



Western Australia.

ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. XXXIII.

AN ACT to authorise Municipal Corporations to supply or to grant Licenses or make Contracts for the supply of Electricity for Lighting and other purposes.

[Assented to, 18th March, 1892.]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Preamble.

1. THIS Act may be cited for all purposes as "The Electric Lighting Act, 1892."

Short title.

2. IN this Act, unless the context otherwise requires—

Interpretation.

"Company" means any body of persons, corporate or unincorporate.

"Consumer" means any person, company, or corporation supplied with electricity under this Act.

"Council" means Municipal Council.

Electric Lighting.

- “Electricity” means electricity, electric current, or any like agency.
- “Electric line” means a wire or wires, conductor, or other means used for the purpose of conveying, transmitting, or distributing electricity with any casing, coating, tube, pipe, 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.
- “Governor” means and includes the officer for the time being administering the Government, acting with the advice of the Executive Council.
- “Private purposes” means any purposes whatever to which electricity may for the time being be applicable (not being public purposes) except the transmission of any telegram or telephonic message.
- “Public purposes” means lighting any place or building belonging to or subject to the control of the Council or any street.
- “Rent” means and includes any electric light rate and charge, rent, reward, or payment to be made for the supply of electricity or for the fixing or use of a meter.
- “Street” means any square, court, alley, highway, lane, road, thoroughfare or public place or passage.
- “Works” means and includes electric lines, meters, accumulators, fittings, and apparatus for the supply of electricity, also any buildings, machinery, engines, matters or things of whatever description required to generate or supply electricity and to carry into effect the purposes of this Act.
- “Undertakers” means the company or persons supplying electricity under license from or contract with the Council, and includes the Council where the Council itself supplies electricity under this Act.

PART I.—GENERAL PROVISIONS.

3. ANY Council may, subject to the provisions of this Act, supply, or from time to time license or contract with, any company or person to supply electricity for all or any of the purposes mentioned in this Act within the limits of the municipality or within such other limits as the Governor may, from time to time, by proclamation approve and allow.

Council may supply or grant licenses or make contract for supply of electricity.

Electric Lighting.

4. ANY such license or contract may be for any period or periods not exceeding twenty-one years and shall be subject to such regulations and conditions as to the performance by any such company or person of their duties in regard to such supply, for the revocation or rescission of the license or contract where the said company or person shall fail to perform such duties to the satisfaction of the Council, for authorising inspection and inquiry from time to time by any officer of the Council, and generally with regard to any other matters in connection with any such license or contract or supply of electricity.

Term of licenses and contracts.

5. IN all cases where the Council enters into any contract under the authority of this Act it shall be lawful for the Council to make all such stipulations, provisoes, and agreements for the rescission, revocation, or purchase of any rights, licenses, or concessions to be granted by the Council at such times and upon such terms and conditions as to them may seem meet.

In cases of contract, Council to have power to rescind, revoke, or purchase.

6. THE Council may use the ordinary corporate funds for the purpose of obtaining plans, estimates, or reports as to the cost of acquiring or constructing works for the generation and supply of electricity: Provided that in the event of such works being proceeded with, such preliminary expenditure shall be charged to the electric light account.

Corporate funds may be used for preliminary expenses.

7. (1.) THE undertakers shall also be subject to such regulations and conditions as may from time to time be prescribed by the Governor, and published in the *Government Gazette*, with regard to the following matters:—

Regulations may be prescribed by Governor.

- (a) The limits within which and the conditions under which a supply of electricity is to be compulsory or permissive:
- (b) Securing a regular and efficient supply of electricity:
- (c) Securing the safety of the public from personal injury or from fire or otherwise:
- (d) The limitation of the prices to be charged in respect of the supply of electricity and the rent and sale of meters and fittings:
- (e) Authorising inspection and inquiry from time to time by the Governor:
- (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

Electric Lighting.

(g) Generally with regard to any other matters in connection with the supply of the electricity.

(2.) Such proclamation and such regulations and conditions, or any of them, may be either general or restricted to some particular municipality.

(3.) The Governor may, by such regulations as aforesaid, impose penalties not exceeding Fifty pounds in each case, for the breach of any such regulation.

Council may make by-laws.

8. ANY Council within any part of whose municipality electricity is supplied may, in addition to any regulations which may be made under the provisions of the last preceding section for securing the safety of the public, from time to time make, rescind, alter, or repeal by-laws for further securing such safety, and there may be annexed to any breach of such by-laws such penalties as such Council may think necessary, not exceeding Fifty pounds for each offence: Provided that no such by-laws shall have any force or effect unless and until they have been confirmed by the Governor, and published in the *Government Gazette*.

