This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

W. S. MOWLE,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 10 *December,* 1918.

The LEGISLATIVE COUNCIL *has this day agreed to this Bill with Amendments.*

Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, October, 1919.

New South Wales.

ANNO DECIMO

GEORGII V REGIS.

* *

Act No. , 1919.

An Act to make better provision for the government of areas; to extend the powers and functions of local governing bodies; to make provision for insuring local governing bodies against certain risks; to establish bodies to control main roads, and to take common action on behalf of areas; to repeal certain Acts; to amend certain other Acts; and for purposes consequent thereon or incidental thereto.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

NOTE.—The words to be *omitted* are *ruled through*; those to be *inserted* are printed in black letter.

PART I.

PRELIMINARY.

DIVISION 1.—*Short title, &c.*

Short title

1. This Act may be cited as the "Local Government Act, ~~1918~~ **1919**."

Commencement.

2. (1) This Act shall, except as in this Act otherwise provided, commence and come into operation on the first day of January, one thousand nine hundred and ~~nineteen~~ **twenty**.

(2) The Governor may by proclamation postpone the operation of any provision of this Act other than this section to a date not later than one year after the commencement of the Act.

Division into Parts.

3. This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—*ss.* 1–10.

PART II.—CONSTITUTION OF CITIES, MUNICIPALITIES, AND SHIRES—*ss.* 11–15.

PART III.—ALTERATION OF CITIES, MUNICIPALITIES, AND SHIRES—*ss.* 16–21.

PART IV.—COUNCILS (OF CITIES, MUNICIPALITIES, AND SHIRES)—*ss.* 22–49.

PART V.—ELECTORAL PROVISIONS—*ss.* 50–83.

PART VI.—ADMINISTRATION—*ss.* 84–105.

PART VII.—FINANCE—*ss.* 106–218.

PART VIII.—DEFAULTING AREAS—*s.* 219.

PART IX.—PUBLIC ROADS—*ss.* 220–281.

PART X.—PUBLIC HEALTH AND CONVENIENCE—*ss.* 282–308.

PART XI.—BUILDING REGULATION—*ss.* 309–324.

PART XII.—TOWN PLANNING—*ss.* 325–348.

PART XIII.—PUBLIC RECREATION—*ss.* 349–373.

PART XIV.—WATER, SEWERAGE, DRAINAGE, OR ELECTRICITY—*ss.* 374–413.

PART XV.—RIVERS, WATERCOURSES, &C.—*ss.* 414–416.

PART XVI.—WHARVES—*ss.* 417–421.

PART XVII.—TRADING—*ss.* 422–428.

PART XVIII.—IMPOUNDING—*ss.* 429–450.

PART XIX.—BURIALS—*ss.* 451–458.

PART XX.—MARKETS—*ss.* 459–465.

PART XXI.—ABATTOIRS—*ss.* 466–471.

PART XXII.—NOXIOUS PLANTS AND ANIMALS—*ss.* 472–481.

PART XXIII.—MISCELLANEOUS POWERS—*ss.* 482–516.

PART XXIV.—ANCILLARY POWERS—*ss.* 517–533.

PART XXV.—ACQUISITION OF LAND—*ss.* 534–539.

PART XXVI.—NATIONAL WORKS—*ss.* 540–542.

PART XXVII.—URBAN AREAS—*ss.* 543–558.

PART XXVIII.—AQUATIC PESTS—*ss.* 559–561.

PART XXIX.—COUNTY COUNCILS—*ss.* 562–575.

PART XXX.—LOCAL GOVERNMENT INSURANCES—*s.* 576.

PART XXXI.—SUPPLEMENTARY—*ss.* 577–658.

SCHEDULES.

DIVISION 2.—*Interpretation.*

4. In this Act, unless inconsistent with the context or subject-matter,— Definitions. cf. L.G. Act 1906-8, sec.

"Adjoining," in relation to a shire or municipality, means abutting or only separated by a public reserve, road, river, watercourse, or tidal or non-tidal water, or other like division.

"Alignment" means the boundary line between any public place and any land abutting thereon.

"Aquatic

"Aquatic pest" means water hyacinth, thread of life, and any other plant declared by proclamation to be an aquatic pest for the purposes of this Act.

"Area" or "local government area" means city municipality or shire.

"Building line" means the line between which and any public place or public reserve a building may not be erected.

"By-law" means by-law made under any Act.

"By or under," in relation to an Act, includes any ordinance, regulation, by-law, proclamation, notification, or order made under the Act.

"City," "village," "town" are not restricted to the meanings given to them in the Crown Lands Consolidation Act, 1913, although including the same where applicable, and the Governor may declare any area or any defined part of an area to be a village or town for the purposes of this Act.

"Clerk" or "council clerk" or "shire clerk" or "town clerk" includes person duly acting as council clerk of an area.

"Commonwealth" means the Commonwealth of Australia.

"Council" means council of an area, and includes an Administrator.

"Crown" includes any statutory body representing the Crown.

"Crown Lands" means Crown Lands within the meaning of the Crown Lands Consolidation Act, 1913.

"Drain" means any drain for the carrying off of waters other than sewage.

"Elector" means an elector under this Act.

"Electoral offence" means an electoral offence under this Act.

"Fund" means a fund under this Act.

"Intersection" includes junction.

"Joint" and "jointly," in relation to owning holding or occupying land, includes owning holding or occupying in common.

"Justice"

"Justice" means justice of the peace.

"Land" includes a mine, and also includes any river, watercourse, or inland water, tidal or non-tidal.

"Lease" includes an original or derivative lease under-lease or agreement for the same, and extends to any case where there is the relation of landlord and tenant, whether there is or is not any instrument in writing.

"Lease," in relation to Crown lands, includes a license.

"Lessee" has a meaning corresponding with that of lease, and includes an original or derivative lessee or under-lessee and any person deriving title under or from a lessee or under-lessee.

"Mayor" means mayor of a municipality.

"Member of a council" means mayor, deputy-mayor, alderman, president, deputy-president, or councillor.

"Mine" is land either on or below the surface or partly on or partly below the surface used or held for any mining purpose, and land so used or held is a mine. A mine includes all underground workings, and all engines, machinery, workshops, tramways, and other plant, all buildings (not being dwelling-houses), works, and the surface of any land occupied exclusively in connection with and for the purposes of the mine: Provided that, in the case of a mine occupied under a lease, license, or other mineral holding, such land is situate within the boundaries of such lease, license, or holding.

"Minister" means Minister for Local Government or other Minister of the Crown for the time being administering this Act.

"Mortgage" includes any charge whatever upon land or interest therein, howsoever created, for the securing of money. cf. The Land Tax Assessment Act, 1910–1914, s. 3. (Commonwealth).

"Mortgagee" includes every person entitled at law or in equity to a mortgage or any part thereof. cf. L.G. Acts, 1906-8, s. 3.

"Municipal

"Municipal council" means council of a municipality, and includes council of a city.

"Municipality" means area constituted a municipality under this Act, or under the Local Government Act, 1906, or under any Act repealed by that Act, and includes a city.

"Newspaper" means a newspaper circulating within the area or district with respect to which the term is used.

"Notify" means notify by publication in the Gazette or by such other method as may be prescribed.

"Offence with respect to administration" means an offence with respect to administration under this Act.

"Office" or "civic office" means office of president, deputy-president, or councillor, or mayor, deputy-mayor, or alderman, and "officer" means holder of any such office.

"Ordinances" means ordinances in force under this Act.

"Owner," in relation to land, includes every person who jointly or severally, whether at law or in equity— cf. The Land Tax Assessment Act, 1910-1914, s. 3 (Commonwealth).

(a) is entitled to the land for any estate of freehold in possession; or

(b) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Acts; or

(c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise;

and includes every person who by virtue of this Act is deemed to be the owner:

Provided that the Crown shall be deemed to be the owner of—

(a) all Crown lands; and

(b) all lands vested in a statutory body representing the Crown.

"Owned"

"Owned," "owning," and similar expressions have a meaning corresponding with that of owner.

"Part" means Part of this Act.

"Pathway" means a public road provided for the use only of foot passengers and of such classes of vehicles propelled by foot passengers as may be defined by ordinance.

"Paving," with reference to a footpath, includes any method of treating the surface of the footpath to facilitate traffic.

"Ply for hire," in relation to a public vehicle, means to drive to and fro or to stand upon a public road whether for hire or while waiting to be hired.

"Port Jackson" includes the islands therein.

"Power of the council," "duty of the council," and similar expressions mean a power or duty, as the case may be, conferred or imposed on the council by or under this or any other Act.

"Prescribed" means prescribed by or under this Act.

"President" means president of a shire.

"Private land" means land the fee-simple of which is not vested in His Majesty the King, and land which His Majesty has lawfully contracted to grant in fee-simple to any person under the Crown Lands Acts.

"Privy" includes urinal.

"Proclamation," "proclaimed," and similar expressions mean and refer to a proclamation of the Governor published in the Gazette.

"Proper servant" means any servant generally or specially authorised by the council in respect of or whose duty it is to deal with or to act in regard to any acts, matters, or things in relation to which the expression is used.

"Public place" means public road, bridge, jetty, wharf, road-ferry, or other place which the public are entitled to use, but does not include a public reserve.

"Public reserve" means public park and any land dedicated or reserved from sale by the Crown for public health, recreation, enjoyment or other public purpose of the like nature, but does not include a common.

"Public road" means road which the public are entitled to use, and includes any road notified, proclaimed, or dedicated, or opened under this or any Act dealing with public roads, or under the Crown Lands Consolidation Act, 1913: or the class classified as a main road in the Gazette of the thirty-first day of December, one thousand nine hundred and six, or so opened in accordance with this Act. Public roads. Vide L.G. Acts, 1906-8, s. 73 (3).

"Public road" means road which the public are entitled to use, and includes any road dedicated as a public road by any person or notified, proclaimed or dedicated as a public road under the authority of any Act, including this Act, or classified as a main road in the Gazette of the thirty-first day of December, one thousand nine hundred and six.

"Public vehicle" means a vehicle which is plied for hire.

"Ratable person," "person ratable," and similar expressions include the Crown and mean—

(a) an owner in any case where this Act provides that a rate shall be paid to the council by the owner;

(b) a holder of a lease in any case where this Act provides that a rate shall be paid to the council by the holder of the lease.

"Rate notice" means rate notice under this Act, but in relation to a rate under any other Act includes a corresponding notice thereunder.

"Ratepayer" means person on the roll of ratepayers.

"Regulation" means regulation in force under any other Act and regulation continued in force under this Act.

"Returning officer" means person appointed to conduct an election or poll under this Act.

"Road" means road, street, lane, highway, pathway, or thoroughfare, including a bridge, culvert, causeway, road-ferry, ford, crossing, and the like on the line of a road through or over a watercourse.

"Roll"

"Roll" means roll under this Act.

"School of Arts" means a public institution for use by the persons who subscribe thereto as a book club or reading room or for lectures or for indoor recreation or amusement.

"Schedule" means Schedule to this Act.

"Servant" means a servant of a council under this Act.

"Sewer" means sewer for the carrying off of sewage, and "sewage" includes any foul, polluted, or objectionable water, wastes, or refuse.

"Shire" means shire constituted under this Act, or the Local Government Act, 1906, or any Act repealed by that Act.

"Soldier" or "Sailor" means a person who is or has been a member of the Commonwealth Naval or Military Forces (including member of the Imperial Reserve residing in New South Wales before 1915) who enlisted or was appointed for active service outside Australia in connection with naval or military preparations or operations or in connection with the army medical or nursing service.

"State" means State of New South Wales.

"Statutory body," or "statutory body representing the Crown," includes the Board of Water Supply and Sewerage, the Hunter District Water Supply and Sewerage Board, the Sydney Harbour Trust Commissioners, the Board of Fire Commissioners of New South Wales, the Railway Commissioners for New South Wales, the Metropolitan Meat Industry Board, and any public body proclaimed under this Act as a statutory body representing the Crown.

"Subdivision," "subdivide," and similar expressions mean and refer to— For "separate parcel" see s. 134.

(a) dividing a separate parcel of land by sale, conveyance, transfer, lease, mortgage, agreement, partition, will, or other dealing or instrument, or by procuring the issue of a certificate of title under the Real Property Act, 1900, in respect of a portion of the land; or

(b)

(b) dividing a separate parcel of land by building thereon in such a way that any part thereof becomes obviously adapted for occupation separately from the rest.

"Subdivision," "subdivide," and similar expressions mean and refer to dividing land into parts not being lots or portions in a Crown or private subdivision made before or after the commencement of this Act, whether the dividing is—

(a) by sale conveyance transfer or partition; or

(b) by any agreement dealing or instrument inter vivos (other than a lease for a period not exceeding five years without option of renewal) rendering different parts thereof immediately available for separate occupation or disposition; or

(c) by procuring the issue of a certificate of title under the Real Property Act, 1900, in respect of a part of the land;

but do not include—

(a) any division of land by following the boundaries of lots or portions in a Crown plan; or

(b) any severance of land by the opening of a public road.

"Thread of life" means the plant commonly known by that name and recognised by botanists as a species of myriophyllum.

"Tidal waters" includes the waters of the sea or of any lake, estuary, harbour, river, bay, or lagoon in which the tide ebbs and flows. Tidal waters.

"Transfer," in relation to the estate or interest of a ratable person, includes conveyance.

"Treasurer" means Colonial Treasurer.

"Trustee," in addition to every person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law, includes— cf. The Land Tax Assessment Act, 1910-1914, s. 3 (Commonwealth).

(a) an executor, administrator, guardian, committee, receiver, or liquidator; and

The

(b) every person having or taking upon himself the administration or control of land affected by any express or implied trust, or acting in any fiduciary capacity, or having the possession, control, or management of the land of a person under any legal or other disability.

"Water hyacinth" means the plant variously called Eichhornia crassipes, Eichhornia speciosa, and Pontederia crassipes, and commonly known as water hyacinth.

"Western Division" has the meaning given to that expression in the Crown Lands Consolidation Act, 1913.

"Year" means the period from the first day of January to the thirty-first day of December, and "half-year" means half-year ending on the thirtieth day of June or the thirty-first day of December, as the case may be.

5. Wherever any Act is herein referred to, such reference shall include all Acts amending such Act or incorporating any of its provisions. References to Acts.

DIVISION 3.—*Repeal and savings.*

6. The following Acts are hereby repealed:— Repeal of Acts.

The Local Government Act, 1906.
The Local Government (Loans) Act, 1907.
The Local Government (Amending) Act, 1908.
The Local Government (Shire Loans) Act, 1914.
The Local Government (Amendment) Act, 1915.
The Local Government (Amending) Act, 1916 (except section two thereof).
The Local Government (Amending) Act, 1917.
Shire Loans (Amendment) Act, 1918.

7. The repeal of any Act by this Act shall not operate to break the continuity of existence of a shire or municipality or of its council existing at the commencement of this Act. Continuity of existence of municipalities and shires unbroken.

8. (1) The repeal by this Act of any enactment shall not, as far as relates to any previous or pending transaction or matter, affect property vested, acts and things validated Saving of transactions. cf. L.G. Act, 1906, s. 4.

validated or authorised, rights powers and protection acquired, liabilities incurred, or indemnities given by or under the repealed enactment.

(2) The repeal by this Act of any enactment shall not affect the status of any road as a public way road street or highway within the meaning of this or any other Act. Saving of public ways.

(3) This section shall not limit any saving in this Act or in the Interpretation Act, 1897. Other savings.

9. (1) Notwithstanding the repeal of any Acts by this Act, and save so far as otherwise expressly provided by this Act,— Savings as to members, ordinances, rates, &c. cf. L G. Act, 1906, sec. 4, sub-sec. 5.

(a) the members of the council of a municipality or shire in office at the commencement of this Act shall remain in office for the period hereinafter provided, and this Act shall apply to them; and such members, while in office, shall be the council of the area and the mayors or presidents thereof, as the case may be; Council continued in office.

(b) all ordinances, proclamations, notifications, and orders in force at the commencement of this Act shall be ordinances, proclamations, notifications, and orders under this Act, and shall notwithstanding the provisions of this Act continue in force until amended or repealed in pursuance of this Act; Ordinances continued in force.

(c) all regulations made under the Local Government Act, 1906, in force at the commencement of this Act shall continue in force until repealed by proclamation under this Act, and until such repeal may be enforced as if they were ordinances under this Act; Regulations.

(d) all rolls whether of electors or of ratepayers in force at the commencement of this Act shall be rolls of electors or of ratepayers, as the case may be, under this Act until fresh original rolls are compiled and in force under this Act; Rolls.

(e) all rates, charges, fees, and sums of money which under the Acts hereby repealed are, at the commencement of this Act, due or payable Rates to be due as if this Act had not been passed.

to

to or leviable by or for any council shall be paid to and may be received, levied, and recovered by the council for the time being of the area, and shall remain a charge on property or land as if this Act had not passed;

(f) all rights and liabilities acquired and incurred, and all contracts and undertakings entered into, all securities lawfully given, and all applications, actions, suits, and proceedings pending at the commencement of this Act, shall respectively be vested and attach, and may be enforced, realized, carried on, and prosecuted as if this Act had not passed, and shall not abate or be discontinued, or be prejudicially affected by the operation of this Act; Rights, liabilities, contracts, &c. to vest and attach.

(g) subsection four of section one hundred and sixty-nine of the Local Government Act, 1906, shall continue in force until its operation ceases by effluxion of time; Areas added to municipalities—separate rate for interest in old area.

(h) where in any form or document used after the commencement of this Act reference is made to the provisions of any enactment repealed by this Act the reference shall be deemed to be a reference to the corresponding provisions (if any) of this Act; Forms under repealed Acts. cf. Landlord and Tenant Act, 1899, s. 2 (3).

(i) where in any Act, ordinances, regulations, or by-laws reference is made to the provisions of any Act repealed by this Act such reference shall be deemed to be to the corresponding provisions (if any) of this Act; References to repealed Acts.

(j) where, by the operation of section seventy-one of the Local Government Act, 1906, any person has been disqualified for the office of alderman or councillor, such person shall be deemed to be disqualified for civic office under this Act until the expiration of the period of seven years provided by that section, and the provisions of this Act relating to disqualification for civic office shall apply accordingly.

(2)

(2) Save so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things, surcharges, applications and approvals made, done, commenced, or given under the Acts hereby repealed, and at the commencement of this Act of any force or effect or capable of acquiring any force or effect by virtue of the Acts hereby repealed, as if this Act had been in force at the time when they were made, done, commenced, or given, and they were made, done, commenced, or given hereunder. This Act to apply to things done under Acts repealed.

(3) Printed notices, forms, books, and formal documents prescribed and customarily used under the provisions of the Acts hereby repealed may during the first year after the commencement of this Act be used in place of the corresponding notices, forms, books, and formal documents under this Act.

10. (1) Unless otherwise expressly provided, nothing in this Act shall affect any of the provisions of— Certain Acts not affected. cf. L. G. Act, 1906, s. 5.

the Metropolitan Traffic Act, 1900;
the Metropolitan Water and Sewerage Act of 1880;
the Hunter District Water Supply and Sewerage Act of 1892;
the Water Act, 1912;
the Sydney Corporation Act, 1902;
the Sydney Harbour Trust Act, 1900 (Act No. 1 of 1901);
the Public Health Act, 1902;
the Public Works Act, 1912;
the Public Roads Act, 1902;
the Commons Regulation Act, 1898;
the Fire Brigades Act, 1909;
the Theatres and Public Halls Act, 1908;
the Motor Traffic Act, 1909;
the Factories and Shops Act, 1912;
the Height of Buildings Act, 1912;
the Government Railways Act, 1912;
the Irrigation Act, 1912;
the Navigation Act, 1901;
the Meat Industry Act, 1915;
the Naturalised Subjects Franchise Act, 1916;
the Pure Food Act, 1908; ~~or~~

the

the Weights and Measures Act, 1916; or

the Liquor Act, 1912.

or take away powers vested in any person or body by any of the said Acts, or by any by-laws or regulations made thereunder.

(2) Except where expressly provided, nothing in this Act shall apply to or affect the city of Sydney. City of Sydney.

PART II.

Constitution of Cities, Municipalities, and Shires.

Division 1.—*Cities.*

11. (1) The cities proclaimed before the commencement of this Act are continued as cities under this Act. Proclamation of cities. cf. L.G. Act, 1906, s. 8.

(2) The Governor may proclaim as a city a municipality which—

(a) has, during the five years next preceding such proclamation, had an average population of at least twenty thousand persons; and

(b) has during the said period had an average gross income from all sources of at least twenty thousand pounds; and

(c) is an independent centre of population and is not a suburb, whether residential, industrial, commercial, or maritime, of any other municipality or centre of population.

(3)

(3) A city may be described as "the city of....."; and the council thereof may be described as "the council of the city of....."; or as "the..... city council." Description of city and its council.

(4) All the provisions of this Act which apply to a municipality shall apply to a city. Provisions which apply to a city.

DIVISION 2.—*Municipalities.*

12. (1) An area constituted a municipality under the Local Government Act, 1906, or under any Act repealed by that Act, and in existence at the commencement of this Act, is continued as a municipality under this Act. Municipalities.

(2) A municipality may be described as "the municipality of....." or as "the.....municipality." Description of municipality and council.

(3) The council of a municipality may be described as "the council of the municipality of....." or as "the.....municipal council."

DIVISION 3.—*Shires.*

13. (1) An area constituted a shire under the Local Government Act, 1906, or under any Act repealed by that Act, and in existence at the commencement of this Act, is continued as a shire under this Act. Shires.

(2) A shire may be described as "the shire of ....." or as "the.....shire." Description of shire and council.

(3) The council of a shire may be described as "the council of the shire of ....." or as "the.....shire council."

DIVISION 4.—*General.*

14. The Governor may alter the name of any area. Re-naming areas. cf. L.G. Act, 1906, s. 13.

15. Any land on the boundary of but not within an area as constituted shall be deemed, with any building or structure thereon, to be included in the area, if— Land on boundary of area. cf. L.G. Acts, 1906-8, s. 14.

(a) it has at any time been reclaimed from tidal waters; or

(b)

(b) it is situate under tidal waters or on the shore, or on or below high water-mark, or below the margin of any tidal waters;

and if, in either case—

(i) it is privately owned; or

(ii) there is thereon any jetty, wharf, pier, or building; or

(iii) the Governor by proclamation declares that the land shall form part of the area.

PART III.

Alterations of Cities, Municipalities, and Shires.

Alteration of areas.

16. The Governor may at any time by proclamation—

(a) alter the boundaries of areas by taking part of one area and adding it to another area;

cf. Eng. L.G. Act, 1888, ss. 57-59.

(b) alter the boundaries of an area by adding thereto any land which is not within an area: Provided that land in the Western Division shall not be added to a shire;

(c) take land from any one or more areas, and constitute such land a separate shire or municipality;

(d) divide any whole areas or whole areas and parts of areas into a different number of areas and constitute such areas as municipalities or shires;

(e) unite areas, and constitute the united area as a municipality or a shire;

(f) convert and constitute a municipality as a shire or a shire as a municipality;

(g) give names to any areas constituted under this Part.

New municipality—conditions precedent.

17. A new municipality shall not be constituted (except by union of areas) unless—

(a) it contains a population of at least three thousand inhabitants; and

(b) it has an average density of population of at least one inhabitant per acre; and

(c) the unimproved capital value of all ratable land included therein is such that a general rate of threepence in the pound on such unimproved capital value will yield an annual income of three thousand pounds.

Areas to be continuous.

18. Every area, when altered under this Part, shall consist of adjoining territories.

Proposals for alteration of areas.

19. (1) The Minister may, on his own motion, or on receipt of representations from any council or any fifty electors of an area, prepare a proposal for the Governor to exercise any of the powers of this Part.

Notice.

(2) The Minister shall give the prescribed notice of any such proposal, and thereupon the council or any elector or creditor of any area affected may within the period fixed in such notice make written representations with regard thereto.

Governor's proclamation.

(3) After the expiration of the time fixed in such notice, the Governor may make a proclamation under this section for carrying into effect such proposal or such variation thereof as may seem to him expedient.

19. (1) A proposal to the Governor to exercise any power under this Part may be submitted to the Minister—

(a) by the council; or

(b) in a case where the status of any whole area will be directly affected—by fifty electors of any such area; or

(c) in a case where part of an area is proposed to be separated from one and attached to another area, or is proposed to be created a separate area—by fifty electors of that part, or, if there be less than fifty electors enrolled in respect of lands situated in that part, by any number of electors not less than one-third of those so enrolled; or

(d) in a case where a general rate of fourpence in the pound on the unimproved capital value of the ratable lands in a municipality would not yield a greater income than one thousand pounds, and a proposal is to be made to unite such municipality with another area—by an officer of the Minister.

(2)

(2) If the Minister decide to proceed with any such proposal he shall give the prescribed notice.

(3) Within the time fixed in such notice objection to the proposal may be lodged by the council or by such number of such electors as by this section are empowered to submit a like proposal.

(4) If objection be duly lodged, and if the Minister, after considering such objection, decide to proceed further with the proposal, he shall (subject to the other provisions of this section) refer it for inquiry and report to such local land board as he may appoint, or to a person appointed by him in accordance with this Act.

(5) If the proposal be one involving the union with another area of a municipality in which a general rate of fourpence in the pound on the unimproved capital value of the ratable lands therein would yield a greater income than one thousand pounds, and if within the time fixed in such notice a petition for a poll be duly lodged by fifty electors of the municipality, the Minister shall (in lieu of referring the proposal for such inquiry and report) direct that a poll of electors of the municipality be held by the council on the proposal, and the council shall hold such poll accordingly.

(6) If objection be not duly lodged, or if the report made as the result of inquiry following on the lodging of objection be in favour of the proposal (with or without modification), or if the decision of such poll be in the affirmative, the proposal with such modification, if any, as may be found advisable may be submitted for the Governor's decision.

(4- 7) The powers of section sixteen of this Act shall not be exercised except upon a proposal dealt with in accordance with this section.

Division of assets and liabilities.

20. (1) If in the opinion of the Minister the giving effect to any proposal under this Part would render necessary a division of the assets or liabilities, or both, of any area, the provisions of this section shall have effect.

(2) The Minister shall require the councils of the areas affected to confer with one another and with their

their creditors (if any) and to agree upon an arrangement as to the apportionment of assets, rights, and liabilities between the areas and creditors affected.

(3) Where the councils or the councils and creditors (if any) do not confer or cannot agree as aforesaid the Minister may make a draft of such an arrangement and give the prescribed notice thereof by advertisement. The councils and their creditors may agree to any such draft with or without amendment.

(4) Where the councils and their creditors do not agree to any such draft any council or creditor may within the time allowed in the aforesaid notice submit the matter of making an equitable arrangement to a district court judge, who may summon witnesses, hear evidence, and determine the matter, and make an arrangement which shall be final and shall be embodied in the Governor's proclamation.

(5) If the matter be not submitted to a district court judge as hereinbefore provided, the arrangement proposed by the Minister with or without amendment as aforesaid may be embodied in the Governor's proclamation.

21. (1) For the purposes of this Part the Governor may (notwithstanding anything elsewhere in this Act provided) by proclamation— What may be provided in Governor's proclamation.

cf. L.G. Acts, 1906-8, ss. 15-18.

cf. Eng. L.G. Act, 1888, ss. 57-59.

(a) provide for the substitution of one council for another so as to enable the former to exercise or enforce on its own behalf any right or power formerly exercised or enforced by the latter council;

(b) make consequential alterations in the ridings and wards or abolish them;

(c) provide for the transfer, apportionment, and continuance in force of valuations, and rolls of electors and of ratepayers;

(d) require councils to furnish information for the compilation of lists and rolls and provide for the compilation and revision of such lists and rolls;

(e) provide for the continuance of rates and for the disposal of the proceeds thereof for the purpose of discharging the obligations in respect of which such rates were levied;

(f)

(f) provide for the continuance of the power to levy rates levied before the proclamation is made;

(g) provide for the readjustment of rights and rates of endowment;

(h) continue or dissolve or recreate urban areas and urban committees and provide for such matters connected therewith as he may deem necessary;

(i) provide for the termination of office, continuance in office, appointment, or election of officers and of urban committees;

(j) dissolve the corporate body of any area, and create new corporate bodies;

(k) appoint a provisional council and empower it to exercise all or any of the powers of a council pending the election of a council;

(l) give effect to any arrangement made as elsewhere provided by agreement between councils and creditors, or by the Minister, or by a district court judge, with respect to the apportionment of assets, rights, and liabilities;

(m) transfer, or provide for the transfer of, any unascertained liabilities of a council (including liabilities for damages only) which are not included in any arrangement referred to in the last preceding paragraph to another council: subject to such conditions or limitations as he may think just;

(n) grant approval to councils, subject to conditions specified in such approval, to borrow for the purpose of meeting any liabilities transferred to them under the proclamation;

(o) provide for the allotment and apportionment of property not covered by any such arrangement made as aforesaid;

(p) provide for the giving and completing of documents to give effect to any transfer or alteration necessitated by the proclamation; provide for the transfer or apportionment of any certificates, deeds, documents, and records, relating to, or to be executed in, any part of the area affected by the proclamation; (q)

(q) extend or limit as to locality the operation of any Act as necessitated by such proclamation; and

(r) provide for any matter or thing (whether herein stated or not) which the Governor may deem necessary or expedient in the circumstances.

(2) Such proclamation shall have the force of law.

PART IV.

The Councils of Cities, Municipalities, and Shires.

Division 1.—*Incorporation.*

Incorporation of councils.

cf. Sydney Corporation Act, 1902, s. 6; and Municipal Corporations Act, 1908, s. 4 (New Zealand).

22. (1) For the local government under this Act of each city municipality and shire there shall be a council.

(2) The council shall be a body corporate, with perpetual succession and a common seal, and may sue and be sued in its corporate name; and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing holding granting demising disposing of and alienating real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

cf. L.G. Acts, 1906-8, s. 44.

(3) The corporate name of the council shall be "the council of the (city municipality or shire, as the case may be) of.....".

Division 2.—*City and municipal councils.*

Composition of city and municipal councils.

cf. L.G. Acts 1906-8, s. 29.

23. (1) Each city and municipal council shall consist of aldermen elected by the electors (except where otherwise provided).

Number of aldermen.

cf. L.G. Acts, 1906-8, s. 31.

(2) The number of aldermen of a municipal council shall be the number now constituting such council, or as determined or altered by the Governor from time to time.

(3) Such number shall not be less than six nor more than fifteen.

(4) Where a municipality is divided into wards the number of aldermen to be elected by the electors of the respective wards shall be the number apportioned

to

to such wards at the commencement of this Act, or as determined or altered by the Governor from time to time.

(5) Any alteration in the number of aldermen shall not have effect until the next ordinary election of the council.

(6) If a vacancy in the office of alderman continues after the time prescribed for election thereto the Governor may appoint any qualified person to the vacant office:

Provided that where he deems it expedient the Minister may authorise the holding of an election to fill the vacant office.

DIVISION 3.—*Shire councils.*

Composition of shire councils.

24. (1) Each shire council shall consist of councillors elected by the electors (except where otherwise provided).

Number of councillors. cf. L.G. Acts, 1906–8, s. 25.

(2) The number of councillors of a shire council shall be the number now constituting such council, or as determined or altered by the Governor from time to time.

(3) The number shall not be less than six nor more than nine.

Representation of ridings. cf. L.G. Acts, 1906–8, s. 24.

(4) The respective ridings of a shire shall be represented on the council by an equal number of councillors.

(5) Any alteration in the number of councillors shall not have effect until the next ordinary election of the council.

(6) If a vacancy in the office of councillor continues after the time prescribed for election thereto the Governor may appoint any qualified person to the vacant office:

Provided that where he deems it expedient the Minister may authorise the holding of an election to fill the vacant office.

DIVISION 4.—*Mayors and presidents.*

Mayors and presidents.

25. (1) Each municipal council shall elect one of its members to be the mayor.

(2) Each shire council shall elect one of its members to be the president.

(3)

(3) If a vacancy in the office of mayor or president continues after the time prescribed for election thereto, the Governor may appoint any qualified person to the vacant office. cf. L.G. Acts, 1906-8, s. 35.

(4) If any ordinary election of mayor or president is not held within the prescribed time the Governor may appoint any qualified person to the office.

26. (1) A council may from time to time elect one of its members to act as deputy-mayor or deputy-president either for the mayoral or presidential year or for a limited term as may be resolved by the council. Deputy of mayor or president.

(2) A deputy-mayor or deputy-president may act in the office of mayor or president during such time (if any) as the mayor or president is prevented by absence, illness, or otherwise from performing any duty of his office, or during such time as an extraordinary vacancy exists in the office of mayor or president. cf. L.G. Act, 1906, s. 35(8); Sydney Corporation Act, 1902, s. 50(2).

(3) While so acting the deputy-mayor or deputy-president shall have the powers, authorities, duties, and liabilities of the mayor or president.

(4) If the deputy-mayor or deputy-president be prevented by absence, illness, or otherwise from performing the duties of the mayor's or president's office when occasion arises for him so to act the council may elect another deputy-mayor or deputy-president to act in his place.

27. The prescribed time for an election of mayor or president shall be— Time for election of mayor or president.

(a) For any ordinary election of mayor or president in the year of the triennial election of councils—within three weeks after the date of the triennial election: and for any ordinary election of mayor or president in each of the years intervening between the years of the triennial elections of councils—within the month of ~~December~~; cf. L.G. Act, 1906, s. 35 (3). cf. Sydney Corporation Act, 1902, s. 19; L.G. Act, 1906, s. 35 (5). cf. Sydney Corporation Act, 1902; L.G. Act, 1906, s. 35 (6).

(a) for the ordinary election of mayor or president following the triennial ordinary election of councils in the year one thousand nine hundred and twenty—within the month of February in that year;

(b)

(b) for the next ordinary election thereafter—within the month of December, one thousand nine hundred and twenty;

(c) for any ordinary election of mayor or president in the year of any subsequent ordinary election of councils—within three weeks after the date of the triennial election;

(d) for any ordinary election of mayor or president in each of the years intervening between the years of the ordinary elections of councils—within the month of December;

(b e) for an extraordinary election—within fourteen days after the occurrence of an extraordinary vacancy;

(e f) for the first election after the constitution of an area—within fourteen days after the appointment of a provisional council or after the first election of aldermen or councillors, as the case may be;

(d g) for the first election after the appointment or election of a council for a defaulting area—within fourteen days after such appointment or election of a council.

DIVISION 5.—*Allowances to aldermen and councillors, mayors and presidents.*

Travelling expenses.
cf. L. G. Act, 1906. s. 26; L. G. Acts, 1906-8, s. 47B.

28. (1) A council may pay to or on behalf of its members reasonable allowances towards their necessary out-of-pocket expenses for conveyance and subsistence in travelling—

(a) to and from the meetings of the council;

(b) upon inspections within the area, provided such inspections are undertaken in compliance with resolutions of the council passed beforehand;

(c) upon business of the council outside the area in compliance with a resolution passed beforehand by the council: Provided that expenses shall not be paid to or on behalf of more than two members of the council under this paragraph, and that this paragraph shall not apply to the conferences hereinafter provided for;

(d)

(d) to and from the periodical conference of the Local Government Association of New South Wales or the Shires Association of New South Wales or of the Town Planning Associations of Australia or of any district associations of councils of municipalities or of shires: Provided that expenses shall not be paid to or on behalf of more than one member of the council under this paragraph.

(2) Allowances under this section shall not exceed such amount as may be prescribed.

Mayors and presidents.
cf. L. G. Act, 1906, s. 27, 32(2).

29. (1) The council may pay to its mayor or president an allowance in any mayoral or presidential term.

Method of payment.

(2) Any allowance to the mayor or president shall be payable to him by monthly instalments from the commencement of his office until it becomes vacant, or, where so resolved by the council, may be paid in any other manner.

(3) During such time as the mayor or president is prevented by absence illness or otherwise from performing any duty of his office the council may grant to the deputy-mayor or deputy-president (if any) such allowance for his expenses as the council may in the circumstances determine, and any such allowance to the deputy-mayor or deputy-president shall be deducted from the corresponding allowance to the mayor or president.

(4) Allowances under this section shall be for the expenses of the mayor or president in connection with his office, and shall not be used for payments to or on behalf of aldermen or councillors.

Division 6.—*Qualifications and disqualifications for civic office.*

Qualification for office.
cf. Commonwealth Franchise Act, 1902, s. 3; L.G. Act, 1906, s. 69; Sydney Corporation Act, 1902, s. 18 (2).

30. (1) Unless disqualified by this Act every person whose name is on a roll of electors compiled under this Act shall be qualified for a civic office.

(2)

(2) A person shall be disqualified for a civic office if— Disqualifications.

(a) he is not qualified or is disqualified to be an elector; or

(b) he has not before nomination or appointment paid all moneys in excess of the sum of five shillings that were at any time ~~during the preceding year~~ **before the end of the month preceding that in which nomination day falls** due by him to the council; or

(c) he is a judge of any court of the State or Commonwealth; or

(d) he has been convicted of a felony and has not received a free pardon or served his sentence; or

(e) he is undergoing a sentence of imprisonment; or

(f) he has committed an electoral offence in respect of his election to the office; or cf. s. 75, post.

(g) he has within two years before nomination for election or appointment been convicted of an electoral offence, where the act constituting it was committed by himself or was committed by an agent with his knowledge and consent; or

(h) he has within five years before nomination for election or appointment been convicted of an offence with respect to administration; or cf. s. 100, et seq.

(i) he is subject to a special disqualification within the meaning of this Act; or cf. subsec. (3) of this section.

(j) he has been convicted of having acted in a civic office while subject to a special disqualification as aforesaid and the period of disqualification has not elapsed.

(3) A person is subject to a special disqualification within the meaning of this Act if— Special disqualification.

(a) he holds any position of profit under or in the gift of the council; or

(b) he has (except as provided in this section) any direct or indirect pecuniary interest in any agreement or trading with the council; **or**

(c) he converts to his own use any property of the council; or

(d)

(d) **he by virtue of his office accepts or acquires any personal profit or advantage of pecuniary value other than as by this Act permitted.**

(4) A person (who is not a director of the company) shall not be disqualified for a civic office by reason only of having a direct or indirect pecuniary interest in any agreement or trading with the council as a member and in common with the members of an incorporated company consisting of more than twenty-five persons: Transactions with council which do not disqualify.

Provided that a person who is a director of a banking company with which the council does business shall not on that account alone be disqualified under this section.

(5) A person shall not be disqualified for a civic office by reason only of having a direct or indirect pecuniary interest in any agreement or trading with the council for or with respect to—

(a) the publication of advertisements in a newspaper **of which he is the owner or part owner;** or

(b) the supply **to him** by the council of any service product or commodity in like manner and subject to the like conditions applicable in the case of persons who are not aldermen or councillors; or

(c) the performance by the council **at his expense** of work in connection with roads or sanitation; or

(d) the occupation **by him** of roads during the erection of buildings; or

~~(e) the making good of any damage to roads; or~~

(e) **the making good by him without payment of any damage to roads caused by him, or the payment by him to the council of the cost of making good such damage;**

(f) the renting of any land from the council **by him** in any case where the agreement was made before his election; or

(g) the renting **by him** from the council of a building hall or room for the purpose of holding a meeting or entertainment therein; or

(h)

(h) the payment to or by the council of any claim in respect of a dividing fence; or

(i) the leasing from the council by him of any public watering place adjoining land held by him; or

(j) the supply by him to the council of road-making materials, if such supply is previously approved by the Minister; or

(k j) the use by him of any market or sale-yard of the council in like manner and subject to the like conditions applicable in the case of persons who are not aldermen or councillors.

(6) Where a council cannot conveniently obtain goods or services from any person other than a member of the council it may—

(a) advertise in a newspaper that fact it proposes to apply to the Minister for approval to place orders with the member of the council, and allow fourteen days within which objections may be lodged;

(b) consider the objections;

(c) forward a copy of the advertisement and the objections received to the Minister with an application for permission for the member to supply goods or services to his council, and forward also particulars of the terms on which the trading is to be conducted.

The Minister may grant permission accordingly, on such conditions as he may impose.

In such case, notwithstanding the other provisions of this section, the member shall not be disqualified for a civic office by reason of anything done in pursuance of the permission granted by the Minister.

31. (1) A person disqualified for a civic office shall not be entitled to be elected or appointed thereto or to hold office or to act therein: Provided that, in the case of the appointment of members of the council of a newly-constituted area, or of any area where no roll is available, persons so appointed shall not, until rolls for that area are in force, be deemed to be disqualified for a civic office by reason only of non-enrolment. Effect of disqualification. cf. L.G. Act, 1906, s. 69.

(2)

(2) If a person acts in a civic office while disqualified therefor, he shall be liable to a penalty not exceeding one hundred pounds. cf. L.G. Act, 1906, s. 71.

(3) If a person is convicted of acting in a civic office while subject to a special disqualification within the meaning of this Act, the minimum penalty shall be fifty pounds, and his conviction shall have the following consequences, that is to say—

(a) he shall be disqualified for a civic office for a period of seven years from the conviction unless the court by which he is convicted sees fit in the circumstances of the case to reduce the period of disqualification to a shorter period not being less than one year;

(b) he shall not be entitled to receive or recover from the council any money in respect of the disqualifying position, agreement, or trading;

(c) the council may within two years after the receipt by him from the council of any money in respect of the disqualifying position, agreement, or trading recover the same from him in any court of competent jurisdiction.

DIVISION 7.—*Tenure of civic office.*

Tenure of office.

32. Subject to the provisions of this Act— cf. Sydney Corporation Act, 1902, ss. 18, 19; Sydney Corporation Amendment Act, 1906, s. 14; L.G. Act. 1906, ss. 30, 35 (3), (4), (5).

(a) the mayor or president shall hold office for one year;

(b) an alderman or councillor shall hold office for three years;

(c) the holder of a civic office shall be eligible for re-election.

Office of alderman or councillor.

33. The office of an alderman or councillor shall—

(a) commence on the day of his election or appointment thereto;

(b) become vacant on the day appointed for the next ordinary election of aldermen or councillors or on the occurrence of an extraordinary vacancy, whichever first happens. See s. 39 post.

34.

Office of mayor or president.

34. The office of mayor or president shall—

(a) in the case of an ordinary election commence on the first day of January next after the election; or, in the case of a postponed ordinary election held on or after the first day of January,—commence on the day of election;

(b) in the case of any other election or any appointment thereto—commence on the day of the election or appointment;

(c) become vacant on the last day of December next after the commencement of his office or on the occurrence of an extraordinary vacancy, whichever first happens.

34. The office of mayor or president shall—

(a) commence on the day of his election or appointment thereto;

(b) become vacant on the day of the election or appointment of his successor, or on the occurrence of an extraordinary vacancy.

Extraordinary vacancy.

cf. Sydney Corporation Act, 1902, ss 50, 48; L.G. Act, 1906, s. 41.

35. An extraordinary vacancy in a civic office shall occur if the person elected or appointed thereto—

(a) dies; or

(b) resigns the office by notice in writing addressed to the town or shire clerk; or

(c) is disqualified for the office; or

(d) is ousted of the office; or

(e) is absent without leave of the council from four consecutive ordinary meetings of the council; or

(f) ceases for any reason to hold office before the day on which the office would ordinarily become vacant.

Bankrupts.

cf. Constitution Act, 1902, s. 34.

36. If any holder of a civic office becomes bankrupt within the meaning of the law in force for the time being relating to bankrupts or if he compounds his affairs with his creditors he shall thereby cease to hold office, but shall be eligible for re-election if not otherwise disqualified.

Attendance at meetings of council—default.

37. (1) If any councillor or alderman does not attend at least one-half of the meetings of the council held during any year he shall at the end of the year cease to hold office.

(2)

(2) He shall be eligible for re-election, if not otherwise disqualified.

(3) This section shall not apply to any absence caused by illness or other sufficient cause if—

(a) such illness or sufficient cause is duly set out in apologies received at the meetings from which he was absent, and if such apologies are accepted by resolution of the council; or

(b) the period of absence so caused is covered by leave of absence granted by the council before or after the absence and before the end of the year and the resolution granting such leave sets out the cause thereof.

(4) Where a councillor or alderman was not in office at the commencement of the year any meetings held before his entry into office shall not in his case be counted in determining the number of meetings held during the year.

DIVISION 8.—*Elections.*

Appointed days.

Election on appointed days.
cf. Sydney Corporation Act, 1902, ss. 19, 18
L.G. Act, 1906, s. 42.

38. (1) Elections of aldermen and councillors shall, except as provided in this section, take place on the days appointed therefor respectively.

cf. L.G. Act, 1906, s. 43.

(2) If it appears to the Minister to be impracticable or inconvenient to hold an election on the day appointed, he may appoint a subsequent day not being more than one month thereafter.

(3) Where the time for the holding of the triennial ordinary election is postponed in any area—

(a) the election of mayor or president shall be postponed and shall be held within fourteen days after the day of election of the council, and in such case the mayor or president in office immediately before the election may if re-elected as alderman or councillor act as mayor or president until his successor is elected or appointed; and

(b) the retiring aldermen or councillors may remain in office until the day of the election, and if any

any of them resigns in the meantime his successor may hold office for the remainder of his term.

(4) In the case of an extraordinary vacancy occurring within the last six months of any council's term of office the Minister may, on the application of the council, order that an election shall not be held; but notwithstanding such order the Minister may, on the like application, subsequently authorise the holding of an election to fill the vacancy, and appoint a day therefor.

Appointed day for election of aldermen or councillors. cf. Sydney Corporation Act, 1902, s. 18; L.G. Act, 1906, s. 42.

39. The appointed day for an election of aldermen or councillors shall be—

(a) for any ordinary election—the first Saturday in December, one thousand nine hundred and nineteen, and the same day in every third year ~~thereafter;~~

(a) for the ordinary election in the year one thousand nine hundred and twenty—the day following the last Friday in January;

(b) for ordinary elections after the year one thousand nine hundred and twenty—the first Saturday in December, one thousand nine hundred and twenty-two, and the same day in every third year thereafter;

(~~b~~ c) for the first election after the constitution of an area or for an election in respect of a defaulting area—a Saturday to be proclaimed by the Governor;

(~~c~~ d) for an extraordinary election—a Saturday fixed and advertised by the returning officer, being within one month in the case of a municipality and two months in the case of a shire after the occurrence of an extraordinary vacancy.

Mode of election.

Election of aldermen and councillors. cf. L.G. Acts, 1906-S, s. 36.

40. (1) Members of councils shall be elected for the respective wards or ridings of the area by the electors of such wards or ridings: Provided that where an area is not divided into wards or ridings, the council shall be elected by the electors of the whole area.

(2) Every election shall be conducted in accordance with the electoral provisions of this Act applicable thereto respectively. See Part V of this Act.

Validity of elections.

41. (1) No election under this Act shall be invalid by reason only of any of the following irregularities, that is to say— Validation of elections. cf. L.G. Act, 1906–1908, s. 39; Sydney Corporation Act, 1902, s. 45.

(a) any formal defect or error in or relating to the election, if the election was held substantially in accordance with this Act; or

(b) any defect or want of title of any person who acted as returning officer; or

(c) any extension of the time of closing the poll, where the voting is by postal ballot, if such extension is approved by the Minister.

(2) If the Governor proclaims that any such irregularity does not invalidate the election, the proclamation shall be conclusive as to the matter stated therein.

42. (1) If an election under this Act does not take place on a day appointed therefor or is afterwards declared void for any reason, the council shall not thereby be deemed to be dissolved or to be disabled from taking any necessary steps for the election of aldermen or councillors in the future. Lapsed or void elections. cf. Sydney Corporation Act, 1902, s. 46.

(2) In any such case the election shall be held as in the case of an extraordinary vacancy, and every act necessary to be done for completing the election shall be as valid as if the election were held upon the day or within the time originally appointed for that purpose.

DIVISION 9.—*Ouster of office.*

43. (1) In any of the following cases, that is to say— Ouster by Supreme Court. cf. Sydney Corporation Act, 1902, s. 56; L.G. Act, 1906, s. 72.

(a) where any person declared to be elected or purporting to be appointed to a civic office has been elected or appointed unduly or contrary to the provisions of this Act; or

(b)

(b) where any person holds or acts in a civic office and is disqualified therefor,

the Supreme Court or a judge thereof or any district court or court of petty sessions having jurisdiction within the area in which the election has been held or in respect of which the appointment has been made may oust the person of the office.

(2) In any case within paragraph (a) of sub-section one of this section a person shall not be so ousted unless proceedings are commenced for that purpose not more than three months after the date when he was elected or appointed, as the case may be. cf. L.G. Act, 1906, s. 72 (1).

(3) A person who proposes to take ~~take~~ proceedings for ouster under this division shall at least twenty-one days before doing so serve upon the person proposed to be ousted a notice of his intention so to proceed and copies of all affidavits proposed to be lodged with the application for ouster.

(4) If within fourteen days after service of the notice and copies of affidavits aforesaid the person served resign his office proceedings for the ouster shall not be taken.

44. (1) Subject to the provisions of this Act and to any rules of Court, proceedings for ouster of office shall be taken in accordance with this section. Proceedings for ouster. cf. Sydney Corporation Act, 1902, s. 56; L.G. Act, 1906, s. 72; cf. also No. 1893, s. 15 (Victoria).

(2) Upon affidavit of the facts the Supreme Court or a judge thereof or any district court or court of petty sessions having jurisdiction as aforesaid may grant a rule or order calling upon the person concerned to show cause to the court or judge why he should not be ousted of the office.

(3) Upon the return of the rule or order the court or judge may make the rule or order absolute, or may discharge the rule or order, and in either case with or without costs.

(4) The person against whom the rule or order is made absolute shall be deemed thereby to be ousted of the office, and the ouster shall take effect as by this section provided.

(5) If an appeal from the rule or order be made and the appeal be not upheld, the ouster shall take effect on the decision of the appeal.

(6)

(6) If an appeal from the rule or order be not made, the ouster shall take effect on the expiration of the time allowed for appeals: Provided that where the person ousted lodges with the clerk a notice of intention not to appeal, the ouster shall take effect on such lodgment, and thereupon the right of appeal shall lapse.

45. (1) Where proceedings for ouster of office have been commenced, the Supreme Court or a judge thereof or any district court or court of petty sessions having jurisdiction as aforesaid may direct that any matters of fact be ascertained in such manner as the court or judge deems proper, and in particular the court or judge may order that an inquiry be held by any fit person to be named in the order, and that the person so named do report to the court concerning any matters of fact. Inquiry. cf. No. 1893, s. 157 (Victoria).

(2) The court or any judge thereof or any person so named, as the case may be, may call for and inspect the ballot papers and any roll or papers used at the election and sealed up as prescribed.

(3) The provisions of the Witnesses Examination Act, 1900, so far as the same apply to powers rights and liabilities conferred or imposed in the case of an order for the issue of a commission for the examination of witnesses (except so far as relates to costs and the conditions under which examinations or depositions are to be read in evidence) shall be deemed to apply in the case of any order under this section in like manner as if the person ordered to report hereunder had been authorised and required to take examinations under any such commission.

46. (1) An appeal from any rule or order of a district court or court of petty sessions under this Division on the ground that such rule or order is erroneous in law may be made to the Supreme Court or a judge thereof. Appeals.

(2) Any such appeal from a district court shall be made and determined in the same manner as an appeal in an action in such court.

(3) Any such appeal from a court of petty sessions shall be made and determined in the same manner as an appeal from the determination of justices in the exercise of their summary jurisdiction.

DIVISION 10.—*Business and proceedings of the council.*

Meetings.

Quorum. cf. the Metropolitan Council Bill, 1915, cl. 54 (Victoria).

47. (1) Business shall not be transacted at any meeting of a council unless a quorum, that is to say, a majority of its members is present.

(2) Any business which a council either in its capacity as a council or as trustee, or in any capacity whatsoever, is under any Act authorised, required, or empowered to transact, may be transacted at any meeting of a council as part of the business of such meeting, and any provisions made by or under this Act shall apply thereto.

Validity.

Validation. cf. Sydney Corporation Act, 1902, s. 57. cf. L.G. Act, 1906, s. 200.

