



Western Australia.

ANNO SEXAGESIMO TERTIO

VICTORIÆ REGINÆ.

PRIVATE ACT.

AN ACT to grant to certain persons powers and provisions for the Manufacture, Distribution, and Supply of Gas and Electricity.

[Assented to, 16th December, 1899.]

WHEREAS Andrew Harriot Henning, James William Wright, William Eltze Victor, and George Francis Pitchford (hereinafter called the undertakers) are desirous of acquiring the rights and powers necessary or desirable for carrying on the business of Gas and Electricity Manufacturers and Generators, including the distribution and supply thereof, for the purposes of heat, light, motive power, or otherwise, in the area comprised within the districts as now defined of the Cottesloe, Buckland Hill, and Peppermint Grove Roads Boards:

Preamble.

And whereas the undertakers have acquired, or are entitled to parts of Cottesloe Suburban Lot 33, and have the right and propose to erect thereon the necessary works for the manufacture and generation of the gas and electricity for the purposes aforesaid:

And whereas it is desirable to grant to the undertakers the rights and privileges hereinafter appearing:

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Be it therefore 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 so assembled, and by the authority of the same, as follows:—

- Short title. 1. THIS Act may be cited as "The Cottesloe Lighting and Power (Private) Act, 1899," and shall come into operation on the first day of January, 1900.
- Interpretation clause. 2. IN the construction of this Act, unless there is anything in the subject or context repugnant thereto, the several words and expressions hereinafter mentioned shall have or include the meaning following, that is to say:—
- "Undertakers." (a.) The expression "the undertakers" shall mean the said Andrew Harriot Henning, James William Wright, William Eltze Victor, and George Francis Pitchford, their and each of their executors, administrators, and assigns.
- "Undertaking." (b.) The expression "undertaking" shall mean the making, distribution, and supply of gas and electricity for the purposes of light, heat, motive power, or otherwise within the limits herein mentioned, and the making and constructing of all works connected therewith and all other works by this Act authorised to be executed, and the doing of all things necessary or convenient for the purpose, subject to the provisions of this Act.
- "Owner" or "occupier." (c.) The words "owner" or "occupier" shall respectively mean and include any person or corporation who shall for the time being be the owner or occupier, or have the charge of any street, road, place, or land affected or to be affected by the undertaking.
- "Street." (d.) The word "street" shall include any street, market-place, court, highway, lane, public road, wharf, thoroughfare, passage, or place within the limits of the Act.
- "Works." (e.) The expression "works" shall mean all the buildings, erections, works, machinery, plant, and apparatus for the manufacture, generation, distribution, and supply, within the limits of this Act, of gas and electricity, including the necessary pipes, mains, connections, cables, poles, wires, lines, accumulators and lamps, and other apparatus, and all other works connected therewith and incidental thereto or by this Act or in any other way authorised to be constructed or undertaken by the undertakers.

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- (f.) The expression "gas rate" or "electric rate" shall include any rent to be received or remuneration of any kind to be paid to the undertakers for the supply of gas or electricity, or the letting of gas or electrical apparatus used in connection therewith. "Gas rate."
- (g.) The word "building" shall include all erections whatsoever, and all premises appertaining thereto, and also public and private gardens and enclosed courts and yards. "Building."
- (h.) The expression "local authority" shall mean, within their respective jurisdictions, the Council, Board, or other body having the care or charge of any street. "Local authority."
- (i.) The word "district," in relation to a local authority, shall mean the area within the jurisdiction of such local authority. "District."

3. THE limits of this Act shall extend to and include the whole area within the boundaries of the Roads Board Districts of Cottesloe, Buckland Hill, and Peppermint Grove as defined in the Schedule hereto. Limits of the Act.

4. (1.) SUBJECT to the provisions of this Act, and within the limits thereof, the undertakers or their assigns may carry on the business of gas and electric lighting in all its branches for the purposes of light, heat, motive power, or otherwise, including the erection, construction, laying down, establishment, and fixing of all necessary works, and may erect and construct on the land in the preamble mentioned, or any other land hereafter acquired, all necessary buildings, erections, machinery, furnaces, gasometers, and other plant, and may do and perform all such other acts and things as may be thought necessary for supplying the inhabitants within such limits with gas or electricity, and may supply such gas or electricity upon such terms as shall be agreed upon with the persons supplied therewith. Power to construct works.