General powers of Council.

9. ANY Council, subject to and in accordance with the provisions and restrictions of this Act, and of any regulations made by the Governor in pursuance of this Act, may, for the purpose of supplying electricity, acquire such lands, construct such works, acquire such interests in, and 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 to sell, exchange, or lease lands.

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

Power to break up streets, &c., and to open drains.

11. THE Council, and the undertakers under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges within the limits to be supplied with electricity, and may open and break up any sewers, drains, or tunnels within or under such streets or bridges, and lay and place under or erect over along or across any street or bridge any electric lines and other works, and from time to time repair, alter, or remove the same, and for the purposes aforesaid may remove and use all earth and materials in and under such streets and bridges; and may in any such streets erect any pillars, poles, standards, lamps, and other works, and do all other acts which the Council or undertakers shall from

Electric Lighting.

time to time deem necessary for supplying electricity; and may lay, place, or erect any electric line, branch, or other apparatus from any main or branch electric line into, through, or against any place or building for the purpose of lighting the same, and provide and set up any apparatus necessary for securing thereto a complete supply of electricity and for measuring and ascertaining the extent of such supply: Provided that nothing herein shall authorise or empower the Council or undertakers to lay, place, or erect any electric line or other works into, through, or against any building or land not dedicated to public use without the consent of the owners and occupiers thereof, except that the Council or undertakers may at any time enter upon and lay, place, or erect any new electric line or fittings in the place of an existing line or fittings in any position wherein an electric line or fittings shall have been lawfully laid down, placed, or erected, and may repair or alter any electric line or fittings so laid down.

12. BEFORE the undertakers proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the Council under whose control or management the same may be, or to their clerk, 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 such work, except in cases of emergency arising from defects in any of the electric lines or other works, and then so soon as is possible after the beginning of the work or the necessity for the same has arisen; and also except for the purpose of connecting branch electric lines to mains which have been previously laid or erected, in which case one clear day's notice shall be sufficient.

Notice before breaking up streets in certain cases.

13. NO such street, bridge, sewer, drain, or tunnel shall, except in the case of emergency aforesaid, be opened or broken up by the undertakers except under the superintendence of the Council having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such Council or their officer, or in case of any difference respecting such plan then according to such plan as shall be determined by two Justices, and such Justices may on the application of the Council, or their officer, require the undertakers to make such temporary or other works as they may deem necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain: Provided always, that if the Council or their officer fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the undertakers' intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons or their officer.

Superintendence in certain cases over breaking up of streets, &c.

Electric Lighting.

Streets broken up to be reinstated without delay.

14. WHEN the council or undertakers open or break up the road or pavement of any street, or bridge, or any sewer, drain, or tunnel, they shall with all possible speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up, and the undertakers shall keep the road or pavement which has been so broken up by them in good repair for three months after reinstating and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Penalty for breach of provisions as to breaking up streets, &c.

15. IF the undertakers open or break up any street or bridge or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in any 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 authorised to perform such works without any 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 or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up by them to be fenced, guarded, and lighted, or neglect to keep the road or pavement broken up by them in repair for the space of three months next after the same is made good, or such further time as aforesaid, they shall forfeit to the Council having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such default is made, a sum not exceeding Ten pounds for every such offence, and they shall forfeit an additional sum of Five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

Power to alter position of pipes and wires.

16. (1.) SUBJECT to the provisions of this Act, and to any regulations or by-laws made under this Act, the undertakers may alter the position of any pipes or wires being under, along, over, or across any street or place which may interfere with the exercise of the powers under this Act, on previously making or securing such compensation to the owners of such pipes or wires, and on complying with such conditions as to the mode of making

Electric Lighting.

such alterations as may, before the commencement of such alterations, be agreed upon between the undertakers and such owners, or, in case of difference, as may be determined by arbitration.

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

17. THE Council or the undertakers may from time to time enter into any contract with any person for lighting or supplying with electricity, any public or private building, or for providing any person with electric lines, burners, meters, or lamps, or other fittings and things, and for the repair thereof; and the undertakers may from time to time enter into any contract with any Council having the control of the streets within the limits aforesaid for lighting such streets, or any of them, or any public building or place, with electricity, and for providing any such Council with electric lines, burners, meters, or lamps, and other fittings and things, for such purposes and for the repair thereof, in such manner and upon such terms as shall be agreed upon.