48. All acts and proceedings of the council or of any person purporting to hold a civic office and to act therein shall, notwithstanding any vacancy in the council or any defect in the election or appointment of any such person or that he was disqualified for a civic office, be as valid and effectual as if the person had been duly elected or was qualified.

DIVISION 11.—*Ordinances.*

Ordinances.

49. Ordinances may be made for carrying this Part into effect, and in particular for and with respect to—

(a) the meetings and proceedings of the council;

(b) the access of the public and the press to meetings of councils and of the press to the documents laid before the council;

(c) the appointment, duties, powers, meetings, and proceedings of committees of the council;

(d) the inspection of the minute book by electors;

(e) information which shall be supplied by the council its officers and servants to the Minister, the Commonwealth or State Government Statistician, or the Auditor-General;

(f) the disqualification of presidents and councillors, mayors and aldermen, from voting at meetings of

of the council or any committee of the council in, or from being present during or taking part in the discussion of, cases in which they or any of their relations are interested, specifying the degree of relationship and the nature of the interest necessary to create the disqualification;

(g) prescribing the duties of mayors, presidents, and officers;

(h) the preservation of the books and records of the council;

(i) the prevention of the suppression of official correspondence;

(j) the access of members of the council to the records, documents, and books of the council; and

(k) the laying of papers on the table of the council.

PART V.

Electoral Provisions.

Division 1.—*The qualification of electors.*

Qualification of elector. cf. L.G. Act. 1906, ss. 48, 55.

50. Subject to the provisions of this Act and unless disqualified by this or any other Act, every person being a natural-born or naturalised British subject of the full age of twenty-one years, whether male or female married or unmarried, shall, if he has the requisite qualification, be qualified to be an elector, and shall be entitled—

(a) to be enrolled for the ward or riding in respect of which he has the requisite qualification; and

(b) to vote at any election of aldermen or councillors for the ward or riding.

Meaning of "requisite qualification."

51. (1) In order to have the requisite qualification of an elector in respect of a ward or riding a person must, on the day prescribed for enrolment, be either an owner, ratepaying lessee, or occupier of ratable land in the ward or riding.

Ratable land.

(2) For the purposes of this Part, ratable land shall include all land upon which any rate is leviable or levied under this Act.

Qualification of an owner. cf. L.G. Act, 1906, ss. 49, 56.

52. A person shall be an "owner" for the purposes of enrolment and voting if—

(a) he is jointly or severally the owner of ratable land; or

(b)

(b) he is the person nominated in writing as an elector by a body corporate, which is, or trustees who are, such owner as aforesaid: Provided that the body corporate or trustees may not nominate more than one person for enrolment as owner in any one ward or riding; or

(c) he is the holder of a lease, promise, or contract of lease from the Crown of ratable Crown land; or cf. L.G. Act, 1906, ss. 49 (d), 56 (d).

(d) he is the resident manager of a lease, promise, or contract of lease from the Crown of ratable Crown land. cf. L.G. Act, 1906, s. 56 (e).

53. A person shall be a "ratepaying lessee" for the purposes of enrolment and voting if— Qualification of a ratepaying lessee.

(a) he is severally the lessee of ratable land, and under a lease in writing or other document of title relating to such land, liable to pay to any person the whole or any part of any local government rates which may be made and levied in respect of such land; or cf. L.G. Act, 1906, s. 57 (a).

(b) he is jointly such lessee as aforesaid and so liable as aforesaid; or cf. L.G. Act, 1906, s. 57 (b).

(c) he is the person nominated in writing as an elector by a body corporate which is, or trustees who are, such lessee so liable as aforesaid: Provided that the body corporate or trustees may not nominate more than one person for enrolment as ratepaying lessee in any one ward or riding. cf. L.G. Act, 1906, s. 57 (c).

54. A person shall be an "occupier" for the purposes of enrolment and voting if— Qualification of an occupier.

(a) he has been continuously, during the three months next preceding such prescribed day, in joint or several occupation as direct tenant (but not as ratepaying lessee within the preceding section) of the owners or ratepaying lessees of ratable land of the yearly value of five pounds or upwards; or cf. L.G. Act, 1906, ss. 48, 55.

(b) he is the person nominated in writing as an elector by a body corporate which is, or by trustees who are, in occupation as tenant or occupier

occupier as aforesaid of ratable land of the yearly value of five pounds or upwards: Provided that the body corporate or trustees may not nominate more than one person for enrolment as occupier in any one ward or riding; or

(c) he has been continuously during the three months next preceding such prescribed day jointly or severally the occupier of ratable land by virtue of a miner's right or business license under the Mining Act, 1874, or any Act amending or consolidating the same; or

(d) he has been continuously during the three months next preceding such prescribed day resident within the area and a share-farmer of ratable land—that is to say, a person holding a written license to occupy and cultivate ratable land of a yearly value of five pounds or upwards in consideration of sharing the produce of such land, or, in the case of land used as a dairy farm, sharing the produce of such use, or of the animals grazing thereon; or

(e) he is in occupation of ratable land owned by the Crown, and, directly or indirectly, pays rent therefor by way of deduction from salary or otherwise; or

(f) he is a resident manager of any ratable land (other than Crown land which is under lease, promise, or contract of lease from the Crown) which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards; provided that this shall only apply in shires; or

(g) he is resident, as caretaker for the owner or lessee, upon any ratable land which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards;

(h) he is a soldier or sailor within the meaning of this Act, and has been continuously during the three months next preceding such prescribed day resident within the municipality or shire:

Provided

Provided that where the land jointly tenanted or occupied as aforesaid is of less yearly value than ten pounds only one of the joint tenants or occupiers shall be entitled to be placed on the roll, and where the land jointly tenanted or occupied as aforesaid is of the yearly value of ten pounds or upwards, such number of the joint tenants or occupiers as, when divided into the said yearly value, gives a quotient of five pounds with a remainder of less than five pounds shall be entitled to be placed on the roll; and the joint tenants or occupiers who shall be so entitled shall, in either case, be determined by a majority of the tenants or occupiers evidenced by agreement signed by such majority and delivered to the clerk, or, failing such agreement, according to the alphabetical order of their surnames. cf. Syd. Corp. Act, 1902, s. 9 (3).

55. A person shall be disqualified to be an elector, and shall not be entitled to be enrolled or to vote if, at the time for enrolment or for holding an election, as the case may be— Disqualification of electors and of voters.

(a) he is subject to any of the disqualifications mentioned in subsection three of section twenty of the Parliamentary Electorates and Elections Act, 1912, the provisions of which subsection shall mutatis mutandis apply to enrolment and voting under this Act; or

(b) he is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or

(c) he is a naturalised British subject of enemy origin within the meaning of the Naturalised Subjects Franchise Act, 1916.

(c) he is a naturalised British subject who at the time of his naturalisation was a subject of Germany or of any country allied with Germany during the Great War of 1914–1919.

56. (1) Subject to this Act a person shall not be entitled to vote unless— Persons not entitled to vote.

(a) his name is on the roll for the ward or riding for which he claims to vote; and

(b)

(b) he retains the requisite qualification and fulfils the conditions and requirements prescribed in respect of voting:

Provided that a married woman who is enrolled under her name prior to marriage may vote under that name pending correction of the rolls.

(2) A person shall not cease to retain the requisite qualification by reason only of a change of residence within the same ward or riding.

(3) A person who has changed his residence from the ward or riding for which he is enrolled to another ward or riding shall not on that account be debarred from voting at an election held within three months after the change of residence.

Undivided area treated as a single ward or riding.

57. For the purposes of enrolments and elections a municipality or shire which is not divided into wards or ridings shall be deemed to consist of one ward or riding, and the word "ward" or "riding" shall apply thereto accordingly.

DIVISION 2.—*Wards of municipalities.*

Division into wards.
cf. L.G. Acts, 1906-8, s. 21.

58. (1) The Governor may by proclamation divide municipalities into wards.

Alteration, abolition, and re-creation of wards.

(2) The Governor may by proclamation alter or abolish any division of a municipality into wards, and after abolishing any such division may again divide a municipality into wards: Provided that such alteration, abolition, or subsequent division shall not affect the representation of the municipality on its council until the next following ordinary election of the council or such earlier time as may be proclaimed.

Preliminaries to alteration of wards.

(3) Before such division, alteration, abolition, or subsequent division is carried out the prescribed notice shall be given, and the council or any elector of the municipality may make written representations with regard thereto.

Procedure before abolishing wards.

(4) Before so dividing a municipality or altering or abolishing any such division, or redividing a municipality, the Governor shall, on the request of one hundred or more of the electors of the municipality, remit to a poll of electors of the whole municipality the question

question whether such division, alteration, abolition, or redivision shall be carried out. The council shall thereupon fix and notify as prescribed a day on which such poll shall be held, and the same shall be held accordingly. If the decision of the poll is in the negative the proposal shall not be given effect to; and a proposal having substantially the same effect shall not be brought forward within twelve months thereafter. Poll of electors.

(5) Where ordinances are in force providing for the election of the council according to the principles of proportional representation, the Governor may (irrespective of any other provisions of this Act) abolish any division into wards, or alter any division in order to provide for the election of the council by the whole municipality or by wards returning not less than five nor more than nine aldermen per ward.

59. Any division of a municipality into wards, and any alteration of such division made under the ~~Act,~~ **Acts** hereby repealed, and in force at the commencement of this Act, shall be a division and an alteration of such division made under this Act. Existing division into wards. cf. L.G. Acts, 1906-8, s. 22.

60. Any alteration or abolition of wards or divisions of a municipality into wards proclaimed since the last ordinary election shall not take effect for the purpose of any extraordinary election or the compilation of any supplementary roll. Wards for extraordinary elections and for supplementary rolls.

Division 3.—*Ridings of shires.*

61. (1) The Governor shall by proclamation divide shires into ridings: Provided that, where ordinances are in force providing for the election of the council according to the principles of proportional representation, the Governor may abolish any such division, but may at any time again divide the shire into ridings. Division into ridings. cf. L G. Acts, 1906-8, s. 19.

(2) The Governor may by proclamation alter any division of a shire into ridings: Provided that such alteration shall not affect the representation of the shire on its council until the next following ordinary election of the council or such earlier time as may be proclaimed. Governor may make or alter divisions.

(3)

(3) But before any such alteration is made the prescribed notice shall be given, and the council or any elector of the shire may make written representations with regard thereto. Notice.

62. Any division of shires into ridings, and any alteration of such division made under the Acts hereby repealed, and in force at the commencement of this Act, shall be a division and an alteration of such division made under this Act. Divisions made under previous Acts are divisions under this Act. cf. L.G. Acts, 1906-8, s. 20.

63. Any alteration or abolition of ridings or division of a shire into ridings proclaimed since the last ordinary election shall not take effect for the purpose of any extraordinary election or the compilation of any supplementary roll. Ridings for extraordinary elections and for supplementary rolls.

DIVISION 4.—*The rolls.*

64. (1) Within a reasonable time before each triennial ordinary election of the council and whenever required by ordinance the council shall, and at any other time the council may, cause an original roll of electors to be prepared. Original rolls. cf. L.G. Acts, 1906-8, ss. 50, 58.

(2) In each year other than those in which original rolls are prepared each council shall cause supplementary rolls of electors to be prepared. Supplementary rolls. cf. L.G. Acts, 1906-8, ss. 51, 59.

65. (1) The preparation of an original roll shall consist of— Method of preparation of rolls.

(a) the compilation of a list of persons who appear to have the requisite qualification of electors;

(b) the exhibition of the list for public information;

(c) the receipt of claims and objections to enrolment;

(d) the revision of the list and the determination of the claims and objections by a revision court;

(e) the signing of the lists as revised by the revision court.

(2) The preparation of a supplementary roll shall consist of—

(a) the compilation of a list of persons not already enrolled who appear to have the requisite qualification for enrolment; and of the additions and

and omissions which it is necessary to make to and from the existing roll because of errors, changes of qualification, changes of name by marriage, changes of residence, death, loss of qualification, or other sufficient reason;

(b) the exhibition of the list for public information;

(c) the receipt of claims and objections to enrolment;

(d) the revision of the list and the determination of the claims and objections by a revision court;

(e) the signing of the list as revised, and the signing and initialling of a copy of the existing roll with the necessary changes made therein, by the revision court.

(3) Subject to this Act rolls shall be prepared as prescribed.

(4) Rolls shall be prepared separately for wards or ridings; and the rolls for all the wards or ridings of an area shall taken together be the roll for the area.

Enrolment of person holding qualification in more than one ward or riding.

cf. L.G. Act, 1906-8, ss. 52, 60.

66. (1) A person shall not be enrolled more than once in respect of the same ward or riding.

(2) A person may be enrolled in respect of each ward or riding in which he is qualified as owner or as ratepaying lessee.

(3) A person qualified for enrolment as owner or as ratepaying lessee in any ward or riding who is also qualified for enrolment in another ward or riding of the same area as occupier shall not be enrolled under both of these qualifications. He may give notice to the clerk naming the ward or riding in which he elects to be enrolled; and failing such notice within the time prescribed shall be enrolled in the ward or riding in which he is qualified as owner or as ratepaying lessee.

(4) A person qualified for enrolment as occupier in more than one ward or riding shall be enrolled in one ward or riding only. He may give notice to the clerk naming the ward or riding in which he elects to be enrolled; and failing such notice within the time prescribed the clerk may decide the question.

Declaration.

67. Any person making a claim or objection to be laid before the revision court may be required to make a declaration in the presence of a witness and in the prescribed form.

DIVISION

DIVISION 5.—*Revision courts.*

Shires and municipalities.

Revision court. cf. P.E. and E. Act, 1912, s. 29. cf. L.G. Acts, 1906-8, s. 66.

68. Any stipendiary or police magistrate shall constitute a revision court.

Powers of revision court. cf. L.G. Acts, 1906-8, s. 67.

69. (1) A revision court shall hear claims and objections and revise the lists of electors as prescribed.

(2) A revision court shall, for the purposes of this Act, have the powers of a court of petty sessions, and the appointment and procedure of such revision court shall be as prescribed.

DIVISION 6.—*Elections.*

Electoral officers.

Elections—by whom conducted. cf. L.G. Acts, 1906-8, s. 38.

70. (1) Elections shall be conducted by electoral officers appointed as prescribed.

Expenses of elections.

(2) Except where otherwise provided for the expenses incurred by a returning officer in connection with an election shall be repaid to him by the council, and may be recovered as a debt.

Nominations.

Nominations. cf. Commonwealth Electoral Act, 1902-1911, ss. 94, 95, 105A L.G. Act, 1906, ss. 37 (1), 69, 70; Sydney Corporation Act, 1902, ss. 27, 28, 18 (2) 23.

71. (1) A person shall not be capable of being elected as an alderman or councillor unless duly nominated.

(2) To entitle a person to be nominated as alderman or councillor he must be qualified to be elected as an alderman or councillor.

(3) A person shall be nominated as alderman or councillor for a ward or riding and for one ward or riding only.

(4) Nominations shall be proposed and made as prescribed.

(5) A candidate may withdraw his name from nomination as prescribed.

(6) The returning officer shall, within seven days after written application by any person whose proposal for nomination has been rejected, furnish to him a written statement of the reasons for the rejection.

Uncontested

Uncontested elections.

Uncontested election of aldermen or councillors.

cf. Commonwealth Electoral Act, s. 106; L.G. Act, 1906, s. 37 (1);

72. (1) If on nomination day no greater number of candidates are nominated as aldermen or councillors for the same area, ward, or riding than are required to be elected therefor the candidates shall, without any poll being taken, be deemed to be elected on and from the day appointed for the election.

cf. Sydney Corporation Act, 1902, s. 28.

cf. Commonwealth Electoral Act, 1902-1911, s. 107.

(2) If before the day appointed for the election any candidate nominated as alderman or councillor dies and the candidates remaining for the same area, ward, or riding are not greater in number than the candidates required to be elected therefor, they shall, without any poll being taken, be deemed to be elected on and from the day appointed for the election.

Contested elections.

Contested elections of aldermen or councillors.

cf. *Ibid.* s. 106.

73. (1) If on the day appointed for any election of aldermen or councillors there are a greater number of candidates nominated for the same area, ward, or riding than are required to be elected therefor, there shall be a contested election of aldermen or councillors for the area if undivided or for each ward or riding for which there are such greater number.

(2) Subject to the provisions of this Division every contested election shall be conducted as prescribed by ordinance.

(3) On receipt of a petition signed by not less than one-fifth in number of the enrolled electors, praying that a poll be taken on the question of adopting the system of election according to the principles of proportional representation the council shall forthwith take such poll, and shall certify the decision thereof to the Governor. Where the decision of the poll is in favour of such adoption the Governor shall, by proclamation, apply that system to the area for contested elections.

(4) In all other cases contested elections shall be conducted according to the ordinary ballot in the manner prescribed.

(5) The person having the custody of any papers or documents used in connection with an election (except the ballot papers issued to and marked by electors

electors at an election) shall within six months after the election permit any ~~person~~ elector to inspect such papers.

Method of election in case of adoption of proportional representation.

cf. Municipal Elections (Proportional Representation) Act, 1909 (Transvaal), s. 11 (1).

74. Where the system of election according to the principle of proportional representation has been applied to any area—

(a) the voting shall be by ballot;

(b) every elector shall have one vote only;

(c) subject to the provisions of this section the method of voting and of transferring and counting votes and the duties of the returning officer in connection therewith shall be as prescribed by ordinance.

DIVISION 7.—*Electoral offences.*

Electoral offences.

See s. 30 (2-f) ante.

75. The offences in this Division shall be the electoral offences under this Act.

Illegal voting and personation.

cf. Sydney Corporation Act, 1902, s. 54.

76. If any person—

(a) votes or attempts to vote a second time at the same election; or

(b) votes or attempts to vote in or for any area ward or riding in respect of which he is not entitled to vote; or

(c) personates or attempts to personate any other person for the purpose of voting at any such election,

he shall be guilty of a misdemeanour.

Forgery or fraud in nomination.

cf. L.G. Acts, 1906-8, s. 37 (2).

77. Whosoever forges, or fraudulently defaces, or fraudulently destroys any nomination paper, or delivers to the returning officer any forged nomination paper knowing it to be forged, shall be liable to imprisonment for a term not exceeding six months, with or without hard labour. Any attempt to commit any such offence shall be punishable as the offence itself.

Various offences.

cf. L.G. Act, 1906, s. 40; cf. Sydney Corporation Act, 1902, s. 51.

78. The provisions of sections one hundred and eleven, one hundred and twelve, one hundred and fourteen, one hundred and thirty, one hundred and thirty-five, one hundred and thirty-six, one hundred and forty-seven, one hundred and forty-eight, one hundred and forty-nine, one hundred and fifty, and one hundred and fifty-one

fifty-one of the Parliamentary Electorates and Elections Act, 1912, shall mutatis mutandis apply to elections under this Act.

DIVISION 8.—*Rolls of ratepayers.*

Qualification of ratepayer. cf. L.G. Act, 1906, s. 64.

79. A person shall be entitled to be enrolled as a ratepayer if—

(a) he is enrolled on the roll of electors; and

(b) his enrolment on that roll is as owner, or as ratepaying lessee, or as lessee of Crown lands, or as tenant of lands vested in the Railway Commissioners for New South Wales, or as tenant of lands vested in the Sydney Harbour Trust Commissioners; and

(c) he retains the qualification under which he was enrolled on that roll.

Roll of ratepayers. cf. L.G. Act, 1906, s. 64.

80. (1) When lists of electors are being prepared the clerk shall include in the entry of the name and other particulars of each person entitled to be enrolled as a ratepayer the word "ratepayer."

(2) When the lists are being revised the entry or omission of the word "ratepayer" may be the subject of a claim or objection, and shall be subject to revision by the revision court.

(3) A roll of electors with the word "ratepayer" entered against various names as directed in this section shall be also a roll of ratepayers, and when so used all names thereon against which the word "ratepayer" is not entered shall be disregarded.

(4) Where a poll of ratepayers of any portion of an area other than a complete ward or riding is to be taken the council may direct the preparation of a special roll of ratepayers holding qualification in respect of land in that portion only. In such case the roll of ratepayers to be used at the poll shall be prepared, revised, and adopted as prescribed.

DIVISION 9.—*Polls.*

Optional polls.

81. (1) The council may for its information and guidance on any matter under this or any other Act take a poll of electors or ratepayers as it thinks appropriate.

(2) At any poll of ratepayers under this Act any person enrolled on the roll of ratepayers for the area or part thereof in respect of which the poll is being taken, shall, if he has the qualification under which he was enrolled (or any qualification which would entitle him to enrolment as a ratepayer) be a ratepayer and entitled to vote.

Compulsory polls.

82. ~~(1)~~ Where the council is required by this Act to take a poll of electors or ratepayers, ~~the decision of the poll shall be in accordance with this section.~~

~~(2)~~ ~~The~~ the decision shall be in accordance with the majority of the votes cast: Provided that in the case of the votes being equal the ~~council may by resolution give a casting vote~~ question shall be undetermined, and the same question, or one substantially the same, shall not be again submitted to a poll for a period of at least one year.

DIVISION 10.—*Ordinances.*

Ordinances.

83. Ordinances may be made for carrying this Part into effect, and in particular for and with respect to—

(a) the rendering of assistance for the purposes of this Division by any department of the Government or by any person in the employ of the Government;

(b) the furnishing of information for the purposes of this Division by any department of the Government or by any council of an adjoining area or by any person in the employ of the Government or of a council of such adjoining area;

(c) the fixing of times for the preparation of original and supplementary rolls;

(d) the appointment and notification of days for enrolment;

(e) the printing notification inspection and sale of rolls;

(f) any matters corresponding to those dealt with in sections twenty-three to sixty-seven inclusive and sections seventy-five to one hundred and thirty-six inclusive of the Parliamentary Electorates and Elections Act, 1912;

(g)

(g) the decision of the validity of proposed nominations and the disregard of formal defects therein;

(h) the taking of polls of electors and polls of ratepayers for any purpose of this Act;

(i) the ordering of a recount of the votes at any election or poll; the payment of the costs of recount by applicant or by council; the redeclaration of the results of the election or poll; and the consequences thereof;

(j) the method of voting, and whether by post or by personal attendance at a polling-place.

PART VI.

ADMINISTRATION.

DIVISION 1.—*The council.*

General control.

84. For the purposes and subject to the provisions of this Act each council shall be charged with the local government of its area, and shall have the general control of the working and business of such local government.

Conduct of business when meetings lapse.

85. Where any two successive ordinary meetings of a council lapse through non-attendance of councillors or aldermen the business of the council may until the next meeting be carried on by the person prescribed in accordance with ordinances which the Governor may make in that behalf.

Removal of council. cf. Queensland Local Authorities Amendment Act, 1910, s. 7.

86. The Governor may, if in his opinion circumstances have arisen rendering it advisable so to do, by proclamation remove all the members of a council from office, appoint an administrator as for a defaulting area, order the compilation of fresh lists and rolls of electors, and the holding of a fresh election of a council, and make such further orders as in the circumstances he may deem necessary.

DIVISION

DIVISION 2.—*The mayor or president.*

Powers of mayor or president.

87. (1) The mayor or president shall preside at all meetings of the council at which he is present.

(2) The mayor or president shall be the chief executive officer of the council, and in particular may, unless otherwise directed by or under this Act or by resolution of the council—

(a) carry on the regular services and operations of the council within the sums voted by the council for expenditure thereon, and in accordance with the resolutions of the council;

(b) control and direct the servants of the council;

(c) suspend any servant of the council, and appoint some person to carry on the work until the next meeting of the council;

(d) authorise the payment of the salaries and wages of the servants of the council within the sums voted by the council for expenditure thereon;

(e) authorise any work which in his opinion is urgent, at a cost not exceeding ten pounds or such other limit beyond that amount as the council may determine;

(f) at any meeting of the council, remove or cause the removal of any member of the council who after warning is guilty of disorder, and at the same or any subsequent meeting exclude or remove such member unless he apologise without reservation.

(3) The mayor or president shall give effect to the provisions made by or under this Act and any other Act conferring powers or imposing duties on the council, and to any resolution, minute, or report which has been passed or adopted by the council.

(4) In addition to his original vote a mayor or president (or any chairman presiding at any meeting of a council) shall in the case of equality of voting at any meeting of the council have a second or casting vote. This shall not apply to the election of mayor or president.

DIVISION 3.—*The servants of the council.*

Certificated clerks. cf. L.G. Acts, 1906-8, s. 122.

88. (1) Subject to this Act, every municipal and shire council shall appoint and employ a town or shire clerk, and, on the occurrence of a vacancy, shall, within three months thereafter, make an appointment.

(2) In making such appointment a council whose income from all sources for the last preceding year was not less than one thousand five hundred pounds shall appoint a person who holds a certificate as prescribed: Provided that in exceptional cases in areas in the Western Division the Minister may from time to time exempt a council for a limited period from the operation of this subsection.

(3) Ordinances may be made prescribing the conditions upon which certificates of town and shire clerks may be issued, and providing for the continuance in force of certificates issued under the Acts hereby repealed.

(4) Subject to the approval of the Minister, any person holding the prescribed certificate may be appointed clerk to two councils.

Deputy clerks. cf. L.G. Acts, 1906-8, s. 122.

89. A council may appoint a deputy clerk who shall have the powers and duties of the clerk during the absence for good cause of the clerk, or during a period not exceeding three months after the occurrence of a vacancy in the position of town or shire clerk.

Certificated engineers. cf. L.G. Acts, 1906-8, s. 120.

90. (1) Every shire council shall appoint an engineer, who shall hold a certificate as prescribed.

(2) Every municipal council whose income from all sources for the last preceding year was not less than ten thousand pounds shall appoint an engineer, who shall hold a certificate as prescribed.

(2) Where, after the commencement of this Act, a vacancy occurs in any municipality in the position of the servant having the principal oversight of the work of road construction and maintenance (whether under the title of engineer, overseer, foreman, or any other title), the council shall, if during the last preceding year its income from all sources exceeded the sum of fifteen thousand

thousand pounds, appoint an engineer who shall hold a certificate as prescribed: Provided that the Minister on the occurrence of a vacancy as aforesaid may grant the council an exemption from this provision.

(3) Subject to the approval of the Minister any person holding the prescribed certificate as engineer may be appointed engineer to two or more councils.

(4) Ordinances may be made prescribing the conditions upon which certificates as engineer may be issued; providing for the continuance in force of certificates issued under the Acts hereby repealed, prescribing the cases in which an engineer may be employed for less than the full number of working days in the year, and prescribing the minimum number of days of employment in various cases.

Income for last preceding year.

91. For the purposes of this Division, in any case where by reason of reconstitution or alteration of an area the income for the last preceding year cannot be computed the estimated income from a general rate of three pence in the pound in a municipality or three half pence in the pound in a shire shall be substituted for the income from all sources for the last preceding year.

Certain statutory rights of ex-Public servants. Vide L.G Acts, 1906-8, s. 120.

92. Where a district assistant engineer in the Public Service or his assistant was under the Local Government (Shires) Act, 1905, or the Local Government Act, 1906, appointed to the position of shire engineer, any rights which such district assistant engineer or his assistant may have had to any pension, gratuity, or refund payable out of the Consolidated Revenue Fund on the abolition of his office in the Public Service shall be adjusted, and payments in respect thereof shall, where not already made, be made as soon as practicable after the commencement of this Act.

Failure to appoint. Vide L.G. Acts, 1906-8, s. 122.

93. (1) Where any council fails to appoint a certificated clerk or engineer in accordance with this Act the Minister may serve notice upon such council requiring it to make such appointment within a reasonable period stated in such notice, not being less than one month.

(2) Where any council fails to make an appointment within the period fixed in any notice given by the Minister in accordance with this Act, the Governor may make

make an appointment and may fix the terms of such appointment. The clerk or engineer so appointed shall be paid by the council and shall not be dismissed nor shall the terms of his appointment be altered except by the Governor.

Health inspectors. cf. L.G. Acts, 1906-8, s. 123.

94. (1) The Governor may on information from the Board of Health that the sanitary duties are not being efficiently carried out, require a council to appoint one or more health inspectors, approved by the said board, and may, if the council do not appoint such inspectors within three months of the date of such requirement being made, himself appoint such inspectors, and may fix the terms of any such appointment.

(2) The salary of any such health inspector appointed by the Governor shall be paid by the council, and such inspector shall not be dismissed nor shall the terms of his appointment be altered except by the Governor.

Servants.

95. (1) Subject to the provisions of this or any other Act and of any ordinance—

(a) the council may by resolution from time to time appoint such servants as it thinks necessary to assist in the execution of this Act, and may remove or reappoint them;

(b) during the absence from duty of any servant of the council by reason of illness leave of absence or other cause, the duties powers and authorities of the servant may be performed and exercised by a deputy to be appointed and removed by resolution of the council, and any such appointment may be either general or for some occasion only.

Ex-aldermen and ex-councillors not eligible for appointment as servants.

(2) A person who has held office in a council shall not be eligible to be appointed to any position in the pay of that council until six months have elapsed from his ceasing to hold such office.

(3) When making any appointment of a servant the council shall, other things being equal, give preference to an applicant (if any) who is a returned soldier or sailor, or who has been a member of the Australian Imperial Forces, and has been discharged on account of injuries suffered while undergoing training in Australia.

(4)

(4) The council shall not appoint or pay any person in contravention of this section.

Private work by public officials.

96. (1) A servant of the council shall not for any person other than the council prepare any plans, specifications, or applications in respect of the subdividing of land, the opening of new roads, or the erecting of buildings, or in respect of the constructing of any works in any case where the works are such that the permission or approval of the council or the supervision of the council's servant is needed :

Provided that this shall apply only to matters done in or with respect to the area of the council.

(2) This section shall apply notwithstanding that the council may have granted the servant the right of private practice.

Gratuities to servants.

97. When terminating the employment of any servant for any reason other than misconduct, or on the death of any servant, a council may as an act of grace grant to him or to his dependants a gratuity not exceeding the amount of two weeks' salary or wages (such salary or wages being reckoned at the average of the last fifty-two weeks, or, if he has not been continuously employed so long, at the average of his term of employment) for each year of his service with such council, and proportionately for a fraction of a year.

Certain rights conferred on council's servants.

98. Any certificated town or shire clerk, or certificated local government engineer, who is in the service of a council shall, if otherwise qualified, be eligible for appointment to any vacant office in the Public Service connected with the administration of this Act as if he were an officer of the Public Service, and the words "Public Service" where they occur in sections thirty-four, thirty-five, and thirty-six of the Public Service Act, 1902, shall, for the purpose of this section, be taken to extend to and include such clerks and engineers. All such appointments shall be made subject to the provisions of the Public Service Act, 1902, and the regulations made thereunder.

Inquiry before dismissal of certain servants.

99. (1) The provisions of this section shall apply to town or shire clerks, engineers, health inspectors, and overseers.

(2)

(2) Where the council proposes to terminate the employment of any such servant it shall either order an inquiry hereunder or suspend him.

(3) Where any such servant is suspended the council shall state the reasons for the suspension.

(4) Within one week after suspension the servant may (if an inquiry hereunder has not already been held) apply to the council for an inquiry. Thereupon the council shall order an inquiry. If the servant does not apply for an inquiry the council may proceed to determine the matter.

(5) The inquiry shall be held by some person ~~not a member of but appointed by the council.~~ **appointed by the Governor.**

(6) If both the council and the servant agree the inquiry may be held in private—otherwise it shall ~~be public.~~

(~~7~~ **6**) The person holding the inquiry shall report to the council; and his report shall be read in open council ~~unless otherwise agreed upon between the council and the servant.~~

(~~8~~ **7**) Where an inquiry is ordered the decision of the council shall not be given until after the reading of the report as aforesaid.

(~~9~~ **8**) The provisions of the Royal Commissioners' Evidence Act, 1901, shall, mutatis mutandis, apply to a person holding an inquiry under this section.

DIVISION 4.—*Offences with respect to administration.*

Offences with respect to administration. Sec. 30-2 (h ante.

100. The offences in this Division shall be the offences with respect to administration under this Act.

Corruption. cf. L.G. Act, 1906, s. 125.

101. (1) Any person in any office or employment under this Act who without lawful authority demands or receives from any person any payment gratuity or present in consideration of doing or of omitting to do any act or thing pertaining to his office or employment shall be liable to imprisonment with or without hard labour for a term not exceeding two years.

(2)

(2) Any person who without lawful authority offers makes or gives to any person in any office or employment under this Act any payment gratuity or present in consideration that the latter will do or omit to do some act or thing pertaining to his office or employment shall be liable to imprisonment with or without hard labour for a term not exceeding two years.

Failure to account or deliver up.

102. (1) If any servant when required by the mayor or president or by the council fails—

cf. L.G. Act, 1906, s. 124.

(a) to render account of moneys which shall have come into his hands or under his control and of his dealings therewith or to pay to the mayor or president the balance of any such moneys ; or

cf. Sydney Corporation Act, 1902, s. 63.

(b) to deliver up within two days to the mayor or president all papers property and things in his possession or power relating to the execution of this Act or belonging to the council,

cf. C.T.W. and S. Act, 1880, ss. 128–131.

any stipendiary or police magistrate or any two justices may on the complaint of the mayor or president order such servant to render the accounts pay the balance or deliver up the papers property and things, as the case may be, and that on non-compliance with the order the servant be imprisoned for a period not exceeding six months.

(2) It shall be the duty of the mayor or president to institute proceedings whenever he has reason to believe that any servant has not complied with a requirement under this section.

(3) Proceedings under this section shall not affect the liability of any surety of any servant, or relieve any servant from being held to answer any criminal information charge or proceeding.

(4) For the purposes of this section "servant" shall include a person who has, within six months prior to any requirement aforesaid, been a servant of the council.

Wilful destruction of documents.

103. Any servant or other person who wilfully destroys any document of or belonging to the council shall be deemed guilty of a misdemeanour.

cf. Sydney Corporation Act, 1902, s. 63.

Prosecution for larceny or embezzlement.

104. Where the council has reasonable grounds to believe that any of its servants has stolen or embezzled any of its moneys or property the council shall with due diligence prosecute the offender.

cf. L.G. Act, 1906, s. 126.

DIVISION

DIVISION 5.—*Ordinances.*

105. Ordinances may be made for carrying this Part into effect, and in particular for and with respect to— Ordinances.

(a) the insurance of the fidelity of the servants of the council;

(b) the suspension cancellation and recall of certificates and the effect thereof;

(c) the regulation of the conditions of employment of servants of councils;

(d) the prevention of evasion of the law relating to the appointment and employment of certificated servants, the definition of what constitutes such evasion, and the preservation of the status and privileges of the holders of certificates.

PART VII.

FINANCE.

DIVISION 1.—*Funds.*

Separate funds.

106. (1) For the purposes and subject to the provisions of this Act each council shall establish the following funds, that is to say:— Establishment of funds. cf. L.G. Acts, 1906-8, s. 179, et seq.

(a) a general fund;

(b) a special fund in respect of each special rate levied;

(c) a local fund in respect of each local rate levied;

(d) a trading fund in respect of each trading or business undertaking;

(e) a trust fund.

(2) The funds shall be separate and distinct.

The general fund.

107. (1) The general fund shall consist of the following assets of the council, that is to say— Assets of the fund. cf. L.G. Acts, 1906-8, s. 179.

(a) all moneys received or receivable in respect of the general rate;

(b)

(b) all moneys received or receivable in respect of any matter not appertaining to any other fund ; For "general purpose" see subsec. 3.

(c) all moneys borrowed for any general purpose and all moneys received or receivable in respect of the loan rate (if any) levied in respect of such borrowings;

(d) all moneys transferred in accordance with this Act from a trading fund to the general fund ;

(e) all moneys and property directed by or under this Act to be allocated to the general fund.

(2) The general fund may be applied to any of the following purposes, that is to say— Application of the fund.

(a) any general purpose ;

(b) contributions to any reserve for loan repayment in respect of moneys borrowed for any general purpose ;

(c) payment of principal interest and expenses in respect of moneys borrowed for any general purpose ; For "general purpose" see subsec. 3.

(d) transfers to a trading fund for promotion expenses, or to make good any deficiency in the income for any year of a trading fund ;

(e) any purpose authorised by or under this Act for the application of the general fund.

(f) payment of the expense of lighting streets or roads where the whole of the area would be benefited by such expenditure, or where the amount so expended is not more in any year than one-tenth of the total amount received from general rates in such area during the preceding year.

(3) A general purpose is a lawful purpose under this Act in respect of which income or expenditure is not payable or chargeable to any fund other than the general fund.

(4) The council may create separate funds subsidiary to the general fund in respect of any work or service chargeable to the general fund.

A special fund.

108. (1) A special fund shall consist of the following assets of the council— Assets o the fund. cf. L.G. Acts, 1906-8, s. 180.

(a) all moneys received or receivable in respect of the special rate in respect of which the fund is kept;

(b) all moneys received or receivable in respect of the special matter or purpose for which the special rate is levied;

(c) all moneys borrowed in respect of that special matter or purpose; and all moneys received or receivable in respect of the loan rate (if any) levied in respect of such borrowings;

(d) all moneys and property directed by or under this Act to be allocated to the special fund. Application of the fund.

(2) A special fund may be applied to any of the following purposes, that is to say—

(a) the special purpose for which the special rate in respect of which the fund is kept is levied;

(b) contributions to any reserve for loan repayment in respect of moneys borrowed for the aforesaid special purpose;

(c) payment of principal, interest, and expenses in respect of moneys borrowed for the aforesaid special purpose;

(d) any purpose authorised by or under this Act for the application of the fund.

(3) Where a special fund is closed any balance therein may be carried to some other fund, if the Governor approve. Closing of the fund.

A local fund.

109. (1) A local fund shall consist of the following assets of the council:— Assets of the fund. cf. L.G. Acts, 1906-8, s. 181.

(a) all moneys received or receivable in respect of the local rate in respect of which the fund is kept;

(b) all moneys received or receivable in respect of the special matter or purpose for which the local rate is levied;

(c)

(c) all moneys borrowed in respect of that special matter or purpose, and all moneys received or receivable in respect of the loan rate (if any) levied in respect of such borrowings;

(d) all moneys and property directed by or under this Act to be allocated to the local fund.

Application of the fund.

(2) A local fund may be applied to any of the following purposes, that is to say,—

(a) the special purpose for which the local rate in respect of which the fund is kept is levied;

(b) contributions to any reserve for loan repayment in respect of moneys borrowed for the aforesaid special purpose;

(c) payment of principal interest and expenses in respect of moneys borrowed for the aforesaid special purpose;

(d) any purpose authorised by or under this Act for the application of the fund.

Closing of the fund.

(3) When a local fund is closed any balance therein may be carried to some other fund if the Governor approve.

The trading funds.

Assets of a trading fund.

110. (1) The trading fund in respect of each trading undertaking shall consist of the following assets of the council, that is to say—

(a) all moneys received or receivable in respect of the trading undertaking;

(b) all moneys borrowed for the purposes of the trading undertaking, and all moneys received or receivable in respect of the loan rate (if any) levied in respect of such borrowings;

(c) all moneys transferred from the general fund or other fund for promotion expenses, or to make good any deficiency in the income for any year of the trading fund;

(d) all moneys and property directed by or under this Act to be allocated to the trading fund.

Application of a trading fund.

(2) The trading fund in respect of each trading undertaking may be applied to any of the following purposes, that is to say—

(a) any purpose of the undertaking (including establishing or acquiring the undertaking);

(b)

(b) transfers to any reserve for loan repayment in respect of moneys borrowed for the purposes of the undertaking;

(c) payment of principal interest and expenses in respect of moneys borrowed for the purposes of the undertaking;

(d) transfers in accordance with this Act to the general or other fund;

(e) any purpose authorised by or under this Act for the application of the trading fund.

Closing of the fund.

(3) When a trading fund is closed any balance therein may be carried to some other fund if the Governor approve.

Transfers from and to a trading fund.

(4) A transfer shall not be made from a trading fund to the general or other fund except by way of refund, or in payment of rates or debts, properly payable by the trading fund, or on the closing of the trading fund.

(5) If in any trading fund there is for any year a surplus of net profit after providing for reserves and all other proper purposes in accordance with the provisions of this Act, the surplus shall be paid to the reserve for loan repayment in the trading fund.

(6) If in any trading fund there is a loss for any year the deficiency shall be met out of the surplus of any previous year, and if there is no such sufficient surplus the deficiency shall so far as necessary be made good by the transfer of such sums from the general or any other fund or both as the Governor may on the application of the council determine.

(7) Any transfer from the general or any other fund to the trading fund (except in payment of rates or debts properly payable to the trading fund) shall be treated as a liability of the trading fund and be repaid out of the first available surplus of any subsequent year.

The trust fund.

Moneys of the fund.

111. (1) The trust fund shall consist of the following assets, that is to say—

(a) all moneys granted by the Government to the council on the condition that they shall be used for a specified purpose;

(b) all moneys and property held by the council by way of deposit or in trust for any person;

(c) all moneys and property assigned conveyed bequeathed or devised to the council in trust for any charitable or public purpose. cf. Sydney Corporation Act, 1902, s. 206.

(2) This trust fund shall be applied as follows, that is to say— Application of the fund.

(a) where the moneys have been granted by the Government as aforesaid and the accounts for expenditure in respect of the specified purpose have been passed by the council for payment, such portion of the grant as may be required to pay the accounts may be transferred to the appropriate fund;

(b) where the moneys or property are held by way of deposit or in trust for any person, the same may be paid or assured to or on behalf of the person entitled thereto:

Provided that if the moneys have lain in the trust fund for ten years the council may transfer the same to such fund as it may deem proper, subject to repaying the same from that fund to any person entitled thereto;

(c) except as otherwise provided in this section, the moneys and property shall be applied for the purposes and according to the trusts concerning the same.

Classification of ancillary powers and duties.

112. (1) For the purposes of classification and distribution among the funds, the income and expenditure arising from the exercise of any power of a general or ancillary nature shall be treated as appertaining to the purpose or matter for or in respect of which the power is exercised. Classification of expenditure according to purpose for which powers are exercised.

(2) The provisions of this section shall mutatis mutandis apply to the duties of the council.

Transfers.

113. (1) ~~Subject to the provisions of this Act,~~ Moneys shall not be transferred from one fund of a council to any other fund, except in accordance with this Act or with the ordinances. (2) Transfers from fund to fund regulated. cf. L.G. Acts, 1906-8, s. 181A (3).

(2) In the ordinances provision may be made for the distribution of the administrative expenses of the council among the various funds, and for the definition of administrative expenses.

(3) The Minister may permit a council to lend money from any fund to any other fund. Except in respect of a temporary loan fund established under the Local Government Act, 1906, this subsection shall not apply to loan moneys. Loans from fund to fund.

(4) The council shall comply in all respects with the provisions fixed by the Minister in such permission as to the amount of and application of the money, the time and method of repayment, and the interest payable thereon.

114. (1) The provisions of this section shall apply to the loan funds kept by councils at the commencement of this Act under the provisions of the Acts hereby repealed. Closing of old loan funds—transfer to other funds.

(2) The assets and liabilities of the temporary loan fund may be transferred to and amalgamated with such other funds of the council as may be appropriate, or the temporary loan fund may be continued until its liabilities have been paid, and shall then be closed.

(3) All loan funds, other than the temporary loan fund, shall be closed. The assets and liabilities of each such fund shall be transferred to such other funds of the council as may be appropriate; but such transfer shall not affect the allocation and appropriation of the moneys of these loan funds to the specific purposes for which they were raised. See also ss. 183–186 post.

Decisions of questions relating to the funds.

115. If any question arises under this Act or the ordinances with respect to— Questions as to funds.

(a) the fund or account within a fund to which any moneys or property should be allocated; or

(b) the fund which should be applied for any purpose,

the Minister may determine the question, ~~and his decision shall be final and conclusive.~~

Ordinances.

Ordinances.

116. Ordinances may be made for carrying this Division into effect, and in particular for and with respect to—

(a) the classification of income and expenditure;

(b) the payment of moneys into a bank, the drawing of moneys out of a bank, and the signature and counter-signature of cheques; and

(c) the investment of moneys of the council on fixed deposit or in the loans of the Commonwealth or of the State.

DIVISION 2.—*Rates.*

Four kinds of rates.

cf. L.G. Acts' 1906-8, s. 141.

117. Rates levied by a council may be of four kinds, namely—

General rates.
Special rates.
Local rates.
Loan rates.

General rates.

General rates in municipalities and shires.

cf. L.G. Acts, 1906-8, ss. 150-151.

118. The council of a municipality or shire shall in each year make and levy a general rate of not less than one penny in the pound on the unimproved capital value of all ratable land in the area:

Provided that if the council shows that a general rate of one penny in the pound is more than sufficient to meet the requirements of the area the Governor may allow the council to levy any lower rate approved by the Governor.

Suspension of land tax.

Schedule Two.

cf. L.G. Acts, 1906-8, s. 152.

119. The enactments mentioned in Schedule Two are suspended in municipalities and shires:

Provided always that in each area such suspension shall not apply to the land tax for the years from one thousand eight hundred and ninety-six up to the year in which a general rate on the unimproved capital value of land was first made in such area.

Special

Special rates.

Special rates. cf. L.G. Acts, 1906-8, s. 153.

120. (1) Special rates may be made and levied by the council of a municipality or shire on the unimproved capital value or on the improved capital value of all ratable land in the area for any purpose which may lawfully be undertaken by the council.

(2) The purpose of a special rate shall be specified in the resolution to make the rate.

(3) On publication of notice of a proposal to make and levy a special rate a petition for a poll of ratepayers on the question of the basis of the rate may be served on the council within the prescribed time by any number not less than one-fifth of such ratepayers.

(4) If a petition for a poll be duly made the council shall take the poll forthwith.

(5) At the poll all enrolled ratepayers in the area may vote.

(6) Notice of the poll shall be given by advertisement at least fourteen days before it is taken.

(7) The question submitted at the poll shall be whether the rate shall be levied on the improved or unimproved capital value, and the council, if it makes and levies the rate, shall give effect to the decision of the poll.

Local rates.

Local rate. cf. L.G. Acts, 1906-8, s. 154.

121. (1) For or towards defraying the expenses of executing any work or service which in the opinion of the council would be of special benefit to a portion of its area to be defined as prescribed, the council of a municipality or shire may make and levy a local rate on the unimproved capital value or on the improved capital value of ratable land within such portion.

Town improvement rate.

(2) The council of a municipality or shire may by notice in the Gazette from time to time define part of the area to be known as a "town improvement district" within which a "town improvement local rate" may be levied under the provisions of this section.

(3) On publication of notice of a proposal to make and levy a local rate a petition for a poll of ratepayers

payers on the question of the basis of the rate may be served on the council within the prescribed time by any fifty ratepayers on the roll having their qualification in respect of land which will be subject to the rate, or if there are not one hundred and fifty such ratepayers on the roll, by any number not less than one-fifth of such ratepayers.

(4) If a petition for a poll be duly made the council shall take the poll forthwith.

(5) At the poll all enrolled ratepayers having their qualification in respect of land which will be subject to the local rate may vote.

(6) Notice of the poll shall be given by advertisement at least fourteen days before it is taken.

(7) The question submitted at the poll shall be whether the rate shall be levied on the improved or unimproved capital value; and the council, if it makes and levies the rate, shall give effect to the decision of the poll.

Poll of ratepayers as to whether a local rate shall be levied on improved or unimproved capital value of ratable land within ward or riding.

122. (1) The council shall on receipt of a requisition, in writing, signed by all of the aldermen or councillors representing a particular ward or riding, take a poll of ratepayers in that ward or riding on the question whether a local rate shall be levied on the improved or unimproved capital value of ratable land within such ward or riding.

(2) The requisition shall state the purpose for which the local rate is to be levied, and the amount in the pound which it is proposed to levy, and also whether the rate is to be imposed on the unimproved capital value or the improved capital value.

(3) At the poll all enrolled ratepayers having their qualification in respect of land which will be subject to the local rate may vote.

(4) Notice of the poll shall be given by advertisement at least fourteen days before it is taken.

(5) If the result of the poll is in favour of the imposition of the proposed local rate the council shall thereupon make and levy the same in accordance with ~~such result.~~

122. (1) The council shall, if required so to do in accordance with this section, make and levy a local rate on the unimproved capital value or improved capital value of all ratable land in a particular ward or riding.

(2) Upon receipt of a written requisition signed by all of the aldermen or councillors representing the ward or riding concerned, or signed by any number not less than one-fifth of the ratepayers of such ward or riding, the council shall take a poll of the ratepayers in that ward or riding on the question whether the council shall be required to levy a local rate as aforesaid, and upon the question whether the rate shall be on the unimproved capital value or improved capital value of ratable land.

(3) The requisition shall state the purpose for which the local rate is to be levied and the amount in the pound of the proposed rate, and also whether it is proposed that the rate shall be on the unimproved capital value or upon the improved capital value of ratable land.

(4) At the poll all enrolled ratepayers having their qualification in respect of land which will be subject to the proposed local rate may vote.

(5) If the result of the poll is in favour of the levying of the rate, the council shall thereupon make and levy the same in accordance with such result.

Local rate for lighting.

123. (1) Where the council of a municipality or shire proposes to levy any local rate for the purpose of defraying the cost of lighting public places the provisions of this section shall apply.

Definition of lighting district.

(2) The council shall, by resolution published twice, with an interval of not less than seven days, in a newspaper circulating in the locality affected, define by metes and bounds a lighting district within which such rate shall be levied.

Appeal.

(3) Any person who will, if such lighting district be adopted, be liable to pay any such rate on land within such lighting district may within one month after

after service of the rate notice appeal to the nearest court of petty sessions against the inclusion of that land therein.

(4) The court shall hear and decide such appeal.

(5) The court shall, in deciding the appeal, consider whether that land is within that portion of the area which will derive benefit from the expenditure of the rate.

(6) The decision of the court shall not be subject to appeal.

Alteration of lighting district.

(7) The boundaries of any lighting district may be altered by the council at any time provided that the procedure herein prescribed for the definition of a lighting district shall, mutatis mutandis, be followed and that the same right of appeal shall apply.

Loan rates.

Loan rate when money borrowed.

cf. L.G. Acts, 1906-8, s. 156.

124. (1) A council may make and levy a loan rate on the unimproved capital value, or on the improved capital value, of all ratable land in its area.

(2) The purpose of a loan rate shall be to pay interest on and repay the principal of a loan.

(3) Where by any other provision of this Act a council is required to levy a loan rate in respect of a loan the council shall (except as by this Act otherwise provided) in the year when the loan is raised, and in every succeeding year until the loan is repaid, make and levy a loan rate on the unimproved capital value, or on the improved capital value, of ratable land accordingly.

Local loan rate.

(4) Where a loan is raised for any work or service which in the opinion of the council would be of special benefit to a portion only of its area, the loan rate may, at the discretion of the council, be levied as a local loan rate only on the ratable land within such portion.

Amount of rate.

(5) Except as hereinafter provided a loan rate shall be sufficient to provide the sum required for the payment of interest and the provision of instalments of

of repayment or of reserve for loan repayment (or sinking fund) as stated in the loan proposal approved by the Governor.

Non-levying of loan rate in certain cases.

(6) Where a council satisfies the Minister that the net income which will probably be derived from any loan work or service will be sufficient to make full provision for depreciation of the assets of the work or undertaking, to pay the interest, and to provide for the instalments of repayment or reserve in respect of the loan, the Minister may permit the council to refrain from levying a loan rate during the year in which the money is borrowed and during the succeeding two years or any less period.

Suspension of loan rates in certain cases.

(7) Where a council has borrowed money for any specified work or service, and has levied a loan rate in respect of such loan, or has been permitted to refrain from levying such rate as hereinbefore provided, the Minister may, at any time thereafter, on being satisfied, on application of the council, that the net income actually derived from such work or service has been sufficient to make full provision for depreciation of the assets of the work or undertaking, to pay the interest, and to provide for the instalments of repayment or reserve in respect of the loan, exempt the council from the obligation to make and levy a loan rate, and shall notify such exemption. Such exemption shall not operate for a longer period than one year on any one occasion.

Reduction of loan rates in certain cases.

