (9) "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 :
- (10) "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 :
- (11) "Government purposes" means any works which may be carried out under the authority of the Postmaster-General the Board of Land and Works or the Victorian Railways Commissioners :
- (12) "Street" includes any square court or alley highway lane road thoroughfare or public passage or place within the area in which the undertakers are authorized to supply electricity by any order :
- (13) "Telegraph" and "telegraphic" include telephone and telephonic respectively :
- (14) "Telegraphic line" means line of communication of electric telegraph constructed and maintained for or by the Postmaster-General the Board of Land and Works or the Victorian Railways Commissioners for the purposes of the *Post Office Act 1890* or the *Railways Acts* or any Act amending the same or any Act thereby repealed :
- (15) "Undertakers" means and includes any council company or person who may by an Order in Council under this Act be authorized to supply electricity within any area, and every such Order in Council is in this Act included in the expression "order" : and
- (16) "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.

No. 1128.

Electric lines may be placed for Government purposes.

3. The Postmaster-General the Board of Land and Works and the Victorian Railways Commissioners may place such electric lines as may be required for Government purposes and the construction and maintenance of such electric lines shall be deemed to be a part of the ordinary business

business of their departments, and for the purposes of placing constructing and maintaining such lines the Postmaster-General the said Board and the said Commissioners respectively shall have and may exercise the like powers and authorities as those conferred by the *Post Office Act 1890* on the Postmaster-General with regard to telegraph lines.

4. Nothing in this or any other Act or in any order shall affect the exclusive privileges conferred upon the Postmaster-General by any Act relating to the Post Office, or authorize 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 connexion with the transmission of telegraphic messages or the performance of any of the incidental services of receiving collecting or delivering telegraphic messages; nor shall this Act be deemed to prevent or restrict the erection construction laying down putting up placing removal or alteration of any electric line by or for the use of the Postmaster-General the Board of Land and Works or the Victorian Railways Commissioners.

Saving for privileges of Postmaster-General.

Restriction on Construction of Electric Lines and Supplying Electricity.

5. 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 in Council.

6. The last preceding section shall not extend to any case where any electric line used or intended to be used is not laid conveyed or placed or intended to be laid conveyed or placed beyond the limits of any buildings or premises in which electricity is generated for lighting purposes; nor shall such section apply to any electric lines or works belonging to any council company or person erected before the sixteenth day of July One thousand eight hundred and ninety-five until the expiration of one year after the commencement of this Act, but all such councils companies and persons shall as regards such lines and works be entitled to an order as of course. 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.

Provision as to works constructed before this Act.

7. Any company or person after having obtained an order under the last preceding section may, subject to the general provisions of this Act, apply for and be granted an order authorizing 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.

8. Every council shall be entitled to an order for its municipal district.

Council entitled to order for its district.

9. It

Cancellation of order for breach.

9. It shall be lawful for the Governor in Council (after the Minister 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 in Council that the terms and conditions of such order have not been complied with.

Authority for Construction of Electric Lines and Supplying Electricity.

Granting of orders authorizing the supply of electricity.

10. (1) Subject to this Act the Governor in Council may from time to time by order authorize 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 in Council may think proper.

Power to grant authority to a gas company.

(2) 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 authorized 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.

(3) Before any such gas company shall apply 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.

(4) Any council company or person which or who under any of the provisions of this Act becomes an undertaker and has not 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.

Notice of application for order to be advertised.

See 45 & 46 Vict. c. 56 s. 3 sub-section (5).

11. (1) 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 in Council may from time to time direct or approve; and such order shall not be granted by the Governor in Council 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 Minister with reference to the application.

Applications by municipal councils. See *ib.* sub-section (6).

(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.

Area within which orders operate. *Ib.* sub-section (7).

(3) An order may subject to the provisions of this Act be granted to a council authorizing such council to supply electricity within any area although the same or some part thereof may not be included within the municipal district of such council. (4) Every

(4) 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 for the revocation of the order where the undertakers fail to perform such duties, and generally may contain such conditions as the Governor in Council thinks expedient.

Conditions &c. of orders.

See 45 & 46 Vict. c. 56 s. 3 sub-section (9).

(5) Where in any area or part of an area in which any undertakers are authorized to supply electricity under any order the undertakers are not themselves the council of any municipal district either wholly or partly included in such area, the order may contain any provisions and restrictions for enabling the council of the municipal district 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 in Council thinks expedient.

Powers of council when not "undertaker."

Ib. sub-section (8).

12. (1) No order shall authorize the supply of electricity by any undertakers within any municipal district (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.

Ib. s. 4 sub-section (1).

(2) No order authorizing the supply of electricity by any undertakers within any municipal district shall be granted by the Governor in Council except with the consent of the council of such district unless the Governor in Council in any case in which the consent of such council is refused is of opinion after the Minister 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 as hereinbefore provided.