(2.) If the undertakers, having agreed in writing with any consumer to supply gas or electricity, fail to supply such gas or electricity as agreed, the consumer aggrieved may, unless such failure is due to some accident, or strike, or some unavoidable cause, or by the execution of necessary repairs or works, recover from the undertakers, by way of damages, a sum not exceeding One pound for every completed day of twenty-four hours during which such failure continues: Provided that the information or complaint is laid within two days of such failure first happening. Penalty on failure to supply.

5. (1.) THE undertakers may break up any street, and may open and break up any sewers, drains, or tunnels within or under any street, and lay down and place or erect over, along, or across any Power to break up streets, etc., under superintendence, and to open drains.

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street all such works as may be necessary for the distribution and supply of gas or electricity, and from time to time maintain, use, repair, alter, or remove the same; and also may, from time to time, make, repair, alter, or remove any sewers that may be necessary for carrying off the washings and waste liquids which may arise in connection with the works: And may lay, place, or erect any pipe, branch, cable line, or other apparatus into, through, or against any building for the purpose of lighting the same, and may provide and set up all apparatus necessary for securing to any building a proper and complete supply of gas or electricity, and for measuring and ascertaining the extent of such supply: Provided always, that nothing in this Act contained shall authorise or empower the undertakers to lay down or place any pipe, branch, cable, line, or other apparatus into, through, or against any building, or in any land not being a street or dedicated to public use, without the consent of the owner or occupier thereof, except that the undertakers may at any time enter upon any land or building and relay, replace, alter, or repair any existing pipe, branch, cable, line, or other apparatus.

Depth of mains.

(2.) No gas main shall be laid in any street in a trench less than two feet six inches deep where laid in sand, or eighteen inches deep where laid in rock. Any main laid contrary to this provision may be removed by the local authority, at the expense of the undertakers, unless properly relaid after notice

Notice to be served before breaking up streets or opening drains.

6. BEFORE the undertakers proceed to break up any street, sewer, drain, or tunnel, they shall give to the local authority, not less than three clear days' written notice of intention to break up the same, except for the purpose of connecting service pipes or lines to mains, cables, or service lines already laid, in which excepted cases one clear day's written notice shall be sufficient: Provided that in cases of emergency arising from accidents to or defects in the works no notice need be given.

Streets and drains not to be broken up except under superintendence.

7. NO street, sewer, drain, or tunnel shall (except in cases of emergency arising from accidents to or defects in the works, or except in the cases of connections to service mains, cable, or line) be broken up, unless under the superintendence of the local authority, and according to such plan as shall be approved by such local authority, or, in case of any difference, then according to such plan as shall be determined by two Justices: And such Justices may require the undertakers to make such temporary or other works as the said Justices may think necessary for guarding against damage to passengers and traffic, or against any interruption of the drainage during the execution of any works: Provided, always, that if no officer appointed by the local authority shall attend at the

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time fixed for and remain during the opening of any such street, sewer, drain, or tunnel, after having notice as aforesaid, or if the local authority shall not propose any plan for breaking up or opening the same, the undertakers may perform the work specified in the notice without such superintendence or plan.

8. WHEN the undertakers open or break up any street, sewer, drain, or tunnel, they shall, with all convenient speed, complete the work, and fill in the ground and re-instate and make good the same, to the satisfaction of the local authority, and carry away all rubbish occasioned by the work, and shall, whilst any street shall be open or broken up, cause the same to be properly guarded, and a light sufficient for the warning of the passengers to be set up and maintained wheresuch work is being done every night during which the same shall be in operation, and shall, when and as required by the local authority, keep the street which has been broken up in good repair for three months after replacing and making good the same.

Streets broken up to be re-instated without delay.

9. IF the undertakers commit, permit, or suffer any act, delay, neglect, or omission contrary to the provisions aforesaid, they shall incur a penalty not exceeding Five pounds for every such offence, and an additional penalty of Forty shillings for each day during which any such neglect, omission, or delay shall continue after notice thereof by the local authority.

Penalty for breaking up without notice, or delay in re-instating.