(8) Where the Minister is satisfied that a substantial net income has been derived from the work or service, but is not satisfied that such income has been sufficient to pay interest and provide for depreciation and instalments of repayment or reserve as aforesaid, he may, on application by the council, from time to time authorise the council to reduce, for not longer than one year on any one occasion, the amount of the loan rate, and shall notify such authorisation. The loan rate as so reduced shall be such that it together with the net income from the work or service shall be sufficient, after deducting full provision for depreciation as aforesaid, to pay interest and provide for instalments of repayment or reserve as aforesaid.

(9)

(9) In cases where in accordance with this section a loan rate is discontinued, suspended, or reduced, the council shall provide for interest and for instalments of repayment or reserve and for depreciation as aforesaid. Provision for principal and interest, &c.

(10) Where by reason of the increase or decrease of the valuations of lands subject to any loan rate the amount produced by the rate exceeds or is less than the sum necessary to make provision for interest and repayment as prescribed, the council may, if the Minister consent, levy a reduced rate if the valuations have increased, or an increased rate if the valuations have decreased. Increase or decrease of loan rate where valuations have decreased or increased.

(11) Every council which has at the commencement of this Act any debt owing in respect of moneys borrowed under any Act shall, in the year one thousand nine hundred and ~~nineteen,~~ **twenty**, and in every year thereafter until such debts have been paid, make and levy a loan rate sufficient to pay the interest on, and to repay within a period of thirty years from the said commencement the principal of, such debt. Loan rate for repayment of money borrowed before the commencement of this Act.

Where the money borrowed as aforesaid was expended on purposes which in the opinion of the council were of direct benefit only to a portion of the area, such loan rate may be levied as a local loan rate upon the ratable lands in such portion.

This subsection shall not apply to temporary loans obtained with the consent of the Minister before such commencement, nor to loans with respect to which a loan rate must be levied in compliance with other provisions of this Act or of the Acts hereby repealed, nor to loans with respect to which the council obtains from the Minister a certificate that it has, in the opinion of the Minister, made or undertaken to make adequate provision for repayment within a reasonable term not exceeding thirty years.

(12) The provisions of this section (except subsection eleven) are extended to and shall apply to loans with respect to which loan rates were required to be levied under the Acts hereby repealed, and to such loan rates, and such requirement is hereby continued. This section to apply to loans requiring loan rates under repealed Acts.

Polls

Polls re loan rates.

125. (1) On publication of notice of a proposal to make and levy a loan rate, a poll as to the basis of the rate may be demanded as in the case of a special rate; and the provisions of this Act relating to special rates shall for that purpose apply. Loan rate polls.

(2) On the notification of a proposal to levy a local loan rate a poll as to the basis of the rate may be demanded as in the case of a local rate: and the provisions of this Act relating to local rates shall for that purpose apply.

(3) This section shall not apply to loan rates in respect of special loans, which are elsewhere specifically provided for. Vide ss. 180 and 181 post.

Minimum.

126. The minimum amount of any rate which shall be levied in respect of any separate parcel of land shall be as follows:— Minimum amount.

For a general rate, two shillings and sixpence; for each other rate, one shilling, except where this Act otherwise provides.

Combination.

127. (1) Where more than one rate is payable into the same fund such rates shall be made separately, but may be levied as a combined rate or as separate rates, as the council may decide. Combination of rates.

(2) Where more rates than one are levied as a combined rate there shall be stated separately on the rate notice the description and the number of pence in the pound in respect of each rate, the total pence in the pound, and the amount of the combined rate, together with any other particulars which may be prescribed. The rate-book may be modified accordingly.

Other rates.

128. (1) Where, under any special Act, the council of a municipality is empowered to levy a rate on the annual value for a special purpose the council may, in lieu Rates under other Acts. cf. L.G. Acts, 1906-8, s. 158.

lieu thereof, and for the same purpose, levy a special or local rate under this Act on the unimproved capital value or on the improved capital value of ratable land in its area.

(2) Where the rate under the special Act is levied on all ratable land in the area, the provisions of this Act relating to a poll as to the basis of a special rate shall apply.

(3) Where the rate under the special Act is levied on part only of the ratable land in the area, the provisions of this Act relating to a poll as to the basis of a local rate shall apply.

(4) Where the special Act makes express provision as to who shall be liable to pay the rate, such provision shall have effect, notwithstanding anything in this Act; but this subsection shall not apply to any general incorporation by the special Act of provisions of the Municipalities Act, 1897, relating to the making, levying, or recovery of rates under that Act.

(5) Where the special Act provides a limit beyond which the rate on the assessed annual value shall not be levied, the limit for the purposes of this section shall be found by calculating the yield of the limit rate under the special Act on the assessed annual value at the time when the rate under this section is made and the rate under this section shall not be levied so as to yield a greater total amount. Limit of rate under other Acts.

Limit of rates.

129. Subject to the provisions of this Act, a municipal council shall not levy as rates an amount exceeding— Limit in municipalities.

(a) for the total of the general rate alone—a sum ascertained by adding together the calculated yield of twopence in the pound on the unimproved capital value, and eighteen pence in the pound on the assessed annual value, of all ratable land in the municipality; cf. L.G. Act, 1906-8, s. 151 (6).

(b)

(b) for the total of all rates taken together (other than water and sewerage local rates)—a sum ascertained by adding together the calculated yield of twopence in the pound on the unimproved capital value, and twenty-four pence in the pound on the assessed annual value, of all ratable land in the municipality; cf. L.G. Act, 1906-8, s. 157.

(c) for the total of the water local rate alone—a sum ascertained by calculating the yield of twenty-four pence in the pound on the assessed annual value of all land ratable to the water local rate; cf. C.T. W. & S. Amendment Act, 1905, s. 38 (1).

(d) for the total of the sewerage local rate alone—a sum ascertained by calculating the yield of twenty-four pence in the pound on the assessed annual value of all land ratable to the sewerage local rate. cf. *Ibid.*, s. 38 (2).

Limit in shires.

130. Subject to the provisions of this Act, a shire council shall not levy as rates an amount exceeding—

(a) for the total of the general rate alone—a sum ascertained by calculating the yield of ~~fourpence~~ **twopence** in the pound on the unimproved capital value of all ratable land in the shire; cf. L.G. Acts, 1906-8, s. 150 (1).

(b) for the total of all rates taken together in urban areas (other than general, water local, and sewerage local rates)—a sum ascertained by calculating the yield of twenty-four pence in the pound on the assessed annual value of all ratable land in the urban area; cf. L.G. Acts, 1906-8, s. 157.

(c) for the total of the water local rate alone—a sum ascertained by calculating the yield of twenty-four pence in the pound on the assessed annual value of all land ratable to the water local rate;

(d) for the total of the sewerage local rate alone—a sum ascertained by calculating the yield of twenty-four pence in the pound on the assessed annual value of all land ratable to the sewerage local rate.

131.

131. In any case where, after inquiry made on the application of a council, it appears that the limit of any rate hereinbefore provided is less than is needed to provide for the purposes of that rate, and that the council should be permitted to levy rates beyond the limits prescribed, the Governor may, by proclamation, grant such permission, and may, in the proclamation, specify new limits accordingly. Alteration limit in special cases.

Ratable Land.

132. (1) All land in a municipality or shire (whether the property of the Crown or not) shall be ratable except— Definition of ratable land. cf. L.G. Acts, 1906-8, s. 131

(a) land which is vested in the Crown or in a public body or in trustees and is used for a public cemetery; and

(b) land which is vested in the Crown or in a public body or in trustees and is used for a common; and

(c) land which is vested in the Crown or in a public body or in trustees and is used for a public reserve; and

(d) land which belongs to any public hospital, public benevolent institution, or public charity, and is used or occupied by the hospital institution or charity as the case may be solely for the purposes thereof; and

(e) land which is vested in the Crown or in a public body or in trustees and is used solely for the purposes of a free public library; and

(f) land which is vested in the University of Sydney or in a college thereof and is used or occupied by the University or college as the case may be solely for the purposes thereof; and

(g) land (other than land which is dedicated as a State forest or reserved for the growth of timber) which is the property of the Crown and is not occupied or is occupied only by public works which are in course of construction by or for the Crown; and

(h)

(h) land which is occupied by and is used directly in connection with a church or other building which is used or occupied solely for public worship; and

(i) land which is a public place.

(2) All land in a municipality or shire, being land vested in the Railway Commissioners for New South Wales, or in the Sydney Harbour Trust Commissioners, shall also be ratable. Lands vested in Railway Commissioners and Sydney Harbour Trust.

(3) For the purposes of any rate under this Act all exemptions which but for this Act might have been in force under any other Act, and in particular the exemptions under section thirty-nine of the Sydney Harbour Trust Act, 1900, and under section twelve of the Government Railways Act, 1912, are hereby repealed and excluded. Abolition of certain exemptions.

133. (1) This section shall not apply in any area until valuations are furnished to the council of that area under the Valuation of Land Act, 1916. Appeal on question whether land is ratable.

(2) Within thirty days after the prescribed notice to pay any rate on any land has been served in accordance with this Act any person holding any estate or interest in the land may appeal against the levying of the rate thereon, on the ground that the land is not ratable or that it is not ratable to any particular rate. cf. L.G Acts, 1906-8, s. 138.

(3) The appeal may where the valuation of the unimproved capital value of the land does not exceed ten thousand pounds be made to the nearest court of petty sessions, and where the valuation does exceed the said sum may be made to the nearest district court.

(4) Where an appeal is so made to the district court the person appealing may also appeal to the said court in respect of any other lands in which he holds any estate or interest, although the valuation thereof does not exceed ten thousand pounds.

(5) Such court may hear and determine the question.

(6) Any appellant may appear at the hearing of an appeal under this section by his counsel, solicitor, or agent, provided that such agent is authorised by the appellant in writing. cf. District Courts Act, 1912, s. 142. cf. Justices Act, 1902, s. 112.

(7)

(7) Any person dissatisfied with the decision of any such court as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the district court ~~and~~ or from the determinations of justices in the exercise of their summary jurisdiction, as the case may be.

Values and valuation.

Valuation as basis of rate.

134. (1) For the purposes and subject to the provisions of this Act—

(a) the unimproved capital value, and
(b) the improved capital value, and
(c) the assessed annual value

of ratable land shall respectively be the unimproved value, the improved value, and the assessed annual value of the land as determined in accordance with Part V of the Valuation of Land Act, 1916.

(2) This section shall be deemed to extend to all ratable land, including land owned by the Crown and land held under lease from the Crown.

Separate valuations.

(3) Any parcel of land separately valued under the Valuation of Land Act, 1916, shall be a separate parcel for the purposes of this Act.

Amendment of Valuation of Land Act, 1916.

135. The Valuation of Land Act, 1916, is hereby amended as follows:—

(a) The definition of "Minister" in subsection one of section four is amended by the omission of the words "Local Government Act, 1906," and the insertion of the words "Local Government Act, ~~1918.~~" **1919.**"

(b) Section forty-six is amended by the omission of the word "appeals" and the insertion of the word "objections."

(c) Section forty-eight is amended by the omission of the words "and at least once in every three years after such commencement," and by the insertion at the end of the section of the following words:—"~~a~~ **A** valuation list shall also be furnished at least once in every three years after a list is first furnished hereunder."

(d)

(d) Subsection two of section fifty is amended by the omission of the word "examiner" and the insertion of the word "inspector."

(e) Section fifty-seven is amended by the omission from the second line of the words "or appeal," and by the omission at the end of the section of the words "and in the case of a decision on objection, whether it is being appealed against."

(f) Subsection one of section fifty-eight is amended by the omission of the words "Local Government Act, 1906," and by the insertion in lieu thereof of the words "Local Government Act, ~~1918~~ **1919**."

(g) Section fifty-eight is amended by the addition of the following new subsection, viz. :—

(4) Notwithstanding any other provision of this section the unimproved capital value of a mine for the purposes of the Local Government Act, ~~1918~~ **1919**, and the Fire Brigades Act, 1909, shall be determined by the Valuer-General in accordance with the provisions in that behalf of the Local Government Act, ~~1918~~ **1919**.

(h) Section fifty-nine is amended by the omission of the words "Local Government Act, 1906," and by the insertion in lieu thereof of the words "Local Government Act, ~~1918~~ **1919**."

(i) Section sixty is amended by the omission of the words "Local Government Act, 1906," and by the insertion in lieu thereof of the words "Local Government Act, ~~1918~~ **1919**."

(j) Section sixty-two is amended by the omission of the words "or on an appeal against the decision of the valuation court respecting such an objection".

(k) Section sixty-three is omitted.

(l) Section sixty-four is omitted.

(m) Section sixty-eight is amended by the omission of the words "Local Government Act, 1906," and the insertion in lieu thereof of the words "Local Government Act, ~~1918~~ **1919**."

Valuation book.

136. (1) The valuation book of the council shall be constituted by a valuation list, or by a valuation list together with any supplementary list, as the case may be, furnished or supplied to the council by the Valuer-General in accordance with the provisions of the Valuation of Land Act, 1916.

(2) Subject to the provisions of this Act, any particulars in the valuation book may be entered in the rate book.

Temporary provisions.

137. (1) The provisions contained in Schedule III shall come into force at the commencement of this Act, and shall be in force temporarily as provided in this section.

Schedule III. cf. L.G. Acts, 1906–8, ss. 132–140.

(2) So long as the provisions of the Schedule are in force any provisions of this Act inconsistent therewith shall to the extent of the inconsistency be deemed to be suspended.

(3) Upon being satisfied that a valuation list has been furnished to the council by the Valuer-General in accordance with the Valuation of Land Act, 1916, the Governor shall proclaim that a valuation list has been so furnished, and thereupon the provisions of the Schedule shall cease to be in force with respect to that council.

Making and levying rates.

Estimates. cf. L.G. Act, 1906, ss. 142, 143.

138. (1) Before making any rate a council shall make and shall advertise in a newspaper estimates of the income and expenditure of the fund to which the rate belongs.

(2) The rate shall not be made until at least ten days after the advertisement.

(3) Non-compliance with this section shall not invalidate any rate otherwise lawful.

Making and levying. cf. L.G. Act, 1906, s. 150 (3).

139. (1) Subject to the provisions of this Act every rate shall be made and levied for one year commencing on the first day of January next preceding the making thereof.

Mode of making and levying.

(2) Every rate shall—

(a) be made by resolution of the council; and

(b) be levied by the service of a rate notice.

Provided

Provided that where the lessee of private land is liable for rates, such liability shall not (unless the name of the lessee is on the roll of ratepayers) be affected by reason only of the fact that notice has not been given to the lessee. cf. L.G. Act, 1906, s. 135 (5).

(3) Every rate shall be levied in respect of a separate parcel of land, but any rate in respect thereof may be included in the same rate notice with any rate in respect of the same or different land. Land rated—separate parcels. cf. L.G. Act 1906, s. 136.

Provided that where the Crown is the ratable person the council shall comply with any request of the Treasurer for the grouping or separation of rates on rate notices.

(4) Subject to the provisions of this Act every rate in respect of any land shall be levied upon the person ratable in respect of the land, that is to say— Person rated.

(a) upon the owner, in any case where this Act provides that the rate shall be paid to the council by the owner; and

(b) upon the holder of a lease, in any case where this Act provides that the rate shall be paid to the council by the holder of the lease.

(5) In any case where more than one person is an owner or holder of the land within the meaning of this Act, the rate may be levied upon any one or more of such persons, and the council may recover the rate as against any person upon whom the rate is so levied:

Provided that nothing in this subsection shall entitle the council to recover more than the full amount of the rate.

(6) In any case where the name of any owner liable to pay the rate is not known to the council, it shall be sufficient to rate such owner by the designation of "owner" without stating his name. cf. L.G. Act, 1906, s. 135 (6); No. 1893, s. 298 (Victoria).

(7) Where land which was not ratable has become ratable the rate thereon shall be proportionate to the portion of the year during which the land is ratable; and in any such case the first valuation made of the land after it becomes ratable shall be deemed to have come into force concurrently with the land becoming ratable. cf. L.G. Act, 1906, s. 135, and Act No. 28, 1908, s. 23.

(8) Where land which was ratable has not been valued because of omission from the valuation book the first valuation thereof after discovery of the omission shall come into force as from the first day of January of the then current year; and the rate may be levied accordingly.

Irregularities. cf. Sydney Corporation Act, 1902, s. 207.

140. If for any reason any rate is not made within or by the time prescribed by or under this Act, or if any irregularity in making or levying any rate affects or may be considered to affect the validity of any rate, the Governor may extend the time for the making of the rate and may authorise the doing by the council of such acts as may be necessary to cure the irregularity and to validate the rate.

Rating of leases from the Crown. cf. L.G. Acts, s. 132 (3).

141. Where any rate is levied upon land which is held under lease under any Act dealing with Crown lands (including homestead selections), or the Hay Irrigation Act (1890), such rate shall be levied on the full unimproved or improved capital value of the land as if the holder of the lease or homestead selection were the owner of the fee-simple:

Provided that in the case of annual leases, occupation licenses and preferential occupation licenses, the unimproved capital value shall be a sum equal to twenty times the annual rent.

141. (1) Where any rate is levied upon the unimproved capital value of land which is held for pastoral or agricultural purposes under lease from the Crown under any Act dealing with Crown lands (including homestead selections) or under the Hay Irrigation Act, 1902, or the Wentworth Irrigation Act, 1890, the unimproved capital value for the purposes of such rate shall, subject to this Act, be a sum ascertained by calculation as follows:—

(a) In the case of leases which carry no right of conversion ultimately into a freehold tenure—twenty times the amount of the rent payable to the Crown under the lease during the year next preceding that in which the calculation is made; and

(b)

(b) In the case of all other leases—during the first ten years of the lease dating from the grant thereof by the Crown — twenty times the amount of the rent payable to the Crown under the lease during the year next preceding that in which the calculation is made; and during the remainder of the lease—thirty times the amount of such rent.

(2) The lessee of any such land may, before the expiration of three months after the commencement of this Act, elect that instead of the rate being levied on the unimproved capital value ascertained as set out in the preceding subsection, it shall be levied on the unimproved capital value of land valued in accordance with the law as if the holder of the lease or homestead selection were the owner of the fee simple:

Provided that upon any election being duly made by a lessee under this section such election shall be binding upon him for a period of five years; at the expiration of which he may again elect, and so on continuously at intervals of five years:

Provided further that, in any case where an election is duly made under this section, the council shall, in levying any rate on the unimproved capital value, give effect to such election.

Rate-book.

Entries

142. (1) Every rate shall be entered in a rate-book which shall be in the prescribed form.

cf. L.G. Act, 1906, s. 141 (2).

(2) An alteration or amendment in the rate-book may be made in respect of any rate by—

Alteration or amendment.

(a) inserting the name of any person claiming and entitled to have his name inserted as owner or as holder of a lease, as the case may be;

cf. No. 1893, s. 300 (Victoria).

(b) inserting the name of any person who ought to have been rated or who has since the making of the rate become liable to be rated;

(c) striking out the name of any person who ought not to have been rated;

(d) raising or reducing the sum at which any person has been rated, if it appears to the council that owing to any error in entering the rate in any rate notice or in the rate-book or in transcribing any figures from any valuation book the person has been under-rated or over-rated;

(e)

(e) inserting any land which ought to have been rated and the necessary particulars in respect thereof;

(f) making such other alterations or amendments as will make the rate conformable to this Act or to any ordinance.

(3) Any such alteration or amendment shall not be held to avoid the rate.

(4) An alteration or amendment in the rate-book made under this section shall have effect upon adoption by the council as though made when the rate was made.

(5) An alteration or amendment in the rate-book made in conformity with the resolution of the council shall be initialled by the town or shire clerk, and a reference to the minute of the council's resolution shall be inserted in the rate-book.

(6) Notice of any alteration or amendment in the rate-book shall be given as in the case of a notice of valuation, and every person aggrieved by any alteration or amendment which affects the ratability of the land concerned shall have the same right of appeal therefrom as he would have had if the alteration or amendment were a valuation, and as if the notice of the alteration or amendment were a notice of valuation.

(7) Every person whose rate is altered or amended or who by any alteration or amendment has become rated in respect of any land shall be entitled to receive one month's notice of the alteration or amendment before the rate shall be due and payable by him.

(8) Nothing in this section shall affect any alteration or amendment made on an objection or appeal from any valuation.

Liability for rates.

143. Every rate shall be due and payable to and recoverable by the council on the expiration of one month after service of the rate notice. Due date. cf. L.G. Acts, 1906–8, s. 144 (3).

144. Every rate shall, except where this Act otherwise expressly provides, be paid to the council by the owner of the land in respect of which the rate is levied. Liability of owner.

145.

Land owned by the Crown.

145. (1) Where the land is owned by the Crown and is not held by any person under a lease therefrom, the rate shall be paid to the council by the Crown from the Consolidated Revenue Fund, or if a statutory body representing the Crown is concerned, then from the Consolidated Revenue Fund or from moneys of the statutory body as the Governor may determine.

(2) Where the land is owned by the Crown and is held by any person under a lease therefrom, the rate shall be paid to the council by the holder of the lease:

Provided that where a Crown lease is transferred by way of mortgage the council may not recover from the mortgagee unless and until it has failed to recover from the mortgagor.

cf. Housing Act, 1912, s. 8 (b).

(3) Notwithstanding anything to the contrary in this section, where any land owned by the Crown is subject to the provisions of the Housing Act, 1912, or of the Daceyville Extension Act, 1914, the rate shall be paid to the council by the Crown in accordance with the provisions of subsection one of this section, whether the land is or is not held by any person under a lease from the Crown.

(4) Where the land is held under a lease from the Crown by two or more persons successively in the same year, whether with or without any interval between their holding, the council may, if it thinks fit—

(a) make such adjustment (if any) of the rate whether paid or unpaid as it thinks proper between such persons;

(b) recover from each of such persons his proportion of the rate as fixed by the adjustment;

(c) make any refund in accordance with the adjustment;

(d) write off any amount in respect of the interval between the holding of such persons.

Land owned by the council.

146. (1) Where the land is owned by the council the rate shall, unless it is paid to the council by a person liable therefor, be paid by transfers from and to the appropriate fund under this Act.

Lease granted by the council.

(2) Where the land is owned by the council and is held therefrom by any person under a lease granted

granted by the council for a term of not less than one year, the rate shall, if the lease contains an agreement by the lessee to pay municipal or local government rates, whether under those designations or under any words of description which would include municipal or local government rates, or to pay any equivalent sum expressly fixed by reference thereto, be paid to the council by the holder of the lease.

Liability where land is owned or held jointly. cf. L.G. Act, 1906, s. 144 (4).

147. (1) Where the land is owned or held jointly by two or more ratable persons, such persons shall be jointly and severally liable to the council for the rate, but as between themselves each shall only be liable for such part of the rate as is proportionate to his interest in the land and in the improvements thereon.

(2) If any of such persons pays to the council more than his proportionate part, he may recover the excess by way of contribution from the others.

Liability where an estate or interest is transferred. cf. L.G. Act, 1906, s. 144 (10).

148. (1) Where a ratable person disposes of his estate or interest in the land, he shall nevertheless be a ratable person and liable to the council for the rate to the same extent as if he had not disposed of his estate or interest, provided that the rate is levied either—

(a) before he disposes of his estate or interest; or

(b) before the prescribed notice of transfer is given to the council.

(2) If any ratable person, who disposes of his estate or interest in the land, pays to the council any rate in respect thereof which is levied after he disposes of his estate or interest and before the prescribed notice of transfer is given to the council, he may recover the amount from the person to whom he disposes of his estate or interest.

(3) As between a ratable person and any other person from or to whom he derives or disposes of his estate or interest in the land every rate shall be considered as accruing from day to day and shall be apportionable in respect of time accordingly.

Liability where a person becomes entitled to an estate or interest.

149. (1) Where a person by becoming entitled to an estate or interest in the land becomes a ratable person, he shall be liable to the council for the rate, notwithstanding the fact that he became entitled to the estate or interest after the rate was levied. (2)

(2) If any ratable person who becomes entitled to an estate or interest in the land pays to the council any rate in respect thereof which was levied before he became entitled to the estate or interest, he may recover a proportion of the amount from the person who was liable to the council for the rate at the time when the rate was levied.

(3) Nothing in this section shall affect or extend to any person who is the holder of a lease from the Crown or from the council, where the lease is granted after the rate is levied, whether the land has been previously held under a lease from the Crown or from the council or not.

(4) The proviso to subsection one of section one hundred and fifty-~~one~~ **two** of this Act relating to a charge for rates shall apply mutatis mutandis to the liability for rates under this section.

Liability of person in occupation.

cf. L.G. Acts, 1906-8, s. 145.

150. (1) Where the ratable person—

(a) is a resident outside New South Wales; or

(b) is unknown to the council; or

(c) has not after reasonable efforts by or on behalf of the council to effect service been served in any legal proceedings for the recovery of the rate; or

(d) is a bankrupt; or

(e) dies; or

(f) has had a verdict or judgment given against him for the amount of the rate,

the council may serve upon any person in occupation of the land a notice of the amount of the rate or of such verdict or judgment and a demand that any rent then due or thereafter to become due by such person in respect of the land be paid by him as it falls due to the council in liquidation of the amount of the rate, or verdict, or judgment.

(2) In default of payment of rent as aforesaid, the council may recover the amount of the demand, or any outstanding portion thereof, as a debt.

(3) Any payment to the council under this section shall be a valid discharge to the payer for such rent as against all other persons whomsoever.

(4)

(4) Nothing in this section shall apply to a person who is in occupation for or on behalf or as the servant of the Crown or of any council.

Existing agreements to pay rates.

cf. Sydney Corporation (Amendment) Act, 1908, s. 11 (2).

cf. L. G. Act, 1906, s. 144 (6).

cf. Land Tax (Leases) Act, 1902, s. 4.

151. (1) Where the land is held under a lease in any case to which this section applies, the liability for the general rate shall be subject to the provisions of this section.

(2) This section shall apply to any case where a lessee has agreed with the owner, or with the mesne lessee from whom he immediately holds, to pay municipal or local government rates whether under those designations or under any words of description which would include municipal or local government rates: Provided that the agreement was made before the relevant date, that is to say—

cf. L.G. Acts, 1906–8, s. 144 (6).

(a) the first day of January one thousand nine hundred and eight—in the case of land within any municipality;

(b) the first day of January one thousand nine hundred and seven—in the case of land within any shire.

(3) During the currency of the agreement and notwithstanding the agreement the owner and all lessees (including mesne lessees) shall as between themselves be liable for their respective proportions of so much of the general rate as is equal to the amount of one penny in the pound on the unimproved capital value of the land.

(4) The respective proportions shall, on the application of any person interested, be determined by the Valuer-General, who shall make a fair and equitable adjustment between the owner and the lessees (including mesne lessees) according to their respective interests in the land as unimproved, and after the first adjustment shall make a readjustment at every subsequent period of valuation.

(5) Where the charge or fee in respect of any service for the removal of nightsoil or garbage is payable by the person for the time being rateable in respect of the land and is fixed on a yearly basis it may be added to the rate notice in respect of the land.

(~~6~~ 5) If before the general rate becomes due and payable the council has not received written notice of the terms of the agreement from any person interested therein, the rate shall be paid to the council by the owner.

(~~7~~ 6) If before the general rate becomes due and payable the council has received written notice of the terms of the agreement from any person interested therein, the rate shall be paid to the council by the lessee who is the last lessee within the knowledge of the council bound by the agreement, and such lessee shall be ratable as the holder of the lease accordingly:

Provided that if in any legal proceedings against such lessee the council fails to obtain payment from him, the council shall next proceed for the recovery of the rate from the lessor from whom he immediately holds; and if in any legal proceedings against a lessor, who is himself a mesne lessee, the council fails to obtain payment from him, the council shall next proceed for the recovery of the rate from the lessor from whom he immediately holds; and so on up to and including the owner.

(~~8~~ 7) Any lessee or mesne lessee who has paid the rate, and any mesne lessee who has suffered a deduction as hereinafter provided under this section, may—

(a) recover as a debt from the lessor from whom he immediately holds a sum equal to the total of the amounts determined by the Valuer-General to be the respective proportions of all the persons under whom he derives title; or

(b) may deduct such sum from any moneys due or to become due by him to the lessor from whom he immediately holds.

(~~9~~ 8) Any lessor who has made any payment to the council or to his immediate lessor in respect of the rate may recover as a debt from any lessee under him such portion thereof as such lessee is liable for under the terms of this section.

(~~10~~ 9)

(~~10~~ 9) The council the Valuer-General and any authorised servant of the council or of the Valuer-General may—

(a) require any person having the custody or control of the agreement to produce the same within a reasonable time;

(b) require any person in occupation of the land or in receipt of the rent of the land to answer any question relating to matters affected by this section.

(~~11~~ 10) If the person duly required as aforesaid does not produce the agreement or answer the question, or if he wilfully makes a false answer to the question, he shall be liable to a penalty not exceeding fifty pounds.

(~~12~~ 11) Every adjustment by the Valuer-General under this section shall be final and conclusive, and shall not be subject to appeal.

(~~13~~ 12) A certificate of the adjustment purporting to be signed by the Valuer-General or his deputy shall be prima facie evidence of the adjustment.

(~~14~~ 13) In this section the word "lessor" shall include his successors in title. Existing leases.

(~~15~~ 14) In addition to any case where an agreement has been made as to the payment of rates as provided in this section, this section shall apply to any case where the land is held by a person as lessee or sub-lessee under a lease granted, before the relevant date specified in this section, for a term of not less than ninety-nine years without any stipulation as to the payment of rates as provided in this section:

Provided that for the purposes of this subsection any reference in this section to an agreement shall be deemed to be a reference to the lease or sub-lease, as the case may be.

Charge of rates on land.

152. (1) Every rate under this Act and any costs awarded to the council by any court in proceedings for the recovery of the rate shall, except where this Act otherwise expressly provides, be a charge on the land in respect of which the rate is levied, in priority to all sales conveyances transfers mortgages charges liens and encumbrances whatsoever: Provided Charge of rates on land. cf. L.G. Act, 1906, s. 144 (7).

Provided that—

(a) no such charge for any rate or costs shall be of any effect as against a bona fide purchaser for value who at the time of purchase made due inquiry but had no notice of the liability; and cf. Land Tax Assessment Act, 1910–1914, s. 56 (1), (Commonwealth).

(b) a purchaser shall be deemed to have made due inquiry who has obtained a certificate of the town or shire clerk as to the amount (if any) due in respect of rates and costs.

(2) Where the land is owned by the Crown the charge shall not affect or extend to—

(a) the estate or interest of the Crown in the land; or

(b) the estate or interest of any person holding under a lease from the Crown where the lease is granted after the rate is levied, whether the land has been previously held under a lease from the Crown or not.

(3) The charge shall rank pari passu with any charge on the land under any other Act.

Mines—Valuations and rates.

153. (1) In the case of every mine the unimproved capital value thereof for the purposes of this Act shall be ascertained by one or other of the following methods of valuation as the council, either generally or for some period or mine only, may direct, or, in default of direction from the council, as the Valuer-General may decide, that is to say— Unimproved capital value. cf. L.G. Act, 1906, s. 132 (2).

(a) by valuation of the unimproved value in accordance with section six of the Valuation of Land Act, 1916; or

(b) by valuation based on output in accordance with this section; or

(c) in the case of an undeveloped mine, or of a mine which is idle or partially idle, by multiplying the annual rent (if any) of the mine by twenty.

(2) In the case of a coal or shale mine the unimproved capital value thereof ascertained by valuation based on output shall be a sum equal to three shillings cf. *Ibid.*, s. 132 (2) (a).

shillings per ton of large coal or shale, and one shilling and sixpence per ton of small coal, on the average annual output from the mine during the three years next preceding the year in which the valuation is made, or during such part of that time as the mine has been worked.

(3) In the case of a mine other than a coal or shale mine the unimproved capital value thereof ascertained by valuation based on output shall be a sum equal to twenty per centum of the average annual saleable value to the mine-owner of the ore or mineral won from the mine or of the product derived from such ore or mineral during the three years next preceding the year in which the valuation is made, or during such part of that time as the mine has been worked. cf. *Ibid.* s. 132 (2)(b).

(4) Where a valuation is being made, under paragraph (a) of subsection one of this section, of land other than Crown land, the presence of any mineral or mine which is held with the land by the owner of the land and is not being worked as a mine shall be taken into account in the valuation.

154. Where any mine is situated partly in one area and partly in another, the mine shall be valued as a whole, and the unimproved capital value, improved capital value, and assessed annual value shall be apportioned between the areas as the Valuer-General may direct. Objection may be made under the Valuation of Land Act, 1916, against any such apportionment. Mine in two or more areas. cf. L. G. Acts, 1906–8, ss. 132 (2) (e), 137 (1).

155. Where any part of a mine is under the sea or under the tidal waters of any estuary or harbour, such part shall be valued with and as part of the mine, notwithstanding that the overlying land and water are not within the boundaries of any area. Mine under sea. cf. *Ibid.*, s. 132 (2) (d).

156. Where any part of a mine is separately let or sublet to or occupied by any person for residential, business, grazing, or agricultural purposes, such part shall be deemed to be distinct from the mine, and shall be valued and rated accordingly. The area or boundaries of each separate parcel of land let, or sublet to, or occupied by any person for any of the aforesaid purposes, where not determined by fence or some other definite boundary, shall be determined in the manner prescribed. Surface of a mine. cf. *Ibid.*, s. 136.

157.

157. (1) Where a mine is subject to any lease the owner and every lessee shall be jointly and severally liable to the council for any rate in respect of the mine; but, as between themselves, each shall only be liable for such part of the rate as is proportionate to his interest in the mine. Mine lessees and licensees —division of liability. cf. L. G. Acts, 1906-8, s. 144 (2).

(2) If any of such persons pays to the council more than his proportionate part he may recover the excess by way of contribution from the others. Special agreements. cf. s. 147, ante.

(3) Such liability shall be subject to any special agreement between the owner and the lessee made (if the mine in respect of which the agreement is made is situated in a shire) after the commencement of the Local Government (Shires) Act, 1905, or (if such mine is situated in a municipality) after the commencement of the Local Government Act, 1906; but shall not be subject to or affected by any such agreement made before such commencement as aforesaid, and such agreement so made shall, so far as it is inconsistent with the provisions of this section, be null and void.

(4) This section shall not apply to a portion of a mine leased for residential business grazing or agricultural purposes. cf. L.G. Act, 1906, s. 136, as amended by L.G. Amend. Act, 1908, s. 24.

Miscellaneous.

158. (1) Overdue rates shall be increased in accordance with this section. Overdue rates—extra charge.

(2) If the rates are unpaid at the expiration of three months from the due date, the amount due shall be increased by a sum calculated at the rate of seven per centum per annum, and the increase shall be deemed to be part of the rates.

(3) The calculation under the last preceding subsection shall be made in respect only of as many complete months as have expired between the due date and the date of payment, excluding any remaining portion of a month.

(4) If in any case the percentage is less than threepence, the increase shall be threepence.

(5) This section shall apply as from the commencement of this Act to rates levied under the Acts hereby repealed.

(6)

(6) The provisions of this section shall not apply to rates owing by ratable persons who are soldiers or sailors until six months after their return to Australia or six months after the ~~close of the war between Great Britain and her allies on the one hand and Germany and her allies on the other, whichever shall first happen.~~ **commencement of this Act whichever shall last happen.**

(7) The charge under this section shall continue to apply to all unpaid rates notwithstanding that judgment may have been obtained in any court, including the District Court.

Expenses of tracing person liable.

159. A council may add to the amount of any rate any reasonable out-of-pocket expenses incurred in tracing the person liable to pay the rate; and such expenses may be recovered as rates and at the same time as any rates, but without the necessity to give any notice thereof.

Certificate as to amount due.

cf. No. 2016, s. 334 (Victoria).

160. (1) Any person may apply for a certificate under this section as to the amount (if any) due or payable to the council for rates or otherwise in respect of any land.

(2) Application for the certificate shall be made in writing, and shall state the name and address of the applicant, and the particulars of the land in respect of which the information is required.

(3) The council shall upon payment of a fee of ~~one shilling~~ **two shillings and sixpence for each certificate having reference to a parcel of land separately assessed** forthwith give or post to the applicant a certificate in writing signed by the town or shire clerk and stating what (if any) rates charges or sums of money are due or payable to the council in respect of the land with the particulars thereof and when the same became due or payable, or that no such rates or charges or sums are then due or payable, as the case may be.

(4) The production of the certificate shall for all purposes be deemed conclusive proof in favour of a bona fide purchaser for value that at the date thereof no rates charges or sums other than those stated in the certificate were due or payable to the council in respect of the land.

(5)

(5) For the purposes of this section rates charges or sums of money shall be deemed to be due or payable, notwithstanding that the requisite period after service of any notice may not have expired.

Abandonment of rates.

161. Subject to the provisions of this Act rates shall not be abandoned or written off the books of account of the council unless proceedings for the recovery thereof have failed, or the approval of the Minister to the abandonment or writing off has been obtained.

Appropriation of payments.

cf. L.G. Acts, 1906–8, s. 149.

162. Where money is paid to a council in respect of any rates due on any land, the council shall notwithstanding any direction to the contrary apply the money for or towards the rates due on the land in the order in which they became due.

Notice of transfer.

cf. L.G. Acts, 1906-1908, s. 144 (10); Sydney Corporation Act, 1902, s. 131.

163. (1) If a ratable person transfers his estate or interest in the land, the ratable person and the transferee shall (except as provided in this section) within one month of such transfer give notice thereof to the council.

(2) It shall not be necessary to give notice under this section of any mortgage nor of the discharge of any mortgage.

Ultimate liability.

cf. L. G. Act, 1906, s. 144 (5).

164. (1) Nothing in this Act shall, except where this Act otherwise expressly provides, affect any private agreement or any rule of law or equity with respect to the ultimate liability for any rate charge or fee.

Apportionment.

cf. The Apportionment Act, 1905, s. 4.

(2) As between a tenant for life and any person entitled to the land in remainder or reversion, every rate shall be considered as accruing from day to day, and shall be apportionable in respect of time accordingly.

(3) The provisions of subsection two of this section shall mutatis mutandis apply to any rental charge or to any charge or fee in respect of any service for the removal of nightsoil garbage or trade refuse.

Ordinances.

Ordinances.

165. Ordinances may be made for carrying this Division into effect, and in particular for and with respect to—

cf. L.G. Act, 1906–1908, s. 135 (5).

(a) the preparation sealing keeping and inspection of the valuation book and rate book or any combination

combination of them, the entries which are to be made therein, and the alteration of minor errors not affecting the amount at which the land is valued;

(b) the time within which rates may be made, and all other matters incidental to the regulation of rating; cf. *Ibid*, s 135 (*j*).

(c) the making of an application by a person interested for the purpose of satisfying the council that land is held under a lease in a case for which this Act makes special provision.

DIVISION 3.—*Charges and fees.*

Right to charges and fees.

166. For the purposes and subject to the provisions of this Act the council may fix make demand levy and recover charges and fees in accordance with this Division.

Charges and fees fixed by ordinance or resolution. cf. L.G. Acts, 1906-8, s. 103.

167. (1) In the following cases, that is to say, in any case where under the provisions of any Act ordinance regulation or by-law the council—

(a) supplies any service product or commodity; or
(b) makes any registration; or
(c) grants any license; or
(d) gives any permission; or
(e) furnishes any information, or
(f) admits to any building or enclosure,

the charge or fee may be fixed by ordinance or where there is no ordinance by resolution of the council.

(2) In any such ordinance or resolution provision may be made requiring a deposit or prepayment in respect of such charge or fee.

(3) This section shall be deemed to include the supply of any service product or commodity to the Crown.

(4) Nothing in this section shall authorise any charge or fee contrary to the provisions of any Act ordinance regulation or by-law.

(5) Where the charge or fee in respect of any service for the removal of nightsoil or garbage is payable by the person for the time being ratable in respect of the land, and is fixed on a yearly basis, it may be added to the rate notice in respect of the land.

168.

168. (1) Where the charge is in respect of any service for the removal of nightsoil or garbage in connection with any ratable land the charge shall be paid to the council by the person for the time being ratable in respect of the land. Liability for charges and fees in respect of nightsoil or garbage removal service.

(2) Except as provided in subsection one of this section, the charge in respect of any service for the removal of nightsoil or garbage shall be paid to the council by the person to whom or at whose request the service is supplied. cf. L.G. Acts, 1906-8, s. 103.

(3) In any case where the Crown is liable under this section, the charge shall be paid to the council in accordance with the provisions of this Act relating to the payment of rates by the Crown.

(4) In the following cases, that is to say—

(a) if in the case of a service for the removal of nightsoil any occupied premises are within a nightsoil scavenging district and there is on the premises any privy not connected with a sewer of the council or of any statutory body representing the Crown, **and not connected with any septic tank or other system of sewerage approved by the council,** or

(b) if in the case of a service for the removal of garbage any occupied premises are within a garbage ~~scavenging~~ **removal** district,

the service shall be deemed to be supplied if any servant or person on behalf of the council attends at the premises for the purpose of supplying the service, **and if such attendance is at a time when the service may reasonably be expected to be required.**

169. Where the charge or fee is in respect of any service (except so far as is otherwise provided in the case of a service for the removal of nightsoil garbage or trade refuse) or is in respect of any product commodity registration license permission or information, the charge or fee shall be paid to the council by the person to whom or at whose request the service product or commodity is supplied, or the registration license permission or information is made granted given or furnished, as the case may be. Liability for charges and fees for other services, &c.

Supply of service product or commodity for the council's own purpose.

170. Where the service product or commodity supplied by the council is supplied for the council's own purposes, the charge or fee shall be paid by transfers to and from the appropriate fund under this Act.

Annual charge on rails, pipes, &c.

cf. L.G. Act, 1906, s. 209.

cf. L.G. (Amending) Act, 1917, s. 2.

171. (1) In any case where before or after the commencement of this Act any rail, pipe, wire, pole, cable, tunnel, or structure, has (whether under the authority of any statute or otherwise) been laid, erected, suspended, constructed, or placed upon, under, or over any public place, in any area, the council may make a fair annual charge upon the person for the time being in possession, occupation, or enjoyment of such rail, pipe, wire, pole, cable, tunnel, or structure, in respect thereof. Such annual charge may be made, levied, and recovered in accordance with the provisions of this Act relating to the making, levying, and recovery of rates.

(2) The fair annual charge shall be based upon the nature and extent of the benefit enjoyed by the person concerned.

(3) If any person is aggrieved by the amount of such annual charge, he may appeal therefrom to the court of petty sessions for the district in which the council's office is situated, and such court shall settle the amount of such annual charge.

(3) If any person is aggrieved by the amount of such annual charge he may appeal therefrom to the district court or the court of petty sessions for the district in which the council's office is situated, and such court shall determine the amount of such annual charge.

(4) Should either party be dissatisfied with the amount settled by the court of petty sessions, he may within a period of twenty-one days from such finding appeal to a judge of the district court for the district within which the council's office is situated, which appeal shall be by way of rehearing, and the decision of such judge shall be final and binding on both parties.

(4)

(4) Any person dissatisfied with the decision of any such court as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the district court or from the determination of justices in the exercise of their summary jurisdiction as the case may be.

(5) Nothing in this section shall be deemed to apply to the Crown.

Appropriation of payments. cf. L.G. Acts, 1906-8, s. 149.

172. Where money is paid to a council in respect of any charges or fees the council shall notwithstanding any direction to the contrary apply the money for or towards the charges or fees due to the council in the order in which they became due.

Division 4.—*Loans.*

Purposes and ways of borrowing.

Minister's or Governor's consent to loans. cf. L.G. Acts, 1906-8, s. 176B.

173. (1) Except as provided by this or any other Act, a council shall not borrow for any purpose or in any way whatever.

(2) A council shall not borrow unless the loan has previously been authorised, that is to say, unless the Minister's certificate in respect of a limited overdraft or the approval of the Governor in respect of any other method of borrowing has been obtained. Application for the Minister's certificate or Governor's approval shall be made by the council in the prescribed manner.

Kinds of loans.

(3) There shall be four methods only in which a council may borrow. These methods are by way of—

limited overdraft,
renewal loan,
ordinary loan,
special loan.

Municipal and shire loans.

(4) Subject to the provisions of this Act, a council may borrow by any of the methods named.

Limited overdrafts.

Purpose of overdraft.

174. (1) A loan by way of limited overdraft may be obtained for any purpose upon which the council is authorised to create or expend any fund (other than a trust fund).

(2)

(2) On application by the council the Minister may issue a certificate of limit of overdraft in which shall be named the fund in respect of which the loan may be obtained, and the limit of amount to be borrowed thereunder. Issue of certificate.

(3) The council may borrow and re-borrow from time to time upon the certificate within the limit named therein so long as it remains in force. Continuance of overdraft.

(4) The sum to be stated in the certificate as the limit of overdraft shall be in the discretion of the Minister, but shall not exceed one-half of the income of the fund, that is to say—

(a) one-half of the income as shown by the latest year's accounts; or

(b) if the fund was not in existence for the whole of the preceding year, one-half of the income as estimated in the published estimates of the council for the year in which the certificate is issued.

(5) In any certificate the Minister may increase the limit of overdraft by the amount of any sum at fixed deposit to the credit of the fund named in the certificate (except a fixed deposit which is part of a reserve for loan repayment). In this case recourse may be had against the fixed deposit as security or part security for the overdraft.

(6) A certificate may be cancelled or the limit named therein increased or reduced at any time by notice issued by the Minister to the bank and the council. Such cancellation or alteration shall not prejudice any rights already accrued to the bank. Cancellation or variation of certificate.

(7) Upon any cancellation or reduction the council shall proceed as soon as practicable to repay the overdraft, or, as the case may be, reduce it in accordance with the reduction of the limit by the Minister.

175. (1) Money borrowed by way of limited overdraft shall be deemed to be secured upon the income of the fund in respect of which the certificate of limit of overdraft is issued. Security of overdraft.

(2)

(2) For the purposes of the security the certificate shall be conclusive evidence that the provisions of this Act with respect to the issue of the certificate have been duly complied with.

(3) It shall not be necessary to levy a loan rate in respect of a loan by way of limited overdraft.

Renewal loans.

176. (1) A loan for the purpose of repaying or renewing any other loan and for paying the expenses incidental thereto shall be a renewal loan. Purpose of renewal loan.

(2) Subject to the provisions of this Act, it shall not be necessary to levy a loan rate in respect of a renewal loan except in those cases where the loan which is to be repaid or replaced by the renewal loan is subject to a loan rate or where the loan is a special loan for the purpose of repaying an overdraft.

Ordinary loans.

177. A loan for any of the following purposes shall be an ordinary loan— Purpose of ordinary loans.

(a) carrying out any order of the Governor as to boundary works, or discharging any liability under such order; or

(b) establishing or extending a service for the removal and disposal of nightsoil or garbage or both, and the acquisition of land, buildings, and plant therefor; or

(c) making sewerage connections for householders on conditions providing for repayment by periodical instalments; or

(e d) discharging any liability arising under any verdict or order of a court of law or equity; or

(d e) the purchase and establishment of machinery and equipment for the making of roads and bridges or for the breaking of stone and the like purposes; or

(e f)

(e f) the establishment of road-punts and road-ferries and the approaches thereto; or

(f g) meeting any liabilities transferred to the council consequent upon alteration of boundaries; or See sec. 21-1 (n).

(g h) the payment of expenses incidental to any of the above purposes or to the raising of the loan.

178. (1) An ordinary loan shall be arranged on terms providing for the payment of principal and interest in yearly or half-yearly instalments, spread over a term of years. Where the loan is required for the first construction or extension (not being renewals or repairs) of any boundary work or any garbage destructor, the Governor in his approval may fix the term of years on the basis of three-fourths of the estimated probable life of such work. In all other cases the term shall not exceed ten years. Terms of loan.

(2) A loan rate shall be levied in respect of an ordinary loan, except a loan for the purposes of paragraph (c) of the last preceding section.

(3) Where an ordinary loan is for the purpose of establishing or extending a service for the removal and disposal of nightsoil or garbage, or both, the loan rate shall be levied on the ratable lands within the nightsoil scavenging district, the garbage removal district, or both, as the case may be. Sanitary and garbage services. Loan rate. See s. 287 post re districts.

(4) An ordinary loan may be obtained, notwithstanding that thereby the total indebtedness of the council will exceed the limit elsewhere in this Act prescribed, but if as a result of the loan the limit of indebtedness be exceeded, it shall not be lawful for the council of the area to borrow by way of special loan until the total amount owing by the council has fallen below such limit. Loan may exceed limit.

Special loans.

179. (1) A loan for the purpose of any work or service or any object which the council is authorised by law to construct, carry on, or effect shall be a special rate Purpose of special loans.

loan unless under the powers hereinbefore given the loan is raised as a limited overdraft, renewal loan, or ordinary loan.

(2) The payment of expenses incidental to the purpose of the loan or to the raising of the loan may be included in the purposes for which the money is borrowed.

Shire special loans.

cf. L.G. (Shire Loans) Act, 1914.

180. (1) Where a shire council proposes to raise a special loan it shall notify reasonable particulars of the proposal and allow one month in which any number not less than twenty-five per centum of the ratepayers may petition the council to take a poll of ratepayers, either as to whether the ratepayers approve of the loan or as to whether the loan rate (if any) shall be on the unimproved capital value or improved capital value, or on both questions.

(2) Where ~~a formal~~ **such a** petition is lodged within the prescribed time the council shall take a poll accordingly.

(3) The questions to be submitted at the poll shall be ~~as~~ **in such form as may be** prescribed.

(4) Where the shire special loan is proposed to be raised for the benefit of part only of the shire, and where on that account the council proposes to levy a local loan rate upon that part of the shire for the purpose of paying the interest and repaying the principal of the loan, the word ratepayers in this section shall mean only the ratepayers of that part of the shire. In that case, if the loan is ultimately raised the council shall levy the loan rate in accordance with its proposal:

Provided that this subsection shall not operate in a case where the council proposes to contribute from the general fund a portion being not less than one-third of the sum necessary to pay the interest on and repay the principal of the loan.

(5) If the result of the poll be against the loan the council shall not proceed with the proposal either then or at any time within twelve months after the poll.

(6) If a poll be not demanded, or if the result of the poll be in favour of the loan, the council may apply

apply for and the Governor may, after such inquiry as the Minister deems sufficient, grant approval to the council's application with such modifications (if any) as he may direct.

(7) Where a shire council raises a special loan the loan shall be arranged upon terms which—

(a) shall provide for the repayment of principal and interest in yearly or half-yearly instalments, spread over a term of years to be fixed by the Governor; and

(b) may provide for the repayment at any yearly or half-yearly rest of the balance then remaining unpaid.

(8) Shire special loans may be secured and charged upon the income of the general fund of the shire.

(9) Any loans obtained under this section and under the Local Government (Shire Loans) Act, 1914, shall not exceed in the aggregate a sum equal to thrice the amount of the income of the shire as shown by the last year's accounts.

(10) It shall not be compulsory to levy a loan rate in respect of a shire special loan.

(11) Where a shire council has the right of repaying any special loan before the due date the council may raise the money needed for that purpose by a renewal loan repayable (in accordance with this section) within the remainder of the term which was fixed for the original loan.

Municipal special loans. cf. L.G. Act, 1906, s. 171.

181. (1) Where a municipal council proposes to raise a special loan it shall notify reasonable particulars of the proposal and allow one month in which any number not less than twenty-five per centum of the ratepayers may petition the council to take a poll of ratepayers either as to whether the ratepayers approve of the loan or as to whether the loan rate shall be on the unimproved capital value or improved capital value or on both questions:

Provided that—

(a) if the council proposes that the loan rate shall be levied on the whole area the petition shall be

be informal if not signed by at least twenty-five per centum in number of the ratepayers of the area;

(b) if the council proposes that the loan rate shall be levied on part only of the area, the petition shall be informal if not signed by at least twenty-five per centum of the ratepayers enrolled in respect of that part.

(2) If a formal petition is lodged within the prescribed time the council shall forthwith arrange for and take a poll of the ratepayers of the area or of the ratepayers enrolled in respect of the part aforesaid, as the case may be.