Consent of local authority generally required to order.

See 51 & 52 Vict. c. 12 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 the council of any municipal district or to any other company or person within the same area.

No order to have an exclusive effect.

See ib. s. 1.

13. 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.

See 45 & 46 Vict. 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

- (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 authorizing of inspection and inquiry at any time or from time to time by direction either of the Minister or of the council of any municipal district within which the undertakers are authorized 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 in Council 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 connexion with the undertakings.

Regulations to secure safety of public.

See 45 & 46 Vict. c. 56 s. 6.

See *ib.* s. 6.

14. (1) The Governor in Council may from time to time 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 contained in any order in relation thereto.

(2) 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.

(3) 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.

Municipal by-laws to secure safety of public.

See *ib.* s. 6.

No. 1112 Part VII.

15. In addition to any regulations which may from time to time be made by the Governor in Council for securing the safety of the persons and property of the public, any council within any part of whose municipal district electricity is authorized to be supplied under any order may in the manner provided by law for making by-laws make by-laws for further securing such safety, and there may be annexed to any breach of such by-laws such penalties within the limits specified in the Act pursuant to which such by-law is made as such council may think necessary. No such by-law made for the purposes of this Act shall have any force or effect until approved by the Governor in Council.

Expenses of municipal council.

See 45 & 46 Vict. c. 56 s. 7.

16. (1) The expenses incurred by any council under this Act and not otherwise provided for, including any expenses incurred in connexion 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 municipal fund of such council. (2) The

(2) The amount of any such expenses may be raised if necessary by the council increasing the annual town or general rate next following the payment of such contribution by such a sum in the pound as shall be sufficient to provide the amount thereof, but so as not to increase any statutory limit of rates, and such increased rate shall for all purposes be deemed to be and be recoverable as town or general rates (as the case may be).

17. A council authorized to supply electricity by any order may from time to time pursuant to Part XI. of the *Local Government Act 1890* 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 the said Part, 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.
See 45 & 46 Vict. c. 56 s. 8.
No. 1243 s. 77.

18. (1) 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 in Council 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 from time to time be prescribed in that behalf by the Governor in Council and shall also be published in a newspaper circulating in the area within which the undertakers are authorized to supply electricity.

Accounts.
See 45 & 46 Vict. c. 56 s. 9.

(2) 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.

(3) 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.

19. 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 authorizing or affecting their undertaking and for the purpose of supplying electricity, acquire such lands by agreement, construct such works, acquire such licences 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.
See *ib.* s. 10.

20. Any council authorized 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

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

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 in Council.

Powers and Responsibilities of Undertakers as regards the Execution of Works.

Power to break up streets under superintendence and to open drains.
Comp. No. 586 s. 183,
10 & 11 Vict. c. 15
ss. 6 & 7.

And to lay pipes for lighting buildings.

Not to enter on private land without consent.

Or footpaths.

Notice of intention to be served on council having control &c. before breaking up streets or opening drains.
Comp. No. 586 s. 184,
10 & 11 Vict. c. 15
s. 8.

21. (1) 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 same limits electric lines and other works and from time to time renew repair alter or remove the same, and also from time to time 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 shall 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.

(2) Nothing herein shall authorize 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 shall have been lawfully laid down or placed and may repair or alter any electric line so laid down or placed.

(3) 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 municipal district within which such footpath is situated.

22. 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 shall have arisen.

23. (1) No

23. (1) 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 shall 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 shall 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

Comp. No. 586 s. 185, 10 & 11 Vict. c. 15 s. 9.

(2) 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.

(3) 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 undertakers' intention as aforesaid shall have 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.

24. (1) 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 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.

Streets or drains broken up to be reinstated without delay.

Comp. No. 586 s. 186, 10 & 11 Vict. c. 15 s. 10.

(2) 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.

25. If the undertakers 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 shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid when so required except in the cases in which the undertakers are hereby authorized to perform such

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

Comp. No. 586 s. 187, 10 & 11 Vict. c. 15 s. 11.

such works without any such superintendence or notice, or if the undertakers 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 if the undertakers 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 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 shall continue after the undertakers shall have received notice thereof.

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

Comp. No. 586 s. 188,
10 & 11 Vict.
c. 15 s. 12.

26. 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 shall take place may cause the work so delayed or omitted to be executed and the expenses of executing the same shall be repaid to such council by the undertakers and such expenses shall be recoverable in any court of competent jurisdiction.

Application of preceding sections to sewers, drains, or tunnels of public bodies.

27. In any municipal district 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 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 "board" or "commissioners" or "trustees," as the case may be.

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

Comp No. 586 s. 190.