10. IF any such delay, neglect, or omission as aforesaid take place, the local authority may cause the work so delayed, neglected, or omitted to be executed and performed, and all expenses so incurred shall be repaid to such local authority by the undertakers, and shall be recoverable in the same manner as damages are recoverable under this Act.

In cases of delay other parties may re-instate and recover expenses.

11. THE undertakers shall do as little damage as may be in the execution of the powers by this Act granted, and shall make compensation for any damage which may be done in the execution of such powers.

Undertakers to make compensation for any damage.

12. (1.) IF at any time any local authority shall deem it necessary or expedient to require the undertakers to remove, raise, or sink or otherwise alter the situation of any of the works which shall be laid in or over any street, or to alter the situation or remove any works which shall have been laid in or over any street contrary to any of the provisions of this Act, the undertakers shall, within ten days next after being required so to do by notice in writing, raise or sink or otherwise alter or remove the situation of such works accordingly; and in default it shall be lawful for the local authority

Power to local authority to alter situation of pipes, etc.

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to cause such works to be so removed, raised, or sunk, or the situation thereof otherwise altered. The expense of doing the work aforesaid shall, with respect to any works which shall have been done contrary to any of the provisions of this Act, be paid and borne by the undertakers; and shall, with respect to any other works, be paid and borne by the local authority. All such expenses respectively, by whomsoever the work is done, shall be recoverable in the same manner as damages are recoverable under this Act: Provided that if, in raising or sinking or otherwise altering any of the works, any injury shall be wilfully or negligently done to the same by any person employed by the local authority, compensation shall be made by the local authority to the undertakers for such injury, and the amount of such compensation may be ascertained and recovered in the same manner as damages are recoverable under this Act.

Power to require works to be laid underground.

(2.) Notwithstanding anything herein contained, the local authorities may from time to time, by joint order, require the undertakers to lay under any street all works situated over or above such street; and, on receipt of such order, the undertakers shall submit plans and specifications, and an estimate of the cost of such works, and of the necessary alterations of private connections. If such plans, specifications, and estimate are not agreed to by the local authorities, the same shall be referred to and settled by two arbitrators and their umpire, under the Arbitration Act, 1895.

When such plans, specifications, and estimate are agreed or settled, the work shall be carried out by the undertakers, and the cost thereof and of such alterations shall, as to one-third thereof, be paid by the undertakers, and as to the remaining two-thirds, by the local authorities, and until such two-thirds are paid, the same, with interest at Five pounds per centum per annum, shall be a first and paramount charge on the rates, income, property, and assets of the local authorities.

Price of gas to private consumers to be uniform, and for supply to owners and occupiers.

13. (1.) THE price of gas or of electricity respectively shall be uniform throughout the district, having regard to the purposes for and the quantities in which the same are supplied. The undertakers shall supply with gas, at the current price for the time being for the purpose intended, any person who occupies a building situate not more than three hundred feet from any one of the undertakers' mains, and who has signed an agreement with the undertakers as to such supply, and obtained and affixed a meter supplied by the undertakers. Nothing in this section contained shall compel the undertakers to provide any pipes or connections except as hereinafter mentioned, nor to supply or continue the supply of gas or electricity except for lighting purposes, and then only subject to this Act and the agreement (if any) made in relation to such supply.

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(2.) The undertakers will, at their own expense, on being required so to do by any occupier within the limits aforesaid, and upon execution of an agreement as aforesaid, lay a service pipe from a main in any street up to the boundary of such street nearest to the building of such applicant, but not further from such main than the width of the street in which such main is laid.

Undertakers to lay pipes to boundaries.

14. IN the absence of any special contract with the local authority, the price to be charged by the undertakers to such local authority for all gas or electric light supplied to it shall be less, by ten per centum, than the price charged for the time being to private consumers for lighting purposes.

Price of gas to local authority.

15. NO meter for ascertaining the quantity of gas or electricity supplied, nor any fittings therefor, shall be subject to distress for rent, or be taken in execution under any process of any Court of law or equity, nor be affected by any adjudication or other proceeding in bankruptcy of any person in possession thereof.

Meters and gas fittings exempt from distress, etc.

16. (1.) UNTIL otherwise fixed, as herein provided, the maximum price at which gas and electricity shall be sold shall not exceed Fifteen shillings per One thousand cubic feet for gas, and One shilling per unit for electric light.