(3) The questions to be submitted at the poll shall be as prescribed.

(4) If the decision of the poll is against the proposal it shall not be submitted to the Governor for his approval.

(5) If the decision of the poll is in favour of the proposal, or if a petition asking for a poll (as to whether the ratepayers approve of the loan) is not duly lodged, the proposal shall be submitted to the Governor through the Minister.

(6) The proposal so submitted shall contain such details as may be prescribed by ordinance, or in the absence of ordinance, as the council may determine, showing—

(a) the purpose of the loan;

(b) the amount of the loan and the rate of interest thereon;

(c) the terms of repayment of the loan (including the scheme, if any, for repayment by instalments);

(d) the loan rate which the council estimates will be needed to comply with this Act, stating the rate which will be required if levied on the unimproved capital value and if levied on the improved capital value;

(e) whether the council proposes to levy the loan rate on the whole of its area or on part only, and if on part only, what part;

(f)

(f) the total number of ratepayers on the roll for the area, or enrolled in respect of the aforesaid part of the area, as the case may be.

(7) The Minister shall cause a report to be made on the proposal by such person as he may appoint.

(8) The Minister may recommend the council to modify the proposal by restricting, extending, or altering it in any way, and if the council adopts the recommendation, the proposal shall be the proposal as so modified.

(9) The Governor may, if satisfied that the provisions of this section have been complied with, approve of the proposal.

(10) A loan rate shall be levied in respect of a municipal special loan.

(11) The council shall, if the loan is obtained, give effect to the decision of the poll as to the basis of rating.

Security for loans.

Security for special ordinary and renewal loans.

cf. Sydney Corporation Amendment Act, 1905, s. 23; L.G. Act, 1906, s. 169.

182. (1) Subject to the provisions of this Act, renewal ordinary or special loans shall be deemed to be secured—

(a) firstly, upon the income of that fund of the council to which the loan belongs; and

(b) secondly, upon the income of the council from whatever source arising.

(2) This section shall not affect the order of priority of loans in respect of the same or any other fund.

(3) For the purposes of any security for loans under this Act the approval of the Governor shall be conclusive evidence that the provisions of this Act with respect to the proposal for the loan have been duly complied with.

Use of loan moneys.

Separate bank account.

cf. L.G. Act, 1906, s. 182.

See also s. 114.

183. (1) All moneys borrowed by way of renewal ordinary or special loan shall be lodged to the credit of a separate bank account in respect of each loan in its appropriate fund.

(2)

(2) Subject to the provisions of this Act, the separate bank account in respect of a renewal, ordinary, or special loan shall not be drawn upon except for—

(a) the specific purposes for which the loan was obtained, as set out in the approval of the Governor; or

(b) the purpose of repaying the principal of the loan.

(3) In any case where the council proposes to borrow for any purpose, and where pending such borrowing, the council lawfully uses any of its moneys for the same purpose, the loan, when obtained, may be used to recoup the appropriate fund for moneys so used.

(4) Where, after any loan has been obtained, it is found insufficient to carry out the whole of the work or purpose for which it was raised, it may be applied to such work or purpose so far as is practicable, or the work or purpose may be modified in such manner as the Minister may approve.

(5) Where, after the works for which any loan has been obtained have been completed, it is found that there remains any portion of the loan unexpended, the council may, if the Minister approve, expend the remainder upon further works of the same kind.

Limits of borrowing.

Limits of borrowing.

184. Subject to the provisions of this Act—

(a) the council of a municipality shall not borrow any moneys which, added to any other amounts then owing by the council in respect of loans, will cause the total amount of loans owing to exceed twenty per centum of the unimproved capital value of all ratable land in the area;

Loans of municipalities in excess of limit. cf. L.G. Acts, s. 169 (3).

(b) if the borrowings of any existing municipality as defined in the Local Government Act, 1906, or of any council of a municipality, comprising the whole or part of any such existing municipality, at the time of the commencement of this Act or at the time of its constitution under this Act as the case may be, exceed the limit

limit of borrowing prescribed in this Act, it shall not be lawful for the council of such municipality to raise any special loan until the total amount owing by it has fallen below such limit.

Repayment.

185. Subject to the provisions of this Act, every renewal or ordinary or special loan shall be raised on such terms of repayment (whether under a scheme for repayment by instalments or otherwise, or partly in the one way and partly in the other) as the Governor may approve. Terms of repayment.

Reserves for loan repayment.

186. (1) Subject to the provisions of this Act, there shall be one reserve for loan repayment in every fund in respect of which any renewal or ordinary or special loan or any part thereof has been raised by a council under this or any other Act. Loan repayment accounts. cf. Syd. Corp. Amendment Act, 1905, s. 26.

(2) This section shall apply to loans with respect to which in its application for approval the council intimated that it proposed to set apart a sum periodically for loan repayment purposes or as a "sinking fund," except loans raised under a scheme for repayment by instalments at intervals of one year or less. The council may apply this section to loans excepted by the preceding provisions of this subsection.

(3) All sinking funds or other like provision for repayment of loans in existence at the commencement of this Act shall be transferred to and form part of the appropriate reserve for loan repayment under this Act.

(4) The council shall during each year transfer to the reserve for loan repayment from the moneys of the appropriate fund a sum not less than the council, in its application for approval of the loan, intimated that it proposed to set apart as aforesaid.

(5) Where a loan rate is levied such sum shall be set apart out of the proceeds of such rate. Sale of land

(6) Where any land or property of any other kind which has been provided out of loan moneys is sold

sold before the loan has been wholly repaid the proceeds of such sale shall be added to the reserve for loan repayment in the appropriate fund, or repaid directly to the lender, or used for the provision or purchase of other land or property chargeable upon the fund to which such proceeds belong.

Bank account for loan repayment.

(7) All moneys directed by this Act to be paid into a reserve for loan repayment shall be paid to the credit of a separate account in such bank as the council may arrange.

(8) Such moneys may be invested in Government securities of the State of New South Wales or in such other securities as the Governor may approve in each individual case or such securities as may be prescribed.

(9) Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment.

(10) Investments hereunder may be realised at any time and the proceeds reinvested or kept at call.

Application of moneys in loan repayment reserve.

(11) All moneys paid into the reserve for loan repayment in any fund may be applied in or towards the repayment of any renewal or ordinary or special loan raised in respect of the same fund, but except where this Act otherwise provides may not be applied for any other purpose.

cf. *Ibid.* s. 26.

Withdrawal of surplus from loan repayment reserve.

(12) If, after all the loans raised in respect of any fund have been repaid, there remains in any reserve for loan repayment any balance, such balance may be transferred to the current account of that fund.

(13) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for loans primarily chargeable on the income of the fund in which such reserve is provided.

Loans under other Acts.

187. Where, under any other Act, a council is empowered to borrow, the provisions of this Act relating to—

(a) funds;
(b) separate bank accounts;
(c) use of loan moneys;
(d) reserves for loan repayment;
(e) the discontinuance, suspension, reduction, or increase of any loan rate;

(f)

(f) the keeping of accounts;
(g) audit and inspection of accounts and surcharges; and
(h) matters incidental to the foregoing,

shall apply, mutatis mutandis, to any such borrowing as though it were a borrowing under this Act.

Debentures, &c.

Security for loans.
cf. L.G. Acts, s. 171 (1).

188. (1) For securing the repayment of the principal and interest of any moneys borrowed in pursuance of this Act, a council may, in the prescribed manner, issue debentures, mortgage-deeds, or bonds in or to the effect of forms to be prescribed.

(2) All such debentures, mortgage-deeds or bonds shall, notwithstanding the provisions of any other Act, have priority as between the respective holders thereof according to their respective dates of execution.

(3) The holders of debentures by which the same loan was raised shall as between themselves rank pari passu.

Transfer of debentures and coupons.
cf. Sydney Corporation Amendment Act, 1905, s. 23 (d).

189. Every debenture issued under the provisions of this Act, and every coupon originally annexed to the debenture, and whether separated therefrom or not, may be transferred by simple delivery.

Payment of debentures and coupons.
cf. Sydney Corporation Amendment Act, 1905, s. 24.

190. (1) The holder of any debenture issued under the provisions of this Act shall be entitled to receive payment from the council of the principal sum therein stated upon presentation of the debenture on or after the date when and at the place where the same is payable.

(2) The holder of any coupon originally annexed to the debenture, and whether separated therefrom or not, shall be entitled to receive payment from the council of the interest mentioned in the coupon upon presentation of the same on or after the date when and at the place where the interest is payable.

Investment by trustees, &c.
cf. No. 1421, s. 22 (Victoria).

191. (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust may invest any trust moneys in his hands in any debentures issued under this Act, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1898.

(2)

(2) Any debentures issued under this Act shall be a lawful investment for any moneys which any company or body corporate incorporated by any Act of the Parliament of New South Wales is authorised or directed to invest in addition to any other investments expressly provided for the investment of such moneys.

(3) No notice of any trust expressed implied or constructive shall be received by the council or by any servant of the same in relation to any debenture or coupon issued under this Act.

Lost debentures. cf. No. 2159, s. 4 (Victoria).

192. (1) If any debenture issued under this Act is lost or accidentally burnt or otherwise destroyed before the same has been paid off, the council may subject to the provisions of this section issue a new debenture in lieu thereof.

(2) The new debenture with interest coupons annexed shall bear the same date number principal sum and rate of interest as the lost or destroyed debenture.

(3) The new debenture shall not be issued unless and until—

(a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture **or of some person approved by the judge** that the same has been lost or accidentally burnt or otherwise destroyed before it has been paid off;

(b) such advertisements as the judge may direct have been published;

(c) six months have elapsed since the publication of the last of the advertisements; and

(d) sufficient security has been given to the council to indemnify the council against any double payment if the missing debenture is at any time thereafter presented for payment.

Receivers.

Appointment. cf. Sydney Corporation Amendment Act, 1905, s. 25. cf. L.G. Acts, 1906-8, s. 177.

193. (1) If for six months default is made by the council in making any payment whether of principal or interest to the holder of any debenture ~~or~~ coupon, mortgage-deed, or bond issued under the provisions of this Act the holder may apply to the Supreme Court in its equitable jurisdiction for the appointment of a receiver of the rates and other income of the council. (2)

(2) A receiver may be appointed in respect of the rates and other income of the council either generally or as regards specified rates and other income.

(3) The court may make such orders and give such directions as it may deem proper for and with respect to—

(a) the appointment of a receiver;

(b) the removal of a receiver;

(c) the appointment of a receiver in place of a receiver previously appointed.

(4) A receiver shall be deemed to be an officer of the court, and shall act under its directions.

Officer of the court.
cf. Sydney Corporation Amendment Act, 1905.
cf. L.G. Acts, 1906-8, s. 178.
cf. C.T.W. & S. Act, 1880, s. 125.

194. (1) The receiver shall have power to make levy and collect all income and in particular all rates payable to the council for or in respect of which he has been appointed receiver, but the rates so made and levied shall not exceed the maximum limits permitted under the law in force for the time being, or where there is no maximum limit, such limit as the court may fix, and for the purposes of this subsection the receiver shall be deemed the council and may exercise all the powers thereof.

Powers and duties.
cf. Syd. Corporation Amendment Act, 1905, s. 25.

(2) The receiver shall discharge such duties of the council and of the mayor or president and of any servant of the council as may be prescribed by ordinance.

195. The receiver shall be entitled to such commission as remuneration for his services as the court may order, and the commission shall be payable out of the rates or income for or in respect of which he has been appointed receiver.

Commission.
cf. *Ibid.* s. 25.

196. The receiver shall subject to any order of the court pay and apply all the money received by him in the following order, that is to say—

(a) firstly in payment of the costs charges and expenses of collection and of his commission;

Application of moneys received.
cf. Conveyancing and Law of Property Act, 1898, s. 103.

(b)

(b) secondly in payment of the amount due and payable to the holder of the debenture or coupon, mortgage-deed, or bond;

(c) thirdly in payment of all the residue of the money to the council.

Protection of investors.

Application of moneys by council. cf. No. 1421, s. 138 (Victoria).

197. A person advancing money to a council shall not be bound to inquire into the application of the money advanced or be in any way responsible for the non-application or misapplication thereof.

Illegal borrowing.

Liability for illegal borrowing. cf. L. G. Act, 1906, s. 175.

198. (1) If any council borrows any money which as the body corporate it is not legally bound to repay, all persons who while holding or acting in a civic office have knowingly and wilfully or for any personal benefit or advantage consented to the borrowing shall be jointly and severally liable to repay to the lender the money so borrowed and all interest thereon.

(2) Proceedings to enforce the liability imposed by this section may be taken in any court of competent jurisdiction.

Liability for illegal payments. cf. L.G. Act, 1906, s. 175.

199. (1) If any money of the council is appropriated for the repayment of the moneys so borrowed or for the payment of interest thereon, all persons who while holding or acting in a civic office have consented to the appropriation shall be jointly and severally liable to refund to the council the money so appropriated and interest thereon at four per centum per annum.

(2) Proceedings to enforce the liability imposed by this section may be taken in any court of competent jurisdiction.

(3) The proceedings may be taken—

(a) by the council; or

(b) by any elector of the area; or

(c) by any creditor of the council; or

(d) by the Attorney-General:

Provided that the proceedings shall not be taken by any person other than the Attorney-General or the council without the written consent of the Attorney-General.

200. If the council borrows any money which as the body corporate it is not legally bound to repay, every person who while holding or acting in a civic office has knowingly and wilfully or for any personal benefit or advantage consented to the borrowing shall, in addition to any liability to repay the money so borrowed, be liable to pay the sum of two hundred pounds to any person who sues for it in any court of competent jurisdiction :

Provided that the proceedings shall not be taken without the written consent of the Attorney-General.

Penalty for illegal borrowing.
cf. L.G. Act, 1903, s. 414 (Victoria).

Division 5.—*Endowment.*

General endowment.

201. All municipalities shall preserve the right to endowment they now enjoy by virtue of any Act repealed by this Act or by the Local Government Act, 1906.

Unexpired endowments under Municipalities Act, 1897.

202. (1) There shall be payable in the year one thousand nine hundred and ~~nineteen~~ **twenty**, and in each year thereafter out of the Consolidated Revenue for the endowment of shires a sum not less than one hundred and fifty thousand pounds, to be appropriated by Parliament for such purpose and paid to the shire councils.

cf. L.G. Acts, 1906-8, s. 162.
Shire—General endowment.
cf. L.G. Acts, 1906-8, s. 161 (2).

(2) Such endowment shall be distributed among the shires according to an apportionment which shall be made by the Governor.

Apportionment of endowment.

(3) In making such apportionment the Governor shall take into account in respect of each shire—

(a) the non-ratable land which is the property of the Crown (exclusive of lands vested in public bodies for public use, recreation, or enjoyment), and the extent to which the council undertakes to execute works of construction or of maintenance on roads on or in the vicinity of such land ;

(b) the necessity for aid in the development of new districts ; the extent to which the council undertakes to construct works for this purpose ; and the extent to which the people of the locality specially interested within the shire undertake to share the cost by means of a local rate ;

(c)

(c) the amount which the council has spent in the past three years on main roads in addition to any Government grant therefor;

(d) the special needs of the shire, and the difficulty or otherwise of constructing and maintaining roads therein;

(e) whether the road works constructed by the council are generally substantially constructed and properly maintained;

(f) any special matter which has arisen during the past three years indicating good or bad administration on the part of the council;

(g) the rate levied by the council, and its relation to the maximum rate;

(h) whether the valuations of ratable land are of recent date and are reasonably correct.

(4) Such apportionment shall be made by the Governor on or before the thirty-first day of December, one thousand nine hundred and twenty, and on or before the thirty-first day of December in every third year thereafter.

(5) For the triennial period ending on the thirty-first day of December, one thousand nine hundred and twenty-one, shire endowment shall, subject to the provisions of the next following section, be payable on the basis of the classification made during the year one thousand nine hundred and eighteen, under the Local Government Act, 1906.

No endowment to shire which levies less than 1½d. in £ ~~on u.e.v.~~

203. After the year one thousand nine hundred and ~~eighteen~~ **twenty** endowment shall not be paid in any year to any shire which in the preceding year has not levied a general rate of at least three half-pence in the pound.

Miscellaneous.

Treasurer to pay endowments. cf. L.G. Acts, 1906–8, s. 164.

204. (1) Upon receipt of a certificate signed as prescribed of the amount of endowment of an area under this Act, the Treasurer may, subject to this Act, pay such amount from the Consolidated Revenue Fund to the council of such area.

(2)

(2) The Treasurer shall, from time to time, be allowed credit for any sums of money so paid by him.

(3) The receipt of the mayor or president, under his hand and the seal of the area, countersigned by the town or shire clerk, shall be a sufficient discharge to the Treasurer.

Withholding of endowment.

205. (1) The Minister may withhold the payment of the endowment, main road grants, and any other moneys, in respect of any area—

cf. L.G. Acts, 1906–8, ss. 165, 166, 183, 167.

(a) if the council neglect or refuse to transmit to the prescribed person such information, statistics, returns, and accounts as may be prescribed;

(b) if the council neglect to appoint a certificated clerk or engineer as prescribed;

(c) if the council neglect to take steps to enforce the payment of rates;

(d) if the books and accounts of the council have been negligently or improperly kept or wilfully falsified.

(2) The Minister may release any endowment grant or money so withheld.

Endowments withheld for two years forfeited.

(3) If in accordance with any provision of this Act any endowment or part of an endowment is withheld for a period exceeding two years, such endowment or such part of endowment shall be forfeited.

cf. L.G. Acts, 1906–8, s. 167.

DIVISION 6.—*Accounts and audit.*

Keeping accounts.

Accounts generally.

206. (1) The council shall cause books to be provided and kept, and true and regular accounts to be entered therein in respect of each fund, so as to show—

cf. L.G. Act, 1906, ss. 183–186.

Accounts in respect of each fund.

(a) the assets liabilities income and expenditure in respect of the fund; and

(b) the sources of income and purposes of expenditure in respect of the fund.

cf. *Ibid.*

(2) The accounts of all councils shall—

(a) be kept according to uniform principles and methods as prescribed by or under this Act; and

(b)

(b) be kept in uniform forms of books, except where variation of forms is provided for by or under this Act.

Accounts in respect of various trusts, &c.

207. (1) This Act shall apply to the accounts in connection with—

(a) any reserve or cemetery or land vested in a council or placed under the care control or management of a council whether under any statute or proclamation notification or deed of trust or howsoever; and

(b) any undertaking work or function performed or managed by a council either as local authority council or trustee under any Act proclamation notification regulation ordinance or by-law, or in any capacity whatsoever.

(2) The provisions of any Act regulations or by-laws (other than the Commons Regulation Act, 1898) repugnant to the provisions of this section are to that extent repealed.

(3) Accounts under this section shall be allocated to and included in the appropriate funds of the council.

Charges against income and capital.

Charging expenditure generally. cf. L.G. Act, 1906, regulation 6.

208. (1) The expenditure of each fund shall subject to any provisions made by or under this Act be charged against income and capital as nearly as may be in accordance with commercial principles.

Charging expenditure of a trading fund. cf. *Ibid.*

(2) In connection with each trading fund the following shall be charged against income, that is to say—

(a) payment of the promotion expenses or the refund to any fund of payments made therefrom for promotion expenses;

(b) payment of the expenses of conducting managing and maintaining the undertaking, and of recovering charges and moneys in connection therewith;

(c) provision for bad debts;

(d) payment of the interest on moneys borrowed for the purposes of the undertaking;

(e)

(e) payment of the cost of repairs renewals minor improvements and minor extensions of the undertaking;

(f) provision of such sums as the council may each year deem necessary to meet depreciation and obsolescence of assets.

(3) In connection with each trading fund the following shall be charged against net income, that is to say—

(a) the refund to any fund of payments made therefrom to make good any deficiency in the income for any year of the trading undertaking;

(b) provision of such reserves as the council may deem expedient for meeting fluctuations of business or for repairs and renewals, or for extending or enlarging the undertaking or for providing or acquiring additional assets;

(c) transfers to the reserve for loan repayment in respect of moneys borrowed for the purposes of the undertaking.

(4) In connection with each trading fund the following shall be charged against capital, that is to say—

(a) payment of the cost of establishing providing acquiring extending or enlarging the undertaking or its assets;

(b) repayment of any moneys borrowed for the purposes of the undertaking.

Investment of reserves.

(5) Any reserve in connection with a trading fund may be invested in the undertaking or in any of the investments in which moneys paid into a reserve for loan repayment may be invested.

Interim and annual statements.

Interim and annual statements.

209. (1) The council shall cause interim and annual statements of accounts to be prepared and entered in forms provided by the Minister.

(2) Such statements shall comprise statements of each fund separately and of the aggregate of all the funds taken together.

(3)

(3) The annual statements in respect of an aggregate of funds shall comprise the following, that is to say—

(a) an income and expenditure account for the year ending on the thirty-first day of December;

(b) if so prescribed, a net income account for the year ending on the thirty-first day of December;

(c) a balance-sheet of assets and liabilities as at the thirty-first day of December.

(4) The statements shall be prepared and entered in each year as soon as possible after the expiration of the period concerned.

Audit and inspection.

Auditors.
cf. L.G. Acts, 1906-8, s. 184.

210. The accounts shall be audited by an auditor or auditors at the times and in the manner prescribed.

Nomination, appointment, and duties of auditors.

211. (1) Auditors shall be ~~nominated by the council and appointed by the Governor~~ **appointed by the council.**

(2) If a council fails to ~~nominate~~ **appoint an** auditor within the prescribed time the Governor may appoint an auditor without nomination by the council.

(3) The appointment shall be for a term of ~~five years~~ **one year**, but may be cancelled by the Governor at any time and an appointment may be made for the unexpired portion of the ~~five years'~~ **one year** term.

(4) Where an auditor's appointment has been cancelled under this section, ~~the Governor may decline to accept a re-nomination of the same auditor,~~ **the same auditor shall not be reappointed without the Governor's approval.**

(5) The remuneration of an auditor shall be fixed ~~as prescribed,~~ and ~~shall be~~ paid by the council.

(6) A person shall not be eligible to be ~~nominated or~~ appointed as auditor unless he holds the certificate prescribed.

(7) Where two persons are holders of the prescribed auditors' certificates hereunder they shall not be eligible to be ~~nominated or~~ appointed to audit each other's accounts.

(8) An auditor shall make a full and complete audit of all the accounts.

(9) An auditor shall certify whether or not—

(a) the accounts are in order;

(b)

(b) separate funds and accounts have been kept as prescribed by or under this Act;

(c) the charges with which the several operations accounts and funds of the council ought to be debited have been duly debited;

(d) the statements of accounts present a full and true view of all transactions for the period under investigation;

(e) due provision has been made for the repayment of loans;

(f) all items of income and expenditure and all known assets and liabilities have been brought into account;

(g) the value of assets has (so far as the auditor can judge) been in all cases fairly stated;

(h) the provisions made by or under this Act with respect to the funds and accounts have been duly carried out;

(i) due diligence and care have been shown in the collection and banking of income;

(j) the expenditure incurred has been duly authorised, vouched, and supervised;

(k) proper account has been kept of plant, stores, and materials;

(l) any of the moneys or other property of the council have been misappropriated or improperly or irregularly dealt with.

(10) An auditor shall report to the council and to the Minister as to any matters which in his judgment call for special notice or which are prescribed.

Inspectors of accounts.

cf. L.G. Acts, 1906-8, s. 185.

212. (1) The Governor may appoint inspectors of local government accounts.

(2) An inspector of local government accounts may inspect the accounts of councils and the internal organisation and management of the council's offices.

(3) An inspector of local government accounts shall report to the Minister and to the council any irregularity, dishonesty, or breach of law revealed by the inspection, and may report as to any matters which in his judgment call for special notice or which are prescribed.

213.

213. (1) An inspector of local government accounts may disallow any expenditure, transfer, or entry in the books or accounts of the council which has been incurred or made in contravention of any Act or any ordinance, regulation, or bylaw. Inspectors of local government accounts. L.G. Act, 1906, s. 185.

(2) The inspector shall surcharge the amount of any such disallowance upon the members or servants of the council by whom the expenditure, transfer, or entry was incurred or made or ordered to be incurred or made. *Ibid.*

(3) An inspector of local government accounts may surcharge on any member or servant of the council the amount of any deficiency or loss incurred by the culpable negligence or misconduct of such member or servant, or of any sum which ought to have been but is not brought into account by such member or servant. cf. Poor Law Amdt. Act, 1844 (Eng.), s. 32.

(4) Before surcharging the amount of any such disallowance on any person the inspector of local government accounts shall, if practicable, extend to the person upon whom he proposes to make the surcharge an opportunity to advance any reasons why such surcharge should not be made. cf. Poor Law Audit Act, 1848 (Eng), s. 8.

(5) An inspector of local government accounts may certify in the manner prescribed on the face of every account examined by him any money, books, deeds, papers, goods, or chattels found by him to be due from any person. cf. Poor Law Amdt. Act, 1844 (Eng.), s. 32.

(6) Immediately upon surcharging any sum on any person the inspector shall give notice in the form prescribed to the person concerned. Regulation 8 under L.G. Act, 1906.

(7) Any person upon whom a surcharge is made may, within one month after service upon him of the notice referred to in the preceding paragraph, appeal to the Minister, whose decision shall be final. cf. L.G. Act, 1906, s. 185.

(8) The Minister shall, in the manner prescribed, inform the council of which the appellant is or was a member or servant, of his decision thereon, and the council shall thereupon give effect to the decision. cf. *Ibid.*

(9) If the person concerned do not within one month appeal, or if on appeal the decision of the Minister be against such person, the council, the Minister, or any cf. The Local Authorities Act, 1902–1910 (Qsld.), s. 258 (4).

any ratepayer or creditor of the council may recover in a court of competent jurisdiction the amount of the surcharge (or any deficiency which may remain after the appropriation of any moneys in the possession of the council the property of such person); and the money so recovered shall be paid into the appropriate fund of the council.

(10) If there are any moneys in the possession of the council the property of such person, the council may appropriate so much of them as may be necessary to satisfy the amount surcharged.

(11) If any surcharge on any person be not within six months after it is made satisfied by payment or annulled on appeal to the Minister, as hereinbefore provided, such person shall, during such further time as the amount of the surcharge remains unpaid, be thereby disqualified for civic office.

(12) For the purpose of this section a "surcharge" shall be an entry in an account of the council made or caused to be made by an inspector of local government accounts, and purporting to show the amount surcharged as an amount due by the person surcharged. Definition.

(13) Nothing in this or any other Act shall preclude any disallowance or surcharge being made, or the amount thereof being recovered or deducted before or after the expiration of six months from the time when the matter of the disallowance or surcharge arose.

214. (1) For the purpose of any audit or inspection of accounts, an auditor or inspector of local government accounts may take evidence upon oath or affirmation (which oath or affirmation he is hereby empowered to administer), and may, by summons under his hand, require such persons as he thinks fit to appear personally before him, at a time and place to be fixed in and by such summons, and to produce to him such books and papers as appear necessary for such audit or inspection, and may examine such witnesses as he thinks fit. Powers of auditors and inspectors. cf. L.G. Acts, s. 186. cf. C.T.W. and S. (Amendment) Act, 1905, s. 54.

(2) Where an auditor calls witnesses before him under this section and where such witnesses are members or servants of a council, or residents of an area Where examination to be held.

area or district where accounts are under investigation, such examination shall be held either at the meeting place of the council or at some convenient place within the boundaries of such area or district.

(3) Any person so required who, without just excuse,— Enforcement of summons.

(a) neglects or refuses to comply with such summons; or

(b) refuses to be examined on oath or affirmation, or to take an oath or affirmation; or

(c) refuses to answer such lawful questions as are put to him,

shall be liable to a term of imprisonment not exceeding twelve months, or a penalty not exceeding twenty pounds.

Right to inspect and make objections.

215. Any elector may at the council's office inspect the books of account and the report of the auditor or of an inspector of local government accounts without fee as prescribed: Right to inspect books of account. cf. L.G. Act, 1906, s. 183 (3)

Provided that the council may fix and collect a fee from any person who desires to inspect in the valuation book of the council the entries relating to any land other than—

(a) land in respect of which he is the owner lessee or occupier or the agent authorised in writing by the owner; or

(b) land adjoining thereto.

216. Any elector may make any objection to the accounts before the mayor or president and the auditor. The auditor shall report on such objection to the council and the Minister. Right to make objections before auditors. cf. L.G. Act, 1888 (England), s. 71; Public Health Act, 1875 (England), s. 247.

217. Any member or servant of the council who does not permit any elector to make any inspection authorised by or under this Act shall be liable to a penalty not exceeding ten pounds. Penalty. cf. L.G. Act, 1906, s. 183.

Ordinances.

218. Ordinances may be made for carrying this Division into effect, and in particular for and with respect to— Ordinances. cf. L.G. Act, 1906, s. 189.

(a) the books of account and the entering of accounts therein;

(b)

(b) the collection and banking of moneys;
(c) the distribution of accounts to the appropriate funds;
(d) the classification of ledger accounts;
(e) the charging of expenditure in each fund against, and the definition of, income, net income, and capital;
(f) the distribution of levies, charges, earnings, and receipts, to income and capital;
(g) the charging of depreciation;
(h) the correction of the accounts and of omissions therefrom;
(i) the form, preparation, entering, furnishing to the public to the Minister and to various Government officers, and the publication, of statements of accounts;
(j) the duties of auditors;
(k) the time and manner of auditing accounts;
(l) the publication of statements of account;
(m) the inspection by electors of the books of account and of the reports of auditors and inspectors of local government accounts;
(n) the securing of uniformity in the keeping and presentation of accounts;
(o) requiring the council to furnish to the Minister information as to the action taken to deal with matters reported by an auditor or inspector of local government accounts.

PART

PART VIII.

Defaulting Areas.

219. (1) A municipality or shire may, for the purposes of this Act, be declared by proclamation to be a defaulting area— Definition of a defaulting area. cf. L.G. Acts, 1906–8, s. 168 (1).

(a) if there are not sufficient members of the council to form a quorum of the council; or

(b) if the requirements of this Act as to the making and levying of a general rate have not been duly carried out within the area; or As to quorum, see s. 47 ante.

(c) if the council has ceased for six months to exercise its functions.

(2) The Governor may at any time, by proclamation, appoint an administrator for a defaulting area, and may in like manner at any time remove him: Appointment of administrator for defaulting area. cf. L.G. Acts 1906–8, s. 168 (2).

Provided that in case of a default described in paragraph (a) of subsection one of this section, the Governor, instead of appointing such administrator, may at any time by proclamation authorise an election of or appoint the requisite number of aldermen or councillors. Governor may authorise an election or appoint aldermen or councillors.

(3) An administrator shall have the powers, duties, and liabilities of the council, and shall be paid out of the general fund of the area such salary as the Governor may determine. cf. L.G. Acts, s. 168 (4).

(4) When an administrator is so appointed, the servants (unless specifically retained by the administrator) and the officers in the area shall thereupon cease to hold office. Servants to cease to hold office. cf. L.G. Acts, s. 168 (3).

(5) At any time after the appointment of an administrator as aforesaid the Governor may, by proclamation, authorise the election of a new council on a day appointed in such proclamation. If at such election members of the council are elected sufficient to form a quorum, the powers and duties of the administrator shall cease, and the Governor may appoint aldermen or councillors to fill any vacancies on the council, but if sufficient members to form a quorum are not elected such election shall be of no effect. Election of new council. cf. L.G. Acts, s. 168 (5).

(6)

(6) Where an area becomes a defaulting area, the mayor or president, or if there is no mayor or president, the clerk, shall, until an administrator is appointed, or until a council is appointed or elected, have power to act temporarily as administrator for the purpose of carrying on works and services already commenced, paying accounts due, supervising and paying the servants of the council, performing administrative acts except the incurring of new expenditure, and, if the Minister's approval be obtained beforehand, incurring new expenditure. Interim administration.

PART IX.

Public Roads.

Division 1.—*Application of this Part.*

220. Subject to the provisions of this Act— Application.

(a) this Part shall apply to municipalities and shires; and

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

221. Unless otherwise expressly provided, this Part shall not apply to a national work nor to any public road which is by law vested in any public body other than the council. National works—Roads vested in statutory bodies. See ss. 225, 269, 274 post.

222. This Act shall apply to a public road notwithstanding that it may not at the commencement of this Act have been approved, accepted, and taken over by or been placed or taken under the care, control, and management of a council under the Local Government Act, 1906, or any Act repealed by that Act. Application to roads not hitherto taken over by councils.

223. Subject to the provisions of this Act, this Part shall apply to every present or future public road, but shall not apply to lands defined, reserved or left before or after the passing of this Act in any subdivision of Crown lands, or on the measurement or granting of Crown lands as indicated upon the official plans of the same, and not being notified, proclaimed or dedicated before or after the passing of this Act as a public thoroughfare or way. Present or future roads.

Division

DIVISION 2.—*Status of roads.*

Settling status o roads.

224. (1) Any road left in subdivision of Crown lands or in use over Crown lands shall be and become a public road under the control of and vested in the council on publication of a notification to that effect in the Gazette.

cf. L.G. Acts 1906-8, s. 73 (3

(2) Such notification may be given by the Minister ~~or the council; but in every case the consent of the Minister for Lands shall be obtained before the notification is made~~ **for Lands after due inquiry and the prescribed notice to the occupier, if any.**

(3) Where any road has been left in subdivision of private lands before the commencement of the Local Government Act, 1906, and there exists any doubt as to whether or not it is a public road—

(a) the council may serve on the owner of the land comprising the road notice of intention to take over the road;

(b) if the owner has any objection he may within thirty days after such service appeal to a district court judge having jurisdiction within the area;

(c) such judge may hear and determine the appeal and make such order as he thinks fit;

(d) if the owner does not appeal, or if on appeal the judge so orders, the council may notify in the Gazette that such road is a public road, and thereupon the road shall be a public road and shall vest in the council.

(4) This section shall be in aid of and not in derogation from any other provision of either common or statute law relating to the dedication of roads.

Certain public lands.

225. Where any land vested in the Sydney Harbour Trust Commissioners or in the Railway Commissioners for New South Wales or in any other statutory body representing the Crown, is used by the public as a road, the Governor, upon the request of the Council, may, notwithstanding the provisions of any other Act, after considering the report of the statutory body affected, proclaim the land to be a public road.

DIVISION 3.—*Classification and width of roads.*

226. (1) Public roads may be classified in relation to the use which they are intended or calculated to serve. Classification of roads.

(2) The classification shall be as follows, that is to say—

(a) main roads, being roads proclaimed as main roads ~~as elsewhere in this Act provided~~;

(b) secondary roads, being roads for general local traffic;

(c) residential roads, being roads primarily for access to residences;

(d) pathways, being roads exclusively for foot-passengers and such classes of vehicles propelled by foot-passengers as may be prescribed;

(e) ~~back~~ lanes, being roads primarily for access to the back of premises.

(3) The classification shall be made by the council except in respect of main roads.

(4) The classification shall be fixed and take effect upon notification in the Gazette. It shall also be notified in a newspaper.

(5) Subject to the provisions of this Act and until roads are classified hereunder— Tentative classification.

(a) all public roads which are sixty-six feet wide or over (other than main roads) shall be deemed to be secondary roads;

(b) all public roads which are more than twenty feet and less than sixty-six feet wide (other than main roads) shall be deemed to be residential roads;

(c) all public roads which are more than twelve feet and not more than twenty feet wide shall be deemed to be ~~back~~ lanes;

(d) all public roads which are not more than twelve feet wide shall be deemed to be pathways.

(6) The provisions of this Act with respect to classification of roads shall, unless inconsistent with the context, be deemed to include alteration of classification and re-classification. Re-classification.

227. (1) There shall be a standard width for each class of public roads, that is to say— Standard widths.

(a) for a main road—~~such width as the country roads board may fix not being~~ not less than eighty feet;

(b)

(b) for a secondary road—sixty-six feet;
(c) for a residential road—sixty-six feet;
(d) for a pathway—twelve feet;
(e) for a ~~back~~ lane—twenty feet.

(2) In the case of a public road in existence at the commencement of this Act the fact that the road is less than the standard width for a particular class shall not preclude it from being assigned to that class. cf. Width of Streets and Lanes Act, 1902; Syd. Corp. Act, 1902, s. 76.

(3) The Width of Streets and Lanes Act, 1902, shall not apply to a municipality or shire.

228. The width of a road shall be ascertained by measuring at right angles to the course thereof from the alignment on each side of the road. Measurement of width. cf. Sydney Corporation Act, 1902, s. 76; Municipal Corporations Act, 1908, s. 153 (3) (N.Z.).

229. (1) Subject to this Act every new public road shall— Width of new roads.

(a) be classified before it is opened; and
(b) be opened to or beyond the standard width for its class.

(2) In the case of a new residential road the council may on such terms as it deems proper permit the opening of a residential road of less than the standard width:

Provided that any such residential road shall not have less space than three feet for a footway on each side and fourteen feet between the footways for carriage way, tree-planting, and the like, together with such turning and passing places of additional width for vehicles as the council may require.

DIVISION 4.—*Road map and register.*

230. (1) The council shall cause to be prepared a road map and road register of the area. Map and register. cf. N.Z. Municipal Corporations Act, 1908, ss. 184-190.

(2) The map shall show—

(a) every public road which has been either classified, or aligned, or the levels of which have been fixed; and
(b) the classification of the roads classified.

(3) The register shall show—

(a) every public road which has been either classified, or aligned, or the levels of which have been fixed; (b)

(b) particulars of the classification, alignment, and levels as fixed from time to time, together with reference to the authority for the fixing; and

(c) such additional information as may be prescribed.

(4) The map and register may contain such other particulars as may be prescribed, or as the council may determine.

(5) From time to time as new public roads are opened, or as roads are classified, or as unaligned roads are aligned, or as levels are fixed, these facts shall be shown and entered upon the map and register.

(6) Any person may inspect the road map and register without fee as prescribed.

(7) Upon application and payment of the prescribed fee, any person may obtain from the council a copy or extract from the map or register, or a certificate under the hand of the proper servant of the council as to the classification, alignment, or levels of any road, or as to the fact that the classification alignment or levels has or have not been fixed.

Evidence.

231. (1) The classification, alignment, and levels of any public road may be proved by the production of—

(a) the notification in the Gazette; or

(b) the road register; or

(c) a certificate under the hand of the proper servant of the council as to the classification, alignment, or levels.

(2) The fact that the classification, alignment, or levels of any public road has or have not been fixed may be proved by the production of—

(a) the road register showing the fact; or

(b) a certificate under the hand of the proper servant of the council as to the fact.

(3) A certificate purporting to be made for the purposes of this section and to be signed by a servant of the council shall, unless the contrary is proved, be deemed to be a certificate under the hand of the proper servant of the council within the meaning of this section.

DIVISION 5.—*Fee-simple of roads.*

Fee-simple. cf. N.Z. Municipal Corporation Act, 1908, s. 153, cf. S.C. Act, 1902, s. 74. (Exceptions, see sec. 276 post.)

232. (1) Except where otherwise expressly provided, every public road, and the soil thereof, and all materials of which the road is composed, shall by virtue of this Act vest in fee-simple in the council, and the council, if it so desire, shall by virtue of this Act be entitled to be registered as the proprietor of the road under the provisions of the Real Property Act, 1900.

cf. Finchley Co. v. Finchley Council [1903], 1 ch. 457. See also s. 341.

(2) The vesting in fee-simple under this section shall be deemed to be not merely as regards so much of the soil below and of the air above as may be necessary for the ordinary use of the road as a road, but so as to confer on the council subject to the provisions of this Act the same estate and rights in and with respect to the site of the road as a private person would have if he were entitled to the site as private land held in fee-simple with full rights both as to the soil below and to the air above.

(3) Unless otherwise expressly provided nothing in this section shall be deemed—

(a) to affect any express or implied dedication to the public;

(b) to affect any existing right of the Crown or of any person in respect of any easement or under the provisions of any Act, except in so far as the council is authorised by or under this Act to control and regulate the digging up of public roads; See ss. 233 (6) and 281.

(c) to affect any right of the Crown or of any person in respect of any minerals below the surface of any road;

(d) to authorise the council to grant, demise, dispose of, or alienate the road or the soil or materials thereof;

(e) to impose on the council any liability in respect of any rate under any Act or in respect of any dividing fence under the Dividing Fences Act, 1902, or any liability in any case where the council would not be subject to the liability if this Act conferred on the council the care, control, and management of the road and did not vest the road in fee-simple in the council; or

(f)

(f) to prevent any land from being considered as adjoining within the meaning of section one hundred and twenty-four of the Public Works Act, 1912. cf. Harris v. Municipal Council of Sydney, 10 S.R., 860.

(4) This section shall bind the Crown.

233. (1) Without affecting the generality of any other provision of this Act, the provisions of this section shall subject to this Act apply to every public road. Proprietary rights in regard to roads.

(2) All materials placed or laid on the road in order to be used for the purposes thereof, including paving, guttering, kerbing, gutter-bridges, tree-guards, handrails, and the like, placed or laid by any person before or after the commencement of this Act, shall be the property of the council, and may at any time be removed by the council. Materials.

(3) All trees, shrubs, plants, and the like, grown or growing in the road (**other than a road within the boundaries of a state forest**), including trees, shrubs, plants, and the like, planted by any person before or after the commencement of this Act, shall be the property of the council, and may, subject to any ordinance, at any time be removed by the council.

(4) The council shall, in respect of any land alleged to be or to form part of a public road, have the right to lodge a caveat against the bringing of the land or any part thereof under the provisions of the Real Property Act, 1900. Caveats—vide L.G. Acts, 1906-8, s. 75B.

(5) Where any public road is resumed by the Crown the council shall be entitled to claim compensation therefor. Such compensation shall be limited to the capital sum spent by the council upon the construction of the road together with the sum, if any, paid by the council for purchase or resumption of the land therefor. In cases where the council finds it necessary to purchase or resume and construct a new road to replace that resumed by the Crown the council may in lieu of compensation as aforesaid claim as compensation the cost of the purchase or resumption and construction of such new road; and in such latter case the compensation when paid shall be placed in trust fund until expended on such new road. Payment for resumptions. cf. S.C. Act, 1902, s. 83 (5).

(6) Except where specially authorised by any Act a person shall not, without the permission of the council Laying pipes, wires, &c. cf. S.C. Act, 1902, s. 108.

council (which permission the council is hereby empowered to give), place, construct, excavate, lay, or erect any room, cellar, light-well, passage, tunnel, pipe, wire, rails, bridge, or other thing whatsoever, in any public road or anything whatsoever to connect buildings on opposite sides of the road.

(7) A person shall not use any public road, or the soil thereof, or permit the same to be used in derogation of or so as to affect the exercise of the rights or powers of the council. Use of road. cf. L.G. Act, 1906, s. 75 (2).

234. (1) The common-law rule as to support shall obtain as between the council as the owner of any public road and the owners of land abutting thereon. Lateral support of roads. cf. N.Z.M'pal. Corp. Act, 1908, s. 190.

(2) The council may throw the batter or make the slope of any public road upon any land adjoining the road, subject, however, to the payment of compensation. For compensation see s. 584.

DIVISION 6.—*Provision of roads.*

235. (1) The council may provide any public road, and in particular and without limitation of this or any other power conferred by this Act the council may— Power to provide roads.

(a) make surveys for the laying out of a new public road;

(b) lay out, construct, and open a new public road;

(c) extend and widen a public road;

(d) divert or alter the course of a public road;

(e) determine what proportion of the width of a public road shall be devoted to carriage-way, footway, tree-planting, gardens, grass-plots, island refuges, public conveniences, street lamps, fountains, monuments, statues, and the like; cf. L.G. Act, 1906, s. 84; Police Offences Act, 1901, s. 49.

(f) widen a public road to or beyond the standard width.

(2) Any land required for the purposes of this section may be acquired in any mode authorised by this Act. See also s. 520.

236. (1) The power of the council to provide any public road shall include the power to provide— Bridges, road-ferries, &c.

(a) any bridge, causeway, and the like over any water or depression crossing the line of the road;

(b)

(b) any road-ferry, ford, and the like over water crossing the line of the road.

(2) For the purposes of any other power of the council in respect of a public road any bridge, causeway, road-ferry, ford, or the like provided by the council in accordance with this section shall be deemed to be a public road.

Opening of new roads.

237. (1) A new public road shall not be opened except in accordance with the provisions of this Act.

See s. 341 post.

(2) This section shall apply to every new public road, whether it is opened by—

(a) the council; or

(b) a public body; or

(c) any person:

(3) **This section shall not apply to the Crown.**

Provided that where a public body is authorised by any Act to open a new public road, the road may be opened in pursuance of such authority, if the consent of the council, or the approval of the Minister after considering a report from the council, has been first obtained.

Entry on resumed or proclaimed road.

238. Where any land before or after the commencement of this Act is or has been resumed or acquired under the Public Roads Act, 1902, the Local Government Act, 1906, or this Act, and is or has been proclaimed or dedicated as a public road, but it has not been opened for public use, the council may at any time, notwithstanding any provisions in any Act, enter the land and remove therefrom any fences or obstructions, and open the road for public use.

Land for roads.

238. (1) Any land required for the purpose of carrying out the provisions of this Part may be acquired under the Public Roads Act, 1902, or under the provisions of this Act.

Council to provide compensation.

(2) Any sum paid as compensation or as part compensation for such land, with interest thereon and all necessary expenses incidental to the appropriation, exchange, or resumption thereof, shall be provided by the council.

Compensation in land.

(3) Nothing herein shall affect the power of the Secretary for Lands to make compensation or part compensation in land in pursuance of the said Act.

(4)

(4) Upon the closing of any road by the Minister for Lands under the provisions of the Public Roads Act, 1902, the fee-simple of so much of the land on which such road is situate as is vested in the council shall pass to the Crown, and such lands shall be Crown lands and may be dealt with under the said Act.

(5) Where under the Public Roads Act, 1902, a public road, or any part thereof, is closed and sold, the proceeds of the sale shall be paid to the council of the area in which the road is situated.

Permission to enter in anticipation.

239. Where a council deems it a matter of urgency and in the public interest, the council may use its funds for executing and maintaining works on a road diversion or new road prior to such road diversion or new road being dedicated a public road, but this provision shall not be deemed to confer any power of entry, nor to relieve a council of its obligations with respect to any expenditure required to complete and effect the dedication of such road diversion or new road.

DIVISION 7.—*Construction improvement and use of roads.*

Power to construct and improve roads.

240. The council may construct improve maintain protect repair drain and cleanse any public road, and in particular and without limitation of any other power conferred by this Act the council may in respect of any public road—

cf. Municipal Corporations Act, 1908, s. 153.

(a) construct improve maintain repair and cleanse the road with such materials and in such manner as the council thinks fit;

(b) place and lay paving kerbing and guttering in the road;

(c) place and lay for heavy traffic special trackways of steel concrete wood or suitable material in the road;

(d) place and lay for the traffic of vehicles special crossings over a footway in the road, where in the opinion of the council the traffic of vehicles across the footway to or from any land is such that a footway as ordinarily constructed cannot reasonably be expected to carry such traffic;

(e)

(e) light the road;

(f) plant trees in the road, make therein gardens and grass-plots, and erect therein tree-guards and fences for the protection of trees gardens and grass-plots; cf. L.G. Act, 1906, s. 84.

(g) erect island-refuges, public conveniences, street lamps, fountains, monuments, statues and the like in the road in such manner as in the opinion of the council will not unduly interfere with public convenience or with access to private premises;

(h) authorise on such conditions as the council deems proper any person to plant trees in the road, to make therein gardens and grass-plots, to erect therein tree-guards and fences for the protection of trees gardens and grass-plots, to erect therein street lamps fountains monuments and statues, and otherwise to embellish the road in such manner as in the opinion of the council will not unduly interfere with public convenience or with the access to private premises;

(i) sweep and cleanse the road, and remove mud filth and refuse therefrom;

(j) carry off water mud and filth from the road by drains or sewers; cf. S.C. Act, 1902, s. 82.

(k) exercise on such conditions as the council deems proper any power under this section at the request and cost of any person for the special though not necessarily sole convenience and benefit of his property.

(2) For the purposes of this section the council may—

(a) temporarily stop the traffic or certain kinds of traffic on any public road, including a road to which the Metropolitan Traffic Act, 1900, applies; cf. L.G. Act, 1906, s. 79.

(b) make and fence a temporary road on any land adjacent to a road on which the traffic is so stopped: cf. L.G. Act, 1906, s. 80.

Provided

Provided that the temporary road shall only be used as a public road during the stoppage:

Provided also that any person interested in the land shall have a claim against the council for compensation for any loss or damage directly caused to him by the exercise of this power. For compensation see s. 584.

241. (1) For the purpose of draining or protecting any public road the council may in and through any land of the Crown or of any public body or any person make open cleanse and keep open any ditch gutter tunnel drain or watercourse. Power to make drains on public or private lands. cf. L.G. Acts, 1906–8, s. 76.

(2) This section shall not apply to lands vested in the Railway Commissioners for New South Wales.

(3) If the property of the Crown or public body or person is damaged by the exercise of this power, the Crown or public body or person, as the case may be, shall have a claim against the council for the damage so sustained: See also s. 505 post. For compensation see s. 584 post.

Provided that in the case of unoccupied Crown land the Crown shall not have a claim against the council for any damage.

(4) So far as is necessary for the purposes of this section the power conferred by it shall be deemed to extend to land outside the area.

(5) Whether the land is inside or outside the area the council may exercise the power conferred by this section either alone or in co-operation with any other council:

Provided that if the councils do not agree, as they are hereby authorized to do, as to construction maintenance expense liability for damage or any matter incidental to the exercise of the power, the Minister may at the request of either council make such order with respect thereto as he may deem proper, and the councils shall comply with the order.

(6) For the purpose of preventing obstruction to the free flow of surface drainage in any watercourse across or from any public road the council may require the owner of land abutting upon such road to alter any fence

fence (including a rabbit-proof fence erected under the Pastures Protection Act, 1902) on such land, or to provide flood gates therein, in such manner as the council may specify, and for the like purpose may require the owner or occupier of such land to keep such fence or gate in good order.

(7) Any open surface drain which is hereafter constructed by a council across the carriageway of a public road shall be so constructed that there shall be a distance of approximately ten feet of level roadway at the bottom of the drain in the case of a main road and four feet in the case of any other public road, with slopes on each side leading from the bottom of the drain up to the level of the ordinary surface of the carriageway, and such slopes shall be of a grade not steeper than one in fifteen.

Council not liable for damage caused by tar.

242. A council shall not be liable for any damage caused by tar while in a moist or liquid state which shall have been applied to a road for the purpose of constructing, improving, maintaining, or repairing the same if, before applying the said tar, the council shall have first closed to vehicular traffic the portion of the road to be tarred, and shall have kept the said road so closed for a reasonable period after it has been tarred and shall have sanded the tarred portion thereof.

Removal of pipes, &c., in roads. cf. Municipal Corporations Act, 1908, s. 164, N.Z.

244. (1) The council may, by notice in writing, require the owner of any water pipe, gas pipe, drain, wire, rail, or other apparatus in any public road to raise, lower or otherwise alter the same as the council may in the public interest direct. This provision shall apply to any such pipe, drain, wire, rail, or apparatus whether placed in the road under the authority of any statute or by any statutory body or with or without the permission of the council.

(2) If the alteration is not made with all reasonable speed the council may make the same as it thinks fit.

(3) Except where the council has made an agreement to the contrary the cost of the alteration and of any damage occasioned thereby shall be borne in equal proportions by the council and the owner aforesaid.

(4)

(4) Any provision in any statute in conflict with this section shall be void to the extent of the ~~conflict~~.

Cost of paving, kerbing and guttering footways. cf. L.G. Act, 1906, s. 81.

243. (1) Where the council constructs or paves any footway or constructs kerbing or guttering in any public road, the council may recover in any court of competent jurisdiction from the owner for the time being of the land on the same side of the road as and adjacent to the work an amount to be fixed by the council not exceeding one-half the cost of so much of the work (and any other work incidental thereto) as is opposite and adjacent to the land.