Power to contract for lighting public and private buildings, streets, &c.

18. IF any consumer neglects to pay any rent due to the undertakers or the price of or charges for any meter, pipes, burners, lamps, or other fittings or apparatus for the space of forty-eight hours next after a demand of the amount due shall have been left at or upon the building or premises supplied, the undertakers may cut off the supply of electricity, and for that purpose may cut or disconnect any electric line or other work through which electricity may be supplied, and may until such rent, price, and charges, together with any expenses incurred by them in cutting off such supply of electricity as aforesaid, is fully paid, but no longer, discontinue the supply of electricity to such consumer.

Power to cut off supply for non-payment of rent and charges.

19. IF any consumer wilfully does, or causes, or suffers to be done, anything in contravention of this Act, or wilfully fails to do anything which under this Act ought to be done by such consumer, whereby electricity escapes from any electric line laid in, over, or along any private road, street, or premises, and before it reaches the meter, the undertakers may cut off or disconnect any such electric line and cease to supply such consumer with electricity so long as the cause of injury remains or is not remedied; and also may recover summarily upon complaint before any two Justices from every consumer so offending the amount of all loss, damage, or injury which the undertakers may sustain by such misfeasance or failure, and the

Power to cut off supply in case of contravention of this Act.

55° VICTORIÆ, No. 33.

Electric Lighting.

remedies under this section shall be in addition to any other remedies in that behalf.

Entry for cutting off supply.

20. WHERE the contract between the undertakers and any consumer for supplying electricity, meters, apparatus, or fittings has expired or determined, or where the undertakers are authorised to cut off the supply of electricity from any premises under the provisions of this Act, it shall be lawful for them or their agents and workmen, on giving twenty-four hours previous notice to the occupier at any time between the hours of eight in the forenoon and five in the afternoon, or in case of danger or emergency without notice, to enter such premises and to disconnect and to remove and carry away any electric line, pole, standard, meter, apparatus, or fitting belonging to the undertakers: Provided that all damage to property of whatever description occasioned by such removal shall be made good by and at the expense of the undertakers occasioning the same.

Incoming tenant not liable for arrears.

21. IN case any consumer shall leave the premises where electricity has been supplied to him without paying the rent or charges due from him to the undertakers, they shall not be entitled to require from the next incoming tenant or occupier of such premises the payment of the arrears left unpaid by the former tenant, unless such incoming tenant or occupier has undertaken with the former tenant to pay or exonerate him from the payment of such arrears.

Penalty for fraudulently obtaining supply of electricity.

22. ANY person who obtains a supply of electricity from the undertakers under the name of any other person shall, unless he proves that such supply was obtained without any intent to defraud, be liable to a penalty not exceeding Ten pounds.

Penalty for laying pipes without consent, &c.

23. EVERY person who, in case the electricity supplied by the undertakers is not ascertained by meter, shall use any lamp or burner other than such as has been provided or approved of by them, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or who shall otherwise improperly use such electricity, or shall supply any other person with any part of the electricity supplied to him, shall forfeit to the undertakers the sum of Five pounds for every such offence, and also the sum of Forty shillings for every day such lamp or burner shall be so used, or such excess be so committed or continued, or such supply furnished, and the undertakers may cut off the electricity from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

Undertakers may let meter.

24. THE undertakers may let any meter for ascertaining the quantity of electricity consumed or supplied, and any fittings thereto,

55° VICTORIÆ, No. 33.

Electric Lighting.

for such remuneration and on such terms in respect of the repair of such meter and fittings, and for securing the safety and return thereof, as may be agreed upon between the hirer and the undertakers, and such remuneration shall be recoverable in the same manner as rent due for electricity.

25. THE undertakers shall at all times keep all meters on hire to any consumer in proper order for correctly registering the quantity of electricity supplied, and in default of the undertakers so doing, the consumer shall not be liable to pay remuneration for the use of the same during such time as such default continues.

Undertakers to keep meters in repair.

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

Meter not to be interfered with and connections not to be made by unauthorised persons.

27. THE register of the meter used for ascertaining the quantity of electricity supplied by the undertakers shall be *primâ facie* evidence of such quantity.

Register of meter to be *primâ facie* evidence.