Charge for supply of gas and electricity.

(2.) At the expiration of seven years from the 1st January, 1900, and thereafter on the expiration of seven years from any award, as hereinafter mentioned, the local authorities may, if the maximum price for gas and electricity be unreasonable, give notice to the undertakers requesting a reduction in the maximum price, and stating the reduction required and the reasons therefor, and, if the local authorities and undertakers agree, the maximum price or prices so agreed to shall stand in lieu of the prices aforesaid; but if they do not agree as to the maximum price or prices to be so charged, the question in dispute shall be referred to two arbitrators and their umpire, under the Arbitration Act, 1895, and the award of such arbitrators or umpire, fixing the maximum price or prices, shall be conclusive, and such price shall be the maximum price for the period of seven years from the date of the award and thereafter until again fixed by arbitration under this clause.

Alteration of charge by agreement or arbitration.

(3.) The maximum rent on meters shall not exceed Fifteen per centum on the cost price in Cottesloe.

Rent of meters.

(4.) If the undertakers charge and receive more than the maximum price or rent aforesaid, they shall be liable to a penalty not exceeding Two pounds.

Penalty for excessive charges.

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Quality of gas.

17. ALL the gas to be supplied by the undertakers shall be of such minimum quality as to produce from an argand burner, having fifteen holes and a seven-inch chimney, and consuming five cubic feet of gas per hour, a light equal in intensity to the light produced by twelve sperm candles of six in the pound, burning one hundred and twenty grains per hour; and the undertakers shall provide the necessary apparatus for testing the illuminating power of the gas, which apparatus shall at all reasonable times be available for use by the local authority or any of its officers for the purpose of testing such illuminating power.

Incoming tenant not liable to pay arrears of gas rates, etc.

18. IN case any consumer of gas or electricity supplied by the undertakers shall leave the premises where such gas or electricity has been supplied without paying all moneys due from him, the undertakers shall not be entitled to require from the next incoming tenant or occupier of such premises, before supplying him with gas or electricity, the payment of the arrears left unpaid by the former tenant, except where such incoming tenant or occupier has undertaken with the former tenant or occupier to pay or be liable for such arrears.

Power for local authority to appoint inspector of meters.

19. A LOCAL authority may appoint any qualified person who shall have at all times a right, in company with the engineer or other proper officer of the undertakers, or if such engineer or officer shall, during office hours, refuse to attend then, by himself, to inspect and test the meters erected by the undertakers; and any consumer requiring such inspection shall deposit in the hands of the inspector all money appearing to be due by such consumer to the undertakers on any account delivered, together with the cost of inspection; and in case such deposit shall be found to be in excess of the sum actually due to the undertakers, such excess shall be returned to the consumer with the cost of inspection, otherwise such deposit, together with half the cost of inspection, shall be paid to the undertakers, and the other half of the cost of inspection retained by the local authority.

Officers of undertakers may enter buildings for ascertaining quantity of gas consumed.

20. THE manager or any other servant of the undertakers duly appointed for the purpose may at all reasonable times, between the hours of 9 a.m. and 9 p.m., enter any building or place supplied with gas or electricity by the undertakers and inspect the meters, pipes, burners, or other apparatus upon such premises; and if any person shall hinder such servant, after he has produced his written authority, signed by the undertakers, their manager, engineer, or secretary, from entering and making such inspection within the hours aforesaid, such person shall for every such offence forfeit and pay to the undertakers a sum not exceeding Five pounds.

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21. IF any person supplied by the undertakers with gas or electricity by meter or otherwise, or with a meter, or with pipes, burners, lamps, or any other fittings or apparatus, shall fail or neglect to pay all moneys due for gas or electricity supplied, or for the rent or price of such meter, pipes, burners, lamps, or other fittings or apparatus respectively for the space of forty-eight hours next after a demand of the amount due, indorsed with a copy of this section, and signed by or on behalf of the undertakers, shall have been served upon some person at the building or premises so supplied, or if such building or premises are apparently unoccupied, shall have been left on such building or premises; the undertakers may stop the supply of gas or electricity from entering the premises by cutting off the service pipes or connections, or by such other means as the undertakers shall think fit, and may recover all moneys due as aforesaid, together with the costs of such cutting off and removal, in the same manner as any damages or sums of money, for the recovery of which no special provision is made, are recoverable under this Act.