(2) This section shall not apply to any renewal or repair of any paving kerbing or guttering in respect of which a contribution has previously been paid.

(3) The provisions of this Act with respect to—

(a) the charge of a rate under this Act on the land in respect of which it is levied; and

(b) the time within which proceedings for the recovery of the rate may be taken,

shall mutatis mutandis apply to any judgment recovered under this section by the council and recorded in the books thereof, as if the amount of the judgment and of any costs awarded to the council in respect of its claim were a rate levied under this Act in respect of the land concerned.

Crown bound.

(4) This section shall bind the Crown—

(a) except in respect of public reserves; and

(b) except as provided in subsection three of this section.

Cost of special crossings.

244. (1) Where the council constructs or repairs a special crossing over a footway in any public road for the traffic of vehicles across the footway to or from any land, the council may recover in any court of competent jurisdiction the cost of the construction and repairs as a debt from the owner or occupier for the time being of the land thereby served.

(2) This section shall bind the Crown.

245.

245. Where the council incurs extraordinary expenses in repairing a public road by reason of the damage caused by excessive weight passing along the road, or extraordinary traffic thereon, or any other unreasonable use thereof whether of the same or a different kind, the council may recover such expenses as a debt from any person by or in consequence of whose order such weight or traffic or use has been conducted. Extraordinary traffic. cf. Municipal Corporations Act, 1908, s. 192, N.Z.

246. The council may in respect of any public road— Use of roads.

(a) use portion of the width of the road for the storage of plant and materials for use in connection with any work of the council in such manner as in the opinion of the council will not unduly interfere with public convenience or with access to private premises;

(b) use the road and the soil thereof in the exercise of any power conferred on the council. cf. L.G. Acts, 1906-8, s. 75.

247. (1) Where the council proposes to construct, reconstruct, remetal, or repave the carriageway of any public road the council may before doing so make such provision (by laying conduits across the road at suitable intervals) as will enable gas and water service pipes to be laid to connect the mains with neighbouring land without digging up the constructed carriageway of the road. Power to lay pipes and charge cost.

(2) Before laying any such conduits the council shall seek the advice of the persons or bodies engaged in supplying gas and water in the area as to the most suitable form of conduit, the method of laying it, and incidental matters.

(3) When the person or body engaged in supplying gas or water requires to lay any service pipe to connect any land with the mains that person or body shall lay such service pipes through such conduit, and each shall when first laying a pipe through the conduit pay to the council one half of the cost of the laying of the conduit.

(4) Where service pipes are already laid in a road at the time of construction of the conduit the person or body aforesaid may continue to enjoy their use but when such service pipe requires attention it shall be relaid through the conduit or a new service pipe shall be so laid.

(5)

(5) This section shall apply to pipes laid under the Metropolitan Water and Sewerage Act of 1880, the Hunter District Water Supply and Sewerage Act of 1892, or under any statute or under any permission granted by the council.

Railway rates.

248. Notwithstanding anything contained in section twenty-four of the Government Railways Act, 1912, the Railway Commissioners for New South Wales may charge councils a reduced rate in respect of goods (or carriages for such goods) conveyed over a railway line or portion of a railway line where such goods are to be used or adapted to be used by the council in the construction and maintenance of public roads or for carrying out the powers conferred upon a council by this Act.

DIVISION 8.—*Control and management of roads.*

Care control and management of roads.

cf. Sydney Corporation Act, 1902, s. 81.

249. The council shall have the care control and management of every public road, and in particular and without limitation of this or any other power conferred by this Act the council may in respect of any public road—

cf. L.G. Act, 1906, ss. 95 (1) (g); 109 (xlviii).

(a) name and alter the name of the road: **Provided a prescribed notice be given and the approval of the Minister be obtained;**

(b) number buildings fronting the road, put numbers on the buildings, or require the owners thereof to number them in accordance with a plan of numbering adopted by the council;

(c) attach road-name plates to buildings street-lamps and structures adjacent to the road;

cf. L.G. Act, 1906, s. 109 (xxxv).

(d) control and regulate buildings balconies verandahs awnings or structures abutting on the alignment of the road;

(e) control and regulate, prevent the erection or order the removal of, buildings, balconies, verandahs, awnings, or structures of any kind on any road or extending from any land over the alignment of any road;

(f) control and regulate gratings in footways;

(g) prevent the use of barbed wire in fences along the road if it is in a municipality or in a town having a population of five hundred or more in a shire;

(h)

(h) order the owner of any unsightly, dilapidated, or dangerous fence, verandah, awning, shed, or other similar structure on or near to the road to repair or remove the structure;

(i) in any case where the public health safety or convenience renders it expedient, order the owner of any land not separated from the road by a sufficient fence to enclose the same by a fence to the satisfaction of the council; cf. Municipal Corporations Act, 1908, s. 251 (N.Z.); L.G. Act, 1906, s. 102.

(j) prevent the defacing marking or injuring of any building wall post or fence fronting the road, or of any pavement kerbing carriage-way tree or part of the road by the affixing of any paper or placard thereto, or by painting chalking or writing thereon: Provided that, subject to the provisions of ~~this~~ any Act relating to the control and regulation of signs and advertisements, this sub-paragraph shall not apply to the affixing of any lawful advertisement or sign to or upon any building or fence by or with the authority of the owner of the premises; cf. Sydney Corporation Act, 1902, s. 189.

(k) regulate the use by the public of the road; cf. Syd. Corpn. Act, 1902, s. 200 (l) (m).

(l) notwithstanding any provisions of the Metropolitan Traffic Act, 1900, **or the Motor Traffic Act, 1909**, control and prevent traffic or certain kinds of traffic upon any part of the road which is newly formed constructed or repaired, and upon any gardens or grass plots in the road;

(m) control and regulate the weight of load (including the vehicle, if any, upon which the load is carried) which may be carried upon or over any bridge culvert causeway or road-ferry;

(n) control, regulate, and prohibit the use, on narrow or winding roads, of traction engines and of any vehicles which, by reason of their size or character, constitute a danger or obstruction to the traffic ordinarily using the road;

(o) notwithstanding the provisions of the Metropolitan Traffic Act, 1900, control and regulate traffic

traffic on and in relation to special trackways laid in the road, and require such classes of vehicles as may be prescribed to use such special trackways;

(p) notwithstanding the provisions of the Metropolitan Traffic Act, 1900, control and regulate traffic of vehicles on special crossings over any footway of the road;

(q) subject to the provisions of the Metropolitan Traffic Act, 1900, control and regulate processions in the road;

(r) control and regulate the manner route and times of driving in the road loose animals, that is to say, animals not under control by reins or halters nor attached to a vehicle; cf. Sydney Corporation Act, 1902, s. 74.

(s) fix and collect fares for passengers animals and vehicles conveyed by any road-ferry of the council;

(t) control and regulate the solicitation or collection in the road or from house to house adjacent thereto of gifts of money or of subscriptions for any purpose; cf. L.G. Act, 1906, s. 109 (xlv).

(u) prevent the littering of the road and control and regulate the distribution of handbills and the like therein;

(v) permit, with or without fee, speed contests upon public roads, regulate and control such contests and the precautions to be taken for public safety; and temporarily close roads and control traffic for the purposes of such contests; Speed contests on roads.

(w) provide, maintain, and regulate watering and camping sites for use by the public and travelling stock on or near roads, and charge a fee for the use thereof; Watering and camping sites.

(x) protect the gutters, drains, and watertables of any road from traffic, lay logs and barriers for such protection, and prevent persons from driving vehicles along such gutters, drains, and watertables; and

(y) sell or otherwise dispose of any timber on roads provided that the money derived from any such sales shall be expended for road purposes.

Stoppage of traffic.
cf. S.C. Act, 1902, s. 105.
cf. L.G. Acts, 1906-8, s. 79.

250. (1) For the purpose of doing any work upon or under any public road, or whenever any public necessity may arise, the mayor or president or proper servant may prevent any traffic through or along the same, and may take any measures for the protection of the public from accidents.

(2) The council may on any footpath or pathway erect posts or barriers to prevent improper traffic, or to give warning of any danger.

(3) The council may temporarily stop specified classes of heavy traffic of vehicles and of stock over a road while, as the result of wet weather, the road is likely to be seriously damaged by that traffic.

cf. Metrop. Traffic Act, 1900, s. 7 (m) (n).

(4) The council may direct by which routes various classes of traffic shall pass through any town in its area, and those classes of traffic shall travel by and not leave the routes thus prescribed until they reach the point on these routes nearest to their destination.

Public gates.
Vide L.G. Acts, 1906-8, s. 109 (1).

251. (1) The Governor may, by proclamation, upon the application of the council, confer upon the council the powers conferred upon the Secretary for Lands by the Public Gates Act, 1901.

(2) In any case where the council is already at the commencement of this Act exercising such powers, or where the council is so empowered hereunder, any person who has obtained lawful authority other than from the council to erect a public gate shall on reasonable notice produce such authority for notation by the council, and in the erection and maintenance of such gate and of the road approaches thereto shall be governed by the provisions of any ordinance relating to public gates erected under authority granted by the council.

Closing and alteration of roads.
cf. L.G. Act, 1906-8, s. 83.

252. Notwithstanding the provisions of the Public Roads Act, 1902, a public road or part thereof shall not be closed, nor shall the position of a reserved road within an incomplete purchase from the Crown or within a conditional lease be altered, unless the consent of the council has been first obtained.

Public ferries.
Vide L. G. Acts, 1906-8 s. 75A.

253. Where a public ferry which was in operation at any time during the year ended on the thirty-first day of December, one thousand nine hundred and six, passed to the care of a council, the council shall cause such ferry to be worked for the use of the public, unless the Minister grants permission to close the ferry.

256. (1) The council of a shire may grant permission to depasture animals on public roads in cases where owing to heavy rainfall there is an excessive growth of grass. Depasturing animals on roads.

(2) Any permission so granted shall be subject to conditions for the protection of the public.

(3) This section shall not apply to roads which abut upon the catchment area of any public water supply constructed under this or any other Act.

(4) Where a public road is not, for the time being, used for public traffic the council may, subject to this Act, give permission for the enclosing of the part so unused by fencing and gates, and thereupon grant a lease of grazing rights thereon on such conditions as the council may decide. Such lease shall be terminable at the will of the council. Enclosing roads for grazing.

(5) The lessee of the road shall provide unlocked gates or slip panels whereby the public may obtain free access to the road if necessary; and shall maintain thereon a notice informing the public of its right to use the road.

254. (1) The council of every shire shall, within ~~one year~~ three years after the commencement of this Act, at or near to every intersection of a main road with another public road establish and shall thereafter maintain legible road signs. Road signs.

(2) A road sign shall give with respect to both the main road and the intersecting public road the name of each road and the name and distance of the nearest important town or district in each direction, with such other information as the council may decide.

(3) The council of every shire shall, at the traffic centre of each town or village within the shire, and also at each point where a main road intersects the town or village boundary, erect a road sign bearing the name of the town or village.

(4) The Governor may, by proclamation, apply this section to the whole or any specified part of any municipality; and thereupon the council of the municipality shall with respect to that municipality or part be charged with duties similar, mutatis mutandis, to those herein laid upon a shire council.

Railway construction and roads.

255. (1) Where any road is subject to exceptional traffic due to the construction of any railway or tramway by the Railway Commissioners for New South Wales the council may claim from the Commissioners payment of such a sum as will provide to keep the road in reasonable repair during such traffic and fully recoat the road after the construction of the railway or tramway is finished. Any dispute hereunder shall be settled by reference to the Minister as provided in Part XXXI of this Act. See sec. 657.

(2) Any sum so paid shall be added to the cost of the railway or tramway as the case may be.

Damage to roads.

256. (1) The council may by resolution prohibit the doing of any act upon a public road if that act would be likely to inflict upon the road damage to an extent in excess of the ordinary wear and tear which would be caused by the ordinary and reasonable use of the road for the passage of foot and wheeled traffic.

(2) Notice of such resolution shall be advertised in a newspaper.

(3) Any person who disregards such prohibition shall be guilty of an offence.

Certain Acts not to apply to public roads. Vide L.G. Acts, 1906-8, s. 111. Schedule One.

257. Subject to this Act, the Acts mentioned in Schedule One shall not apply to public roads which are under the care, control, and management of the council.

Division 9.—*Alignment of roads.*

Alignment under Public Roads Act, 1902.

258. The council may cause the alignment of any public road to be set out and marked under the Public Roads Act, 1902, and any such alignment shall be an alignment under this Act.

Alteration of alignment.

259. The provisions of this Act with respect to alignment of roads shall, unless inconsistent with the context, be deemed to include alteration of alignment and re-alignment.

Existing alignments.

260. (1) In the case of every public road, any alignment for the time being in existence fixed before or after the commencement of this Act in accordance with the provisions of this or any other Act, shall be deemed to be an alignment for the purposes of this Act.

(2)

(2) Where before or after the commencement of this Act the carriage-way or footway of any public road has been set out, defined, aligned, marked, re-marked, or altered under the Police Offences Act, 1901, or the Public Roads Act, 1902, the boundary line between the road and any land abutting thereon as fixed by or in relation to such setting out, defining, aligning, marking, re-marking, or altering of the carriage-way or footway, shall be deemed to be the alignment of the road for the purposes of this Act.

cf. Public Roads Act, 1902, ss. 23, 27. Police Offences Act, 1901, ss. 44–49. Syd. Corp. Act, 1902, s. 95.

DIVISION 10.—*Widening of roads—Special provisions.*

261. (1) Without limitation of any other power conferred by this Act the council may widen any public road by including in the carriage-way the whole or a part of the footway and acquiring from an owner of abutting land the whole or a part of a new footway subject to a reservation of specified rights in favour of the owner. Colonnading.

(2) Any land required for widening a road in accordance with this section may be acquired subject to a reservation of such of the following rights in favour of the owner as the council may at or before the time of acquisition determine, that is to say—

(a) a right to the ownership possession occupation and use of any existing building room or cellar so far as the same is at a specified height or depth above or below the level of the new footway, and subject to the right of the council to make such structural alterations as may be required;

(b) a right to erect any building in accordance with the provisions of this Act at a specified height above the level of the new footway, and to own possess occupy and use the same;

(c) a right of support for any building coming within clause (a) or clause (b) of this subsection.

262. (1) The council may cause any aligned public road to be realigned under the Public Roads Act, 1902, in order to widen the road. Realignment.

(2)

(2) Any realignment under this section may be carried into effect by the acquisition under this Act of the necessary land, or under the succeeding provisions of this section relating to the realignment method of acquiring land, or by a combination of these methods.

(3) Where the council proposes to apply the realignment method of acquisition to any lands affected by a realignment it shall serve notice accordingly upon the owners of lands affected; and until such notice is served the interests of such owners shall not be affected by the realignment.

Compensation.

(4) Under the realignment method compensation for any injurious effects suffered by reason of such realignment may be claimed but shall be limited to payment of the value of the land taken from any owner by reason of the realignment, and such value shall be ascertained and such compensation shall be payable as at the date when such land is cleared of buildings and obstructions by the owner or lessee whether for the purpose of rebuilding to the new alignment or not, and from that date the land shall vest in the council for a public road.

For settlement of compensation see sec. 584.

Prohibition of construction or substantial repair of buildings and works.

(5) Where any public road is realigned, and where the realignment method is applied, the owner of any land or building or work affected by such realignment shall not construct, build, place, reconstruct, rebuild, replace, or repair any building or work or portion of a building or work standing upon the land between the old alignment and the new:

Provided that the council may approve the execution of minor and not substantial repairs in order to permit of the reasonable preservation of any existing building or work, but not so as to violate the intention of this section.

Power to purchase or resume for realignment.

(6) Whether or not the council has elected to apply the realignment method it may, at any time, and notwithstanding any such election, decide to purchase or resume any or all of the lands affected by the realignment under the provisions of this Act relating to the purchase or resumption of land.

When the land forms part of the road.

(7) Notwithstanding the provisions of the Public Roads Act, 1902, the land between the old alignment

alignment and the new shall not form part of the road until the council has acquired title to such land, or a dedication thereof as a public road has been effected.

DIVISION 11.—*Levels of roads.*

Existing levels.

263. (1) In the case of every public road, any level for the time being in existence fixed before or after the commencement of this Act in accordance with the provisions of this or any other Act shall be deemed to be a level for the purposes of this Act.

(2) In the following cases, that is to say, where at the commencement of this Act any public road is constructed of macadam or otherwise in a permanent manner, the levels of the road shall be deemed to have been fixed by and in accordance with such construction and to be levels for the purposes of this Act.

Power to fix levels.

cf. Municipal Corporations Act, 1908, ss. 184, 190, N.Z.

264. (1) The council may fix the levels of any public road.

(2) Before so doing the council shall—

(a) cause a plan of the proposed levels to be exhibited for public information at some convenient office of the council;

(b) cause a notice to be published in the Gazette and a newspaper indicating the proposal and calling upon all persons interested to set forth in writing addressed to the town or shire clerk within one month from the date of the notice any objection to the proposal, and also in the case of any original fixing of levels a claim for the provision of reasonable means of access to the property in which they are interested, and in the case of any refixing of levels a claim for compensation for any loss or damage which they may sustain by reason of the property being directly affected in any injurious manner by reason of the refixing;

(c) cause a copy of the notice to be exhibited in some conspicuous manner in or near the road.

(2) After considering the objections the council may approve the plan with or without alteration, and thereupon the levels shall be in accordance with the plan as approved.

(3)

(3) The levels shall be fixed and take effect upon the approval of the council being notified in the Gazette.

(4) If in the case of any original fixing of levels the access to the premises of any person is thereby directly affected in an injurious manner, the council shall provide reasonable means of access to the premises.

(5) If in the case of any re-fixing of levels the land in which any person is interested is thereby directly affected in an injurious manner, the person shall have a claim against the council for compensation for any loss or damage which he may sustain by reason of the land being so affected.

(6) Every notice in the Gazette under this section may be proved as conclusive and binding on all parties by production of the Gazette. cf. Sydney Corporation Act, 1902, s. 96.

(7) Every plan of the levels of public roads purporting to be approved under this section and sealed with the seal of the council shall be conclusive evidence of its contents on production thereof by any servant of the council. cf. *Ibid.* s. 96.

265. The provisions of this Act with respect to levels of roads shall, unless inconsistent with the context, be deemed to include alteration and refixing of levels. Re-fixing levels.

266. Notwithstanding the provisions of the Public Works Act, 1912, the Government Railways Act, 1912, or any Act, a tramway shall not be constructed in any public road otherwise than in accordance with the level of the road, unless the council consents. Altering levels for tramway purposes. See Division 11 of Part XXXI for settlement of disputes.

DIVISION 12.—*Obstructions and encroachments on roads.*

267. (1) The council may order that any obstruction or encroachment upon a public road be removed therefrom. Removal of obstructions. cf. L.G. Act, 1906, s. 82.

(2) The order shall—

(a) be directed to the person causing the obstruction or encroachment or the owner of the land or premises to which such obstruction or encroachment appertains or adjoins so as to be used or to be able to be used in connection therewith;

(b)

(b) be served on such person or owner; and

(c) be placed upon the obstruction or encroachment or on the land immediately adjoining the same.

(3) If the obstruction or encroachment came into existence before the alignment of the road, or if the road has not been aligned, the order shall allow sixty days or such longer period as the council may decide for the removal.

(4) If the obstruction or encroachment came into existence after the alignment of the road and before the commencement of this Act the order shall allow seven days or such longer period as the council may decide for the removal.

(5) If the obstruction or encroachment come into existence after the commencement of this Act the order may allow such time as the council shall think fit for the removal.

(6) In the following cases, that is to say, where the obstruction or encroachment came into existence before the alignment and before the commencement of the Local Government Act, 1906, the council shall, subject to the provisions of this section, pay reasonable compensation for the removal.

(7) Compensation shall not be paid where an agreement to that effect is made nor in the case of an obstruction or encroachment of the following description, that is to say: hedge, fence, wall in the nature of a fence, post, steps, tree, awning, verandah, post supporting an awning or verandah, drain, watercourse, and any structure of wood, iron, bark, ruberoid, canvas, or other like material.

(8) The preceding provisions of this section shall not apply to obstructions or encroachments placed on any road by virtue of any statute.

(9) Where, by virtue of any statute, any obstruction or encroachment (and particularly any obstruction or encroachment such as an embankment, railway or tramway rails sewer man-hole covers, and the like) has been placed upon any public road by any statutory body or by any person, the body or person having the

the charge, use, or enjoyment of the object which is or causes the obstruction or encroachment shall maintain it in good order and repair in such state as to permit and promote the free use and passage of the public upon the public road; and shall construct and maintain the road surface within and for a reasonable distance in all directions (beyond the obstruction or encroachment) at the same height as the obstruction or encroachment (and thence a reasonable slope not steeper than one in fifteen to the level of the road) for the purpose of providing for the smooth passage of wheeled vehicles.

Sand.
cf. L.G. Acts, 1906-8, s. 98.

268. Where any land is in such a condition that sand blown or falling from it causes obstruction to any public road, the council may order the owner thereof to do all things necessary to remove and prevent the recurrence of the obstruction.

Division 13.—*Traffic.*

Regulation of traffic.

269. (1) The council may regulate traffic in public places.

cf. L.G. Acts, 1906 8, s. 73 (1).

(2) Notwithstanding the other provisions of this Act, this section shall apply to public places which are national works; but shall not authorise any interference with the powers of the Minister for Public Works in carrying out necessary repairs or alterations to such national works, or in regulating the weight of loads or classes of traffic permitted to cross national bridges.

(3) Notwithstanding the provisions of the Metropolitan Traffic Act, 1900, the council may serve notice upon any person conducting any class of unusual or heavy traffic that such traffic must not use any residential road except in a case where its destination lies in that residential road, or where it is impracticable to reach the destination otherwise than by using a residential road, and that in the latter case the traffic shall use only such residential roads as it is necessary to use.

Metropolitan

Metropolitan Traffic Act.

270. (1) The provisions of the Metropolitan Traffic Act, 1900, relating to roads shall, where that Act is in operation, apply to pathways as defined by this Act. Metropolitan Traffic Act, 1900. Vide L.G. Acts, 1906-8, s. 90.

(2) The Metropolitan Traffic Act, 1900, shall not, except as hereinafter provided, apply to a shire.

(3) Where, at the commencement of this Act, the aforesaid Act applies to a shire or part thereof, it shall be deemed to have been so applied under this Act.

(4) At the request of the council of a shire, the whole or part of which is within the county of Cumberland, the Governor may, by proclamation, apply that Act to the shire or to part thereof.

DIVISION 14.—*Provisions as to particular roads.*

271. (1) Where any work constructed or controlled by or for a trust constituted under the Water Act, 1912, is upon a road controlled by a council, and the trust neglects to maintain the work in proper order and condition, the council may, if the trust fail to effect the necessary repairs to the work within one month after receiving notice from the council, effect such repairs, and may recover the cost so incurred from the trust. Works on roads—under Water Act, 1912.

(2) Where the council considers it necessary to construct any crossing or culvert over a drain or work controlled under the said Act by a trust the council may recover the cost so incurred from the trust.

272. If in the opinion of a council it is necessary or advisable that a road or drain outside its area should be opened, made, or repaired for the purposes of carrying on any work or service by the council or for the convenience or use of the people in the area the council may by agreement with the council of the area in which the road or drain is or will be situated open, make, or repair the road or drain or contribute a sum to the council last mentioned for the purpose of opening, making, or repairing the road or drain. Roads or drains outside area. cf. N.Z. Municipal Corporations Act, 1908, s. 159.

273.

Roads over land of statutory bodies representing the Crown.

273. (1) The council may by arrangement with any statutory body representing the Crown contribute to the expenses of the statutory body in constructing or maintaining a way of access across any land or works under the control of the statutory body.

(2) Subject to the powers of the statutory body, any way of access so constructed or maintained shall be deemed to be a public road within the meaning of this Act:

Provided that the provisions of this Act vesting the fee-simple of a road in the council or conferring any right in the nature of a proprietary right on the council shall not apply to such way of access.

(3) Where it becomes necessary in the opinion of the council that a road should be provided across any railway line under the control of the Railway Commissioners for New South Wales, and the council fails to secure an agreement under this section, the council may (if it also fails to secure an agreement to refer the matter in dispute to the Minister as elsewhere provided in this Act) apply to a judge of the Supreme Court for an order directing the Commissioners to provide such road.

(4) Such judge shall hear and determine the matter, having due regard to the public interest and safety, and to the requirements of the locality and of the railway service, and may make such order as he may deem fit with respect to the provision and maintenance of the road, the bearing of the expenses thereof by either or both the parties, and any other matters in connection therewith.

(5) Where such judge orders that a road be provided, he shall permit the Commissioners to select the site within such limits as he may deem reasonable, and to decide whether the road shall cross the railway by level crossing, by subway, or by overhead bridge.

(6) Any road constructed under this section shall be constructed and controlled by the statutory body concerned.

Adaptation of Public Roads Act, 1902.

274. In the Public Roads Act, 1902—

(a) any references to a municipality shall be deemed to refer also to a shire; (b)

(b) any references to the council of a municipality shall be deemed to refer also to the council of a shire;

(c) any references to the Municipalities Act, 1897, shall be deemed to refer also to this Act; and

(d) any references to the Commissioner for Roads shall be deemed to refer also to the council of a municipality or of a shire.

Compensations on lines of Public Roads Act, 1902. cf. s. 13, 15. P. R. Act, 1903. cf. sec. 584.

278. Except where otherwise expressly provided, any compensation payable by the council in respect of any land resumed under this Act for the purposes of this Part shall not include any compensation which would not be payable by the Crown if the land were resumed by the Crown under the Public Roads Act, ~~1902.~~

Powers contained in Police Offences Act, 1901. cf. Sydney Corporation Act, 1902, s. 213.

275. (1) For the purpose of this Part the council and its servants shall have the powers relating to public roads conferred by the Police Offences Act, 1901, on any person therein mentioned, and may enforce any provision in that behalf contained in that Act.

Extension of Part III to shires and municipalities.

(2) The provisions of Part III of the Police Offences Act, 1901, or any part thereof, may, on the application of the council, be extended by proclamation to the whole or any part of the area of the council: Provided that, on such extension, the council may, in its discretion, postpone from time to time the compliance with the requirements of section forty-eight of the said Act.

Division 15.—*Closing of roads.*

Closing roads.

280. (1) This section shall apply only to a public road which has been opened by any person other than the Crown upon or through his own land.

(2) Any person or council may make application to the Minister to cancel the dedication of and close or sell a public road, and shall in such application specify the reasons therefor.

(3) The applicant shall be liable to the Minister for payment of the whole amount, as assessed by the Minister, of the costs, charges, and expenses incurred in connection with such application and with the closing of the road: Provided that if the Governor closes the road and vests the land comprised therein in the Minister as hereinafter provided, the Minister may, if he see fit, pay such costs, charges, and expenses or such part thereof as he deems proper out of the proceeds of the sale or lease of such land and release the applicant in whole or in part from the liability for such payment hereby imposed.

(4) (i) If the Minister decides to consider the application he shall order the holding of a public inquiry, and may require the lodging of a deposit to defray the expenses of investigating and considering the application.

(ii) After the holding of such public inquiry the Minister may, if he thinks fit, recommend to the Governor to cancel the dedication of road, and close the road, and to vest the land thereof in the Minister, and may direct that as a condition precedent to the closing of the road compensation be paid by the person or council making the application to any person having an estate or interest in land fronting the road who would suffer pecuniary loss in respect of such land by the closing of the road. The amount of any such compensation directed to be paid as aforesaid shall be as determined by the Minister, whose decision in the matter shall be final.

(5) The Governor may, upon the recommendation of the Minister as aforesaid, by proclamation cancel the dedication of and close the road, and by such proclamation may vest the land comprised therein in the Minister, who may dispose of the same for such purposes and upon such conditions as he may think fit:

Provided that any such vesting in the Minister or disposal by him of any such land shall not affect any right to work the minerals contained therein, and that reasonable compensation, to be fixed by arbitration in accordance with the method decided upon by the Minister, shall be made to the Minister, or, if such land has been

been disposed of by him, to the owner or occupier of such land, for any damage to the surface thereof or to any improvements thereon resulting from the working of such minerals.

(6) The Minister shall certify to and forward a copy of the proclamation issued under this section to the Registrar-General to be registered by him in the general register of deeds, unless such land is wholly or in part comprised in a grant or a certificate of title under the Real Property Act, in which case upon production of such proclamation so certified as aforesaid, it shall be the duty of the Registrar-General to deal with and give effect to such proclamation as if the same were a memorandum of transfer duly executed under ~~the said Acts.~~

(7) A conveyance of any land disposed of by the Minister by sale in pursuance of his powers under a proclamation issued under this section may, if the same is comprised in any memorandum of transfer under the said Acts, be made by a like memorandum of transfer, to be executed by the Minister as transferor, and the purchaser as transferee, which shall have the like effect for all purposes of the said Acts as a memorandum of transfer thereunder.

(8) Where any road is closed and sold under this section any surplus proceeds remaining after the expenses of complying with this section have been defrayed shall be paid by the Minister to the council.

276. The provisions of the Public Roads Act of 1902 in regard to the closing of roads shall extend to and include any road, whether such road was originally opened by the Crown or not: Provided that any surplus money left after the disposal of the land where a road is closed shall be paid to the council.

DIVISION 16.—*Ordinances.*

277. Ordinances may be made for carrying this Part into effect, and in particular for and with respect to— Ordinances.

(a) the publication and sufficiency of notices with respect to the proposed levels of a public road;

(b)

(b) the publication and sufficiency of notices with respect to the approval by the council of the plans of levels of a public road;

(c) the marking of the alignment of a public road;

(d) the control and regulation of the digging up of a public road by any ~~public~~ statutory body or by any person whether under the authority of any Act or not; the co-ordination and arrangement of such digging up so as to cause the least public inconvenience; and the proper replacement, reconstruction, and repair of the roads so dug up;

(e) the control and regulation of the position of gas and water pipes, sewers, drains, electric wires, and cables, and the like laid in public roads by ~~public or statutory authorities~~ statutory bodies; and by any person whether under the authority of any enactment or not;

(f) the regulation and control of all stands and stalls used in any public road for the sale of any article; and the licensing and regulation of street sellers; cf. Act No. 39, 1905.

(g) the regulation and control, subject to the provisions of the Neglected Children and Juvenile Offenders Act, 1905, of all persons engaged in the sale of articles, or in the occupation of a shoeblack in any public road; cf. Act No. 39, 1905.

(h) requiring and regulating the sweeping of footways;

(i) preventing danger to the public in a public road by reason of the want of repair or the absence of lighting protection or enclosure or by reason of any other condition of any building, excavation, or place on any land in the vicinity of any public road, and requiring owners or occupiers of such land to provide protection to the public; cf. S.C. Act, 1902, s. 87. cf. L.G. Acts, 1906-8, ss. 102, 109 (xxxv).

(j)

(j) requiring the occupiers and owners of land abutting upon or adjacent to any public road to remove, lower, trim, or cut down any tree, hedge, or plant overhanging or overshadowing such public road or obstructing traffic, light, or drainage therein;

(k) preventing animals being allowed at large upon public roads;

(l) preventing and regulating the depositing of unsightly ~~materials~~ **matter** and rubbish upon lands fronting public roads in cases where such materials or rubbish constitute a disfigurement of the locality, and ordering the removal thereof;

(m) providing for the recovery by the council of extraordinary expenses incurred in the repair of a public road to remedy damage caused by ~~excessive weight passing along the road~~ **unreasonable use of the road and defining unreasonable use**; cf. N.Z. M. Corp. Act, 1908, s. 192.

(n) prohibiting or regulating the locking of the wheel of any vehicle when descending a hill on any public road unless there is placed at the bottom of such wheel during the time of its being locked a skid-pan slipper or shoe in such manner as to prevent the road from being injured by the locking of such wheel; cf. Vic. Country Roads Act, 1915, s. 61.

(o) prohibiting or regulating the use on any public road of any vehicle, including a motor vehicle under the Motor Traffic Act, 1909, and including a traction engine, which has not the nails on its wheels countersunk in such manner as may be specified in the ordinance or which has on its wheels any bars, spikes, or other projections forbidden by the ordinance; *Ibid.*

(p) prohibiting or regulating the dragging or trailing of any sledge, timber, or other heavy material upon any public road; *Ibid.*

(q) prohibiting the drawing or propelling on any road (except upon wheels shod with tyres) of any conveyance or thing capable of damaging the surface of the road or endangering the public;

(r) the posting in some conspicuous place or places where a public road is temporarily closed to traffic of notices with all necessary information thereon respecting the alternative route provided by the council, and the keeping of such notices in repair;

(s) regulating the driving and leading of any kind of animals in public roads, prescribing routes therefor, and prohibiting the same in prescribed roads during prescribed hours; and cf. Metropolitan Traffic Act, 1900, s. 7 (m) (n).

(t) prohibiting any prescribed description of vehicle using prescribed roads during prescribed hours.

PART

PART X.

Public Health and Convenience.

Division 1.—*General.*

Application.

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

(a) this Part shall apply to municipalities and shires; and

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

(2) This Part shall apply to all places and premises in the area, whether public or private, including existing as well as future places and premises.

The council's general powers. cf. Municipal Corporations Act, 1908, s. 279 (N.Z.).

279. For the purposes and subject to the provisions of this Act, the council may do all things necessary from time to time for the promotion and preservation of public health and convenience.

Health Inspectors. References in Acts to inspectors.

280. (1) The council may appoint health inspectors.

(2) Any reference in any Act to a sanitary inspector or an inspector of nuisances or a health inspector shall so far as a municipality or shire is concerned be deemed to be a reference to a health inspector under this Act.

Division 2.—*Sanitation.*

Sanitation, use, and occupation of premises.

281. (1) The council may control and regulate—

(a) the sanitation of premises; and

(b) the use and occupation of premises so as to avoid any insanitary condition thereon or any interference therefrom with the healthiness of the vicinity.

(2) In particular, and without limitation of this or any other power conferred by this Act, the council may, for the purposes of sanitation and the preservation of the public health and decency—

(a) control regulate and require privy accommodation in premises; and require special privy accommodation in hotel premises, lodging-houses, and the like;

(b) require premises to be connected with the sewers of the council where such sewers are available;

(c) require premises to be connected with the sewers of any statutory body representing the Crown, where such sewers are available;

(d) require premises to be provided with a sufficient water supply;

(e) require premises **in municipalities, towns, and urban areas** to be made proof against rats and to be kept free from rats;

(f) require premises to be kept free from rubbish or offensive or unwholesome matter;

(g) require premises to be cleansed, disinfected, and whitewashed;

(h) control and regulate the use and occupation of buildings and rooms so as to prevent overcrowding;

(i) **in municipalities, towns, urban areas, and villages,** prevent the use and occupation for residential purposes of buildings or rooms ~~not erected or~~ not suitable for residential purposes;

(j) require buildings and rooms to be properly ventilated;

(k) control and regulate plumbing and draining;

(l) demolish any building with respect to which a closing order has under the Public Health Act, 1902 (as amended by section sixteen of the Public Health Amendment Act, 1915) been duly made, unless within three months after the service of the closing order or within such further time as the council may allow the building has to the satisfaction of the council been rendered fit for human habitation or occupation; and

(m) control and regulate the erection of stables on premises **in municipalities, towns, and urban areas.**

DIVISION 3.—*Depot-rubbish, including nightsoil, garbage, trade refuse, and offal.*

Removal and disposal.

282. (1) The council may control and regulate the keeping on premises and the removal, disposal, and destruction of all depot-rubbish. Keeping, removal, and destruction.

(2)

(2) For the purposes of this Act— Depot rubbish.

(a) "depot-rubbish" shall be any kind of rubbish which in the interests of public health or convenience it is expedient or desirable to remove to a sanitary depot or elsewhere for sanitary disposal or destruction, and in particular shall include nightsoil, garbage, trade refuse, and articles of human food unfit for human consumption;

(b) "nightsoil" shall be deemed to include urine;

(c) "garbage" shall be deemed to include such kinds of refuse, rubbish, manure, and ashes, as may be prescribed: and where such prescription has not been made shall be deemed to include trade refuse, offal, and all kinds of refuse, rubbish, manure, and ashes;

(d) "trade" refuse shall be deemed to include such kinds of refuse in any trade or business or calling as may be prescribed; and

(e) "offal" shall be deemed to include meat-refuse, fish-refuse, blood, and such other portions of any animal as are not ordinarily used for human food.

283. (1) The council may provide, maintain, manage, control, and regulate— Depots, destructors, and plant.

(a) sanitary depots and destructors for the disposal or destruction of depot-rubbish, and for the cleansing of pans;

(b) plant for the removal of depot-rubbish;

(c) plant for the cleansing of pans and in particular of pans for nightsoil and garbage; and

(d) piggeries and pigs for the consumption of wholesome house and shop refuse.

(2) The council may receive at any such depot and dispose of or destroy any depot-rubbish, whether the depot-rubbish is brought to the depot by the council or any other council or by any statutory body representing the Crown or by any person.

(3) Any such depot may be within or outside the area.

(4) The situation of any such depot shall be subject to the approval of the ~~Board~~ **Minister** of Health.

(5)

(5) The council may remove or require the removal of depot-rubbish from any premises, and in particular and without limitation of any other power conferred by this Act— Removal of depot-rubbish.—Scavenging districts.

(a) shall fix and define scavenging districts for nightsoil or garbage; and

(b) may require that the removal of all nightsoil or garbage, or both, within any such district shall be by a service conducted by or on behalf of the council.

(6) The council shall in respect of any service conducted by or on behalf of the council for the removal of nightsoil, garbage, or trade refuse (or in respect of any combination of these services) make a charge for such service in accordance with Division 3 of Part VII of this Act. Charges for removal. cf. L.G. Acts, 1906–8, s. 103. Vide sec. 166, et seq.

(7) The Governor may, upon application of the council, exempt it from the operation of the whole or any of the provisions of the next preceding subsection. Exemption in certain cases.

(8) Exemptions granted under the provisions of subsection two of section one hundred and three of the Local Government Act, 1906, shall be deemed to have been granted under this section.

284. All depot-rubbish— Property in depot-rubbish. cf. Sydney Corporation Act, 1902, s. 156 (3).

(a) removed from any public place or from any premises by or on behalf of the council, or

(b) received at any depot of the council—

shall be the property of the council.

Contracts.

285. (1) In any contract for the removal of nightsoil, or garbage, or trade refuse, or any combination of such removals, the council may agree with the contractor for the collection by him and the retention for his own use of part or the whole amount of the charges in respect of such service. Contract for performance of service.

(2) Before any such contract shall be entered into, the amount of the charges in respect of the service shall be fixed by the council.

(3) In any such case the contractor shall keep account of the services rendered and of the charges collected

collected, and such account shall be open to inspection by the town or shire clerk, by an auditor or inspector of accounts or by any person liable for payment of the charges.

(4) Such charges may be recovered by the contractor as a debt at any time within twelve months after the making of a written demand for payment.

DIVISION 4.—*Disinfection.*

Disinfection of premises.

286. The council or the proper servant may order the owner or occupier of any premises to disinfect the same to the satisfaction of the proper servant and within such reasonable time as may be specified in the order.

Disinfection of second-hand articles.

287. (1) The council or the proper servant may order the occupier of any premises used for the storage or sale of second-hand clothes or furniture to disinfect the clothes, furniture, or premises, and any vehicle used in connection therewith.

(2) The disinfection shall be carried out—

(a) to the satisfaction of the proper servant; and

(b) within such reasonable time as is stated in the order.

DIVISION 5.—*Interferences with health or convenience.*

Nuisances.

288. (1) The council may prevent the creation of public nuisances and may abate or require the abatement of public nuisances.

(2) Nothing elsewhere contained in this Act shall be construed to impair the powers given by this section.

(3) Nothing in this Act shall be construed to impair any power of abating nuisances at common law.

cf. Sydney Corporation Act, 1902, s. 176.

Various powers of the council.

289. The council may—

(a) control and regulate the situation, character, construction, alteration, maintenance, cleansing, and use of furnaces and chimneys so as to prevent so far as possible the formation of smoke; require the alteration of furnaces and chimneys for that purpose; and for the purposes of this paragraph furnaces connected with one chimney shall be deemed to be one furnace;

cf. Sydney Corporation (Amendment) Act, 1905, s. 12 (1).

cf. L.G. Act, 1906, s. 109 (xxxviii).

(b)

(b) control and regulate the emission, discharge, or escape from any premises of smoke, fumes, steam, vapour, dust, oil, waste water or waste products; cf. L.G. Act, 1906, s. 109 (xxxviii).

(c) control and regulate the use of premises so as to prevent objectionable noises thereon or noises thereon at unreasonable hours;

(d) control and regulate noises in or near any public place, and in particular noise from the exhaust gas of internal combustion engines other than the engines of motor vehicles;

(e) control and regulate the keeping of animals, and in particular pigs, pigeons, and poultry on premises; cf. Syd. Corpn. Act, 1902, ss. 144, 145, 146, Syd. Abattoirs & N.P. Act, 1902, s. 14. 18, 133–301–404.

(f) prevent the pollution of water and of watercourses, whether natural or artificial; cf. L.G. Act, 1906, s. 73–1 (viii).

(g) remove seaweed and debris from foreshores of tidal waters within or adjacent to the boundaries of the area for the purpose of preventing or abating nuisances therefrom.

DIVISION 6.—*Food.*

Control and regulation.

290. The council may control and regulate—

(a) premises for the storage or sale of meat, fish, fruit, or any prescribed article of human food;

(b) the storage, exhibition for sale, carriage, and delivery of meat, fish, fruit, and any prescribed article of human food;

(c) restaurants, cafes, tea-rooms, eating-houses, and the like;

(d) the preparation, keeping, and serving of food in hotels, restaurants, cafes, tea-rooms, eating-houses, and the like;

(e) the hawking and peddling of articles of human food.

Inspection and wholesale disposal.

291. The council may appoint places for the inspection and wholesale disposal of meat and fish not being preserved or salted.

Meat, fish, and fruit.

292. For the purposes of this Part—

(a) meat shall be deemed to include beef, mutton, lamb, ham, bacon, pork, poultry, rabbit, game, and

and all such flesh or other edible parts of any animal as are used for human food, but not tinned goods;

(b) fish shall be deemed to include crustaceans but not tinned goods or oysters;

(c) fruit shall not be deemed to include tinned or bottled goods.

Power to seize food unfit for human consumption. cf. Sydney Corporation Act, 1902, s. 188.

293. (1) Any health inspector may seize any article of human food which in his opinion is unfit for human consumption and is in or upon any premises or place which the council has power to license, regulate, control, or appoint under this Part, or is in the possession of any hawker or peddler or of any person whom the council has power to license under this Part.

(2) Upon any proceeding in that behalf in a summary way any justice may besides inflicting any penalty or penalties provided by law order that such article of food be destroyed.

DIVISION 7.—*Adaptation of Acts.*

"Local authority" under other Acts. cf. L.G. Acts, 1906-8, s. 7.

294. (1) The council shall within its area be the local authority within the meaning of the following Acts, that is to say—

(a) the Public Health Act, 1902;

(b) the Public Health (Nightsoil Removal) Act, 1902;

(c) the Noxious Trades Act, 1902;

(d) the Cattle Slaughtering and Diseased Animals and Meat Act, 1902.

(2) Any reference in those Acts to a municipality or to the council thereof, or to a local authority, or to an officer or servant of a municipality, council, or local authority, shall apply to the council of a municipality or shire under this Act, or to a servant thereof.

(3) References in any such Act to by-laws under any Act shall be deemed to refer also to ordinances under this Act.

(4) The council of a shire as the local authority may continue to employ the services of the police as inspectors under the Cattle Slaughtering and Diseased Animals and Meat Act, 1902, subject to the approval of the Inspector-General of Police.

295.

Dairies Supervision Act.

295. (1) The council of a municipality shall within its area be the local authority within the meaning of the Dairies Supervision Act, 1901.

Vide L.G. Acts, 1906-8, s. 89.

(2) The Governor may, on the recommendation of the Board of Health, proclaim that a shire council shall be the local authority within the meaning of the Dairies Supervision Act, 1901. Thereupon such council shall within its area be the local authority within the meaning of the said Act.

Amendment of Public Health Act, 1902.

Land unfit for building.

300. Subsection one of section fifty-five of the Public Health Act, 1902, is hereby amended by the insertion at the end thereof of the following proviso :—

"Provided that, in a municipality or shire, such notice shall not be revoked except upon the recommendation of the council."

Amendment of Cattle Slaughtering and Diseased Animals and Meat Act, 1902.

296. The Cattle Slaughtering and Diseased Animals and Meat Act, 1902, is hereby amended as follows :—

(a) Section three is amended by the insertion after the word "requires" of the following definition :—

cf. L. G. Act, 1906, s. 96.

"Cattle" includes sheep, lambs, pigs, goats, and bovine cattle.

(b) Section fifteen is repealed and the following is inserted in lieu thereof :—

15. (1) For any cattle or skin inspected by an inspector there shall be payable a fee according to a scale to be prescribed by proclamation under this Act.

(2) Such fee shall be paid by the keeper of any licensed house or place in or at which such inspection is made.

(3) Such fee shall be paid to the council by whom such inspector was appointed, or, where the inspector is appointed by the Governor, to such inspector.

(4) Such fee may be recovered before any justice.

(c) Section twenty-one is amended by the addition of the following subsection :—

(2) A local authority may refuse or cancel a license upon proof that the applicant for or holder of the license is a convicted cattle thief or person of bad character.

297.

297. For the purposes of this Part the council and its servants shall have the powers relating to the preservation of public health and the prevention of nuisances conferred by the Police Offences Act, 1901, on any person therein mentioned and may enforce any provision in that behalf contained in that Act.

Powers under the Police Offences Act, 1901.

cf. Sydney Corporation Act, 1902. s. 213.

See also s. 279, ante.

DIVISION 8.—*Utilities and other provision for health and convenience.*

298. (1) The council may provide, control, and regulate the following utilities for public health or convenience, that is to say—

Provision and management.

(a) infants' milk depots;

cf. L.G. Act, 1906, s. 109 (xlvi).

(b) **maternity and infant welfare centres;**

(~~b~~ c) wash-houses and laundries;

(~~c~~ d) civil ambulance brigades;

(~~d~~ e) public privies and conveniences;

(~~e~~ f) disinfecting chambers;

(~~f~~ g) lethal chambers for dogs and other animals.

(2) The council may subsidise civil ambulance brigades.

(3) The council may make such charges for the use of any of the utilities or for any articles supplied in connection therewith as the council may from time to time determine.

Charges.

299. The council may provide temporary hospitals and nursing attendance in any such hospitals or elsewhere in case of the occurrence of small-pox or of any disease declared by proclamation under the Public Health Act, 1902, to be an infectious disease.

Temporary hospital accommodation.

DIVISION 9.—*Animals.*

300. (1) Any person generally or specially authorised by the council, or by the mayor or president, may—

Dangerous animals upon public places.

(a) kill, remove, and destroy any animal which is at large in any public place, if in his opinion the animal is a danger to the public safety, or is so diseased or injured as to be past recovery;

(b) remove and destroy any animal which is found lying dead in any public place or on any private land; and

(c)

(c) sell or dispose of the carcase of any animal so killed or found.

(2) The council may—

(a) recover the expense from the owner of the animal or from the occupier of the land; and

(b) apply any proceeds of the sale of the carcase in or towards defraying the expense incurred under this section:

Provided that the owner shall be entitled to any balance on proving his ownership to the satisfaction of the council.

DIVISION 10.—*Various powers.*

Structural work required by council.

301. Where the council requires any structural work or alteration to be done or made upon any premises under this Part the owner of the premises shall be primarily liable to comply with the requirement:

Provided that the council may require the occupier of the premises to do the work or make the alteration in default of compliance by the owner, and in any such case the occupier shall—

(a) comply with the requirement: and

(b) be entitled to recover from the owner the cost incurred by such compliance.

Boarding-houses, barbers' shops, &c.

302. The council may control and regulate—

(a) boarding-houses;

(b) houses let in lodgings;

(c) barbers' shops and any premises used for the business of hairdressing or shaving.

DIVISION 11.—*Ordinances.*

Ordinances. cf. L.G. Acts, 1906 8, s. 74 (1).

303. Ordinances may be made for carrying this Part into effect, and in particular for and with respect to—

(a) the supply by the council of privy pans and garbage pans, and requiring owners and occupiers of premises to accept, pay for, and use pans supplied by the council;

(b)

(b) the condemnation and replacement of privy pans and garbage pans;

(c) the regulation of contractors for the removal of depot rubbish, and the vehicles of such contractors;

(d) the abolition or the construction, use, and regulation of cesspits;

(e) requiring owners and occupiers of premises to report to the council defects or nuisances in or in connection with privies, privy pans, garbage pans, trade-refuse pans, and the like;

(f) the amount of privy accommodation for each sex which shall be provided in public and private premises;

(g) the construction and alteration of drains on private premises or connecting private premises with public places, or with the sea or any river or watercourse;

(h) the regulation or suppression of any trade causing a nuisance, or which is in any way offensive or noisome; cf. S.C. Act, 1902, s. 200 (q).

(i) prescribing and compelling the carrying out of structural alterations in furnaces and chimneys for the purpose of preventing the emission of smoke and preventing interference with the public convenience; and regulating and controlling the use of such furnaces and chimneys; and the inspection of such furnaces and chimneys; cf. Act No. 39, 1905. cf. L.G. Acts, 1906-8, s. 187-1 (lv).

(j) the licensing, control, and regulation of premises for the storage or sale of meat, fish, fruit, or any prescribed article of human food; cf. L.G. Acts, 1906-8, s. 109-1 (xxxvii).

(k) the licensing, control, and regulation of restaurants, cafes, tea-rooms, eating-houses, and the like;

(l) the licensing, control, and regulation of peddlers and hawkers of articles of human food;

(m) requiring any person who is engaged in the preparation, distribution, sale, carriage, or delivery of articles of human food, and is reported to be suffering from a disease proclaimed as an infectious disease under the

Dairies

Dairies Supervision Act, 1901, to submit to a medical examination by a medical practitioner on behalf of the council;

(n) requiring and regulating the ventilation of existing buildings;

(o) inspecting any premises, food, matter, or thing; and

(p) the keeping clean of lavatories provided in hotels, shops, and the like for the use of visitors, customers, or persons resorting to the premises, and the supply, use, and cleanliness of towels, soap, and other accessories therein.

PART XI.

Building Regulation.

Division 1.—*Interpretation.*

304. In this Part, unless inconsistent with the context or subject matter— Interpretation.

"Builder" means the person who is employed to build or to execute work on a building, or, where no person is so employed, the owner of the building.

"Building" includes any structure or any part thereof.

"Erection," "erect," and similar expressions in relation to building, include any structural work or any alteration, addition, or rebuilding.

"Party wall" means wall used or built in order to be used as a separation of any building from any other building, with a view to such buildings being occupied by different persons.

"Party fence wall" means boundary wall or fence parting the ground belonging to different owners or occupied by different persons.

Division 2.—*General powers.*

305. (1) The council of a municipality may control and regulate the erection of buildings in the municipality, and this Part shall apply accordingly. Application to municipalities and parts of shires.

cf. L.G. Acts 1906-8, s. 109 (xliii) 187-1 (lxix).

(2)

(2) The council of a shire may control and regulate the erection of buildings—

(a) in those portions of the shire with respect to which, at the commencement of this Act, the council has acquired the powers of paragraph (xliii) of section one hundred and nine of the Local Government Act, 1906, and this Part shall apply to those portions of the shire accordingly; and

(b) in any urban areas, towns, or villages to which the Governor, by proclamation, applies the provisions of this Part.

(3) Where this Part applies only to an urban area, town, village, or portion of a shire, the word "area" or "shire" where used hereafter in this Part shall be deemed to refer only to such urban area, town, village, or portion.

Buildings generally.

306. (1) A building shall not be erected or used in contravention of the provisions made by or under this Act.

(2) A building erected for any purpose other than residential shall not subsequently be occupied or used for residential purposes without the prior consent of the council.

Illegal roads and sub-divisions.