28. 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 it in pursuance of this Act is used: Provided always, that no person shall be at liberty to use any form of lamp or burner, or to use the electricity supplied to him for any purposes, or to deal with it in any manner so as to unduly or improperly interfere with the supply of electricity to any other person, and if any dispute or difference as to the matters aforesaid arises between the undertakers and any person entitled to be supplied with electricity in pursuance of this Act, such dispute or difference shall be determined by arbitration.

Undertakers not to prescribe any special form of lamp, &c., or manner of using electricity.

29. WHERE a supply of electricity is provided in any locality for private purposes, all persons within such locality shall on application be entitled to a supply on the same terms as the terms on which any other person in such locality is under similar circumstances entitled to a corresponding supply.

Obligation to supply electricity.

55° VICTORIÆ, No. 33.

Electric Lighting.

Injuring works with intent to cut off supply.

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

Stealing electricity.

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

Penalty for removing electric line, &c.

32. ANY person who wilfully and unlawfully removes, destroys, or damages any electric line or any pillar, post, lamp, meter or other work connected with or relating to the supply of electricity by the undertakers in pursuance of this Act, or who wilfully and unlawfully extinguishes any of the public lamps or lights maintained by the undertakers in pursuance of this Act, or wastes, or wilfully and wrongfully uses any of the electricity supplied by the undertakers in pursuance of this Act shall for each such offence forfeit to the undertakers a sum not exceeding Five pounds in addition to the amount of damage done.

Penalty for breaking electric line, &c.

33. ANY person who carelessly or accidentally breaks, throws down or damages any electric line or any pillar, post, lamp or other work belonging to the undertakers, or under their control, shall forfeit and pay by way of satisfaction to the undertakers for the damage done a sum not exceeding Fifty pounds: Provided that this section shall not affect any other remedy.

Penalty for tampering with meter, &c.

34. ANY person who wilfully or fraudulently, or by culpable negligence, injures or suffers to be injured, any electric line, or any meter or fittings belonging to the 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 supplied by the undertakers, shall 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 to the undertakers a sum not exceeding Twenty-five pounds, in addition to the amount of damage.

Supply of electricity may also be cut off.

35. IN any case in which any person has wilfully or fraudulently injured, or suffered to be injured, any electric line, or any

Electric Lighting.

meter or fittings belonging to the undertakers, or altered the index to any meter, or prevented any meter from duly registering the quantity of electricity supplied, the 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.

36. THE existence of artificial means for causing such alteration or prevention, or for abstracting, consuming, or using electricity supplied by the undertakers when the meter is under the custody or control of the consumer, shall be *prima facie* evidence that such alteration, prevention, abstraction, or consumption (as the case may be) has been fraudulently, knowingly, and wilfully caused by the consumer using such meter.

Evidence that meter has been tampered with.

37. ANY officer appointed by the undertakers in that behalf may, at all reasonable times, enter any place or building to which electricity is or has been supplied by the undertakers in pursuance of this Act for the purpose of inspecting and testing the electric lines, meters, accumulators, fittings, works, and apparatus for the supply of electricity belonging to the undertakers, and 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, accumulators, fittings, works, or apparatus belonging to the undertakers, repairing all damage caused by such entry, inspection, or removal.

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

38. WHERE any electric lines, meters, accumulators, fittings, works, or apparatus belonging to the undertakers are placed in or upon any place or building (not being in the possession of the undertakers) for the purpose of supplying electricity in pursuance of this Act, such electric lines, meters, accumulators, fittings, works, or apparatus 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 process of a Court of law or equity, or any proceedings in bankruptcy against the person in whose possession the same may be: Provided that nothing in this section shall affect any distress or execution lawfully made or issued upon or against the undertakers.

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

39. IN the exercise of the powers in relation to the execution of works given them under this Act, the undertakers shall cause as little detriment and inconvenience, and do as little damage as possible, and shall make full compensation to all persons interested for all damage sustained by them by reason or in consequence of the

Compensation for damage.

Electric Lighting.

exercise of such powers, the amount and application of such compensation in case of difference to be determined by arbitration.

Provision for protection of public telegraph and telephone lines.

40. (1.) NO alteration in any public telegraph or telephone line shall be made by the undertakers except by the express written sanction of the Superintendent of Telegraphs and subject to the conditions imposed by him.