Recovery of gas or electricity rate and meter rent.

22. IN all cases in which the undertakers cut off or discontinue the supply of gas or electricity from or to any building or premises, they, by their agents or workmen, after giving previous notice to the occupier, may enter such building or premises between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any plant or apparatus or other property of the undertakers: Provided, however, that all damages to property occasioned by such removal as aforesaid, shall be made good by and at the expense of the undertakers.

Power to take away pipes, etc., when supply of gas or electricity discontinued.

23. EVERY person who shall lay or cause to be laid any pipe or wire to communicate with any pipe, cable, or wire belonging to the undertakers, without their consent, or shall wilfully or by negligence injure any part of the works, or shall alter the index to any meter or prevent any meter from duly registering the quantity of gas or electricity supplied, or who, in case the gas or 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 the undertakers, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use such gas or electricity, or shall in any other manner act contrary to the contract made or implied between such person and the undertakers, shall, without prejudice to any other right or remedy for the protection of the undertakers or the punishment of the offender, forfeit and pay to the undertakers a sum not exceeding Five pounds for every such offence, and also a sum not exceeding Forty shillings for every day such offence shall continue; and the undertakers may take or cut off the gas or electricity from the building

Undue use of gas or electricity.

Penalty for improperly using the gas of the undertakers.

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and premises of the person so offending, notwithstanding any contract which may have been previously entered into, and which may be then in existence: And, in addition, the undertakers may recover the amount of any damage sustained by them by or through any such wrongful act, neglect, default, or injury in the same manner in which damages are made recoverable by this Act.

24. EVERY person who shall wilfully remove, destroy, or damage any part or portion of the works or other property of the undertakers, or shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the undertakers, shall for each such offence forfeit and pay to the undertakers any sum not exceeding Five pounds, in addition to the amount of damage done.

Penalty for wilfully
damaging pipes, etc.

25. EVERY person who shall carelessly or accidentally break, throw down, or damage any of the works the property of the undertakers or under their control, shall pay such sum of money and such costs by way of satisfaction to the undertakers for the damage done as any two Justices shall think reasonable, and the undertakers may recover the same in the same manner as damages are made recoverable by this Act.

Damages for acci-
dentally damaging
works, etc.

26. NO person shall fit up or keep fitted up any apparatus or fitting whereby gas or electricity shall be obtained from any part of the works belonging to the undertakers without the consent in writing of the undertakers first obtained for that purpose; and any person committing a breach of this section shall forfeit and pay to the undertakers a sum not exceeding Five pounds for every such offence, and a further sum not exceeding Forty shillings for every day during which such offence shall continue.

Fittings not to be
connected with
mains without pre-
vious consent.

27. ANY Justice who shall adjudge, order, or direct the recovery or payment of any money by or to the undertakers, either by way of penalty or damages or otherwise, may order that the costs of the proceedings for the recovery of the same shall be paid by the person or persons 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.

Costs of distress.

28. IF the undertakers shall at any time wilfully or negligently cause or suffer to be brought or to flow into any river, stream, brook, creek, canal, reservoir, aqueduct, water-way, feeder, pond, spring-head, or well, or into any drain communicating therewith, any washings or other substance produced in the making or supplying of gas, or shall wilfully do any act connected with the making or supplying of gas, whereby the water along the sea beach or the water

Penalty on company
for causing water to
be fouled.

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in any river, stream, brook, creek, canal, reservoir, aqueduct, water-way, feeder, pond, spring-head, well, water-pipe, or water-course shall be fouled, the undertakers shall forfeit for every such offence a sum not exceeding Fifty pounds.

29. THE said penalty shall be recovered, with full costs of suit, before any two or more Justices in a summary way, or in any Court of competent jurisdiction by Her Majesty, or by the local authority, or by any person into whose water such washings or other substance shall be conveyed or shall flow, or whose water shall be fouled by any such act as aforesaid; but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within six months after it shall have ceased.

Penalty to be sued for within six months.

30. IN addition to the said penalty the undertakers shall forfeit any sum not exceeding the sum of Five pounds (to be recovered in the like manner) for each day during which such offence continues after the expiration of twenty-four hours from the time when notice shall have been served on the undertakers on behalf of Her Majesty, or by the local authority, or by any person into whose water such washings or other substance shall be brought or shall flow, or whose water shall be fouled thereby.