307. The council may disapprove of the erection of any building upon any land—

(a) fronting a road opened after the commencement of this Act in a manner not in accordance with this Act; or

(b) subdivided after the commencement of this Act in a manner not in accordance with this Act; or

(c) **if the land has not been subdivided and if by the erection of the building the land would become obviously adapted for separate occupation in two or more parts.**

Building line.

308. (1) The council may, subject to any ordinances, fix building lines.

(2) A building shall not be erected between the building line and any public place or public reserve.

(3) In any case where a main secondary or residential road is less than sixty-six feet wide the building line (whether fixed by the council or not) shall be at

at a distance from the middle line of the road at least equal to one-half of the standard width for the class to which the road belongs.

DIVISION 3.—*Residential districts.*

309. (1) The Governor may on the application of the council— Proclamation of residential districts.

(a) declare by proclamation any defined portion of an area to be a residential district;

(b) by proclamation alter or abolish a residential district;

(~~b~~ c) prohibit the erection in such district of any building for use for the purposes of such trades, industries, manufactures, shops, and places of public amusement as may be described in the proclamation; and

(~~c~~ d) prohibit the use of any building in the district for any such purposes; and

(~~d~~ e) prohibit the erection or use of advertisement hoardings in the district.

(2) Nothing in this section shall preclude the continuance of the use of any building for any purpose for which such building was used at the date of the proclamation aforesaid, or for such other purpose as the council may in the circumstances deem reasonable.

DIVISION 4.—*Applications, plans, and specifications.*

310. Subject to the provisions of this Act and of any ordinance every building hereafter erected in the area shall be erected to the satisfaction of the council— Buildings to conform to Act and ordinances.

(a) in conformity with this Act and the ordinances; and

(b) in conformity with the application, plans, and specifications in respect of which the council has given its approval for the erection of the building.

311. A building shall not be erected or altered unless the approval of the council is obtained therefor beforehand. Approval of the council.

312. (1) Application for the approval of the council shall— Application.

(a) be made by the builder or owner or his architect in the prescribed manner; (b)

(b) be accompanied by two copies of such plans and specifications as may be prescribed;

(c) be accompanied by the prescribed fee.

(2) One copy of such plans and specifications shall become the property of the council, but shall not be used for any purpose other than giving effect to the provisions of this Act or of any Act relating to local government or public health. Plans and specifications.

(3) Any plans and specifications may within seven days of receipt by the town or shire clerk be returned by him if they are not clear and easily legible, or if they do not contain sufficient information, and in such case the application shall be deemed to have been made on the day when plans and specifications free from those defects are lodged with the council. Illegible or incomplete plans or specifications.

(4) Section fifty-three of the Police Offences Act, 1901, shall not apply to an area or portion of an area to which this Part applies. Police Offences Act, 1901.

313. In respect of any application for approval of the erection of a building the council shall take into consideration— Subjects for consideration.

(a) drainage, ventilation, lighting, and the healthiness of the building;

(b) design, materials, stability, building line, and height;

(c) size, height, and lighting of rooms; height of floor levels in relation to level of road;

(d) size, height, and materials of party walls between buildings;

(e) the proportion of the site to be covered by the building and the provision of open spaces and light areas;

(f) the position of the building or any out-building or office in relation to other buildings or to the boundaries of the site;

(g) the provision of storage for water for domestic purposes;

(h) means of access generally and particularly the means of access for the purposes of the removal of nightsoil, garbage, and other refuse.

314. (1) The council shall consider each application and the plans and specifications accompanying it, and may Duty of council.

may subject to the provisions of this Act approve, or approve subject to conditions, or disapprove thereof: Provided that—

(a) the application plans and specifications may at any time be modified in such manner or respects as the council may approve; and

(b) the council shall not approve unless it is satisfied that a building erected in accordance with the application plans and specifications, or any modifications thereof which it approves, would be in accordance with the provisions of this Act and the ordinances.

(2) The council shall give notice to the applicant of its approval, or approval subject to conditions, or disapproval within forty days after service of the application.

(3) In the case of an approval subject to conditions or of a disapproval the reasons therefor shall be indicated in the notice.

When approval lapses.

315. Any approval given under this Part, or under any ordinances made thereunder, shall be void if the building work to which it refers is not substantially commenced within twelve months after the date of the approval.

Use of building before completion.

316. (1) The council may either generally or in any particular case prohibit the use or occupation, without its permission, of any building until it has been completed in accordance with the approved plans and specifications.

(2) Application for permission under this section shall be made as prescribed.

(3) The council may grant or refuse permission, or may grant permission subject to conditions, as it may deem proper in the circumstances of the case.

Penalties.

317. If any person does or causes to be done any work in connection with the erection of a building without the approval of the council or not in conformity with such approval, he shall be liable to a penalty not exceeding fifty pounds and a further penalty not exceeding ten pounds for each day during which such work is done after notice from the council.

DIVISION 5.—*Ordinances.*

318. Ordinances may be made for carrying this Part into effect, and in particular for and with respect to— Ordinances.

(1) the form and contents of plans and specifications;

(2) the distance from the middle line of any public road within which buildings shall not be erected;

(3) fixing the building line for various classes of buildings in respect of various public roads;

(4) regulating or preventing the erection of dwelling-houses so that the front elevation thereof faces any ~~back~~ lane or pathway;

(5) fire prevention and fire escapes in existing and future buildings, including the provision and closing of fire shutters;

(6) the control and regulation of fixtures attached to and projections from the outside of existing and future buildings;

(7) the erection of party walls and party fence walls, and the alteration or rebuilding of existing party walls (including in each case the position design materials stability thickness and height of the wall or fence wall, as the case may be);

(8) defining the respective rights duties and obligations of owners and occupiers of adjoining buildings or lands in relation to external walls, party walls, party fence walls, jambs, flues, or recesses in walls or chimneys on the line of junction, and providing for the recovery by an owner from an adjoining owner of a fair proportion of the cost of the erection or alteration of such walls jambs flues recesses or chimneys; See N.Z. M'pal Corpns. Act, 1908, s. 495.

(9) the minimum area and frontage of land upon which any building may be erected; cf. N.Z. M'pal. Corp. Act, 1908, s. 494.

(10) the conveniences to be provided in dwelling houses;

(11) preventing building on flooded or unhealthy land;

(12)

(12) requiring and regulating the enclosure of unenclosed land by suitable walls or fences; cf. N.Z. Municipal Corp. Act, 1908, s. 193.

(13) requiring licensing and regulating the erection maintenance and use of hoards and fences on public places for the protection of the public during building operations; cf. Syd. Corp. Act, 1902, s. 90.

(14) permitting licensing and regulating the enclosure and use of portion of any public place for the erection of scaffolding, depositing of building materials, or carrying out of operations necessary to the erection of buildings on the land adjoining such public place; cf. Syd. Corp. Act, 1902, s. 93.

(15) excavations;

(16) the alteration or demolition of existing buildings;

(17) underpinning and shoring of adjoining buildings;

(18) authorising the council to order the pulling down, opening, or cutting into any work for the purpose of facilitating inspection where the council has reason to believe or suspect that anything has been done in contravention of this Act, or of the ordinances;

(19) the securing or the demolition of ruinous or dangerous buildings or walls;

(20) preventing the use or occupation of any building erected or altered otherwise than in accordance with this Act, or the ordinances hereunder;

(21) providing for the alteration and repair of skylights and roof lights on existing buildings; cf. L. G. Act, 1906, s. 109, (xxxix).

(22) regulating or prohibiting the erection of any structure of calico or canvas or any other textile material;

(23) the testing of building materials;

(24) requiring the making of provision for the safety of window cleaners; and for that purpose regulating the construction of windows, the equipment of window cleaners, and the cleaning of windows; and

(25)

(25) any of the matters which a council is by this Part directed to take into consideration in respect of any application for approval to erect a building.

319. Any such ordinance may provide— Additional provisions re ordinances. cf. N.Z. M'pal. Corp. Act, 1908, s. 495.

(a) that the whole or any portion of this Part or of any ordinance shall not apply to the erection of any specified class or classes of buildings, or of special, temporary, or wooden buildings;

(b) for the conditions under which buildings of one class may be in whole or in part converted into buildings of another class;

(c) for the entry by a building owner, his servants, agents, or workmen, on any premises at reasonable hours for the execution of any work or the doing of anything which he is required by the ordinance to execute or do;

(d) generally for carrying into effect the purposes of the ordinance.

PART

PART XII.

Town Planning.

Division 1.—*General powers.*

Application of this Part.

320. Subject to the provisions of this Act—

(a) this Part shall apply to municipalities and shires; and

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

Power to pre-plan and to re-plan.

321. Subject to the provisions of this Act, the council may control and regulate, and may undertake—

(a) the planning of new roads and subdivisions;

(b) the rearrangement of existing roads and of parcels of land;

(c) the demolition, rearrangement, and reconstruction of buildings and works; and

(d) the improvement and embellishment of the area.

Power of reconstruction.

cf. Sydney Corporation Amendment Act, 1905, s. 22, as amended by Act No. 16, 1906.

322. The council may purchase or resume, as elsewhere in this Act provided, any land, and may thereupon do all or any of the following things—

(a) demolish or repair any building or erection thereon;

(b) construct new buildings or erections thereon;

(c) alter, widen, or extend any existing public road adjacent to such land;

(d) close any existing public road through such land;

(e) construct and open any new public road thereon;

(f) alter the levels of such land, and alter existing drains, and construct new drains and storm-water channels thereon;

(g) generally alter, remodel, and improve such land and buildings in such manner as the council may think fit;

(h) sell or lease the whole or any portion of such land, in one or more lots, as elsewhere in this Act provided.

DIVISION 2.—*New roads and subdivisions.*

New roads and sub-divisions.

323. A public road shall not be opened and land shall not be subdivided, except in accordance with the provisions of this Act.

Provisions respecting blind roads.

324. (~~2~~ 1) A road other than a pathway shall not be opened as a blind road—

(a) unless there is also provided at least one pathway to give access from the blind end into a main, secondary, or residential road; or

(b) unless such road gives access at its blind end to a railway station, wharf, public reserve, river bank, lake, sea beach, or the shore of any tidal water; or

(c) except where, in view of exceptional circumstances, the council approves.

(~~3~~ 2) A pathway shall not be opened as a blind road unless one end communicates with a main, or secondary, or residential road, and the blind end gives access to a railway station, public wharf, public reserve, river bank, lake, sea beach, or the shore of any tidal water.

(~~4~~ 3) For the purposes of this section any road which does not give access at both ends to either a main, secondary, or residential road shall be deemed to be a blind road.

Treatment of corners

325. At any junction or intersection made by opening any road, the person opening the road shall make provision for the planning of the corners formed at such junction or intersection to the satisfaction of the council in such manner as will facilitate the flow of traffic.

Residential districts—density of houses and of allotments.

326. (1) The council may, with respect to any residential district, fix the number of houses per acre which shall be the standard number permitted in any future subdivision of land within the district.

(2) In ascertaining the area for the purpose of applying such standard the whole area of the land proposed to be subdivided, including any proposed roads, public reserves, open spaces, and the like, shall be embraced.

(3)

(3) In any subdivision made after a standard number of houses per acre has been fixed there shall not be a greater number of separate parcels per acre than the standard number so fixed.

(4) Notwithstanding anything to the contrary contained in this section the council may—

(a) fix building units not exceeding five acres in extent, within which the number of houses and separate parcels of land per acre may be varied above and below the standard number, provided that the total number of the houses and separate parcels of land for any unit shall not exceed the total found by multiplying the number of acres in the unit by the standard number;

(b) vary the standard number in the case of any subdivision in which by agreement with the council special provision is made for roads, public reserves, open spaces, and the like.

Conditions to be observed before opening new roads or subdivisions.

cf. L.G. Act, 1906, ss. 99-101.

cf. Syd. Corp. Act, 1902, ss. 77-79.

327. (1) Subject to the provisions of this Act a public road shall not be opened, and in a case where a subdivision provides for the opening of a public road land shall not be subdivided until—

(a) an application in respect thereof accompanied by plans and specifications thereof has been approved under this Act; and

(b) the roads have been constructed and drained, ~~and the land to be subdivided has been drained~~ to the satisfaction of the council in accordance with the approved application, plans, and specifications, and with any conditions attached to any such approval; and

(c) the applicant has placed in the road permanent survey marks in the position and manner and of the character prescribed; and

(d) the town or shire clerk has certified to the applicant that the requirements of this Act, other than the requirement for the registration of plans, have been complied with; and

(e) a plan of the road or of any subdivision containing the road (such plan bearing the signatures of all necessary parties, a statement containing

containing such particulars as may be necessary to identify the title to the land comprised in such plan, and a notation of approval under the seal of the council and being accompanied by the aforesaid certificate) has been registered in the office of the Registrar-General.

(2) In a case where a subdivision does not provide for the opening of a public road, land shall not be subdivided until—

(a) an application in respect thereof, accompanied by plans ~~and specifications,~~ has been approved under this Act ; and

(b) the land to be subdivided has been drained to the satisfaction of the council in accordance with the approved application, plans, and specifications, and with any conditions attached to any such approval ; and

(c) the town or shire clerk has certified to the applicant that the requirements of this Act other than the requirement for the registration of plans have been complied with ; and

(d) a plan of the subdivision (such plan bearing the signatures of all necessary parties, a statement containing such particulars as may be necessary to identify the title to the land comprised in such plan, and a notation of approval under the seal of the council and being accompanied by the aforesaid certificate) has been registered in the office of the Registrar-General :

Provided that nothing in this subsection shall apply where none of the parts into which the land is subdivided contains less than twenty acres.

Certain alternative conditions.

cf. L.G. Act, 1906, s. 100.

328. Any applicant, instead of executing the work of constructing and draining the roads ~~and draining the subdivision,~~ as hereinbefore provided, may either—

(a) pay to the council such sum as may be agreed upon with the council as the cost of executing such work, and agree with the council as to when such work shall be executed by the council ; or

(b)

(b) give to the council security to the satisfaction of the council that he will execute such work within such time as may be fixed by the council.

Opening new road or subdivision by instalments.

329. Where approval has been given as aforesaid, the town or shire clerk may give his certificate that the requirements of this Act have been complied with in respect of any separate part of any proposed road or subdivision, if the work of construction and draining to be executed upon such part has been done to the satisfaction of the council, and if the applicant has, with regard to the remainder of such work, either made payment as aforesaid or given security as aforesaid.

Exceptional case of subdivision.

330. Where, after the erection of a building on land the property of one owner, it is found that such building encroaches upon land the property of another owner to the extent of not more than three feet, and where the encroaching owner desires to purchase the land upon which the encroachment stands, the council shall, upon the application of the owner of the land which is encroached upon, and upon satisfying itself that there has not been collusion, but that everything has been done in good faith without intention to evade the law, approve of the necessary subdivision.

Decisions on applications, and notices to applicants.

331. (1) Applications under this Division shall be submitted to the council.

(2) The council may approve of any such application, or approve subject to conditions, or disapprove.

(3) The council shall cause notice to be given to the applicant of its decision.

(4) In the case of an approval given subject to conditions or of a disapproval, the reasons therefor shall be indicated in the notice.

As to classification of roads, see s. 226 ante.

(5) In any decision under this Division with respect to a proposed road the council shall classify such road if it be not already classified by the council.

332.

Subjects for consideration re new roads.

332. In respect of any application for approval of the opening of a road the council shall take into consideration—

(a) the situation and planning of the road in relation to public convenience present and prospective, to inter-communication with neighbouring localities within or without the area; and

(b) the method of draining the road necessary in the circumstances, present and prospective, and the disposal of the drainage; and

(c) whether or not the owner will transfer or convey to the council in fee-simple for a nominal consideration any necessary drainage reserves; and

(d) the character of construction of the road necessary in the circumstances, present and prospective, and the necessity for the erection of road signs as part of the work of such construction; and

(e) whether or not kerbing, guttering, and footpaths should be provided; and

(f) the treatment of junctions or intersections of roads; and

(g) the classification of the road; and

(h) whether the district is a residential district; and

(i) the necessity for the planting of trees with tree-guards in the road; and

(j) if any proposed new road will be a ~~back~~ lane, whether or not a ~~back~~ lane should be permitted, in the circumstances.

Subjects for consideration re subdivisions.

333. In respect of any application for approval of a subdivision of land (whether the subdivision involves the opening of a road or not) the council shall take into consideration—

(a) the size and shape of each separate parcel; and

(b) the length of road frontage of each separate parcel; and

(c) the situation and planning of the separate parcels in relation to public convenience, present and prospective; and

(d) the existing and proposed means of access to each separate parcel; and

(e)

(e) the method of draining the land necessary in the circumstances, present and prospective, and the disposal of the drainage; and

(f) whether or not the owner will transfer or convey to the council in fee-simple for a nominal consideration any necessary drainage reserves; and

(g e) whether the district is or probably will be a residential district; and

(~~h~~ f) the standard number of houses to the acre fixed by the council; and

(~~i~~ g) the amount of public garden and recreation space to be provided in the land to be subdivided:

Provided that, in respect of land situated outside of a village, town, or urban area, the council of a shire shall not withhold its approval because of the size and shape of the separate parcels of land or on account of ~~drainage.~~

Provided that—

(a) nothing in this section shall apply where none of the parts into which the land is subdivided contains less than twenty acres; and

(b) nothing in this section except paragraph (d) shall apply where the land is not within a village, town, or urban area, or within a district which is or probably will be a residential district.

Preservation of roads by laying pipes before construction of roads.

334. (1) The council may, when giving its approval for the opening of any new road, specify in the approval and cause to be indicated on the plan the position in which water and gas mains shall be placed when laid in the road, and the position where the gutters or road drains are to be constructed. The council shall before fixing the position of mains as aforesaid seek the advice of the persons or bodies engaged in the supply of water and gas.

(2) When water or gas mains are thereafter laid in such road by any person, whether under the authority of any statute or otherwise, they shall unless the council otherwise permit be laid in the positions so indicated.

(3)

(3) Where any person opens a new road or subdivides any land fronting any existing public road which is not yet constructed in some permanent manner, the council may require such person to make such provision (by laying conduits across the road at suitable intervals) as will enable gas and water service pipes to be laid to connect the mains with the various parcels of land fronting the road and owned by that person without digging up the constructed carriage-way of the road. Any such conduits shall be laid in such manner as the council may require, provided that before specifying its requirements under this subsection the council shall seek the advice of the persons or bodies engaged in supplying gas and water in the area as to the most suitable form of conduit, the method of laying it, and incidental matters.

(4) The laying of pipes hereunder shall be deemed to be a portion of the work of—

(a) the construction and drainage of a new road under this Part ~~; or~~

~~(b) the drainage of land to be subdivided under this Part ;~~

and the other provisions of this Part shall apply thereto accordingly.

(5) Subsections three and four of this section shall not come into force until so proclaimed by the Governor, and such proclamation shall not be issued before the expiration of six months after the declaration of peace between Great Britain and Germany.

(6) Nothing in this section shall apply—

(a) in a municipality unless there is a water or gas supply for the municipality at the time of the proposed subdivision ; or

(b) in a shire, unless the land is within a village, town, or urban area, and there is a water or gas supply for the village, town, or urban area at the time of the proposed subdivision.

335. (1) Any approval given under this Part shall lapse at the end of two years from the date thereof, or such

Lapsing of approval.

such longer period as may be fixed in the approval, if the requirements of this Part have not been complied with in respect of—

(a) the construction and draining of roads ~~and the draining of subdivisions;~~ and

(b) the giving of security; and

(c) the making of payments to the council in respect of the making, draining, and marking of roads ~~and the draining of subdivisions.~~

(2) The council may if good cause be shown grant an extension or renewal of such approval beyond such period.

(3) Subsections one and two of this section shall apply to any extension or renewal under this section as if such extension or renewal were an original approval.

(4) Such approval may also be cancelled by the council upon application by the holder of the approval at any time before the plan of the road or subdivision is registered in the office of the Registrar-General. Cancellation by request.

(5) On such lapse or cancellation the council shall refund any unexpended balance of moneys paid to the council in respect of the execution of works in connection with such approval.

336. (1) As soon as the plan of any road or of any subdivision containing a road has been registered in the office of the Registrar-General as prescribed, the road shall be deemed to be opened as a public road and thereby to be dedicated accordingly. Registration of plan. See also s. 237 ante.

(2) Such plan shall show the positions of the permanent marks placed in the road in accordance with this Act; and the person opening the road shall at the same time lodge with the Surveyor-General a copy of such plan.

(3) Any road so dedicated shall vest in the council in fee-simple by virtue of such registration and of this Act. Fee-simple.

(4) The provisions elsewhere contained in this Act relating to the vesting of a road in the council in fee-simple shall mutatis mutandis apply to any road vested in accordance with this section. See also s. 232 ante.

(5)

(5) Nothing in this section shall affect or prejudice any estate, right, title or interest of any person who is not a party to the opening and dedication of the road unless the opening and dedication might have been lawfully made by the parties thereto without his concurrence.

Savings as to roads.

337. (1) Nothing in this Division shall preclude the opening of any road in accordance with any approval which was before the commencement of this Act given under the Local Government Act, 1906.

(2) Nothing in this Division shall preclude the subdivision of any land in accordance with—

(a) any approval which was before the commencement of this Act given under the Local Government Act, 1906; ~~or~~

(b) any plan of subdivision which was made before the commencement of the Local Government Act, 1906, and is lodged in the office of the Registrar-General either under the Real Property Act, 1900, or by virtue of this Act before the expiration of twelve months from the ~~commencement of this Act.~~

(3) A subdivision which has not been approved by the council under this Act or under the Local Government Act, 1906, shall not hereafter be made except in accordance with the provisions of this Division.

(4) A separate parcel of land shall not be subdivided into further separate parcels or allotments except under the provisions of this Division.

Numbering of plans under Real Property Act, 1900.

Refusal of registration of transfers.

338. (1) In the case of a road on land under the Real Property Act, 1900, opened after the commencement of this Act, the Registrar-General shall not number any plan under that Act which is not substantially in accordance with an approved plan, accompanied by the prescribed certificate, under this Part, and he may refuse to register a transfer of any land which in his opinion has frontage to any such road.

(2) In the case of the subdividing after the commencement of this Act of land under the Real Property Act, 1900, the Registrar-General shall not number any plan under that Act which is not substantially in accordance

accordance with an approved plan accompanied by the prescribed certificate under this Part, and he may refuse to register a transfer of any land which in his opinion forms part of a subdivision not complying with the requirements of this Act.

Penalty.

339. Any person who opens any road or subdivides any land otherwise than in accordance with the provisions of this Act, shall be liable to a penalty not exceeding one hundred pounds.

Execution of work. cf. Sydney Corporation Act, 1902, s. 78.

340. If any person fails to execute any work which he should execute under this Part the council may execute the work and may recover the cost thereof from such person irrespective of any penalty which may be imposed by or under this Act.

New roads opened by Dept. of Lands.

346. (1) Notwithstanding anything contained in the Public Roads Act, 1902, or the Crown Lands Consolidation Act, 1913, roads upon or through Crown lands in a municipality or shire shall not be opened until plans thereof have been submitted to and reported upon by the council of the area.

(2) This section shall not apply to roads opened in accordance with the request of the council.

DIVISION 3.—*Appeals.*

Town planning appeals.

341. (1) Any applicant for approval—

(a) to erect any building,

(b) to open any new public road,

(c) to subdivide any land,

may appeal to ~~the Minister~~ **a District Court Judge having jurisdiction within the area** against the decision of the council or any neglect or delay of the council to give within forty days after service of his application a decision with respect thereto.

Vide s. 652.

(2) The Minister may require the appellant to lodge a deposit as security for the costs of the appeal.

(2) Such judge may summon witnesses, hear evidence, and determine the matter, having regard to this Act, the ordinances, the circumstances of the case, and the public interest.

(3) Thereupon the Minister may cause a public inquiry to be held by the Under Secretary of the Local Government Department and two other persons for the hearing of and report upon such appeal, and the payment of the costs thereof and of the parties thereto.

(4) The council and the appellant shall be entitled to appear and to be represented at the inquiry.

(~~5~~ 3) The decision of ~~the Minister~~ such judge upon any such appeal shall be final, and shall be binding upon the council and the appellant, and for the purposes of this Act shall be deemed to be the final decision of the council.

(6) Where in the Minister's decision costs are given against the appellant, such costs may be deducted and paid from the deposit, and any remainder shall be refunded to the appellant. Where the costs awarded exceed the deposit, the deficiency may be recovered from the appellant as a debt. Any costs given against the council may be recovered as a debt.

(~~6~~ 4) **If in any decision under this section costs are awarded, such costs may be enforced and recovered in like manner to costs awarded in a judgment of the district court.**

DIVISION ~~4~~.—*Ordinances.*

342. Ordinances may be made for carrying this Part into effect, and in particular for and with respect to— Ordinances.

(a) the number of copies of plans, sections, and specifications of new roads and subdivisions to be submitted with applications;

(b) the retention in the records of the council of a copy of all plans, sections, and specifications of new roads and subdivisions;

(c) any of the matters which under this Part a council shall take into consideration in respect of any application for approval of the opening of a road or the subdivision of land;

(d) the vesting in the Surveyor-General of the care, control, and maintenance of the permanent marks placed in roads under this Act, and providing for the preservation of such marks from damage or removal;

(e)

(e) appeals against the decisions of the council on applications for approval to the opening of a new road, the subdivision of any land or the erection of any building.

PART XIII.

PUBLIC RECREATION.

DIVISION 1.—*Application of this Part.* Application.

343. Subject to the provisions of this Act—

(a) this Part shall apply to municipalities and shires; and

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

DIVISION 2.—*Public reserves, parks, &c.*

344. (1) The council shall have the care, control and management of— Care of parks, &c.

(a) public reserves which are not, ~~by or under any statute, placed~~ under the care of or vested in any body or persons other than the council, and are not held by any person under lease from the Crown; and For "public reserve" see s. 4.

(b) public reserves which the Governor by proclamation places under the care, control, and management of the council.

(2) If any doubt arise as to whether any land comes within the operation of this section, or as to the boundaries of any public reserve, the Governor may by proclamation determine the matter.

345. (1) The Governor may by proclamation charge the council with the care, control, and management of any public reserve in its area. Power to dissolve trusts and transfer parks to council.

(2) Thereupon all trustees appointed under the authority of any statute shall be removed. cf. L.G. Acts, 1906-8, s. 117.

(3) All powers and duties of all such trustees shall, without prejudice to anything done or contracted to be done, cease and determine; and all property and liabilities of such trustees, subject to any provisions which cf. Sydney Corporation Amendment Act, 1908, s. 33. cf. L.G. Act, 1906, s. 117.

which the Governor may require to be made with respect to existing debts and securities, shall be the property and liabilities of the council.

Continuation of private trusts.

346. Where the council of an "existing municipality," within the meaning of the Local Government Act, 1906, was at the commencement of that Act trustee of any public reserve under any private deed of trust, the council of the area under this Act shall have the care, control, and management of such public reserve, and the property and liabilities of such trust shall be the property and liabilities of the council: Provided that the council shall be subject to the terms of such deed.

Land for parks, &c.

347. Any land acquired by the council for any purpose under this Act, and not required for that purpose, may be used for the purposes of this Part.

Powers of council.

348. (1) The council may provide, control, and manage grounds for public health, recreation, convenience, enjoyment, or other public purpose of the like nature, including—

(a) parks;
(b) children's playgrounds, drill-grounds, sports grounds;
(c) gardens.

(2) Such children's playgrounds, drill-grounds, sports grounds, and gardens may be provided either in public reserves or on other lands of the council.

Improvement and embellishment.

349. The council may improve and embellish public reserves which are under its care, control, and management.

Further powers of council.

350. In any public reserve under its care, control, or management the council may provide, control, and manage—

(a) musical entertainments;
(b) chairs for hire to the public;
(c) public refreshment rooms;
(d) buildings for public entertainments conducted or authorised by the council;
(e) public entertainments;
(f) boat sheds for the hire of boats to the public;
(g) boats for hire to the public;
(h) grandstands, pavilions, seats, shelter sheds, picnic kiosks, privies, and other buildings for the convenience of the public.

351.

Temporary enclosures for entertainments.

351. (1) The council may authorise the construction of a temporary enclosure on a public reserve under its care, control, and management for the purpose of any entertainment to raise funds in aid of any charitable, patriotic, or public purpose, or for the purpose of a public demonstration organised by a local life-saving club: Provided that this privilege shall not be extended to any one such club more than once a year.

(2) The council may also construct such an enclosure for the purposes of any entertainment organised by the council in aid of the improvement of the public reserve.

Use of income from parks for their improvement.

352. Separate accounts shall so far as may reasonably be practicable be kept within the respective funds of income derived in respect of public reserves, and ~~such income and~~ **the profit, after payment of the expenses of earning such income, together with** any other moneys voted by the council from the appropriate fund shall be spent in the improvement of public reserves.

DIVISION 3.—*Baths and bathing.*

aths and bathing facilities.

353. On any land acquired by the council or in any public reserve under its care, control, and management, the council may provide, control, and manage—

(a) public baths;

(b) public dressing pavilions for bathers;

(c) club and drill rooms, appliances and materials for life-saving clubs;

(d) costumes and other conveniences for hire or sale to bathers;

(e) works and appliances for the protection of bathers from injury, drowning, or sharks.

Control of bathing.

354. (1) The council may control and regulate public bathing and the conduct and costume of bathers—

(a) in any public baths under the care, control, and management of the council;

(b) in any private baths open to the public view;

(c) in any river, watercourse, or tidal or non-tidal water;

(d) in the sea adjacent to though outside the area; and

(e) in any public place or public reserve adjacent to any of the aforesaid places.

(2)

(2) The council may prohibit bathing in any specified locality by notices erected in the vicinity of such locality.

(3) Section seventy-seven of the Police Offences Act, 1901, shall not apply to any place where an ordinance under this Act for the regulation of public bathing is in force.

Police Offences Act, 1901, s. 77, not to apply.

355. (1) Separate account shall be kept within the appropriate fund of income and expenditure in respect of bathing facilities provided by the council.

Use of profit from bathing sheds for beach improvement.

(2) Subject to the provisions of any ordinances, any profit which may be realised from such bathing facilities may be expended upon providing increased bathing facilities, or upon the improvement and embellishment of—

(a) the public reserves where bathing facilities are provided; and

(b) other public reserves contiguous to the aforesaid reserves, or only separated therefrom by a public road; and

(c) such portion of any public road as is contiguous to any such public reserve.

356. For the purposes of this Division, and of any ordinances, the land and water below high-water mark on the foreshores of the area shall be deemed to be within the area, and the council may with respect to such land or water exercise the powers conferred by or under this Part.

Powers of council below high-water mark.

cf. L.G. Acts, 1906–8, s. 210.

Division 4.—*General.*

Libraries.

357. (1) The council may provide, control, and manage or may subsidise reading and lending libraries.

Public libraries.

cf. Sydney Corporation Amendment Act, 1906, ss. 9, 10, 11, 12.

(2) A council may sell, lend, or give any library owned or controlled by it to a public school, school of arts, or similar institution for mutual improvement notwithstanding any trust or conditions relating thereto whether created under any Act or otherwise.

cf. Sydney Corporation Amendment Act, 1908, s. 31.

358. The council may provide, control, and manage, or may subsidise—

Schools of arts, mechanics' institutes, &c., &c.

(a) schools of arts;

(b) literary institutes;

(c)

(c) mechanics' institutes;
(d) art galleries; and
(e) museums.

359. The council shall be competent to acquire, possess, and hold property in books, papers, instruments, works of art, and other articles by bequest, purchase, or otherwise. Power to accept bequests, &c.

360. The council shall not subsidise any library, school of arts, literary institute, mechanics' institute, art gallery, or museum which is conducted for private gain. Restriction upon power to subsidise.

Gymnasia.

361. The council may provide, control, and manage public gymnasia upon any land under the control of the council other than a public road. Public gymnasia. cf. Sydney Corporation Amendment Act, 1906, s. 13.

Public entertainment and amusement.

362. The council may control and regulate premises and appliances used for— Skating rinks, &c.

(a) skating rinks;
(b) public amusements and games, such as merry-go-rounds, shooting galleries, and Aunt Sallies.

363. The council may control and regulate places of public amusement or resort, and may control and regulate the conduct of people therein in the interest of public convenience, safety, and order. Places of public amusement, &c.

364. (1) The council may provide, control, and manage places of public recreation, entertainment, amusement, or improvement. Power to provide places of public recreation, &c.

(2) The council may establish and maintain or subsidise public bands or orchestras. Band music. cf. L.G. Act, 1906, s. 109 (xxxii).

Places of interest.

365. The council may protect, acquire, preserve, and maintain places of historical or scientific interest and natural scenery. Power to acquire and preserve.

366. The council or any ranger or other servant appointed by it may call in the aid of the police for the removal by force of any person found committing a breach of any ordinance made under this Part, or of any person who by disorderly or insulting conduct in, or in the immediate neighbourhood of, any public reserve Aid of police. cf. 18 Vic. No. 33, s. 6 43 Vic. No. 3, s. 128. cf Sydney Corporation Act, 1902, s. 138.

or

or places of public recreation, amusement, or improvement causes annoyance or inconvenience to the persons then present or going to or coming from the same.

DIVISION 5.—*Ordinances.*

367. Ordinances may be made for carrying this Part into effect, and in particular for and with respect to— Ordinances.

(a) the securing of decency and order;

(b) the making of charges or entrance fees on persons, clubs, or associations using or entering public reserves, baths, gymnasia, or places of public recreation, amusement, or improvement under the control of the council, or any specified part or parts thereof; the collecting and receiving of such charges and fees by the council or by other persons;

(c) private trading on public reserves, and on places of public recreation, amusement, or improvement under the control of the council;

(d) the closing of public reserves or parts thereof, and the conditions to be observed with regard thereto;

(e) the reservation of any portion of a public reserve for such separate or exclusive uses as the ordinances may prescribe;

(f) the use of life-saving appliances, the conduct of life-saving operations, and unauthorised interference therewith;

(g) the conditions upon which any life-saving club may be permitted to occupy any club or drill room on a public reserve, or may be granted the use of life-saving appliances and materials provided by the council;

(h) the regulation or prevention of the taking of intoxicants into and the consuming thereof in parks and public reserves;

(i) the licensing control and regulation of premises and appliances used for skating rinks and for public amusements and games.

PART

PART XIV.

WATER, SEWERAGE, DRAINAGE, OR ELECTRICITY WORKS.

DIVISION 1.—*Application of Part—Repeals.*

Application.

368. (1) Subject to the provisions of this Act the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

Limitation.

(2) The provisions of this Part in relation to water supply or sewerage shall not apply to municipalities and shires which are supplied with water or sewerage as the case may be by the Board of Water Supply and Sewerage or by the Hunter District Water Supply and Sewerage Board under the provisions of the Metropolitan Water and Sewerage Act of 1880, or the Hunter District Water Supply and Sewerage Act of 1892:

Provided that where portion only of a shire is so supplied the Governor may proclaim that this Part, or certain of the provisions of this Part, shall apply to any other portion of that shire.

Works constructed under repealed Acts.

(3) Except where the context clearly requires the contrary, the provisions of this Part shall apply to works of water supply or sewerage or drainage or electricity supply constructed under the Acts repealed by the Local Government Act, 1906, or by this Act, and to works not constructed under such Acts which are controlled by councils.

Validation.

(4) The expenditure of the sum of three thousand pounds by the Minister for Public Works upon works of electricity supply in connection with sewerage works for the municipality of Albury—

(a) is hereby validated; and

(b) shall be deemed to have been expenditure under and in accordance with the provisions of the Acts repealed by this Part; and this Part shall apply thereto, and to such works of electricity supply accordingly.

Repeal and savings.

Acts repealed.

369. (1) The following Acts are hereby repealed namely—

the Country Towns Water and Sewerage Act of 1880;

the

the Country Towns Water and Sewerage Act Extension Act of 1887;

the unrepealed portion of the Country Towns and Hunter District Water Supply and Sewerage Acts Amendment Act of 1894; and

the Country Towns Water and Sewerage (Amendment) Act, 1905.

(2) Such repeal shall not affect any liability of the council to the Government.

(3) Notwithstanding such repeal, all by-laws in force under the Acts repealed by this Part, except such as are inconsistent with the provisions of this Part, shall continue in force until repealed by ordinances made under this Act; and this Act shall apply to all such by-laws as if they were ordinances. Saving as to by-laws.

DIVISION 2.—*Financial adjustments in respect of existing works.*

370. (1) In respect of any water, sewerage, or drainage works constructed under the Acts hereby repealed, the Treasurer may, by notification, declare that the income derived from any specified rate or service or undertaking of the council shall not be charged or chargeable with any debt (whether incurred before or after the said notification) payable to him, and charged or chargeable under the said Acts, upon the revenues of the council. Power to remove charge from revenues. cf. C.T.W. and S. (Amendment) Act, 1905, s. 50.

(2) Thereupon the said debt shall cease to be so charged or chargeable.

(3) The Treasurer may, by a similar notification, revoke or vary any such declaration as aforesaid.

371. (1) In respect of any water, sewerage, or drainage works constructed under the Acts hereby repealed, the Treasurer may declare that the dates of payment of principal and interest shall be the thirtieth day of June and the thirty-first day of December in each year. Dates of payment of instalments.

(2) Where any council owes to the Treasurer various sums of money repayable at the same or different times by varying instalments and bearing the same or different rates of interest, the Governor may, on the recommendation of the Treasurer, adjust and consolidate some

some or all of these various debts into one debt bearing one rate of interest, and may make consequential adjustments of the instalments and dates of repayment and of the period during which the repayment is to be made.

(3) For the purposes of this section the Treasurer may make any necessary adjustment of the interest and of the instalments.

(4) Any such declaration, adjustment, or consolidation shall be notified by the Treasurer.

Validation of payment of interest at 5 per cent.

372. In any case where a council has, prior to the passing of this Act, agreed by resolution to pay interest at the rate of five pounds per centum per annum on the cost of any work to be constructed or provided by the Governor under the provisions of the Country Towns Water and Sewerage Acts, 1880–1905, and notwithstanding anything to the contrary contained in the said Acts, such agreement is hereby validated and such council shall be liable to pay interest at the rate aforesaid on the whole amount expended on such works calculated from the time the sums making up such amount were expended until repayment thereof.

DIVISION 3.—*Construction of works by Government.*

Power to construct water, sewerage, drainage, or electricity works.

373. (1) The Minister for Public Works may, under the Public Works Act, 1912, on the application of the council, construct out of moneys voted therefor by Parliament—

(a) works of water supply or sewerage or drainage and any works incidental thereto for any municipality or shire or part thereof or for any two or more areas or parts thereof; and cf. C.T.W. and S. Act, 1880, s. 124.

(b) works in connection therewith or separate therefrom for the supply of electricity. cf. C.T.W. & S. (Amendment) Act, 1905, s. 17.

In or outside area.

(2) Any works under this Part may be within or outside the area of the council.

Completion.

(3) This section shall apply to the completion of works commenced by the Governor or the said Minister under the Acts hereby repealed.

Construction by council.

(4) The Minister for Public Works may arrange, by agreement with the council, for the construction out of the moneys aforesaid of any or all such works by

by the council on his behalf; and any works so constructed shall for the purposes of this Part be deemed to have been constructed by the said Minister.

Completion—handing over to council—capital debt.

374. (1) Upon completion of such water, sewerage, drainage, or electricity works, the Governor shall notify— Notification transferring works to care of council.

(a) that such works are complete; and

(b) that the council is charged with the care and management of such works (or, if more than one council be affected, that each council is charged with the care and management of that portion of such works allotted by the Governor to such council under the notification, or that the councils are jointly charged with the care and management of portion or the whole of such works).

Cf. C.T. and H.D.W.S. and S. Acts Amendment Act, 1894, s. 2.

(2) Such notification shall from the date of the publication thereof in the Government Gazette operate to charge the respective councils named therein with the care and management of such works as are therein stated.

(~~1~~ 3) ~~Upon~~ As soon as possible after the completion of such water, sewerage, drainage, or electricity works the whole amount expended upon such works, together with interest at a rate per annum to be fixed by the Governor from time to time, calculated from the time of the expenditure of each sum included in such amount up to the time of the notification hereinafter provided, shall be certified by the Minister for Public Works. Completion—certificate of cost.

cf. C.T.W. and S. Act, 1880, s. 125, and C.T.W. and S. (Amendment Act, 1905, s. 51).

(~~2~~ 4) The Minister for Public Works may recommend to the Governor and the Governor may approve such partial remission of such amount as he may think just under any special circumstances. Remission of cost.

(~~3~~ 5) In any such certificate relating to [works of water supply the said Minister may include the cost, or such proportion of the cost as may be determined by the Governor, of any locks, dams, weirs, cuttings, channels, conduits, tunnels, wells, borings, and other works for or in Inclusion of subsidiary works.

in connection with the improvement of any source of water supply, whether such were constructed before or after the commencement of this Act, and whether carried out by the Governor or by the Minister for Public Works or by the council.

(~~4~~ **6**) The amount of such certificate, subject to any such partial remission as aforesaid, shall when notified as prescribed be the capital debt which shall be owing by the council to the Treasurer. Capital debt.

(~~5~~ **7**) The Governor shall notify— Notification transferring works to care of council fixing debt and terms of repayment. cf. C. T. and H. D. W. S. and S. Acts Amendment Act, 1894, s. 2.

(a) that such works are complete; and

(b) that the council is charged with the care and management of such works (or, if more than one council be affected, that each council is charged with the care and management of that portion of such works allotted by the Governor to such council under the notification or that the councils are jointly charged with the care and management of portion or the whole of such works); and

(~~e~~ **a**) the capital debt of the council or ~~of councils jointly,~~ **the capital joint debt of any two or more councils,** for water, sewerage, drainage, or electricity works, stated separately; and

(~~d~~ **b**) the period, or periods, not in any case exceeding one hundred years, fixed by the Governor for the repayment of the whole or any specified portion of such capital debt, such period or periods being fixed with due regard to the nature and durability of such works, or the specified portion thereof; and

(~~e~~ **c**) the instalment which shall be paid by each council during the period between the notification and the end of the then current half year, and also during each half-year thereafter, in order to repay such debt, with interest, within such period or periods aforesaid; and

(~~f~~ **d**) the division of each instalment into principal and interest; and

(~~g~~ **e**) in the case of water, sewerage, or drainage works, the minimum local rate in the pound which the

the council shall levy in respect of the maintenance and management and repayment of cost of such works until such capital debt is repaid.

(6 8) The Governor may from time to time fix the rate of interest which shall be payable upon the amount of the capital debt remaining unpaid, and may thereupon by notification alter the instalments and the minimum rate aforesaid accordingly. Interest. cf. C.T W. and S. (Amendment) Act, 1905, s. 29.

(7) Any such notification aforesaid shall operate to charge the respective councils therein named with the care and management of such works as are therein stated, and with the repayment of the capital debt or apportionment thereof and interest thereof and in manner therein provided; and such capital debt or apportionment thereof and interest shall be charged upon the income of the fund, or apportioned between and so charged upon the respective funds, which shall be kept by the councils in respect of such works. Notification given force of law.

(9) The publication of the notification referred to in subsection seven of this section in the Government Gazette shall operate to charge the respective councils therein named with the repayment of the capital debt or apportionment thereof and interest in the manner therein provided; and such capital debt or apportionment thereof and interest shall be charged upon the income of the fund, or apportioned between and so charged upon the respective funds, which shall be kept by the councils in respect of such works.

Repayment of capital debt.

375. (1) All repayments of capital debt hereunder shall be carried by the Treasurer to a loan trust fund, and all payments of interest on such capital debt shall be carried by him to the Consolidated Revenue Fund. Treasurer shall carry to certain funds. cf. C.T. and H.D.W.S. and S. Acts Amendment Act, 1894, s. 2 (i).

(2) Where the administration and management of any water, sewerage, drainage, or electricity works have been handed over to any council under the Acts hereby repealed, and the council makes default in the payment of the sums required by such Acts, or this Act, to be paid, the Governor may notify the minimum local rate in the pound which such council shall make and levy in respect of the maintenance and management of and repayment of capital debt on such works. Default in payment—works under repealed Acts—power to prescribe minimum rate.

(3)

(3) Where the Governor is satisfied that the council cannot both maintain any water, sewerage, drainage, or electricity works, and pay such instalment aforesaid, he may, in his discretion, from time to time notify that such instalment is reduced for a stated period of years to a sum stated in the notification, and may in each such case notify the minimum local rate in the pound which the council shall make and levy in respect of the maintenance and management of, and repayment of capital debt on, such works. Reduction of instalments. cf. C.T.W. and S. (Amendment) Act, 1905, s. 59.

(4) Where any capital debt is owing to the Treasurer on any waterworks the Governor may where he deems it necessary notify that the council shall make and levy a specified charge by measure for all water supplied above the quantity which the amount of rate levied on each separate parcel would purchase according to such charge. Charge by measure.

(5) Where any instalment has been reduced under this Act or the Acts hereby repealed, the Governor may at any subsequent date notify that such instalment shall be increased to a sum stated in the notification, and may in each such case notify the minimum rate in the pound which the council shall make and levy as aforesaid. Increase of instalments.

(6) Where any rate notified under this Part is in the opinion of the Governor insufficient, or is more than sufficient, the Governor may by notification increase or decrease as the case may be the minimum rate in the pound which the council shall make and levy as aforesaid. Minimum rate—power to alter.

Default—Appointment of receiver.

376. (1) Where any council levies any rate less than the minimum rate notified as aforesaid, or where any council makes default for three months in the due payment of any instalment due under this Act or under any Act hereby repealed, a receiver may be appointed by the Supreme Court as elsewhere provided in this Act on the application of the Treasurer. Treasurer may apply for appointment of receiver. cf. C.T.W. and S. Act, 1880, s. 125, and C.T.W. and S. Act Extension Act, 1887, s. 8.

(2) A receiver so appointed shall have the powers and duties of a receiver as elsewhere provided in this Act. Receiver's powers.

(3)

(3) A receiver shall apply the moneys received by him, after meeting the necessary expenses, towards the payment of any instalments due by the council, and if at any time there be any balance in hand over and above the amount due and payable in respect of such instalments, shall pay such balance to the council. Duty o receiver.

Handing over before completion.

377. (1) When any work partly constructed under this Part or under the Acts repealed hereby, by the Minister for Public Works, but not completed, is, in the opinion of such Minister, so far constructed as to be of use to the council, he may report that fact to the Governor. The Governor may thereupon notify that the council shall take over such partly constructed work and the care and management thereof. Partly constructed works. cf. C.T.W. and S. (Amendment) Act, 1905, s. 27.

(2) The Minister for Public Works shall certify the amount actually expended in such construction up to a day to be specified in the notification by the Governor as aforesaid, together with interest at a rate per annum fixed from time to time by the Governor on the sums making up such amount, calculated from the time such sums were expended. Interest from the said day, at a rate per annum similarly fixed on the amount so certified, shall be calculated to the end of each half-year, and shall be payable by the council on the last day of each half-year. Certificate of cost. Interest to be paid by council.

(3) Like action may be taken at any time, and the above provisions of this section shall apply, when the work has been further constructed and before completion. Like action at any time.

(4) When such work has been finally completed and handed over to the council, and the capital debt on the completed work, the period fixed for repayment, the instalment, and the minimum rate have been notified as aforesaid, all payments of interest under this section shall cease. In computing such capital debt credit shall be given for payments of interest under this section in respect of a work, or portion thereof, taken over before completion. Action when work completed. cf. C.T.W. and S. (Amendment) Act, 1905, ss. 28 and 29.

DIVISION

DIVISION 4.—*Rates and charges.*

Rates.

378. (1) Subject to the provisions of this Act, the council shall levy by rates or by rates and charges a sum sufficient to provide for the maintenance and management of, and for payment of the instalments of capital debt and interest on, all works of water supply, sewerage, drainage, or electricity with respect to which any debt is owing to the Treasurer. Such rates and charges shall not be less than the rates and charges notified as aforesaid. Rates levied under this subsection shall—

Council shall levy a sufficient sum. cf. C.T.W. and S. (Amendment) Act, 1905, ss. 26, 54.

(a) in respect of water, sewerage, and drainage works be "local" rates; and

(b) in respect of electricity works be "loan" or "local loan" rates, as the case may be.

Charge in addition to rates for excess water.

(2) Where so directed by notification as aforesaid the council shall, and where not so directed the council may, in addition to levying rates as aforesaid, make and levy a charge by measure for all excess water, that is to say for all water supplied above the quantity which the amount of rate levied on each separate parcel would purchase according to such charge.

Charge by measure. cf. C.T.W. & S. Act, 1880, s. 13.

Where no capital debt due to Government—charge or rate or both.

(3) Where a council has water, sewerage, or drainage works on which there is no capital debt owing to the Treasurer, such council may make and levy rates for the maintenance and management thereof, or, in the case of a water supply, may either

Rate or charge by measure. cf. C.T.W. & S. (Amendment) Act, 1905, s. 33.

(a) make and levy a rate; or

(b) make and levy charges by measure for all water supplied, and may make a minimum charge; or

(c) both make and levy a rate, and make and levy charges by measure for excess water.

Charges.

Charges.

(4) Charges made and levied for the supply of water may be recovered as rates. Charges recoverable as rates.

(5) Different charges may be fixed for water supplied for domestic purposes, for industrial purposes, for irrigation, for gardens, for swimming baths, for animals and their stables or houses, and for fountains or ornamental purposes, and for other purposes not herein specified. Differential charges. cf. C.T.W. and S. Act, 1880, s. 24.

Minimum amount of rate.

(6) Any council which levies water, sewerage, or drainage rates may prescribe a minimum amount for each such rate, and such minimum amount shall apply to each separate parcel of land: Provided that in the case of land not built upon and not supplied with water, or not built upon and not connected with the council's sewers, a lower minimum amount may be prescribed than for other lands. Minimum amount of rate on each assessment. cf. C.T.W. & S. (Amendment) Act, 1905, s. 38.

Lands subject to be rated.

For water.

379. (1) Water supply local rates may be levied upon— Land supplied with water. cf. C.T.W. and S. (Amendment) Act, 1905, ss. 30-31.

(a) land whether the property of the Crown or not which is supplied with water from any water-pipe of the council (notwithstanding that such land is elsewhere in this or any other Act exempted from rates), including land which is vested in the Railway Commissioners for New South Wales and is used in connection with buildings or premises which are supplied with water from any water-pipe of the council;

(b) ratable land (as elsewhere defined in this Act) having a frontage to a public road along which throughout the whole length of such frontage a service water-pipe of the council is laid, although the land is not actually supplied with water from any water-pipe of the council; Ratable land. (As to ratable land, see s. 13 ante.) cf. C.T.W. and S. (Amendment) Act, 1905, s. 30

(b) all ratable land (as elsewhere defined in this Act) which is situated within two hundred and fifty

fifty yards of a water pipe of the council measured in a direction at right angles to such water pipe whether such land has a frontage or not to the public road (if any) in which such water pipe is laid, and although the land is not actually supplied with water from any water pipe of the council;

(c) so much ratable land (as elsewhere defined in this Act) having a frontage to a public road along which throughout part of the length of such frontage a service water-pipe of the council is laid, as shall be situated in a direction at right angles to such pipe, although the land is not actually supplied with water from any water-pipe of the council; and

(d) ratable land (as elsewhere defined in this Act) having no frontage to a public road along which a water-pipe of the council is laid which is within one hundred and fifty yards of a water-pipe of the council measured at right angles to such water-pipe, although the land is not actually supplied with water from any water-~~pipe of the council:~~

Provided that such rates may not be levied upon land unless water could be supplied to some part thereof from a standpipe at least three feet in height from the ground level, if such pipe were laid and connected to the council's mains; ~~and~~ Proviso.

Provided that where land is more than one hundred and fifty yards from a water-pipe of the council, and such land is supplied with water which is paid for by measure, such land shall not be subject to such rates.

For sewerage.

(2) Sewerage local rates may be levied upon all land whether the property of the Crown or not (notwithstanding that such land is elsewhere in this or any other Act exempted from rates) except— All land. cf. C.T.W. and S. (Amendment) Act, 1905, ss. 26, 30.