28. 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 authorized by the council company 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. If any council company or person refuses an authorization under this section then the Governor in Council after the Minister 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 authorization in lieu of such council company or person and it shall have the like effect.

29. (1) Nothing

29. (1) Nothing in this Act shall authorize 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 in Council.

Restriction on breaking up of tramways and railways.

See 45 & 46 Vict. c. 56 s. 13.

No. 765 s. 16.

No. 1112 Part XVI.

(2) The Governor in Council 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 in Council may direct and an opportunity has been given to such council company or person to state any objections they may have thereto.

30. (1) Notwithstanding anything in this Act, the undertakers shall not place any electric line above ground along over or across any street in any municipal district without the consent of the Minister and also of the council of such district unless in any case in which the consent of such council is refused the Governor in Council after the Minister 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.

See 45 & 46 Vict. c. 56 s. 14.

(2) The Minister 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 Minister or such council may remove the same, and recover the expenses of such removal from the undertakers as a civil debt recoverable summarily within the meaning of the *Justices Act 1890*.

(3) 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 Minister if of opinion that such electric line is or is likely to become dangerous to the public safety may notwithstanding any such consent as aforesaid make an order directing and authorizing the removal of such electric line by the undertakers or failing their compliance with such order by such person who may recover the expenses of such removal from the undertakers as a civil debt recoverable summarily within the meaning of the *Justices Act 1890*.

31. (1) Subject to the provisions of this Act and of the order authorizing 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 authorized 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

Power of undertakers to alter position of pipes and wires.

Ib s. 15.

such council company or person or in case of difference as may be determined in manner prescribed by the order authorizing 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
wires or works

(2) 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.

Undertakers liable
to make compensa-
tion for damage.
See 45 & 46 Vict.
c. 56 s. 17.

32. In the exercise of the powers in relation to the execution of 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.

Arbitration.

Arbitration.
See 51 & 52 Vict.
c. 12 s. 28

33. 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 Minister 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.

Undertakers alone
responsible for
damages.
Comp. No 914 s. 13.

34. 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.

Protection of Public Telegraphic and Electric Lines.

Provision for protec-
tion of lines
of the Postmaster-
General Board of
Land and Works
and Victorian
Railways Com-
missioners.
See 45 & 46 Vict.
c. 56 s. 26.

35. (1) No alteration in any telegraph or electric line of the Postmaster-General the Board of Land and Works or the Victorian Railways Commissioners shall be made by the undertakers except with the written permission of the Postmaster-General or the said Board or Commissioners (as the case may be) and subject to such conditions as may be imposed in such permission.

(2) 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 Board or Commissioners is or may be injuriously affected.

(3) Before

(3) Before any such electric line of the undertakers is laid down or work is done within four yards of any part of a telegraphic line of the Postmaster-General or of the said Board or Commissioners (other than repairs or the laying of connexions with mains where the direction of the electric lines so laid down crosses a line of the Postmaster-General or the said Board 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 Board 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 or the said Board or Commissioners, as the case may be, for the purpose of preventing any telegraphic lines of the Postmaster-General or the said Board or Commissioners, as the case may be, from being injuriously affected by the said work.

(4) Any difference which arises between the Postmaster-General or the said Board or Commissioners and the undertakers or their agents with respect to any requirements so made shall be determined by such Judge of County Courts as the Governor in Council shall appoint.

(5) 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.

(6) Nothing in this section shall subject the undertakers or their agents to a penalty under this section if they satisfy the court having cognizance 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 Board or Commissioners on the station-master of the railway station nearest to the place where the work was done as the case may be a notice of the execution thereof stating the reason for executing the same without previous notice.

(7) For the purposes of this section, a telegraphic or electric line of the Postmaster-General or the said Board 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

Restrictions as to placing Electric Lines, &c.

Restrictions as to
placing of lines &c.
See 51 & 52 Vict.
c. 12 s. 4.

36. (1) Where in any case any electric line or other work may have been laid down or erected in or over along across or under any street for the purpose of supplying electricity, or may have 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 may be used for such purpose otherwise than under and subject to the provisions of an order the Minister 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 Board of Land and Works, and the Victorian Railways Commissioners, and of other electric lines and works lawfully placed in any position and used for telegraphic or electric communication as the Minister may by or in pursuance of such notice prescribe.

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

(3) 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.

(4) 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 Board or Commissioners, or to affect the telegraphic or electric communication through any such line, the Postmaster-General or the said Board 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 or the said Board 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 sub-section 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.

(5) If

(5) 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 authorizing 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.

(6) Nothing in this section shall apply to any telegraphic or electric line or work of the Postmaster-General or the said Board 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.

37. (1) 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.

See 45 & 46 Vict. c. 56 s. 18.

(2) 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.