(2.) The undertakers shall not, in the exercise of the powers conferred by this Act, lay down, place, or erect any electric line or do any other work for the supply of electricity whereby any public telegraph or telephone line is or may be injuriously affected. 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 Superintendent of Telegraphs for the purpose of preventing any such telegraph or telephone line from being injuriously affected by the said line or work. Any difference which arises between the Superintendent of Telegraphs and the undertakers or their agents with respect to any requirements so made shall be determined by arbitration. In the event of any contravention of this section by the undertakers or their agents the undertakers shall be liable to a fine not exceeding Ten pounds for every day during which such contravention continues, or if the telegraphic or telephonic communication is wilfully interrupted not exceeding Ten pounds for every day on which such interruption continues. For the purposes of this section a telegraph or telephone line shall be deemed to be injuriously affected if telegraphic or telephonic communication by means of such line, whether through induction or otherwise, is affected by any electric line or work of the undertakers, or by any use made of such electric line or work.

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

41. WHERE electricity is supplied within any such limits as aforesaid, and a supply of gas by any gas company is also authorised within such limits 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 Governor may, upon the application of such gas company, inquire into the circumstances of the case, and, if he is satisfied that any specified part of the area comprised within such limits 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 Governor may, in his discretion, 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, and from and after the date of such order such gas company shall

55° VICTORIÆ, No. 33.

Electric Lighting.

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.

42. NOTHING in this Act shall exempt any council, company, or person from the provisions of any general Act relating to the supply of electricity which may be passed in any future Session of Parliament.

Provision as to general Acts.

43. NOTHING in this Act shall authorise or enable any council, company, or person, to transmit any telegram or telephonic message, or to perform any of the incidental services of receiving, collecting, or delivering telegrams or telephonic messages, or give to any council, company, or person any power, authority, or facility of any kind whatever in connection with such transmission or performance as aforesaid.

Saving clause as to telegrams.

44. NOTHING in this Act contained shall be deemed or construed to affect any right, title, or interest of Her Majesty, her heirs or successors.

Saving of rights of the Crown.

PART II.—ARBITRATION.

45. WHEN any dispute or difference authorised by this Act to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator, to whom such dispute or difference shall be referred.

Appointment of arbitrators when questions are to be determined by arbitration.

46. EVERY appointment of an arbitrator shall be made under the hand of the appointor, or, if the appointor be a corporation aggregate, under the common seal of such corporation. Such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made. After any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation.

Arbitrator, how appointed.

47. IF for the space of fourteen days after any such dispute or difference shall have arisen, and after a request in writing, in which shall be stated the matters required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties; and such arbitrator may pro-

Proceedings on failure of one party to appoint arbitrator.

55° VICTORIÆ, No. 33.

Electric Lighting.

ceed to hear and determine the matters which shall be in dispute. In such case the award or determination of such single arbitrator shall be final.

Vacancy of arbitrator to be supplied.

48. IF, before the matter so referred shall be determined, any arbitrator appointed by either party die or become incapable of acting, the party by whom such arbitrator was appointed may nominate and appoint, in writing, some other person to act in his place; and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*. Every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or incapacity as aforesaid.

Appointment of umpire.

49. WHERE more than one arbitrator shall have been appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire, to decide on any such matters on which they shall differ, or which shall be referred to them, under this Act. If such umpire shall die, or become incapable of acting, the arbitrators shall forthwith after such death or incapacity appoint another umpire in his place. The decision of every such umpire on the matters so referred to him shall be final.

Governor empowered to appoint an umpire on neglect of the arbitrators.

50. IF, in either of the cases aforesaid, the arbitrators shall refuse, or shall, for seven days after request of either party to such arbitration, neglect to appoint an umpire, the Governor shall, on the application of either party to such arbitration, appoint an umpire. The decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this Act, shall be final.

In case of death of single arbitrator the matter to begin *de novo*.

51. IF, where a single arbitrator shall have been appointed, such arbitrator shall die or become incapable of acting before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this Act in the same manner as if such arbitrator had not been appointed.

If either arbitrator refuse to act the other to proceed *ex parte*.

52. IF, where more than one arbitrator shall have been appointed, either of the arbitrators refuse or for seven days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be effectual as if he had been the single arbitrator appointed by both parties.

If arbitrators fail to make their award

53. IF, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as

Electric Lighting.

aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time, if any, as shall have been appointed for that purpose by both such arbitrators under their hands, the matter referred to them shall be determined by the umpire to be appointed as aforesaid.

within twenty-one days the matter to go to the umpire.

54. THE said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which he or they may deem necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose, and any person wilfully giving false evidence before any arbitrator or umpire shall be guilty of perjury.

Power for arbitrators to call for books, &c.