(a) land which is distant more than two hundred and fifty feet from any sewer of the council and is not connected thereto; Exemptions.

(b) land from which sewage could not be drained into any sewer of the council.

(3)

(3) Sewerage local rates may be levied upon land which is vested in the Railway Commissioners for New South Wales if— Sewerage rates on railway land.

(a) there are buildings on such land and the sewage from such buildings is drained into a sewer of the council; or

(b) there is a sewer of the council in a road to which such land has frontage; and there are buildings on such land the sewage from which could be drained into such sewer; and such sewer is not distant more than two hundred and fifty feet from such buildings.

The land upon which the rates may be levied is the land in connection with which the buildings aforesaid are used.

For drainage.

(4) Drainage local rates may be levied upon ratable land which is within the basin served by the drainage works. Land subject to drainage rates. cf. C.T.W. and S. (Amendment) Act, 1905, ss. 24, 26.

Exemptions—Water rate.

(5) The council may exempt any public hospital or public charitable institution from water supply local rate, and may supply water free of charge to any such hospital or institution as aforesaid subject to the following conditions:— Hospitals—charitable institutions—free water. cf. C.T.W. and S. (Amendment) Act, 1905, s. 36.

(a) The quantity to be supplied free of charge shall be fifty gallons per day for every person resident in a public hospital, and thirty gallons per day for every person resident in a public charitable institution: Provided that the council may by resolution increase the quantity of water which may be supplied as aforesaid to the hospital or institution.

(b) For the purposes of this section an inmate shall be deemed to be resident, and the number of persons resident shall be the average number of persons so resident during the year last preceding the period in respect of which charges would be payable; and the clerk may at any reasonable time demand the production of the books of such hospital or institution to verify such average number.

(c) The supply shall in each case be through a meter, and any quantity of water in excess of that which may be supplied free of charge shall be paid for according to the charge fixed by the council as elsewhere provided for excess water.

Any such exemption may be revoked or altered by the council.

Exemptions—Water, sewerage, and drainage rates.

Free water and sewerage to churches and Sunday schools. cf. C.T.W. and S. (Amendment) Act, 1905, s. 37. cf. also s. 132 ante.

(6) The council may exempt from the payment of water and sewerage local rates land which is occupied by and used directly in connection with a church, or other building which is used or occupied solely for public worship, and from the payment of water rates only land which is occupied by and used directly in connection with any building which is used or occupied solely as a Sunday school, and may revoke or alter any exemption so granted.

(7) The council may exempt from water and sewerage local rates any public reserve.

DIVISION 5.—*Joint works.*

Water.

Council in charge of headworks shall supply other councils.

380. (1) Where waterworks have been constructed to serve the areas of two or more councils, and where the capital cost thereof has not been ~~declared as aforesaid to be~~ **notified as** a joint debt, that council which has control of the catchment area or source of supply and of the storage works shall sell and deliver water at the boundary of its area or at any other convenient point which may be mutually agreed upon to the other councils for which such waterworks have been constructed, at such charge by measure as it may agree upon with each of such other councils separately, or, in case of failure to agree, at such charge as the Governor shall from time to time notify.

Sewerage

Sewerage.

(2) Where sewerage works have been constructed to serve the areas of two or more councils, and where the capital cost thereof has not been ~~declared as aforesaid to be~~ **notified as** a joint debt, that council which has control of sewers through which the sewage from another council's sewers must flow shall permit such sewage so to flow, and may make such charge for such permission, and for pumping and for treatment at its sewage disposal depot, as it may agree upon with each of such other councils separately, or, in case of failure to agree, such charge as the Governor shall from time to time notify.

Council in charge of outfall shall accept and convey sewage from other council's sewers. cf. C.T.W. and S. Act, 1880, s. 90.

Joint debt works.

(3) Where any water or sewerage works have been constructed and the capital debt thereof has been ~~declared to be~~ **notified as** a joint debt of any two or more councils as hereinbefore provided, the following provisions shall have effect:—

Allocation of responsibility.

(a) The Governor may divide such works into principal works and subsidiary works; may charge each council with the care and management of such portion of the subsidiary works as he may notify; and may charge with the care and management of the principal works such council as he may from time to time notify.

(b) The Governor may notify and from time to time by notification vary the sum which each council shall pay to the Treasurer as its proportion of the instalments for which it is liable jointly with the other council or councils.

(c) Each council shall make and levy a rate sufficient to yield such sum after allowing for rates not immediately collectable, and in any case not less than such rate in the pound on the unimproved capital value as the Governor may notify.

Contracts

Contracts with adjoining councils for water and sewerage.

381. A council may contract with any other council to supply water at the boundary of their areas or at any other convenient point which may be mutually agreed upon or to receive at such boundary or point, and to pump and dispose of, sewage. Power to contract. cf. C.T.W. and S. Act, 1880, s. 90.

DIVISION 6.—*Construction and maintenance of works—Powers of council.*

382. (1) The council may construct, extend, protect, maintain, control, and manage— Powers o council.

(a) works of water supply or sewerage or drainage and any works incidental thereto; and

(b) works in connection therewith or separate therefrom for the supply of electricity.

(2) Such works may be within or outside the area, but the council shall not supply water or sewerage or electricity outside the area except as provided elsewhere in this Act. See s. 510 post.

(3) The council may provide reservoirs tanks dams and the like for the conservation of water for public use, and may control and regulate the use thereof. Dams, tanks, &c.

Entering land—Compensation.

383. (1) For the purpose of investigating, preparing for, constructing, extending, protecting, or maintaining any works under this Part, and for the purpose of repairing any damage caused thereby, the council shall have the powers conferred by Division Six of Part VI of the Public Works Act, 1912, upon a constructing authority in addition to the powers conferred by this Act. Powers under Public Works Act, 1912. cf. C.T.W. and S. Act, 1880, ss. 16, 21, 63, 64, 65.

(2) Where the council obtains a water supply from under the surface of lands the property of the Crown or lands vested in the council, compensation shall not be payable to any private owner or lessee or occupier of any land by reason of any alleged damage caused by the lowering of the water level thereunder. Right to subterranean water.

(3)

(3) Where land has no frontage to a public road along which a water or sewerage pipe of the council is laid, and the owner or occupier is not able to obtain the consent of the owner and occupier of the land intervening between his land and the water or sewerage pipe to the laying of a water or sewerage pipe through such land to his land, or to necessary repairs or alterations to or the removal of a water or sewerage pipe laid through such intervening land, the council may, upon the application of such first-named owner or occupier, enter such intervening land and carry out the work on his behalf and at his cost; but any amount paid by or recovered from the council for compensation payable under the Public Works Act, 1912, shall not be recoverable from the applicant.

Power of council to lay pipes and drains through intervening land. cf. C.T.W. and S. (Amendment) Act, 1905, s. 9. cf. C.T.W. and S. Act, 1880, s. 76.

Taking land on lease.

384. (1) For the purpose of investigating, preparing for, constructing, extending, protecting, or maintaining any works under this Part, the council may enter any lands whatsoever, and may take such lands on lease with or without the right of purchase.

Power to take land on lease. cf. C.T.W. and S. Act, 1880, s. 95, et seq. cf. C.T.W. and S. (Amendment) Act, 1905, ss. 13, 14, 16-20.

(2) If the council and the owner of such lands cannot agree within ninety days from the date of entry by the council as to the term of or the rent to be reserved upon such lease, or the amount of purchase-money to be paid in case a right of purchase is therein stipulated for, or any other terms or conditions to be therein contained, either party may refer the matter to the Chief Judge in Equity, and such judge may summon witnesses, hear evidence, and determine the matter, and make such order with respect thereto and to the costs of such reference as having regard to the circumstances of the case he thinks just. The order of such judge shall be final, shall be binding on both parties, and on all persons claiming through or under them, and may be enforced in every respect as an order of the Supreme Court.

Settlement of disputes.

(3) For the like purpose, the council may make and enter into contracts and agreements with any person for the acquisition by purchase or otherwise of any rights to be exercised on or over any land.

Contracts and agreements. cf. C. T. W. and S. (Amendment) Act, 1905, s. 21.

Alterations,

Alterations, modifications, extensions, and additions.

Alterations of works. cf. C.T.W. and S. (Amendment) Act, 1905, s. 16.

385. (1) It shall be lawful for the Minister for Public Works, subject to the Public Works Act, 1912, or the council, to carry out such alterations, modifications, and extensions of and additions to any works under this Part as he or it thinks desirable, whether such works have been constructed by the Governor or such Minister, and notified as complete or not so notified, or constructed by the council.

Provided that, where there is money owing to the Treasurer by the council in respect of those works, the council shall not make additions to or extensions of the works without obtaining the consent of the Minister for Public Works beforehand.

Alterations to be taken over and paid for.

(2) Such alterations, modifications, extensions, and additions, if constructed by such Minister, shall be taken over by the council or councils, paid for, and otherwise dealt with in the same way as works constructed by the Minister for Public Works as hereinbefore in this Part provided.

Alteration of level.

Levels. cf. C.T.W. and S. 1880, s. 69.

391. (1) Where the council alters the level of any water pipe, sewer, or drain, it shall forthwith at its own cost make the necessary alterations of all branch water pipes, sewers, or drains connected therewith.

cf. C.T.W. and S. (Amendment) Act, 1905, s. 19.

(2) If the Minister for Public Works or the council at any time deems it necessary in the construction of any works under this Part that the position or level of any works vested in any person at the position under any public road should be altered, he and laid in or may, by notice in writing, require the or the council make the said alteration in such manner and said person to reasonable time as may be specified in the d within such expenses incurred in respect of the alteration notice, and the by such Minister or the council as the case n shall be paid

(3) If the notice is not complied with, such Minister or the council may cause the required alteration to be made, but no alteration shall be made which will permanently injure such works or prejudicially affect their use.

Temporary

Temporary roads, &c.

Temporary roads.

386. Where any work under this Part occupies the site of, or is constructed on or along any portion of a public road it shall be lawful for the Minister for Public Works or the council, as the case may be, to make in sections, as the work proceeds, a road or roads sufficient for the traffic, in substitution of any such first-mentioned road.

cf. C.T.W. and S. (Amendment) Act, 1905, s. 20.

Maps.

Maps.

387. (1) The council shall, before or within a reasonable time after the construction of any water, sewerage, or drainage works, cause to be prepared a map thereof and of the surrounding lands liable to be rated therefor, and shall from time to time, as such works are extended, cause such map to be added to so that it shall at all times show such lands.

cf. C.T.W. and S. Act, 1880, s. 63.

Levels and distances to be shown.

(2) Such map shall also show the levels of all such works at the road frontages of all such lands, and, so far as is reasonably practicable, the distances from such works of the nearest boundaries of such lands and the situation of the buildings on such lands.

Inspection of map.

(3) Such map shall within the office hours of the council be open to the inspection of the owners or occupiers of such lands and of licensed plumbers and drainers.

Special powers of Minister and Governor.

Repair and renewal of works.

388. (1) The Minister ~~may~~ **shall** from time to time cause inspection to be made **by the Minister for Public Works** of any water, sewerage, or drainage works of a council where there is money owing to the Treasurer by the council in respect of those works. If upon any such inspection he is of opinion that such works are not properly constructed or not kept in repair or not kept in efficient working order, the Minister may cause such repairs or alterations as he may think necessary to be made by the council or by the Minister for Public Works, and for the purpose of effecting those repairs or alterations the Minister for Public Works shall have the powers of the council in that behalf.

cf. C.T.W. and S. (Amendment) Act, 1905, ss. 54-55.

See also s. 402 (2) post.

(2)

(2) The costs and expenses incurred or paid in the effecting of such repairs or alterations shall be charged to the council, and if the council do not pay the same within twenty-one days after demand made by the Minister, he may recover the same as a debt. Recouping cost. cf. C.T.W. and S. (Amendment) Act, 1905, s. 55.

(3) In respect of any water, sewerage, drainage, or electricity works constructed by the Minister for Public Works for any council, the Governor may, by notification, direct what sum shall be set aside by such council out of the revenue derived from such works as a reserve for the purpose of effecting renewals or repairs thereto. Such sum shall be paid into the trust fund of the council, and shall not be drawn upon except with the approval of the Minister and for the purpose of effecting renewals or repairs to the said works. In case any doubt arises as to the necessity for such renewals or repairs the question shall be decided by the Minister, whose decision shall be final. Renewals—fund for. cf. C.T.W. and S. (Amendment) Act, 1905, s. 58.

(4) For the purposes of investigating, preparing for, constructing, extending, protecting, maintaining, or inspecting any works under this Part the Minister (or the Minister for Public Works) or any person authorised by him shall have the powers of a council under this Act. Minister has power of a council. cf. C.T.W. and S. (Amendment) Act, 1905, s. 15.

(5) Any action brought against the Minister or the Minister for Public Works in respect of any loss or injury arising in connection with the exercise of his powers under this Part shall be subject mutatis mutandis to the provisions of this Act relating to actions against a council for loss or injury. Actions against Minister. cf. C.T.W. and S. Act, 1880, s. 133.

(6) Nothing in this Act shall limit the power of the Minister for Public Works to cause inspection to be made of any works in respect of which there is any debt due to the Crown.

Provisions respecting water works.

Use and sale of water.

389. (1) The water available from any waterworks constructed under this Act, or under the Acts hereby repealed, shall be primarily used and equitably distributed for domestic purposes, street watering, sewer flushing, and the maintenance of a suitable pressure for fire Purposes for which water may be supplied. cf. C.T.W. and S. Act, 1880, ss. 35, 38.

fire extinguishing. After the demands for these purposes have been met the council may distribute the balance available to any applicants in accordance with the importance to the people of the district of the purposes for which the water is applied. In cases where the water supply works are specially constructed to supply water for purposes other than for human consumption, and where the water supplied is unfit for human consumption, there shall be no such restriction.

(2) Subject to the preceding subsection, the council may sell water ~~at such rates~~ **on such terms** as it may fix. Power to sell.

Standpipe water supplies.

390. (1) Where in the opinion of the Minister for Public Works, or the council constructing any works of water supply, it is not necessary to lay reticulation pipes, it shall be lawful for such Minister or council to construct and fix in place of such reticulation pipes a standpipe or standpipes for the supply of water, and in such case the council, upon taking over or constructing the works, may (in lieu of making and levying rates as elsewhere in this Part provided, but nevertheless subject to the provisions of this Part as to minimum rates) make and levy local rates in respect of such ratable land in the neighbourhood of such standpipes as in the opinion of the council would derive special benefit from such standpipe water supplies. Local rating for standpipe supplies. cf. C.T.W. and S. (Amendment) Act, 1905, s. 22.

(2) Such rates may be made and levied differentially, as the council may determine, according to the distance from any such standpipe of the land so rated. Rates may be differential.

(3) The payment of such rate in respect of any land shall entitle the owner or occupier of the same to take water for domestic purposes from any such standpipe to the value of the amount of the rate so paid, calculated at such charge by measure as may be fixed by the council as hereinbefore provided. Supply of water.

Cutting off supply.

391. (1) The council may cut off the supply of water to any land— Power to cut off supply.

(a) if any meter used to measure such supply is out of repair or in the opinion of the council incorrectly cf. C.T.W. and S. Act, 1880, ss. 23, 31, and

incorrectly registers the supply of water, and may cease to supply water until the meter registers correctly; or C.T.W. and S. (Amendment) Act, 1905, ss. 34, 47.

(b) if any rates or charges in respect of the water supplied to such land are unpaid, and may cease to supply water until such rates or charges are paid; or

(c) if in the opinion of the council such course is necessary owing to unusual drought or other unavoidable cause or any accident; or

(d) if the owner or occupier or person requiring a supply of water neglects to comply with the lawful requirements of the council as to the installing of meters or instruments for measuring the quantity of water supplied; or

(e) if the owner or occupier or person requiring a supply of water neglects to comply with any lawful requirement of a council to repair or alter water connections, pipes, fittings, or appliances, connected to the council's water supply.

(2) The cutting off of the supply of water under the authority of this section shall not affect the liability of the ratable person in respect of rates on the land.

Meters.

392. (1) The council may instal and charge hire for— Council may instal meters —hire.

(a) meters or instruments for measuring the quantity of water supplied; and cf. C.T.W. and S. Act, 1880, s. 25, et seq.

(b) pipes and apparatus for the conveyance, reception, and storage of water. cf. C.T.W. and S. (Amendment) Act, 1905, s. 6.

(2) Such hire may be recovered as rates. Hire.

(3) Such meters, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where used, nor to be attached or taken in execution under any process of any court of law or equity, or under or in pursuance of any sequestration or other legal proceedings against or affecting the consumer of the water, or the owner or occupier of the premises, or other person in whose possession or care such meters, instruments, pipes, or apparatus may be. Meters, &c., not subject to distraint. cf. C.T.W. & S. Act, 1880, s. 26.

(4)

(4) In lieu of installing any such meters, instruments, pipes, and apparatus, the council may require the owner or occupier or person requiring a supply of water to instal the same. All meters, instruments, pipes, and apparatus so installed shall be in accordance with the requirements of the council, and shall be maintained in good working condition. Owner required to supply. cf. C.T.W. & S. Act, 1880, ss. 27, 32.

(5) Where there is in the opinion of the Minister excessive consumption of water in any town or district, he may by written order direct the council to exercise its powers to have meters installed and to charge for excess water by measure. Minister's power to order installation of meters.

Provision respecting sewerage and drainage works.

393. Where in the opinion of the council greater expense would be incurred in causing the sewers or drains of two or more separate portions of land to empty into an existing sewer or drain than in constructing a new sewer or drain and causing such sewers and drains to empty therein, the council may construct such new sewer or drain, and by notice as aforesaid order the owners or occupiers of such separate portions of land to cause their sewers or drains to empty therein. The council shall apportion as it deems just the expenses of the construction of such new sewer or drain among the owners of the several portions of land, and may recover the sums so apportioned from such owners as debts. Construction of new sewer where less costly than connecting to existing sewer. cf. C.T.W. and S. (Amendment) Act, 1905, s. 12.

394. The council may, upon such terms and conditions as may be agreed upon, enter into a contract with any person who is not liable for payment of sewerage rates upon any lands for the discharge of the sewage from such lands into the sewers of the council. Contract to sewer land not subject to sewerage rate.

Sewers and drains not to be a nuisance.

395. The council shall cause all sewerage and drainage works to be constructed, maintained, kept, cleansed, and emptied with due regard for the health and convenience of the public, and shall exercise in and about the same every proper precaution against the spread of disease. Sewers and drains to be properly kept. cf. C.T.W. and S. Act, 1880, ss. 70, 73, 91.

Discharge

Discharge of sewage.

396. (1) The council may cause the sewage from its area to be discharged at such place within or without its area and to be treated in such works or supplied to any persons and on such terms as it may decide, subject in every case to the council's first obtaining the written approval of the Minister. Disposal of sewage. cf. C.T.W. and S. Act, 1880, ss. 89-94.

(2) The Minister ~~may~~ **shall** cause inspection to be made **by the Minister for Public Works** of any sewage disposal or treatment works and may give directions as to their proper maintenance and working in order that their efficiency may be maintained and that nuisance therefrom may be prevented. Such directions shall be obeyed by the council, and if not so obeyed within a reasonable time after written notice thereof is served upon the council, the Minister may cause such things to be done **by the Minister for Public Works** for the aforesaid purposes as to him may seem necessary and may recover the expense thereby incurred from the council as a debt. Method of working. cf. C.T.W. and S. Act, 1880, ss. 64, 65. cf. C.T.W. and S. (Amendment) Act, 1905, ss. 54-55. See also sec. 394.

Drains—transfer to council.

397. (1) The Governor may by proclamation direct that any drains therein mentioned or any improvements thereto constructed by him or by the Minister for Public Works with or without his authority before or after the commencement of this Act, together with any lands and buildings used in connection therewith, shall be taken over by the council upon such terms and conditions as the Governor may in any case appoint. Drains—transfer to council. cf. C.T.W. and S. (Amendment) Act, 1905, s. 23, and s. 73 (xi) of L.G. Act, 1906.

(2) Thereupon the council shall be charged with the care and management of such drains or improvements, subject to the terms and conditions aforesaid.

398. Where, in the subdivision of any land, there has been provision made for a drainage reserve (whether by agreement between the owner and the council or between the vendor and any purchaser, or by the marking on any plan exhibited to the public or lodged with the Registrar-General of words indicating the reservation of land for drainage) the land so provided for a drainage reserve is hereby vested in the council in fee-simple for drainage purposes. Drainage reserves vested in councils.

Temporary

Temporary advances from Treasury for water and sewerage connections.

Council may construct sewers on deferred payment. cf. C.T.W. and S. (Amendment Act, 1905, s. 11.

399. (1) Where under this Act or the ordinances any person is liable or has been required by the council to construct any works of water supply or sewerage, the council may agree to construct such works for such person on a system of deferred payment for a specified sum, and if such sum exceeds five pounds the Treasurer may, on the application of the council, advance the amount of such sum to the council from the Consolidated Revenue Fund.

Treasurer may lend money.

Repayment by instalments.

(2) Such amount shall be repaid by the council at any time or times, and by any instalments agreed upon between the council and the said Treasurer, with interest at such rate as the Treasurer may fix, but so that the amount of the advance, with interest as aforesaid, shall be repaid within five years from the completion of the works.

Not subject to provisions of loans.

(3) The provisions of this Act as to borrowing shall not apply to sums advanced under this section.

(4) The council may also (subject to the provisions of this Act) borrow from any person other than the Treasurer for the purposes of this section.

Loans by Treasurer for construction of works.

Loans from Treasury. cf. C.T.W. and S. Act Extension Act, 1887, s. 4 et seq., and C.T.W. and S. (Amendment) Act, 1905, s. 52.

400. (1) The Treasurer, when authorised by the Governor, may out of the Public Works Fund lend money to a council and the council may borrow from the Treasurer for the construction or extension of water, sewerage, or drainage works on such conditions as the Treasurer may decide.

(2) The provisions of this Part relating to moneys owing to the Treasurer in respect of works constructed by the Minister for Public Works shall apply to moneys owing under this section.

(3) The other provisions of this Act as to borrowing shall not apply to loans under this section.

DIVISION 7.—*Catchment districts and ordinances.*

Catchment districts.
cf. C.T.W. and S. Act, 1880, s. 9.
cf. C.T.W. and (Amendment) Act, 1905, s. 62.

401. (1) The Governor may proclaim any lands to be the "Catchment district" in connection with any water supply under the control of a council.

Ordinances.

(2) In respect of any such catchment district, ordinances may be made applicable to such council and to such catchment district, whether the catchment district or any part thereof be within or outside the area of such council. Such ordinances may relate to the following matters :—

(a) The marking of the boundaries of the catchment district.

(b) The protection of the catchment district, or any watercourse therein, from pollution, and the protection of any property of the council on such catchment district.

(c) The inspection of land and buildings upon such catchment district.

(d) The prohibition of burials on the catchment district.

(e) The authorising of the carrying out by the council of any structural alteration of buildings to prevent or minimise the danger of pollution of any catchment district.

(f) Requiring, subject to payment of compensation, the removal of buildings on the catchment district.

(g) The regulation or prevention of the keeping of animals on the catchment district.

(h) Preventing the diversion of or the taking of water from any natural or artificial watercourse the water of which flows into the council's works except by or under the authority of the council or of any statute.

Compensation.
See sec. 584 as to compensation.

(3) Where any person suffers injury by the operation of ordinances made under this section he may claim compensation from the council.

DIVISION 8.—*Control and management by Government.*

Works may be taken from care of council and placed in care of Minister.

402. (1) The Governor may proclaim that the Minister or the Minister for Public Works shall be charged with the care and management of any water sewerage or drainage works constructed under this Part or under the Acts repealed by this Part, or constructed by the Minister for Public Works, whether the council has or has not been charged with the care and management of such works.

Minister substituted for council.

(2) Thereupon with respect to such works this Part shall be read and construed as if the Minister or the Minister for Public Works were substituted for the council.

Works may be handed back to council.

(3) The Governor may at any time revoke such proclamation and charge the council with the care and management of such works and thereupon the provisions of this Part shall apply, mutatis mutandis, as in the case of works newly constructed under this Part.

DIVISION 9.—*Drainage.*

Regulation of drainage of all premises.

403. The council may control and regulate the draining of any lands or premises.

Drainage from private lands over footway (other than surface waters).

404. (1) The council may control, regulate, or prohibit the discharging upon any public road or any land vested in or under the control of the council of any drainage (other than surface waters or the soakage thereof.)

Surface waters.

(2) The council may control and regulate the discharging upon any public road or any land vested in or under the control of the council of the surface waters or soakage thereof from any lands.

(2) This section shall apply to lands the property of the Crown or of any statutory body.

Stormwater drains.

405. (1) Subject to the provisions of the Metropolitan Water and Sewerage Act of 1880, or of the Hunter District Water Supply and Sewerage Act of 1892, the council may construct, control, and manage stormwater drains.

(2)

(2) The expenses incurred by the council in and in relation to the construction of such drains may be recovered by the council by the making and levying for such term of years as the council may fix of a local rate upon the ratable land which is within the basin served by the drainage works. Local rate. cf. s. 384 ante.

Flood prevention and drainage of swamps.

406. Where any council proposes to carry out works on any river or on the banks thereof for the prevention of the flooding of private lands or for the draining and reclamation of swampy or low-lying land the following provisions shall apply:— Flood prevention and the draining of swamps. See also s. 498 re floods.

(1) Where the works proposed are estimated to cost more than five hundred pounds, and are (whether wholly situated in the area of one council or not) for the benefit of more than one area—

(a) such works shall not be commenced until the approval of the Minister for Public Works has been obtained; and

(b) the councils of the areas affected may carry out the works jointly under the provisions of this Act as to joint action by councils, or one council may contribute towards the cost of the work, such work being carried out by the other council; and See s. 523 post, as to joint action.

(c) a council may contribute towards the cost of the work notwithstanding that such work is situated outside the area of the council.

(2) Where the works proposed are for the benefit of one area only but are situated outside the boundaries of that area—

(a) the council of the area for whose benefit the works are proposed shall obtain the consent of the council in whose area such works will be situate; and if such consent be refused the dispute may be dealt with as elsewhere provided in this Act; and See s. 657 post, re disputes.

(b)

(b) if the works proposed to be constructed outside the area taken together with any works for the same purpose proposed to be constructed within the area (if any) are estimated to cost more than five hundred pounds, such works shall not be commenced until the approval of the Minister for Public Works has been obtained; and

(c) thereupon such works may be constructed by a council notwithstanding that they or any part thereof are situated outside the council's area.

(3) If any such works as aforesaid are constructed out of borrowed money any loan rate in connection therewith shall be levied as a local loan rate on the lands benefited by such works.

DIVISION 10.—*Ordinances.*

407. Ordinances may be made for carrying this Part into effect, and in particular for and with respect to— Ordinances. cf. C.T.W. and S. Act, 1880, ss. 13 (8), 45, 46, 47, 49.

(1) preventing the waste or misuse or the unlawful taking of water of the council;

(2) preventing the diversion of or the taking of water from any natural or artificial watercourse, the water of which flows into the council's works, except by or under the authority of the council or of any statute; cf. C.T.W. and S. Act, 1880, s. 18.

(3) protecting the council's water supply from pollution; cf. C.T.W. and S. Act, 1880, s. 51, et seq. cf. C.T.W. and S. (Amendment) Act, 1905, s. 62.

(4) preventing the use of water for purposes other than those for which it is supplied; cf. C.T.W. and S. Act, 1880, s. 47.

(5) preventing the use, directly or indirectly, by persons unauthorised by the council, of water supplied by the council; cf. C.T.W. and S. Act, 1880, s. 13 (10).

(6) the fixing of fire hydrants and fire hydrant notices in public roads; cf. C.T.W. and S. Act, 1880, ss. 36, 37.

(7) authorising and regulating the examination of gas-pipes owned by any person, to ascertain whether the council's water supply is fouled by gas therefrom, and the examination of water-pipes, drains, and sewers owned by any person to ascertain whether water, drainage, or sewerage escapes therefrom, and providing for payment of expenses by such person, if such be found to be the case ; cf. C.T.W. and S. Act, 1880, s. 57. cf. C.T.W. and S. (Amendment) Act, 1905, ss. (1 and 3).

(8) the regulation or prevention of the discharge of roof waters and other surface waters into the sewers of the council ;

(9) the regulation of the conditions to be observed with regard to liquid trade or factory wastes, or chemical or other impurities, before they are discharged into the council's sewers or drains, or the prevention of such discharge ;

(10) authorising and regulating the opening by the council of public places outside its area for purposes of water supply, sewerage, drainage, or electricity supply within its area; authorising and regulating the cutting, removal, and reconstruction of pipes, drains, sewers, wires, and other works under such public places as aforesaid and under public places within the area, and requiring and regulating the reinstatement thereof ; cf. C.T.W. and S. Act, 1880, s. 67, et seq.

(11) requiring and regulating the supply, fitting, maintenance, repair, and inspection of meters or instruments for measuring water, pipes, and apparatus for water supply, sewerage, and drainage, and requiring and regulating the removal or alteration thereof ; cf. C.T.W. and S. Act, 1880, s. 27, et seq. cf. C.T.W. and S. Act, 1880, s. 13 (6, 7, and 9).

(12) regulating the construction and repair of pipes, sewers, and drains (and all apparatus connected therewith) to connect any premises with the council's water-pipes, sewers, and drains ; cf. C.T.W. and S. Act, 1880, ss. 13 (13), 41-44, 58, 76. cf. C.T.W. and S. (Amendment) Act, 1905, s. 6.

(13) compelling owners to keep pipes, sewers, and drains in proper repair ; preventing the construction or alteration of or interference with such pipes, sewers, or drains without the permission of the council ; cf. C.T.W. and S. Act, 1880, ss. 13 (9), 74, 85, 84, 86, 87. cf. C.T.W. and S. (Amendment) Act, 1905, s. 6.

(14)

(14) preventing the connection without the council's permission of the pipes, sewers, or drains of any land with the pipes, sewers, or drains of any other land supplied with water, sewerage, or drainage by connection with the council's works; cf. C.T.W. and S. Act, 1880, ss. 48, 74, 86, 87.

(15) authorising and regulating the laying by the council or any person through any lands lying between his premises and the council's water mains, sewers, or drains of pipes, sewers, or drains to connect therewith, and defining the conditions thereof; cf. C.T.W. and S. (Amendment) Act, 1905, s. 9. C.T.W. and S. Act, 1880. s. 76.

(16) compelling owners of land subject to water, sewerage, or drainage rates to cause their premises to be connected with the council's water, sewerage, or drainage works respectively; cf. C.T.W. and S. (Amendment) Act, 1905, ss. 10, 12. C.T.W. and S. Act, 1880, ss. 39, 78.

(17) authorising the council to construct connecting pipes, sewers, or drains, and supply apparatus therefor, and accept deferred payments bearing interest therefor; cf. C.T.W. and S. (Amendment) Act, 1905, s. 11.

(18) authorising and regulating the temporary occupation of any lands for purposes of water, sewerage, or drainage works, and prescribing the providing of accommodation works for the convenience of the owners or occupiers of such lands during such occupation or for the convenience of other owners or occupiers affected by any works of the council; cf. C.T.W. and S. Act, 1880, s. 113.

(19) the licensing and regulation of water plumbers, sewer plumbers, and drainers; the prescribing of the necessary qualifications for such licenses; cf. C.T.W. and S. (Amendment) Act, 1905, ss. 5, 69 (a).

(20) the licensing and regulation of water carts and water carters;

(21) the construction and maintenance of drains and drainage services; Drains—natural drainage.

(22) the regulation and prevention of the alteration or diversion on any land of the natural flow of drainage, and of natural or artificial watercourses, ditches, gutters, drains, and drainage tunnels; the preservation of the free flow of water and drainage therein, and the prevention of the creation of obstructions thereto; (23)

(23) the regulation of the drainage of premises;

(24) the protection, control, and regulation of drains constructed by or under the control of the council;

(25) requiring owners and occupiers of premises to maintain drains thereon in good working order;

(26) requiring owners of premises to construct, repair, or reconstruct drains as may be necessary for the proper drainage of the premises;

(27) the construction and alteration of drains on private premises or connecting private premises with public places, or with the sea or any watercourse; and

(28) repealing by-laws made under the Acts repealed by this Act.

PART XV.

Rivers, Watercourses, &c.

Application of Part.

408. Subject to the provisions of this Act—

(a) this Part shall apply to municipalities and shires;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

Clearing of rivers.

409. (1) The council may clear snags, trees, vegetation, and the like obstructions from any rivers or watercourses passing through or along the boundaries of the area.

Felling trees into natural watercourses.

cf. L.G. Acts. 1906-8, s. 73 (1).

(2) The council may prevent the depositing or felling of trees into any rivers or watercourses.

River bank erosion.

410. (1) The council may protect any lands vested in or under the control of the council from the encroachment of rivers or watercourses, provided that any protective works hereunder shall not be so constructed as to raise the level of the banks of the river or watercourse, or so as to obstruct the flow thereof.

(2)

(2) Where a local rate has been levied to defray the cost of the work, or where the owner or person interested in any private land prepays the cost of the work, the council may protect private land from the encroachment of rivers or watercourses.

PART XVI.

WHARVES.

Application of Part.

411. Subject to the provisions of this Act—

(a) this Part shall apply to municipalities and shires;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

Interpretation.

412. In this Part, unless inconsistent with the context or subject matter—

"Port of Sydney" means Port of Sydney as defined in the Sydney Harbour Trust Act, 1900.

"Wharf" includes dock, pier, jetty, landing-stage, slip, platform, or any embankment or work of any kind intended to facilitate the loading or discharging from vessels of goods or passengers.

Council's powers.

cf. L.G. Acts, 1906–8, s. 73 – 1 (vi).

413. (1) The council may (except in the Port of Sydney) construct and maintain, control, manage, and sublet public wharves.

(2) In the Port of Sydney the council may (with the approval of the Sydney Harbour Trust Commissioners and of the Governor) take on lease, construct, maintain, control, manage, and sublet public wharves.

Governor may declare public wharves.

Vide L.G. Acts, 1906–8, s. 94.

414. (1) Where any wharf—

(a) has been constructed by the council, or by the Crown; or

(b) has on the expiration of a lease fallen into the possession of the Crown,

the Governor may declare such wharf, together with any adjoining land which is the property of the Crown and is necessary for the proper working thereof, to be a public wharf for the purposes of this Act, and may vest the control thereof in the council of the area.

(2)

(2) A council may close and remove any wharf vested in it if the Minister's consent first be obtained. Closing of wharf.

(3) This section shall not apply to the Port of Sydney. Port of Sydney excepted.

415. (1) A council may, in respect of any public wharf which is under the control and management of the council, whether such wharf has been appointed a public or legal wharf under any Act regulating the customs or not, fix and collect such wharfage and tonnage rates, or dues, tolls, or charges for the use thereof as do not exceed those (if any) prescribed by ordinance. Council may collect dues and charges.

(2) Where wharfage and tonnage rates have been fixed by a council with respect to a wharf, the provisions of the Wharfage and Tonnage Rates Act, 1901, shall cease to apply to such wharf.

(3) A council, or any agent or servant of a council, shall have full power to order and direct and do all things necessary in relation to— Powers of council's servants.

(a) the control of the berthing and removal of any vessel (except in the Port of Sydney);

(b) the discharging and loading of cargo;

(c) the storage and removal of goods; and

(d) generally in relation to the control of the use of such wharf and any appliances connected therewith.

PART XVII.

TRADING.

DIVISION 1.—*Application.*

416. Subject to the provisions of this Act— Application of Part.

(a) this Part shall apply to municipalities and shires;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

DIVISINO

DIVISION 2.—*Trading by councils.*

Powers of council to establish trading undertakings.

417. Subject to the provisions of this Act a council may establish, acquire, and conduct trading undertakings.

What is a trading undertaking.

cf. L.G. Acts 1906–8, s. 109 (xx, xxi, xxii, liii).

418. (1) The following shall be trading undertakings within the meaning of this Part, that is to say—

(a) the supply of electricity and the supply and installing of electrical fittings and appliances;

(b) the supply of gas, and the supply and installing of gasfittings and appliances;

(c) the supply of hydraulic power, and the supply and installing of hydraulic fittings and appliances;

(d) the business of a ferry service (other than for a road-ferry) on waters within or adjacent to the area;

(e) the business of a motor 'bus service for the conveyance of passengers for hire;

(f) the business of the conveyance of goods or merchandise for hire by locomotive and transport appliances with animal or mechanical motive power and the letting of such appliances for hire;

(g) the supply of stone, broken stone, clay, sand, or gravel from the council's quarries or pits or land;

(h) the supply of pipes, flagstones, and kerbing and guttering;

(i) supply of ice:

Provided that the power to trade in electrical gas or hydraulic fittings and appliances shall not apply except in cases where the council is engaged in the supply of electricity, gas, or hydraulic power, as the case may be.

(2) The power to trade in any article or commodity (including the supply of power) shall include the power to purchase, generate, manufacture, or obtain the article or commodity for the purpose of sale or hire.

(3)

(3) The Governor may, by ordinance, prescribe—

(a) what shall be deemed to be a separate trading undertaking; and

(b) that any undertaking of the council within the powers granted by this Act shall be a trading undertaking.

Extending outside boundaries.

(4) The council may extend any of its trading undertakings mentioned in paragraphs (a) (b) (c) (d) (e) and (f) of subsection one of this section, into any other area, if the consent of the council of that area is obtained to such extension and subject to such terms and conditions as may be agreed upon.

Land for trading undertakings.

(5) The council may acquire or use land outside the area for the purposes of this Part.

(6) Any agreement made before the commencement of this Act and relating to any trading undertaking within the meaning of this section may, after alterations have been made therein if necessary to comply with the requirements of this section, be approved by the Governor and thereupon this section shall apply to that agreement and such agreement (if previously invalid) shall be valid.

Principles of trading by councils.

419. Subject to the provisions of this Act, and in particular to making proper provision for depreciation and obsolescence of assets, and for reserves and for the payment of principal, interest, and expenses in respect of moneys borrowed for the purposes of the undertaking, the council shall endeavour so to conduct each trading undertaking that without any loss being incurred the service, product, or commodity of the undertaking may be supplied to the consumer as cheaply as possible.

DIVISION 3.—*Trading franchises.*

Council may grant "franchises" limited by conditions.

420. (1) The council may grant permission to any person not authorised by statute or otherwise—

(a) to supply gas or electric current to the public, and for such purposes to lay or erect pipes, wires, poles, and other apparatus on, under, or over any public place; or

(b)

(b) to lay rails in any public place, and run cars thereon drawn by animal or mechanical power for the purposes of any business, other than the carriage of goods or passengers for hire.

Conditions of "franchise."

(2) In any such case the council shall enter into an agreement with such person, which shall contain articles dealing with the following subjects :—

(i) The term of years for which permission is given ~~provided that such term shall not exceed twenty-five years~~.

(ii) The consideration to be paid to the council for such permission.

(iii) Whether the council is to have an option of purchase ; if so, when, for what sum, and on what terms.

(iv) The consideration to be paid by the council if it exercise its option of purchase before the expiration of the term of years for which the permission is given.

(v) The regulation of the charges to be made to the public for commodities supplied or for services rendered.

(vi) The provision to be made for the repair of any damage resulting from the exercise of the powers conferred under any such agreement, and the securing of the public safety.

(vii) The removal of all pipes, wires, rails, poles, or other works or appliances on the expiration of the agreement, if not sold to the council.

(viii) The indemnifying of the council against damage.

(ix) The full protection of the rights of the public to free passage upon public places.

(x) The maintenance of the efficiency of the service, the plant and machinery, and the testing thereof.

(xi) Such other subjects as the council may deem necessary in the public interest, or as may be prescribed.

(3)

(3) Any such agreement shall not be binding upon either of the parties thereto or have any force or effect in law or equity, unless and until **the agreement has been approved by resolution of both Houses of Parliament and** the approval of the Governor has been signified in writing upon such agreement or a certified copy thereof. "Franchise" useless until approved by Governor.

(4) Before the approval of the Governor is given under this section, the agreement, or a certified copy thereof, shall be laid before both Houses of Parliament, and if either House pass a resolution (of which notice has been given at any time within fifteen sitting days after such agreement or a certified copy thereof has been so laid before Parliament) disallowing the agreement or any part thereof, the agreement or part thereof, as the case may be, shall be disallowed.

(~~4~~ **5**) Except as provided in such agreement made after the commencement of this Act compensation shall not be paid to any person in respect of goodwill or of any profits which may (or might) have been (or be) made from the undertaking or of any similar considerations. No compensation for goodwill. Compare ss. 2 and 3 of Electric Lighting Act (England), 1888.

(~~5~~ **6**) Any agreement made before the commencement of this Act may, after alterations have been made therein if necessary to comply with the requirements of this section, be approved by the Governor, and thereupon this section shall apply to that agreement, and the agreement (if previously invalid) shall be valid.

(~~6~~ **7**) Where the council declines to grant any application for permission under subsection one hereof the applicant may appeal to the Minister, who may cause a public inquiry to be held, and thereupon the Governor may, after considering the report of the inquiry, order the council to grant permission and enter into an agreement under this section. Any such order shall not be made in a case where—

(a) the council itself is engaged in supplying a service similar to that to which the application relates ; or

(b) the council gives a satisfactory undertaking that it will within two years supply such a service.

421. (1) The council may, for any purpose other than those specifically named in subsection one of the last preceding section, and other than the carriage of goods or passengers for hire, and subject to such conditions as it may impose, grant permission to any person to construct, lay, suspend, or otherwise place any rails, pipes, wires, cables, tunnels, or structures of any sort whatsoever upon or under or over any public place, and may make a charge for any damage to the public place resulting from the construction or placing thereof. Pipes, wires, &c., under or over public places.

(2) Any such permission granted shall not authorise permanent obstruction of the ordinary and reasonable user of such public place.

(3) A person shall not construct, lay, suspend, or otherwise place any rails, pipes, wires, cables, tunnels, or structures of any sort whatsoever upon or under or over any public place without having obtained the permission of the council. Permission of council.

(4) Where, in the council's opinion the existence of any rails, pipes, wires, cables, tunnels, or structures aforesaid causes damage to a public place, the council may require that the damage be made good by the person entitled to the use and benefit of such rails, pipes, wires, cables, tunnels, or structures.

(5) Where any rails, pipes, wires, cables, tunnels, or structures aforesaid have not been in regular use for a period of twelve months the council may order the removal thereof, and may order the repair of any damage to any public place resulting from such removal. The person entitled to the use and benefit of the rails, pipes, wires, cables, tunnels, or structures, shall comply with the order.

(6) This section shall apply to rails, pipes, wires, cables, tunnels, and structures laid suspended or placed upon or under or over any public place before or after the commencement of this Act except where such things are so placed under the authority of any statute, in which case this section shall not apply.

422. (1) The council may, at any time, when in its opinion any rails, pipes, wires, cables, tunnels, or structures, laid suspended or placed upon under or over any public place, require repair ~~or alteration~~ in the interests of public safety or convenience, order that such repairs ~~or alterations~~ as it may deem necessary be effected. Repairs ~~or~~ ~~alterations.~~

(2) In default of such repairs being effected the council may remove or fill in such rails, pipes, wires, cables, tunnels, or structures, or any part thereof, and recover the cost of so doing as a debt from the person to whom permission has been granted under this ~~section~~ **Division** or his successors in title.

(3) An action shall not be brought against a council for any loss or damage which any person may suffer by reason of anything done or omitted under or in pursuance of any permission granted by the council under this Division, or for any loss or damage which any person has suffered or may suffer before or after the commencement of this Act, by reason of anything done or omitted to be done under or in pursuance of any permission granted before the commencement of this Act by any council to the Pacific Cable Board constituted under the Imperial Act, 1 Edward VII (1901) ch. 31. Council not actionable.

(4) This section shall not apply to the Crown, nor to any works constructed or to be constructed by a ~~public authority~~ **statutory body** under any statute, but **shall apply to any person other than the Crown or such public authority, and shall apply to rails, pipes, wires, cables, tunnels and structures laid, suspended, or placed upon, under, or over any public place before or after the commencement of this Act, including any such things so placed under the authority of any statute.** Exemption of certain works.

PART

PART XVIII.

IMPOUNDING.

Application of Part.

Application of this Part. Municipalities and shires.

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

(a) the provisions of this Part shall apply to municipalities and shires;

Impounding Act, 1898, and certain sections of Stock Act, 1901, not to apply.

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area;

(c) within municipalities and shires, the Impounding Act, 1898, and sections one hundred and eighty-two and one hundred and eighty-three of the Stock Act, 1901, shall not apply.

Savings. Documents, &c.

(2) This Part shall not affect the validity of any document, establishment, proclamation, or appointment heretofore made or issued under any Act relating to impounding, and any instrument issued under any such Act, and referring to such Act, shall be construed to refer to this Act or the corresponding enactment in this Act.

References.

(3) Any reference in any Act to the Impounding Act, 1898, shall be construed to refer to this Act.

Fees, &c.

(4) All fees, charges, and damages under the Impounding Act, 1898, shall, until repealed by ordinance, be fees, charges, and damages under this Act.

Poundkeepers.

(5) All poundkeepers having the authorised charge of any pound on the commencement of this Act shall be deemed to have been appointed by the respective councils under this Act.

(6) All animals impounded and not released or sold before the commencement of this Act shall be deemed to have been impounded under this Act as if this Act were in force at the time of the impounding.

Definitions. cf. Impounding Act, 1898, s. 3.

424. In this Part, unless inconsistent with the context or subject matter,—

"Animal" means cattle, horses, asses, mules, sheep, goats, and swine.

"Cattle" includes bovine cattle, camels, and dromedaries.

"Occupant"

"Occupant" means any holder or occupier of land under whatever tenure, or any superintendent, overseer, or other duly authorised person acting for or on behalf of any such occupant and includes any corporate or statutory or public body having the care, control, or management of any lands.

"Owner" means any proprietor of animals or any agent or overseer of any proprietor.

"Pound" means any public pound established under this Act or the Impounding Act, 1898.

"Poundkeeper" means any person having the authorised charge of any public pound.

"Sufficient fence" means such a fence or other means of enclosure, natural or artificial, as the court of petty sessions hearing any matter under this Part shall deem to be sufficient to prevent trespass by animals ordinarily controllable.

Opening and closing of pounds.
cf. Impounding Act, 1898, s. 4.
cf. L. G. Acts, 1906-8, s. 91.

425. (1) A council may open and establish and may thereafter manage and maintain public pounds within or outside its area, and may close any such pound. The opening or closing of any pound may be effected by notification as prescribed.

Poundkeeper—appointment.
cf. Impounding Act, 1898, ss. 5, 6 (2), (3), (4), 7, 8, 9, 21, 25, 26 (2); 51.
cf. L. G. Acts, 1906-8, s. 91.

(2) A council shall appoint a poundkeeper in respect of every pound maintained and managed by it. The rights and duties of poundkeepers shall be as prescribed.

Poundkeeper—duties of.
Notice of impounding.
Feeding of animals in pounds.
cf. Impounding Act, 1898, ss. 8, 10, 11, 12.

(3) Where any animal is impounded the poundkeeper shall give such notices by post, exhibition, or advertisement as shall be prescribed, and shall feed and care for such animal as prescribed.

Council's duty.
Books, forms, &c.

(4) The council shall provide the poundkeeper with such books, papers, and forms as may be prescribed, and it shall be the duty of the ~~clerk to inspect the pounds and the books thereof, and report to the council thereon.~~ council to cause regular inspection to be made of each pound and of the books thereof, and a report thereon to be laid before the council.

Clerk to inspect
cf. Impounding Act, 1898, ss. 6 (1), (3), 54.
cf. L. G. Acts, 1906-8, s. 92.

Impounding

Impounding by councils.

Council may impound.
cf. Impounding Act, 1898, s. 40.

426. (1) Any animal found in any municipality or shire at large in any public place or trespassing upon any land vested in or under the control of the council may be impounded by the council.

Additional power in a municipality.

(2) Any animal found in a municipality trespassing on any public land which adjoins a public road, may be impounded by the council.

Limitation of powers of shire councils.
cf. Impounding Act, 1898, s. 40.

(3) In a shire subsection one of this section shall not apply except—

(a) to those parts of a shire where Texas or tick fever is prevalent or where the Governor proclaims that there is reason to apprehend danger of animals in such area being affected by any such fever;

(b) to villages, towns, and urban areas; and

(c) outside villages, towns, and urban areas—to public places (other than roads) which are sufficiently fenced, and to lands vested in or under the control of the council which are sufficiently fenced, and to roads which are sufficiently fenced on both sides at the place where any animal is seized for the purpose of being impounded or detained.

(4) Where a public road runs through a travelling stock route which is sufficiently fenced on both sides the road shall for the purpose of this section be deemed to be sufficiently fenced on both sides.

Time when council may impound.
cf. Impounding Act, 1898, s. 13, and Local Govt. Acts, 1906-8, ss. 91 (4), 93.

(5) A council may impound on any day of the week and at any time of the day or night.

Impounding officer.
cf. Impounding Act, 1898, s. 43.

(6) An impounding by a council shall be effected by an impounding officer appointed or authorised by the council, and in impounding any animal the impounding officer shall drive, lead, or otherwise take it to a pound and shall there deliver it to the poundkeeper to be impounded. Any constable or officer of police may similarly impound on behalf of a council.

(7)

(7) Any animal impounded by a council may be impounded either in some pound of the council or in such other pound as the impounding officer deems convenient. Where council may impound. cf. Impounding Act, 1898, s. 13.

(8) The council may detain any animal liable to impounding and place such animal on any land on agistment or upon any land owned by or under the control of the council and may therein detain it for a period not exceeding seven days before impounding it. Council may detain animals. cf. Impounding Act, 1898, s. 14.

Impounding by occupants.

427. Any occupant upon whose land any animals are trespassing may drive or otherwise take or send the same to the pound nearest by a practicable road to the land where they are trespassing, or if such land be equidistant or nearly so from two pounds then to either thereof, or if there be no poundkeeper at the nearest pound then to the nearest pound having a poundkeeper, and may on any day of the week between sunrise and sunset deliver them to the poundkeeper to be impounded. Occupant may impound. In what pound. cf. Impounding Act, 1898, s. 13.

428. (1) Subject to the provisions of this section, any occupant upon whose land any animals are trespassing may, if he knows their owner, temporarily impound them in any convenient place on his own premises for a period not exceeding four days. Impounding on private premises. cf. Impounding Act, 1898, s. 14.

(2) Such occupant shall within twenty-four hours give the prescribed notice to the owner and shall feed and maintain such animals while so impounded, and may at or before the expiration of such period of four days, if not sooner duly released, impound them in accordance with the provisions of the last preceding section. Notice to owner.

(3) Such occupant may make a charge for feeding and maintaining such animals, and for sending such notice not exceeding such as may be made by the nearest poundkeeper, and for damage fees as prescribed. Charge.

(4)

(4) Any occupant contemplating impounding any animals may detain them on his own premises for twenty-four hours before impounding them. Occupant may detain animals.

429. (1) Any occupant may send any animals trespassing on his land to any convenient place near the residence of the owner, and may at the same time demand from the owner payment of damage fees and driving charges as prescribed, and thereupon such owner shall pay the same as satisfaction for such trespass, or in default thereof the occupant may recover the same as a debt in the nearest court of petty sessions with reasonable costs of suit. Occupant may send animals to owner and demand payment. cf. Impounding Act, 1898, s. 15.

(2) Any occupant may detain any animals trespassing on his land, and give notice to the owner of such detention, stating where they are and requiring him to remove them, and may demand damage fees and the costs of notice as prescribed, and if not released within twenty-four hours after such notice has been given shall impound such animals, and may add the cost of such notice to the fees and charges recoverable by him on impounding. Occupant may detain animals. cf. Impounding Act, 1898, s. 16.

Delivery to poundkeeper.