(3) 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 Judge of County Courts as the Governor in Council shall appoint.

38. (1) 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 authorizing 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. *Ib.* s. 19.

(2) If it be reported to the Minister 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 Minister may direct some officer to make an inspection of such building and its premises.

(3) 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

would be dangerous to supply or to continue to supply electricity to such building the Minister may direct that no electricity be supplied to such building and that the connexion (if any) made with any supply main shall be cut off from such building.

Charges for electricity.

39. The undertakers shall not in making any agreements for a supply of electricity show any preference to any council company or person, and the charge for such supply shall be uniform throughout such area so that each council company or person shall be supplied at the same price and not less than any other council company or person, but such price shall not exceed the limits of price imposed by or in pursuance of the order authorizing them to supply electricity.

Power to cut off supply.
See 45 & 46 Vict.
c. 56 s. 21.

40. (1) 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.

Recovery of charges &c.
See 34 & 35 Vict.
c. 41 ss. 40, 41.

(2) 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.
See 45 & 46 Vict.
c. 56 s. 24.

41. 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 authorized 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.

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

42. 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 insolvency against or in the estate of the person in whose possession the same may be.

Right

Right of Municipal Councils to purchase Undertakings.

43. (1) Where any undertakers are authorized by an order to supply electricity within any area, any council either alone or in conjunction with any other council within whose municipal district such area or any part thereof is situated may, 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 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.

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

(2) If either the council or councils so purchasing or the undertakers shall neglect or refuse to appoint an arbitrator pursuant to the above provision for two calendar months after the other of them shall have 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.

(3) Where any undertakers consist of a company or person, which or who shall have 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 municipal district 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

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.

(4) 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.

(5) 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 Part XI. of the *Local Government Act 1890* 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 work and undertaking within the meaning of the said Part, or to be a purpose for which such council may borrow money pursuant to any such Act as the case may be.

(6) The Governor in Council 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.

44. The Governor in Council 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.

Relief of Gas Companies.

45. (1) Where a supply of electricity is authorized in any area by any order and a supply of gas by any gas undertakers or company is also authorized 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 Minister may, upon the application of such gas undertakers or company, inquire into the circumstances of the case.

(2) Such

As to payment of purchase money and power of borrowing.

Power to vary terms of sale by undertakers to council.

See 51 & 52 Vict. c. 12 s. 3.

Power for Governor in Council to relieve gas undertakers from obligation to supply gas in certain cases.

See 45 & 46 Vict. c. 56 s. 29 & No. 586 Part XVIII.

(2) Such application shall not be considered by the Minister 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 Minister 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.

(3) 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 Minister may recommend the Governor in Council accordingly.

(4) Thereupon the Governor in Council 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.

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

(6) All expenses in connexion 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.

46. (1) 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 Minister 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.
Comp. No. 1098
s. 330.

(2) 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.

(3) 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.

47. (1) Every

Penalty to company
for injuring line
meters or fittings.

Comp. No. 586 s. 227,
34 & 35 Vict. c. 41
s. 38.

47. (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 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) 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).

(3) 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.

(4) Any person who shall fit up any apparatus or fittings whereby electricity or electrical energy shall be 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.

Injuring works with
intent to cut off
supply of
electricity.

See 45 & 46 Vict.
c. 56 s. 22.

48. 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 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.

Stealing electricity.
Ib. s. 23.

49. 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.

50. Any

50. Any person who shall carelessly or accidentally cut break throw down or damage 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 shall deem reasonable.

Damaging electric line &c.

Miscellaneous.

51. (1) The Governor in Council may make regulations in relation to applications for orders and to the fees and charges to be paid to the Minister 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.

See 45 & 46 Vict. c. 56 s. 5.

(2) 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.

(3) 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.

52. 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. Provided that whenever throughout any half-year any company shall charge for electricity supplied to consumers a less price than the maximum charge fixed by the order authorizing 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.

Distribution of profits limited. Comp. No. 586 s. 134.

53. 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. See 34 & 35 Vict. c. 41 s. 45.

54. The

Joint power of two
or more councils.

54. The councils of any two or more municipal districts 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.

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

55. Notwithstanding anything contained in any Act relating to local government, including any Act relating to the city of Melbourne or town of Geelong, any council shall have power to become an undertaker under this Act and to supply electricity for public or private purposes.

Liability to charges
under this Act not
to disqualify
justice from acting.

See 34 & 35 Vict.
c. 41 s. 46.

Annual report.

See 45 & 46 Vict.
c. 56 s. 30.

56. 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.

57. Not later than the first day of July in each year the Minister 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.

For the protection
of mines.

See *ib.* s. 33.

58. 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.

Provision as to
future Acts.

See *ib.* s. 34.

59. 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.

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