Daily penalty for continuance of the offence.

31. WHENEVER any gas or electricity shall escape from any part of the works, the undertakers shall, immediately after receiving notice thereof in writing, take all necessary steps to prevent such escape; and in case the undertakers shall not, within two clear days next after service of such notice, effectually prevent such escape, and wholly remove the cause of complaint, the undertakers shall forfeit and pay the sum of Five pounds for each day during which such escape shall continue to take place.

Daily penalty during escape of gas after notice to the undertakers.

32. WHENEVER any water within the limits of this Act mentioned shall be fouled by the gas of the undertakers, they shall forfeit to the person whose water shall be fouled, for every such offence, a sum not exceeding Ten pounds, and a further sum not exceeding Five pounds for each day during which the offence shall continue after the expiration of two clear days from the service of notice of such offence.

Penalty if water fouled with gas.

33. FOR the purpose of ascertaining whether such water is so fouled, the person to whom the water shall belong, or on whose premises it is, or the local authority may dig and examine the works of the undertakers in or under any street, provided that such person or local authority, before proceeding to so dig and examine, shall give to the undertakers twenty-four hours' notice of time at which such digging or examination is to take place; and the

Power to examine gas pipes to ascertain the cause of fouling, and notice to be given.

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undertakers shall, subject to the next section of this Act, have the like obligation of re-instating the street and guarding against accidents, and be subject to the same penalties for unnecessary delay or any nonfeasance or misfeasance therein as are hereinbefore provided with respect to streets broken up for the purpose of laying its pipes.

Expense of examination to abide result.

34. IF upon any such examination it shall appear that such water has been so fouled as aforesaid, the expense of the digging and examination, and of the repair of the street or place disturbed in any such examination, shall be paid by the undertakers; but if upon such examination it shall appear that the water has not been so fouled by the undertakers, the person or local authority causing such examination to be made shall pay all such expenses, and shall also make good to the undertakers any injury which may be occasioned to the works by such examination.

How expenses to be ascertained.

35. THE amount of the expense of every such examination and repairs, and of any injury done to the works shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are to be ascertained and recovered.

No creditor of the undertakers allowed to remove pipes, etc., laid in streets or buildings.

36. NO special or simple contract creditor of the undertakers shall, by or under any law, title, or pretence whatever, levy or seize in execution, or in any way attempt to recover payment of any sum of money due to him by taking and removing any of the works of the undertakers laid, placed, or fixed in, under, upon, or through any street within the limits of this Act, or in any building or premises not being in the occupation of the undertakers.

Licensing of plumbers and engineers.

37. NO person other than a plumber or engineer licensed by the undertakers shall fix, alter, repair, or interfere with any main, pipe, cable, line, fitting, meter, or other apparatus connected with the works; and the undertakers may, with the approval of the local authorities or a joint committee thereof, make by-laws for licensing competent plumbers or engineers, and for cancelling licenses, and for fining licensed plumbers or engineers for breach of any by-law. Any person other than a licensed plumber or engineer acting or permitting any act contrary to this section, and any licensed plumber or engineer acting or permitting any act contrary to any by-law, shall be guilty of an offence, and, on conviction, forfeit and pay to the undertakers a penalty not exceeding Five pounds.

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38. NOTHING in this Act contained shall prevent the undertakers from being liable to an indictment for nuisance or to any other legal proceedings to which they may be liable, or shall be deemed to exempt the undertakers from the provisions of any Act relating to the public health.

Undertakers may be indicted for nuisance.

Not exempt from provisions of Public Health Act.

39. IT shall be lawful for the local authorities, at any time after the first day of January, One thousand nine hundred and twenty-one, to jointly purchase all the land, works, assets, and property of and belonging to the undertakers and used in connection with the matters aforesaid, upon giving to the undertakers six calendar months' notice in writing of such intention so to do, and at such price and upon such terms and conditions as shall or may be mutually agreed upon between the undertakers and the local authorities; but in case of any dispute or disagreement arising between the undertakers and the local authorities respecting such purchase as aforesaid, then it shall be lawful for either party to require that it shall be left to arbitration to determine what amount of purchase money shall be paid, and in such event each party shall name one person; and if such two persons cannot agree upon the amount to be paid, the same shall be referred to the umpirage of some third person to be appointed by such two first-named persons previously to their entering upon the arbitration; and the determination of such arbitrators or umpire, as the case may be, shall be binding and conclusive on the said parties and their respective successors and assigns.