55. BEFORE any arbitrator or umpire shall enter into the consideration of any matter referred to him, he shall, in the presence of a Justice of the Peace, make and subscribe the following declaration, that is to say:—"I, A. B., do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of 'The Electric Lighting Act, 1892.'—A. B." Such declaration shall be annexed to the award when made; and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanor.

Arbitrator and umpire to make declaration.

56. THE costs of and incidental to every such arbitration and award to be determined by the arbitrators shall be in the discretion of the arbitrators or umpire.

Costs to be in the discretion of the arbitrators.

57. THE submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties.

Submission to arbitration may be made a rule of Court.

58. NO award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

The award not to be set aside for matter of form.

59. IN the event of either of the parties, their executors or administrators, being dissatisfied with the award, or disputing its validity, and moving the Court to set the same or any part thereof aside, or on any motion being made respecting the said award, the Court, whether the award be insufficient in law or not, shall have power, if it shall think fit, to remit the award, or the matters referred, or any of them, from time to time, to the reconsideration and determination of the arbitrator or arbitrators or umpire.

Power to refer back award.

Electric Lighting.

PART III.—LEGAL PROCEDURE.

Service of notices may be proved by affidavit.

60. WHENEVER it shall be necessary, on the hearing of any information or complaint under this Act, to prove the service of any notice, an affidavit of the service of such notice, sworn before a Justice of the Peace or Commissioner for taking Affidavits in the Supreme Court, shall be sufficient proof of such service.

Damages, &c., may be assessed and recovered before Justices.

61. SUBJECT to the express provisions of this Act, whenever by this Act any company or person may be liable to pay any sum of money by way of amends, compensation, or damages, or for the value or costs or expenses of any examination or inquiry, or of any matter or thing, or of repairing, reinstating, or making good any loss, damage, or injury done or occasioned by such company or person to any property, the Justices before whom the charge or complaint against such company or person shall be heard shall assess and determine the sum of money payable as aforesaid, and order the payment thereof to the undertakers or persons entitled thereto within such time or times and either in one sum or by instalments as such Justices shall think fit; and all rent, charges, expenses, damages, and other sums of money by this Act made payable to, or recoverable by or against the Council or undertakers, shall be recoverable in a summary way before two or more Justices in like manner as penalties and forfeitures may be recovered under this Act.

Offences, penalties, and forfeitures to be prosecuted and recovered summarily.

62. ALL offences against this Act, or any regulations, or by-laws made thereunder, and all penalties and forfeitures thereby respectively imposed, shall be prosecuted and recoverable summarily before any two or more Justices of the Peace in Petty Sessions, in manner directed by an Ordinance passed in the session holden in the fourteenth year of the reign of Her Present Majesty, No. 5, intituled "An Ordinance to facilitate the performance of the duties of Justices of the Peace out of Sessions, within the Colony of Western Australia, with respect to Summary Convictions and Orders," or any Ordinance passed for the amendment thereof.

Costs on distress.

63. ANY Justice who shall issue a warrant of distress for the recovery of any money due to or by the Council or undertakers, either by way of rent, charges, penalty, damages, or otherwise, may order that the costs of the proceedings for the recovery of the same shall be paid by the company or person liable to pay the same money, and such costs shall be ascertained and included in the warrant of distress for the recovery of such money.

Damages awarded or sums of money

64. WHERE any damage or injury is done to any property of the undertakers, and any damages are awarded to the undertakers,

Electric Lighting.

and where any sum of money is forfeited to the undertakers, or any penalty is imposed for an offence against any property of the undertakers, such damages, sum of money, or penalty shall be paid to the undertakers for their own use.

payable to undertakers to be for their own use.

65. SUBJECT to the provisions of this Act one moiety of all penalties imposed by this Act, where the application is not otherwise provided for, shall be paid to the informer, and the other moiety for the use of Her Majesty.

Appropriation of penalties.

66. EXCEPT where otherwise provided by this Act, all informations and proceedings in respect of offences under this Act shall be commenced within three months after the offences thereby respectively charged shall have been committed.

Offences to be prosecuted within three months.

67. NO order, judgment, warrant, or other proceeding made or purporting to be made concerning the conviction of any offender against this Act shall be quashed or vacated for want of form only, or be removable by *certiorari* or otherwise into the Supreme Court.

Proceedings not to be quashed for want of form or removable by *certiorari*.

In the name and on behalf of the Queen I hereby assent to this Act.

ALEX. C. ONSLOW, Administrator.