Power to compulsorily purchase the works of the undertakers.

40. 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 clause of Her Majesty's rights.

41. WHERE any damage is done to the works or property of the undertakers, and any damages are awarded to the undertakers, and where any penalty for an offence is directed by this Act to be paid to the undertakers, such damages or penalty respectively shall be paid to the undertakers for their own use.

Application of damages and penalties directed to be paid to the undertakers.

42. ONE moiety of all penalties imposed or recovered under this Act, where the application is not otherwise provided for, shall be paid to the informer, and the other moiety to the local authority.

Application of other penalties.

43. (1.) ALL informations and complaints in respect of offences under this Act shall be heard and determined, and except as is herein otherwise provided, all moneys, costs, and damages, and expenses not exceeding Twenty pounds, made payable or recoverable hereby, may be recovered in a Court of Summary Jurisdiction.

Court in which proceedings to be taken.

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(2.) Where the amount of moneys, costs, damages, or expenses recoverable exceeds Twenty pounds, the same shall be recoverable by action or proceeding in any Court of competent jurisdiction.

Act to be deemed a Public Act.

44. THIS Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others within the said Colony of Western Australia, without being specially pleaded.

Application of Interpretation Act, 1898.

45. SECTIONS C, F, G, and H of the Second Schedule to the Interpretation Act, 1898, shall be incorporated herewith.

Appeal.

46. ANY person aggrieved by any conviction or order of (including any order dismissing any information, complaint, or proceeding by) a Court of summary jurisdiction under this Act may, if the penalty imposed or sum awarded exceeds Two pounds, or in case of a dismissal, if the penalty which might be imposed or the sum which might be awarded exceeds Two pounds, appeal from such conviction or order to the Supreme Court.

Every such appeal shall be subject to the provisions of Part IX. of the Police Act, 1892, and of any Act amending such provisions.

When works to be commenced and completed.

47. (1.) THE undertakers shall, within nine months from the 1st January, 1900, commence, and shall on or before the expiration of eighteen months from such commencement, unless prevented by the act of God or some other unforeseen or inevitable act or event, have completely laid all mains shown upon the plan deposited by the undertakers and situate within one mile from the said Cottesloe Suburban Lot 33.

(2.) The local authorities may extend the times provided by this section.

In default this Act to become void after declaration by Supreme Court.

(3.) If the provisions of this section are not complied with within the times or extended times aforesaid, the local authorities may, within one month from the expiration of such times, petition the Supreme Court by action for a declaration that such provisions have not been complied with, and on such a declaration being made in such action, this Act shall cease and determine.

Forfeiture of deposit.

(4.) The money deposited by the undertakers with the Colonial Treasurer, in accordance with the Joint Standing Orders relating to Private Bills, shall be held by the Colonial Treasurer until completion of the work aforesaid, and thereupon be returned to the undertakers; provided that if a declaration as aforesaid be made

63° VICTORIÆ, PRIVATE ACT.

Cottesloe Lighting and Power.

by the Supreme Court under this section, the said deposit shall be forfeited to the Colonial Treasurer and paid into the Consolidated Revenue Fund.

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

GERARD SMITH, Governor.

SCHEDULE.

Bounded by lines starting from the Sea-coast, at the North-West corner of North Fremantle Townsite, and extending East and South, along its North and part of its East boundary, to the right bank of the Swan River, and along it upwards to the South boundary of Swan Location 699; thence West along said boundary to the centre of the Perth-Fremantle Road; thence in a North-Easterly direction along said centre of road to its intersection with the centre of Parry Street; thence North along said centre of street to the North side of the Eastern Railway Reserve, and along it Westerly to a point East of the North-East corner of Cottesloe Sub. Lot 7; thence West, passing along its North boundary, to the East side of Griver Street; thence North along said side of street to the North side of North Street, and West along said side of street to the sea-coast, and along it Southerly to the starting point.