430. (1) Any animal taken to the pound for the purpose of being placed therein shall be delivered to the poundkeeper, and the person so delivering the animal shall at the same time fill in and give to the poundkeeper a written statement containing the particulars and in the form prescribed. Such form shall be obtainable from the poundkeeper. Procedure for impounding. cf. Impounding Act, 1898, s. 19.

(2) Any person authorised in that behalf by the council or mayor or president, or by the Minister, or any police magistrate or police officer, may at his own risk lodge any animal in his custody in the pound for safe custody, and may remove or authorise the removal thereof at his discretion. Such person shall pay charges at the rate of one shilling per day or part of a day for every animal so lodged, together with the prescribed sustenance charges. Lodging animals in pounds for safe custody. cf. Impounding Act, 1898, s. 17. Charges.

Fees and charges.

431. (1) Fees and charges may be prescribed by ordinance in relation to the following:— Fees and charges. cf. Impounding Act, 1898, ss. 6 (3), 7, 28, 29, 32.

(a) Damage fees and driving charges in respect of animals impounded by an occupant.

(b) Deterrent fees and driving charges in respect of animals impounded by a council.

(c) Pound fees, in which may be included charges to cover the expenses of advertising and the giving of notices.

(d) Inspection charges for the inspection of the books of the pound and the furnishing of extracts therefrom.

All fees and charges paid or recovered under paragraph (a) hereof shall be the property of the occupant, under paragraph (b) hereof the property of the council, and under paragraphs (c) and (d) hereof the property of the poundkeeper for his own use.

(2) The council may from time to time fix and notify sustenance charges, which shall be payable to the poundkeeper for his own use, for the care and sustenance of animals impounded. Sustenance charges. cf. Impounding Act, 1898, s. 30.

(3) All fees, charges, and damages payable in respect of any animal shall be paid before such animal is released from the pound, or shall be deducted from the proceeds of sale of such animal. Fees and charges to be paid before release of animals. cf. Impounding Act, 1898, s. 29 (2nd proviso).

(4) For any second or subsequent impounding of any animal within three months of any preceding impounding there shall be charged driving charges, pound fees as aforesaid, and twice the rates of damage or deterrent fees aforesaid.

(5) Where an impounded animal is not released and either cannot be sold as provided in this Part or is sold for a sum less than the fees, charges, and damages payable under this Act, the council may recover from the person who was the owner of the animal when impounded a sum equivalent to the said fees, charges,

and

and damages, or to the difference by which the sale price of the animal falls short of the said fees, charges, and damages. Any sum so recovered shall be applied by the council in the same manner as if paid by the owner for the release of the animal.

Entire stock —extra damages. cf. Impounding Act, 1898, s. 34.

432. (1) The owner of any entire horse or bull above the age of one year, or ram above the age of six months, which may be impounded or detained under the provisions of this Act shall be liable to pay by way of damages for every such horse or bull the sum of five pounds and for every such ram the sum of two pounds to the person or council impounding the same, in addition to the fees and charges.

(2) This section shall not operate to prevent such person or council recovering more than the damages in this section provided upon proof that damages to a greater extent have been sustained.

Second or subsequent impounding of entire stock.

(3) For any second or subsequent impounding or detention of any such animal the owner shall be liable to pay by way of damages double the amount provided in subsection one hereof.

Proof. cf. Impounding Act, 1898, s. 34.

(4) For the purpose of subsections one and three of this section proof shall not be required of any damage, nor, notwithstanding the provisions of section two hundred and fifty of the Crown Lands Consolidation Act, 1913, to the contrary, that the land whereon the trespass was committed was enclosed.

Release of animals.

Release before impounding. cf. Impounding Act, 1898, s. 20.

433. (1) Any animal seized or detained for the purpose of impounding may be released at any time before it is placed in a pound upon payment to the impounding officer or council impounding of the driving charges, and of the damage or deterrent fees as the case may be, and also of any damages.

Receipt to be given.

(2) Where any money is received hereunder by an impounding officer, he shall give a receipt in the manner prescribed, and shall forthwith pay over such money to the council.

(3)

(3) Any animal impounded may be released at any reasonable hour on any day before the day fixed for the sale of such animal upon payment to the poundkeeper of all fees and charges and damages payable in respect of such animal. Release after impounding cf. Impounding Act, 1898, s. 20.

(4) Any person who has seized or detained an animal for the purpose of impounding, or any poundkeeper in respect of an animal impounded, shall state on demand by the owner or any person authorised by him the amount to be paid to release the animal. Amount of fees and charges to be stated on demand. cf. Impounding Act, 1898, s. 20.

(5) Any person receiving an animal released from the pound shall give to the poundkeeper the prescribed receipt. Receipt for animal.

(6) Every person obtaining or applying for the release of an animal from the pound shall state the name and address of the owner of the animal.

Remedies of owners.

434. (1) If the owner of any animal impounded disputes the amount claimed for fees, charges, or damages, or disputes the impounding as not being in accordance with the provisions of this Act, he may give to the poundkeeper notice in writing of his intention to complain, and may either— Notice of intention to complain to justices. cf. Impounding Act, 1898, ss. 35, 38.

(a) obtain the release of the animal, in which case fees, charges, and damages shall not be paid over to the impounder for a period of one month from the receipt of such notice unless the decision of the justices as hereinafter set out authorising such payment over be conveyed to the poundkeeper before such month; or

(b) allow the animal to remain in the pound, in which case it shall be detained to await the decision of the justices as hereinafter set out.

(2) Upon service of a copy of a minute of dismissal of the complaint on the poundkeeper, or upon the expiration of one month from service of notice of intention to complain, whichever shall first happen, the poundkeeper shall detain or sell the animal as if no such notice cf. Impounding Act, 1898, ss. 37, 38.

notice had been received; and the amount payable for the period the animal was so allowed to remain in the pound shall be added to the fees, charges, and damages.

Complaint to justices.
cf. Impounding Act, 1898, ss. 36, 37.

435. (1) Within fourteen days from giving notice to the poundkeeper of intention to complain, the owner may make his complaint in writing to any justice, who shall issue a summons to the impounder to appear before two or more justices at the court of petty sessions nearest to the pound. The justices shall summarily determine such complaint and make such order for costs and expenses as may seem reasonable. If the justices dismiss the complaint they shall give to the impounder a minute of dismissal.

What justices may award.
cf. Impounding Act, 1898, s 36.

(2) If it appears to the justices that the amount claimed or the impounding was contrary to this Act they shall, in addition to any order for costs and expenses,—

(a) if the owner has obtained the release of the animal as aforesaid, award him the amount or the excess above the proper amount paid by him to obtain such release; or

(b) if the owner has allowed the animal to remain in the pound, issue an order to the poundkeeper to release the animal upon payment of pound fees and sustenance charges to the date of release and such other fees, charges, and damages (if any) as the justices may find to be lawfully payable, and they may award the owner a sum appearing to them sufficient to cover pound fees and sustenance charges.

Sale and disposal of animals.

Pound sale day.
cf. Impounding Act, 1898, s. 22.

436. (1) Thursday in every week shall be pound sale day, unless such day is a public holiday, when the next business day, not being a public holiday, shall be pound sale day. On such pound sale day the council may sell impounded animals.

Sales.
cf. Impounding Act, 1898, s. 25.

(2) All sales of impounded animals shall be held at noon by public auction at the pound by the poundkeeper, who may so sell without an auctioneer's license, and auction duty shall not be paid.

(3)

(3) The circumstances under which an animal may be sold, the method of sale, and the application of the proceeds arising therefrom shall be as prescribed. cf. Impounding Act, 1898, ss. 23, 24, 25, 26 (1), 27.

(4) Where the proceeds of the sale of an impounded animal are insufficient to defray the fees, charges, and damages payable under this Act in respect of such animal the council may recover such fees and charges or any balance thereof, and the impounder may recover such damages or any balance thereof in any court of competent jurisdiction from the owner of the animal.

437. (1) The mayor or president, upon being satisfied that an animal in the pound is by reason of disease, injury, starvation, or any cause too infirm to be of further service, or that such animal has been offered for sale and that there is no reasonable prospect of selling it, may, by order under his hand, authorise the destruction of such animal, and thereupon such animal, if not previously released from the pound, may be destroyed, and the reasonable expenses incurred may be recovered by the council from the owner as a debt: Destruction of impounded animals in certain circumstances.

Provided that, if the owner is known, written notice of intention to destroy shall be given to him a reasonable time before such destruction.

(2) Any goat offered for sale on a pound sale day and not sold may be destroyed by the poundkeeper after the day following the pound sale day. Goats impounded and not sold—destruction of.

(3) Any profit arising from the sale of the carcase of any such animal shall be the property of the council.

Miscellaneous.

438. The occupant of any lands enclosed by a fence sufficient for cattle and horses ordinarily controllable may destroy any goats or swine found trespassing thereon: Provided that this shall not apply to branded Angora goats, or other branded goats producing hair used in or adapted for the manufacture of cloth or other textile fabrics. When goats or swine may be destroyed. cf. Impounding Act, 1898, s. 44. Proviso—branded goats.

439.

Driving animals off land or out of flocks.

cf. Impounding Act, 1898, s. 46.

439. (1) Every person who drives, or attempts to drive, animals, being his own, or belonging to any person duly authorising him, from the land, and out of the herds or flocks of any occupant without the permission of such occupant; or, where such permission is not given, without first giving the occupant two days' notice, if required, of his intention so to do; or who, having given such notice, proceeds to carry it into effect without calling upon the occupant to enable him, if he pleases, to accompany him, or send a servant to do so, shall be liable to a penalty not exceeding five pounds.

(2) Every person who so drives, or attempts to drive, any animals, not being his own, or not belonging to some person duly authorising him as aforesaid, shall be liable to a penalty not exceeding ten pounds.

Criminal proceedings.

(3) Nothing herein shall affect any criminal proceeding for such driving if applicable thereto.

Right not to be exercised more than once a month.

(4) An owner of animals trespassing upon the land of any occupant may not demand to exercise such right in respect of such occupant more than once in the same month.

Rescuing animals.

cf. Impounding Act, 1898, s. 47.

440. Every person who rescues, or incites, or assists any other person in rescuing any animals lawfully impounded, or seized for the purpose of being impounded, shall be liable to a penalty not exceeding twenty pounds, together with the fees, charges, and damages payable in respect of such animals.

Penalty for admitting animals to cultivated land.

cf. Impounding Act, 1898, s. 48.

441. (1) Every person who wilfully lets in, or knowingly suffers to enter upon any cultivated land of any occupant any animals without due authority, shall be deemed guilty of a wilful trespass, and shall be liable for every such offence to a penalty not exceeding twenty pounds.

Civil remedy preserved.

(2) Conviction for such offence shall not affect any civil remedy against such offender.

"Sufficient fence" in case of lands in a ring fence.

cf. Impounding Act, 1898, s. 49.

442. (1) In every case in which more occupants than one hold lands enclosed by one common outward sufficient fence such lands shall, in regard to the liability for the prescribed damage fees, be deemed as against all persons

persons outside such common fence to be sufficiently fenced, but as against each other in cases where no sufficient fence stands between them shall be deemed to be unenclosed lands.

"Sufficient fence" in case where one owner neglects to repair his portion.

(2) If the occupant of any land having an insufficient dividing fence fails to make or repair his portion thereof, and the occupant of the adjoining land has erected or kept in repair his portion thereof, such last-mentioned land shall be deemed to have a sufficient fence as against the trespass thereon of any animal of which the first-mentioned occupant is the owner.

cf. Impounding Act, 1898, s. 50.

Leaving gates open—making gap in fence.

443. Whosoever unlawfully and wilfully leaves open any gate or slip-panel, or makes any gap in any fence, thereby permitting or causing any animal to trespass, or otherwise wilfully causes any animal to trespass, or illegally impounds any animal, or drives any animal without proper authority on or from the land of any other person shall, for every such offence, be liable to a penalty not exceeding ten pounds.

cf. Impounding Act, 1898, s. 53.

cf. C.T.W. and S. Act, 1880, s. 123.

No jurisdiction where title to land is in question.

444. (1) Nothing in this Part shall give jurisdiction to any justices in any matter where the title to land is bona fide in question.

cf. Impounding Act, 1898, s. 56.

Common law rights preserved.

(2) Nothing in this Part shall interfere with the common law right of proceeding for damages provided that if the plaintiff in any such proceeding does not recover more than the prescribed fees and charges hereunder he shall not be entitled to costs from the defendant.

cf. Impounding Act, 1898, s 58.

PART XIX.

BURIALS.

Application of this Part.

Application.

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

(a) this Part shall apply to municipalities and shires;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

(2)

(2) This Part shall not apply to the Necropolis under the Necropolis Act, 1901 (Act No. 20 of 1902).

Cemeteries.

Provision of cemeteries.

446. (1) The council may provide, control, and manage public cemeteries within or outside the area.

(2) The council may regulate public cemeteries vested in any body other than the council.

cf. L.G. Acts, 1906-8, s. 117.

(3) The Governor may by proclamation vest in the council the care, control, and management of any public cemetery within or outside the area.

(4) Upon such vesting—

(a) any trust relating to the care, control, and management of such cemetery shall be dissolved; and

(b) all powers and duties of such trust shall, without prejudice to anything done or contracted to be done, cease and determine; and

(c) all properties and liabilities of such trust shall (subject to any provision which the Governor may require to be made with respect to existing debts and securities) be the properties and liabilities of the council.

Continuation of trusts.

(5) Where an existing municipality, as defined in the Local Government Act, 1906, or its council, was on the commencement of that Act trustee of any cemetery under any Act or by virtue of any proclamation or appointment under any Act or under any private deed of trust, the council of the municipality under this Act shall, subject to this Act, be charged with the care, control, and management of such cemetery, and the assets and liabilities of such trust shall be assets and liabilities of such council of the municipality: Provided that where any such land was held under a private deed of trust such council shall be subject to the terms of such deed.

(6) A sum not exceeding one hundred pounds in any one year may be expended from the Waverley Cemetery Fund upon the construction and maintenance of the following roads of approach to the cemetery, namely,—

(a) St. Thomas street—from Macpherson street to the cemetery main entrance;

(b)

(b) St. Thomas street—from the cemetery main entrance southerly to the entrance gate on the west, approximately a distance of two hundred and sixty feet;

(c) Trafalgar-street—from the main entrance of the cemetery easterly to the entrance gate on the north, a distance of approximately five hundred feet;

(d) Chesterfield-parade—from the cemetery main entrance to Arden-street.

Crematories.

447. (1) The council may establish in any cemetery under its control a crematory, and may permit and control the cremation of the dead therein. Provision of crematories.

(2) Section fifty-one of the Public Health Act, 1902, shall not apply to the council.

Burials and cremation.

448. The council may regulate the burial and cremation of the dead in any cemetery within its area, and the management and use of any such cemetery. Regulation of burials and cremations. cf. L.G. Act, 1906-8, s. 13. (li).

449. The Governor may, on the recommendation of the council, prohibit burials in any cemetery or land within the area where such course appears to be necessary in order to prevent the pollution of any water supply or to safeguard the health of the residents in the neighbourhood. Prohibition of burials. cf. L.G. Acts, 1906-8, s. 109 (li).

450. Where any cemetery controlled and managed by a council is outside the area of that council it shall for the purposes of this Part and of any ordinances relating to the cemetery be deemed to be within the area. Control of cemetery outside council's area.

Mortuaries.

451. The council may provide, control, and manage public mortuaries for the temporary repose of the dead pending burial or cremation. Mortuaries. cf. L.G. Act, 1906, s. 109 (xlvii).

Undertaking.

Undertaking.

452. (1) The council may control and regulate— Licensing and regulation of undertakers.

(a) funeral undertakers; and

(b) vehicles supplied by funeral undertakers for the use of mourners at funerals.

(2) Ordinances may be made requiring funeral undertakers and vehicles supplied by them for the use of mourners to be licensed.

PART XX.

MARKETS.

Application of this Part.

453. (1) Subject to the provisions of this Act— Application.

(a) this Part shall apply to municipalities and shires;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

(2) Cattle sale-yards established or conducted by a council under any Act repealed by this Act shall be public cattle markets within the meaning of this Act. Interpretation.

Public markets.

454. (1) The council may provide, control, and manage within or outside the area— Council's power to provide markets.

(a) public cattle markets for the sale of any animals; and cf. L.G. Acts, 1906-8, s. 109 (xi), 113, 187.

(b) public food markets for the sale of any articles of the food of man. cf. Syd. Corp. Act, 1902, s. 148.

(2) In any public cattle or food market the council may permit the sale of articles other than cattle or food.

(3) The council may, subject to any leases or agreements entered into by it, close any public market controlled and managed by it. Power to close markets.

(4)

(4) Before closing any public market, the council shall give at least one month's notice thereof by notification in the Gazette and a newspaper.

Dues, rents, and commissions.

455. The council may, in any market of the council— Supplementary powers of council. cf. L.G. Acts, 1903-S, s. 113.

(a) lease stalls or stands therein to approved persons for approved purposes, and charge rents therefor;

(b) charge dues on all commodities or animals brought to such markets for sale or exchange;

(c) sell any commodities on commission for the owners, agents, or consignors thereof in accordance with any arrangement relating to commission which the council may make with such owners, agents, or consignors.

456. (1) Where the council of a municipality provides, controls, or manages any public market it may, in respect of any other market or cattle saleyards within the municipality (except another council's market) where the like commodities or animals are sold, exposed, or offered for sale as in the council's market aforesaid, charge dues in respect of such like commodities or animals. Power for council to charge fees in other markets. cf. L.G. Act, 1906, s. 113. cf. Melb. Metrop. Bill, clause 328.

(2) Where the council of a shire provides, controls, or manages any public market, it may, in respect of any other market or cattle saleyards within the prescribed distance thereof which is within the shire (except another council's market) where the like commodities or animals are sold, exposed, or offered for sale as in the council's market aforesaid, charge dues in respect of such like commodities or animals.

(3) The dues so charged shall not exceed the dues charged on the like commodities or animals in the council's market aforesaid.

Various

Various powers.

Sales by auction.

457. (1) The council may, in any public markets under its control, sell by auction, by any person holding a license as auctioneer under the Auctioneers Licensing Act, 1898.

(2) The council may permit any licensed auctioneer to sell in any public markets under its control.

Weighing machines in markets. See s. 485

458. The council may provide or may license persons to provide public weighbridges or public weighing machines in any market, and control and regulate such weighbridges or weighing machines and the charges for the use thereof, and may prohibit any unlicensed person from providing any weighbridge or weighing machine for public use in any market.

Ordinances.

Ordinances. cf. L.G. Acts, 1906–8, s. 187.

459. (1) Ordinances may be made for carrying this Part into effect, and in particular for and with respect to regulating markets and cattle saleyards other than those under the control of the council.

(2) Where any public market under the control of the council is situated outside the area, it shall for the purpose of ordinances relating to such market be deemed to be within the area.

PART XXI.

ABATTOIRS.

Application of this Part.

Application.

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

(a) this Part shall apply to municipalities and shires;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

(2) This Part shall not apply to any area or portion of an area to which the Meat Industry Act, 1915, or the Newcastle District Abattoirs and Sale Yards Act, 1912, applies.

Abattoirs.

Establishment of abattoirs.

cf. L.G. Acts, 1906-8, ss. 109 (x), 113.

461. The council may provide control and manage abattoirs within or outside its area.

Dues, rents, &c.

Renting of stalls—slaughter of animals.

462. The council may in any abattoir of the council—

(a) lease stalls or stands or pens therein to approved persons and charge rents therefor; and

(b) slaughter animals therein for the public and charge fees fixed by the council for such service; and

(c) permit the slaughtering of animals therein by approved persons, and make charges for the use of the abattoirs for such purposes.

Dues on other abattoirs.

cf. L.G. Acts, 1906-8, s. 113.

463. (1) Where the council of a municipality provides controls or manages any abattoirs it may charge the dues prescribed by ordinance in respect of any animals (other than rabbits, poultry, or game) slaughtered in any abattoirs or slaughter-house conducted within the municipality by any other person, except another council.

(2) Where the council of a shire provides controls or manages any abattoirs it may charge the dues

dues prescribed by ordinance in respect of any animals (other than rabbits, poultry, or game) slaughtered in any abattoirs or slaughter-house which is both within the prescribed distance of the council's abattoirs and within the shire, and is conducted by any other person, except another council.

(3) The dues so prescribed shall not exceed the dues charged on the like animals in the council's abattoirs aforesaid.

(4) This section shall not apply to any abattoirs or slaughter-house for slaughtering cattle for canning and export only; and the sale or supply of meat to the employees engaged in such abattoirs or slaughter-house shall not operate to cause this section to apply thereto.

Regulation of sale of carcases.

Sale of carcases of animals not slaughtered in abattoir.

cf. L.G. Acts, 1906–8, s. 113.

464. (1) Where abattoirs have been established by a council, or where any council has in conjunction with any other council jointly established abattoirs, the Governor may, for the purpose of securing the effective inspection of animals slaughtered, or intended for slaughter, by proclamation, prohibit or regulate the sale or exposure for sale within the area of any such council of any carcase or part of a carcase of any animal (to be used as the food of man) other than rabbits, poultry, and game which has not been slaughtered in the aforesaid abattoirs, or in the abattoir established under the Act fourteenth Victoria number thirty-six or in the abattoirs established under the Meat Industry Act, 1915.

Penalty.

(2) Any person exposing for sale or selling any carcase or part of a carcase in contravention of a proclamation under this section shall be liable to a penalty not exceeding twenty-five pounds.

Ordinances.

Ordinances

465. Ordinances may be made for carrying this Part into effect.

PART

PART XXII.

Noxious Plants and Animals.

Division 1.—*Application and interpretation.*

Application of this Part.

466. Subject to the provisions of this Act—

(a) this Part shall apply to municipalities and shires;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area;

(c) this Part shall not apply to animals which are for the time being noxious animals within the meaning of the Pastures Protection Act, 1912;

(d) any plant or animal declared to be a noxious plant or animal under the Local Government Act, 1906, in respect of an area shall be deemed to have been so declared under this Act; and

(e) this Part shall not apply to the Crown, but shall apply to lessees of Crown lands.

Interpretation.

467. In this Part—

"Noxious plant and animal" means noxious plant and noxious animal.

"Within land" and any like expression mean on or below the land.

Division 2.—*Declaration of noxious plants and animals.*

Declaring plants and animals noxious in all areas.

468. (1) The Governor may, by proclamation, declare any plant or animal to be a noxious plant or animal in all municipalities and shires.

(2) On the application of the majority of the councils of the areas situated wholly or partly within the district drained by any river, the Governor may by proclamation declare any plant or animal to be a noxious plant or animal in that district.

Declaring plants and animals noxious in particular areas.

cf. L.G. Acts, 1906-8, s. 112.

469. The council may, by notification in the Gazette, declare any plant or animal to be a noxious plant or animal within the area.

DIVISION 3.—*Destruction of noxious plants and animals.*

Private lands.

Duty of occupiers to destroy
cf. L.G. Acts, 1906-8, s. 112.

470. (1) Where any plant or animal has been declared to be a noxious plant or animal—

(a) the council may give notice to owners and occupiers of land by advertisement in newspapers as prescribed, and a copy of this section shall be included in or printed on the notice;

(b) the council shall also in each year thereafter publish advertisements in newspapers as prescribed drawing attention to this section and to the notice aforesaid; and

(c) all occupiers of land in the area shall destroy such plants and animals, and shall thereafter keep the land free therefrom.

(2) After the expiration of two months from the publication of the notice aforesaid, if the occupier of any land has not in the opinion of the council taken reasonable steps to comply with the requirements of this section the council may subject to the provisions of this Act—

(a) recover from such occupier, whether he be the owner or not, a penalty not exceeding fifty pounds upon proving that any noxious plant or animal named in such notice has been found after the said two months within the land; and

(b) also cause all noxious plants and animals within the land to be destroyed, and may recover from the occupier as a debt any reasonable expense thereby incurred.

Duty of owners to destroy.
cf. L.G. Acts, 1906-8, s. 112.

471. (1) Where any plant or animal has been declared to be a noxious plant or animal—

(a) the council may serve upon the owner of any land notice requiring him within a reasonable period, not less than two months, stated in the notice to destroy all noxious plants and animals within the land; and requiring him to keep such land free thereafter from such plants and animals;

(b) the owner of land so served with notice shall comply therewith, and shall thereafter keep the land free from such plants and animals.

(2) After the expiration of the aforesaid period if the owner of any land has not in the opinion of the council taken reasonable steps to comply with the requirements of this section the council may, subject to the provisions of this Act—

(a) recover from such owner a penalty not exceeding fifty pounds upon proving that any noxious plant or animal named in such notice has been found after the said two months within the land; and

(b) also cause all noxious plants and animals within the land to be destroyed and may recover from the owner as a debt any reasonable expense thereby incurred.

(3) The owner of private land with respect to which there was at the commencement of this Act a lease in force shall not be liable to any action under this section until such lease expires, or until the land is abandoned by the lessee (whichever first happens) if—

(a) within one month after the notice aforesaid is served upon him he serves upon the council a written claim for exemption under this subsection; and

(b) produces the lease on demand of the council for inspection.

(4) Where the council is of opinion that the introduction or the spread after introduction of any noxious plant or animal on any land is not due to the neglect of the owner or occupier the council may destroy the plant or animal and charge the cost to the appropriate fund.

Birds, flying foxes, and the like.

472. Where it becomes the duty of any person by virtue of a notice under this Part to destroy flying animals within any land and an animal of the kind referred to in the notice is found within the land after the expiration of the prescribed period, it shall be a good defence to any action for the recovery of a penalty under this Part in respect of such animals if it be proved that such person has diligently employed all practicable methods for the destruction of such animals.

Public lands.

473. (1) The council— Duty and power of the council in relation to public lands.

(a) shall destroy all noxious plants and animals within any land vested in or leased by it, and within any public place or public reserve under its care or management; and

(b) may destroy them upon or in any river, watercourse, or inland water, tidal or non-tidal, which is not privately owned or occupied; and

(c) may extirpate and destroy all noxious plants and animals within any unoccupied Crown lands, travelling stock routes, or any lands which are the property of the Crown and are reserved from sale, but are not vested in trustees. Travelling stock routes, Crown lands, &c.

(2) Notwithstanding the preceding subsection the council of any shire may resolve, and may notify by advertisement, that the duty to destroy noxious plants and animals which is laid by this Part upon any person other than the council shall extend and apply not only to lands owned, occupied, or vested in such person, but also to any road which intersects those lands, and to that one-half of the width of any road bounding the lands which abuts upon those lands: thereupon the duty aforesaid shall extend and apply accordingly: **Provided that this subsection shall apply only to roads whether dedicated or undedicated which are enclosed by gates, fences, or otherwise in such manner as to be used with the lands aforesaid, and shall not apply to dedicated roads which are separated from such lands by fences and are used as public thoroughfares.**

(3) The provisions of this Division relating to private lands shall apply, mutatis mutandis, to land which is owned and occupied or held by the Crown or by any statutory body for any of the following purposes, that is to say, sites for government buildings, police paddocks, experimental farms, aborigines' reserves, and railways and purposes incidental thereto: Crown lands.

Provided that where lands under the control of the Railway Commissioners for New South Wales are occupied for other than railway purposes the liability to comply

comply with the provisions of this Part shall apply to the occupier in all respects as if such lands were private lands.

Creeks and watercourses.

474. (1) For the purpose of deciding the person charged with the destruction of noxious plants and animals under this Part the provisions of this section shall have effect.

Lands on opposite sides of watercourses &c.—one owner or occupier.

(2) Where lands are situated on opposite sides of any watercourse, river, or inland water, tidal or non-tidal, and are owned or occupied by the same person, the land between those lands shall be deemed to be owned or occupied by him.

Lands on opposite sides of watercourses—different owners or occupiers.

(3) Where lands are situated on opposite sides of any watercourse, river, or inland water, tidal or non-tidal, and are owned or occupied by different persons—

Give-and-take fences

(i) where what is known as a "give-and-take" fence is erected to define a convenient boundary between such lands such fence shall be deemed to mark the line of ownership or occupation respectively whether such lands immediately adjoin or not; and

Other fences

(ii) where there is no fence, or where there is any fence other than a "give-and-take" fence, erected on or between such lands, the middle line of the watercourse, river, or inland water shall be deemed to mark the line of ownership or occupation respectively whether such lands immediately adjoin or not.

Exemption.

(4) Where the depth or width of such watercourse, river, or inland water (taken in conjunction with all the surrounding circumstances) is such that in the council's opinion the application of the preceding subsections of this section would be unreasonable, the council may exempt any watercourse, river, or inland water or part thereof from the application of those subsections, and may undertake the destruction of noxious weeds and animals therein.

DIVISION 4.—*Destruction in adjoining areas.*

Compulsory exercise of power by council of adjoining area.

475. (1) Any council which is exercising or has exercised the powers of this Act, and the ordinances applicable thereto, in relation to any particular kind of noxious

noxious plant or animal, may require the council of any adjoining area to exercise the like powers in a similar way with respect to that portion of the adjoining area situated within a distance of forty chains of the common boundary of their areas.

(2) Thereupon this Part shall apply to such portion of the adjoining area and the council of the adjoining area as if the plant or animal referred to had been declared a noxious plant or animal in such adjoining area

(3) The council of the adjoining area so required shall, notwithstanding anything elsewhere contained in this Act, comply with such requirement.

(4) In case of default or non-compliance with the requirements of this section such first-mentioned council may recover from the council making default, or not complying, a penalty not exceeding twenty pounds for every week during which such neglect continues, and the time when such neglect commences shall be determined by the court awarding the penalty.

PART XXIII.

Miscellaneous Powers.

Division 1.—*Application of this Part.*

Application.

476. Subject to the provisions of this Act—

(a) this Part shall apply to municipalities and shires;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

Division 2.—*Various powers.*

Purchase and resumption of land.

477. The council may purchase or resume land within or outside the area in any case where the council deems it expedient to acquire hold sell or let land in the interests of the area.

See s. 535 post.

Drinking fountains.

cf. Syd. Corp. Act, 1902, s. 138.

478. The council may on any land in the area vested in, dedicated to, or acquired by it, provide, control, and manage drinking fountains for the public and drinking troughs for animals.

479. The council may regulate the plucking of wild flowers and native flora within its area. **480.**

Provision of weighbridges. cf. 1906, No. 16, s. 13. Vide s. 464.

480. (1) The council may provide, control, and manage public weighbridges or weighing machines upon public places and upon any land vested in or dedicated to the council for any purpose.

(2) The council may make such charges for the use of the said weighbridges or weighing machines as it may from time to time determine.

Adjustment of weigh-bridges. cf. 1901, No. 6, s. 41.

(3) The council shall cause such weighbridges and weighing-machines, and all weights, scales, and balances used therewith, to be from time to time adjusted in accordance with the Weights and Measures Act, 1915.

Public clocks.

481. The council may provide clocks, with or without clock towers, for public information.

Buildings for public purposes.

482. (1) The council may on any land (other than a public road or a public reserve) vested in or dedicated to or acquired by the council for any purpose,—

(a) provide maintain and extend a town or shire hall;

(b) provide offices for the transaction of the council's business;

(c) provide buildings for use for public meetings, or for use as drill halls for compulsory trainees under the (Commonwealth) Defence Act, 1903–1915, or for any public purpose, or for use and hire by the public;

(d) provide night shelters;

(e) provide residences for servants of the council;

(f) provide shops offices and other buildings for lease to the public; and

(g) use any buildings of the council for hire to the public for meetings, entertainments, and the like.

cf. L.G. Acts, 1906-8, s. 73.

(2) The office of a council may be outside the area where the council so decides by the vote of an absolute majority of its members passed at one meeting and confirmed by a similar majority at a subsequent meeting held within six weeks after the first-mentioned meeting.

Advertising the area. cf. L.G. Acts, 1906-8, s. 109 (lii).

483. The council may advertise the advantages of the area to attract settlers or tourists.

484.

Native dogs and poisoned baits.

cf. L.G. Acts 1906-8, s. 109 (ii).

484. (1) The Governor may, by proclamation, on the application of the council, transfer to the council the powers and duties conferred and imposed upon justices in sessions by the Native Dogs Destruction and Poisoned Baits Act, 1901.

(2) Where powers and duties are transferred to the council under this section an appeal to quarter sessions under section eleven of the aforesaid Act against any decision of the council shall not be allowed; and that Act is amended accordingly.

Seamen's boarding-houses.

cf. L.G. Act, 1906, s. 109 (xlix).

485. The council may control and regulate seamen's boarding-houses and persons engaged in the supplying of seamen to sea-going vessels of all kinds.

Sale of spoil.

486. The council may use or sell the spoil of public roads and of any works carried out by it.

Amendment of Commons Regulation Act, 1898.

487. (1) Section eleven of the Commons Regulation Act, 1898, is repealed, and the following is substituted for it :—

Municipal or shire councils may be appointed trustees.

11. The Governor may appoint the council of any municipality or shire, by its corporate name, to be the trustees of any common wherever situate. Upon the publication of such appointment in the Gazette such council shall be the trustees of such common for the purposes of this Act.

Amendment of s. 14.

(2) Section fourteen of the same Act is amended by adding thereto the following proviso :—

" Provided that where the council of a municipality or shire has been appointed before or after the passing of this Act as trustees of a common, in its corporate name—

" (a) moneys received and paid in respect of the common shall be paid into and out of the general fund of the council;

" (b) in lieu of the production, exhibition, and publication of the accounts as above provided in this section, the council shall cause separate accounts in respect of the common to be kept and published in accordance with regulations which the Governor is hereby authorised to make."

(3)

(3) The council may charge fees for the agistment of animals on commons.

(4) The council may, out of the appropriate fund of the council under this Act, expend moneys on the improvement of commons.

Agistment. cf L.G. Acts, 1906-8, s. 109 (l).

488. The council may permit the agistment of animals on any lands under its control and charge fees therefor.

Power to appear before local land boards.

489. The council shall have power to appear and be represented by counsel, solicitor, or agent before any land board appointed under the Crown Lands Consolidation Act, 1913, in any matter before such board ~~relating to the proposed curtailment of travelling stock and camping reserves, or~~ affecting the council or the interests of its area.

Aviation stations.

Aerodromes.

490. (1) The council may establish, maintain, and regulate public aviation stations for the starting, landing, housing, and repair of aerial craft.

(2) The council may make charges for the use of an aviation station, or for services rendered thereat or in connection therewith.

Telephone services.

491. Subject to any laws or regulations made by the Parliament or the Governor-General of the Commonwealth, the council may—

(a) construct, maintain, and manage for public use extensions of the telephone lines of the Commonwealth; and

(b) rent such lines to persons using or connecting their private lines therewith.

Light lines of railways and tramways. Vide Qsl'd. L.A. Act, 1902; Qsl'd. Tramways Acts, 1882-1890; N.Z. Tramways Act, 1894.

492. (1) Subject to the provisions of this Act the council may—

(a) construct, acquire, maintain, and operate upon public roads or lands vested in or acquired by the council, light lines of railway or tramway for public use;

(b) regulate the use of such railways or tramways by the public; and

(c) regulate the conduct of all persons using or employed in connection with such railways or tramways.

(2)

(2) The council shall not exercise the aforesaid powers unless and until—

(a) the council has laid particulars of its proposals before the Minister;

(b) the Minister has caused public inquiry to be made into such proposals; and

(c) the Governor has approved thereof, or some modification thereof.

(2) Authority to exercise the provisions of this section may be obtained by a council in the following manner:—

(a) The council shall lay particulars of its proposals before the Minister.

(b) The Minister shall cause public inquiry to be made into such proposals.

(c) The Minister may approve of the proposals or of some modification thereof.

(d) The proposals so approved shall be laid before both Houses of Parliament.

(e) If either House of Parliament pass a resolution (of which notice has been given at any time within fifteen sitting days after proposals have been so laid before Parliament) disallowing the proposals or any part thereof, the proposals or part (as the case may be) shall be disallowed.

(f) The Governor may by proclamation grant authority to the council to exercise the powers of this section in respect of such proposals to the extent that they are not disallowed in pursuance of this subsection.

Guarantees—Railways and tramways.

493. (1) Where the Minister for Public Works or the Railway Commissioners for New South Wales propose to construct any railway or tramway for the benefit of any area, or part thereof, the council may enter into an agreement guaranteeing to such Minister or Commissioners payment of the deficiency (if any) of the annual earnings of such railway or tramway, in relation to the annual working expenses thereof plus interest on the capital cost thereof; and in such agreement provision shall be made for ascertaining the amount of such deficiency.

(2)

(2) Where, for the benefit of a part of its area, the council deems it advisable that the Board of Water Supply and Sewerage, or the Hunter District Water Supply and Sewerage Board, should construct water mains or sewers, and works connected therewith, and supply water, or carry off sewage, the council may enter into an agreement guaranteeing to the said board payment of the deficiency (if any) of the annual income collectable by the said board in the said part, in relation to the annual working expenses of such works plus interest on the capital cost thereof; and in such agreement provision shall be made for ascertaining the amount of such deficiency. Guarantees—Water and sewerage.

(3) To provide any sums payable under such agreement the council may, if it is of opinion that such railway, tramway, water mains, sewers, or works directly benefit only a part of the area, levy a local ~~rate on that part.~~ Local rate.

(3) To provide any sums payable under such agreement the council shall—

(a) in the case of any such railway or tramway in respect of which such agreement has been entered into, if the council considers that it is of direct benefit only to part of the area, levy a local rate on that part; and

(b) in the case of any water mains, sewers, and works connected therewith constructed by either of the said boards in respect of which such agreement has been entered into, levy a local rate on the lands ratable by the said board in respect of such water mains, sewers, and works.

494. (1) The council may make provision— Fires—Floods.

(a) for the prevention or mitigation of bush fires (including the organisation of bush-fire brigades); and cf. L.G. Acts, 1906-8, s. 73 (iv).

(b) for the prevention or mitigation of menace to the safety of life or property from floods (including the provision of flood boats and the organisation of flood brigades). cf. also s. 412 ante.

(2) The council may provide, establish and manage brigades, stations, and appliances for extinguishing fires, and saving life and property therefrom.

495.

Fire-breaks.

495. (1) Where, on any land, the presence of living or dead vegetation, which is less than one hundred feet from any building, standing crops, or orchard, situated on adjoining land which is owned or occupied separately from the first-mentioned land, constitutes, in the opinion of the council, a danger to such building, crops, or orchard, because of the probability of the spread of fire from such vegetation, the council may order the owner or occupier of such first-mentioned land, and the owner or occupier of the adjoining land, to make and keep on the lands respectively owned or occupied by them a fire-break of such dimensions as may be specified in the order.

(2) The provisions of this section shall be in addition to and not in substitution for, the provisions of the Careless Use of Fire Act, 1912, and shall not apply to the Crown.

Housing.

496. (1) The council may erect dwellings, shops, and other buildings, sell such dwellings, shops, and buildings on extended terms of payment, or lease such dwellings, shops, and buildings.

(2) It shall be a condition of every sale or lease of a dwelling and its site under this section that any disposition of the premises by a purchaser shall be of no effect unless and until the written consent of the council is given thereto.

Workers' Dwellings Act, 1910 (N.Z.), s. 15.

(3) Subject to this Act the council shall not arbitrarily or unreasonably refuse its consent, but in giving or withholding its consent shall be guided by the need to provide and protect homes for workers and their families, and especially workers who do not already own a home. Before giving its consent in any case where the whole of the purchase money has not been paid the council shall see that money or money's worth is not being paid for "goodwill."

Workers' Homes Act, 1912 (W.A.), s. 19.

(4) Instead of giving its consent to any disposition of the premises under the preceding provisions of this section the council may, within one month after application for consent is lodged, decide to purchase the premises or the lease thereof for a price or consideration equivalent to the price or consideration involved in the proposed

proposed disposition; and thereupon the council shall notify the owner of the premises or the lease and shall complete the purchase within one month.

(5) For the purposes of this section "disposition" includes sale, assignment, lease, and mortgage, whether made before or after the issue of a certificate of title for the premises.

Public watering places. cf L.G. Acts, 1906-8, s. 73 (ix).

497. (1) The council shall administer the Public Watering Places Act, 1900, for which purpose the provisions of this section shall have effect.

(2) The powers and duties conferred and imposed on the Governor and the Minister by sections six, seven, eight, nine, and ten of the aforesaid Act shall be transferred to and shall be exercised and discharged by the council.

(3) A person duly authorised by the council shall have the powers conferred by sections eleven and seventeen of the aforesaid Act on a person duly authorised by the Minister.

(4) Section sixteen of the aforesaid Act and the regulations made thereunder are hereby repealed within municipalities and shires.

(5) Notwithstanding anything in the aforesaid Act, a council may let any public watering place on lease for a term not exceeding ten years, and may grant an extension of any lease for a term not exceeding five years at the same or an increased rental without calling for public tenders where the council considers such extension is justified by the nature of the improvements made by the lessee.

Land for P.W.P's.

(6) The council may acquire land for the purpose of a public watering place, and the Governor may proclaim such land a public watering place within the meaning of the Public Watering-places Act, 1900.

Hiring out plant.

498. The council may let on hire any of the council's machinery and appliances.

Work for other councils or bodies.

499. The council may within or outside its area carry out work of any character for any other council or any public body or institution at the cost of that council, body, or institution.

500.

Work on private land.

500. (1) The council may carry out tarpaving, kerbing, guttering, road-making, draining, tree-planting, and gardening work on any land other than land of the council if the cost thereof be paid to the council in advance.

(2) The council may on the application of the owner or occupier of any premises, and at the expense of the applicant, carry out the connection of premises with water, gas, electricity, or sewerage mains.

Council's works crossing railway lines. See also s. 242 (3).

501. (1) Where it becomes necessary in the opinion of the council for the purposes of any work, service, or trading undertaking of the council to lay pipes, wires or sewers, or construct drains across lands vested in the Railway Commissioners for New South Wales, the Commissioners shall permit such laying or construction at some suitable place and on such conditions as shall be agreed upon by them and the council.

(2) The Commissioners may decide to carry out any work under this section on behalf of the council.

(3) The council shall pay any reasonable expense to which the Commissioners may be put under this section and shall agree to do such things as the Commissioners may reasonably require to provide for present or future railway requirements.

(4) The Commissioners shall not be liable for any claims arising out of the exercise of the rights conferred on a council by this section.

Private railway lines—council's powers to construct works over.

502. (1) Where it becomes necessary in the opinion of the council for the purposes of any work or service or trading undertaking of the council to lay pipes, wires, or sewers, or to construct drains or level crossings, or to construct bridges across private railway lines constructed by authority of any statute on lands vested in any person, firm, or company other than the Railway Commissioners for New South Wales such person, firm, or company shall permit such laying or construction at some suitable place and on such conditions as shall be agreed upon by him and the council.

(2) Where such person and the council cannot come to an agreement within three months after either

either of them has served on the other a written proposal for an agreement under this section the difference between them shall be settled in the same manner as is provided by this Act for the settlement of a difference between a council and the said Railway Commissioners.

(3) Such person may decide to carry out any work under this section on behalf of and to the satisfaction of the council.

(4) Where pipes, wires, sewers, or drains are laid or constructed under this section the council shall pay any reasonable expense to which such person may be put under this section.

(5) Where a bridge or level crossing is, in the opinion of the council, required and the same is constructed under this section to connect roads on opposite sides of the railway line, such person, firm, or company and the council shall, unless it be otherwise provided that the person, firm, or company bear the whole of the cost of construction, defray the cost of construction of such crossing or bridge in such proportions as they shall agree upon, and thereafter such crossing or bridge shall be maintained in good order and condition by such person, firm, or company. Any difference between the council and such person, firm or company under this subsection may be determined in like manner to a difference under subsection two of this section.

War expenditure.

503. (1) The Minister may authorise any council for such time and on such conditions as he may decide—

(a) to expend its corporate funds to promote or assist recruiting for active military service; or

(b) to keep open the positions of servants who enlist in the Australian Imperial Expeditionary Forces for active military service; or

(c) to pay to such servants who so enlist the difference between civil and military pay (or, alternatively, to make provision for the dependants of such servants); or

(d) to organise and contribute towards various funds for war purposes, and for the relief of suffering caused by war;

(e)

(e) to write off rates due by any person who is or has been actively engaged in the naval or military forces of His Majesty if the land on which the rates are due is or has been unproductive by reason of his being so engaged, or if the enforcement of the payment of such rates would cause hardship to such person.

(f) to write off interest (on rates) which has accrued during the years one thousand nine hundred and fourteen to one thousand nine hundred and nineteen inclusive on any land, and has not been paid by reason of the owner thereof being actively engaged as aforesaid;

(g) to expend a portion of its corporate funds in the celebration of the signing of peace.

(2) This section may be applied by the Minister to things done before the commencement of this Act.

General fund may be applied to any purpose. cf. N.Z. Mun. Corp. Act, 1908, s. 101.

508. (1) The council may in any year out of the general fund expend for any purpose not authorised but not expressly prohibited by other sections of this Act or by ordinance a sum not exceeding three per centum of the general rates levied in that year.

(2) In every such case full particulars of such expenditure and the reasons therefor shall be entered in ~~the minutes.~~

504. (1) Subject to this Act the council may expend for purposes not authorised but not expressly prohibited by law a sum not exceeding in any one year one per centum of the general rate levied in that year.

(2) If in any year one per centum of such general rate does not amount to one hundred pounds, the council may in that year expend one hundred pounds under this section.

(3) In all such cases the council shall obtain the approval of the Minister before incurring the expenditure.

Works or services outside area.

505. A council may vote money from any appropriate fund as a grant to another council in aid of the carrying out in the area of such other council of any local government work or service for the benefit of the residents of the area of the council making the grant.

506.

Extension of water, gas, electricity, sewerage, and other works outside area. See also s. 387.

506. (1) Where a council has works for the supply of water, gas, or electricity, or sewerage works, or telephone lines, or any works, services, or undertakings which it is authorised under this or any other Act to carry on or perform, such council may, notwithstanding the provisions of this or any other Act to the contrary, supply water, gas, or electricity, or connect its sewers, or extend its telephone lines, or extend its works, services, or undertakings, to any place situated outside its area.

(2) Where such place is within another area the consent of the council of that area, subject to such conditions as may be agreed upon, shall be obtained before this section shall be acted upon.

Vehicles.

(3) Where a council exercises the powers given by this section, such council shall not levy any rate on any land outside its area, but may, with respect to water, gas, electricity, or sewers, or telephone lines, or any works, services, or undertakings, make agreements for payment of charges in connection therewith.

507. (1) A vehicle shall not be plied as a public vehicle unless—

(a) it is licensed under this Act; and

(b) it is in charge of a driver licensed under this Act.

(2) (a) Licenses under this section may be issued by the council of any area in which the Metropolitan Traffic Act is not in force in respect of vehicles intended to be plied within or both within and outside the area;

(b) such licenses shall be valid in the areas of all councils in which that Act is not in force:

Provided that where a public vehicle is licensed to ply upon a specified route such license shall be valid with respect to that route only.

(3) A council may refuse a license, or may suspend or cancel a license if in its opinion the granting or continuing of the same is not in the public interest.

(4) Where any council is of opinion that a license issued by another council in pursuance of this section

section should be cancelled, it shall give notice to the council issuing the license and to the licensee, and if such last-mentioned council declines to cancel the license the question of the cancellation of the license may be referred by either council to a court of petty sessions, which shall determine the matter, having regard to the circumstances of the case and to the public interest. The decision of such court shall be final, and the court may direct the council to cancel a license in accordance with such decision.

(5) Each license shall be in, or to the effect of, the form prescribed, and shall state the number to be placed upon the vehicle. The name of the area, the letters "P.V." and such number shall be placed on each public vehicle as prescribed before the license is issued: Provided, however, that where any public vehicle is registered under the Motor Traffic Act, 1909, it shall not be necessary for any number to be placed upon such vehicle in pursuance of this section.

(6) The provisions of any ordinance relating to public vehicles in force in an area shall apply to all public vehicles and the drivers thereof while in that area, whether such vehicles or drivers are licensed by the council of that area or not.

(7) Any person who owns a public vehicle shall—

(a) keep the vehicle in a clean and sanitary condition;

(b) provide efficient brakes therefor;

(c) keep it in such repair as to ensure the safety of the public.

(8) Any person who owns or drives a public vehicle shall comply with the provisions of any ordinances which may be made to regulate public vehicles, the drivers thereof, and the stands on public roads for public vehicles, the order of public vehicles standing upon and leaving such stands, the scale of fares to be charged for the use of the vehicles, and the orderly traffic of public vehicles on the public roads.

(9) The Stage Carriages Acts, 1899 and 1903, shall not apply within municipalities and shires.

(10) The council may charge fees not exceeding one pound for a license for a public vehicle, not exceeding five shillings for a license for the driver of a public vehicle, and not exceeding five shillings for each half-yearly inspection of a public vehicle.

(11) (a) The council shall cause each public vehicle to be inspected regularly each half year and a report upon the condition of the vehicle to be laid before the council.

(b) The council may cause additional inspections to be made at any time as it may see fit.

(12) The council may regulate and prevent the overcrowding with passengers of public vehicles and of other hired vehicles. Overcrowding of hired vehicles.

508. (1) The council may establish and conduct an employment registry. Employment registry.

(2) The council may provide, control, and manage tanks and all things necessary for the dipping of sheep and cattle for the destruction of parasites infesting them. Sheep dips.

509. (1) If in any shire or any defined part thereof there be not a resident and legally qualified medical practitioner the council may take a poll of the electors of the shire, or of such part, as the case may be, on the question whether the council shall enter into an arrangement whereby such a practitioner shall become resident in such shire or part or in the neighbourhood thereof. If the decision of the poll is in the affirmative the council may enter into an agreement whereby such practitioner shall reside and engage in the practice of his profession within such shire or part or in the neighbourhood thereof in consideration of the council guaranteeing that his gross income per annum shall be a sum stated in such agreement, and whereby the council shall undertake to pay to such practitioner the amount by which his actual income falls short of such stated sum. Medical attendance sparsely settled districts.

(2)

(2) If any sum become due to be paid by the council under any such agreement such sum may be paid from the general fund of the shire; and if the agreement relate to a part only of the shire, the council shall in the same or the next succeeding year levy within such part a local rate for the purpose of repaying to the general fund the amount so paid.

(3) Any such agreement shall contain provisions for the inspection by the council or its auditor of such practitioner's accounts on the making of any claim, and may contain such other conditions as may be agreed between the council and such practitioner.

(4) A council may in like manner enter into an arrangement whereby a duly trained nurse shall become resident in the shire or part thereof or in the neighbourhood thereof: and for that purpose the provisions of this section shall apply mutatis mutandis, and such arrangement may be with any association or public body approved of by the Minister.

514. (1) Where lands held by different persons have a common boundary along the line of a non-navigable watercourse, and the holders respecting a dividing fence between their respective holdings, either cannot agree apply to the council to determine the matter. Dividing fences.

(2) The council shall, after reasonable notice to each holder, hear and determine the question, and may order the erection of a "give-and-take" fence in such position as the council may fix in order to do fair and substantial justice between the holders concerned, and to provide for each to have reasonable access to the watercourse; may specify the type of fence which shall be sufficient in the circumstances; may direct by which of the holders the fence shall be erected if before the expiration of thirty days after the service of the order the parties do not agree with respect thereto; and may specify the time within which the order shall be complied with.

-(3)-

(3) A copy of the order of the council shall be served by the council on each holder, and if either make default of compliance therewith within the time specified in the order, the other may carry out the work so in default, and shall have full power of entry for that purpose, and for purposes incidental thereto.

(4) The cost of complying with the order of the council by either or both of the parties shall be divided and borne equally between them, and the proportion due by either to the other may be recovered as a debt.

(5) In so far as this section conflicts with the Dividing Fences Act, 1902, this section shall prevail.

510. (1) The council may regulate advertisements and structures used or to be used for the display of advertisements.

(2) For the purposes of this section the word "advertisement" shall include any sign, notice, device, or representation in the nature of an advertisement displayed in the public view.

511. Monuments shall not be erected in public places or public reserves unless and until the design and situation thereof shall have been approved by the Minister.

512. (1) Where there are any works vested in any person and placed on, under, or over any public road, the council may by notice in writing require such person to alter such works in such manner as the council may in the public interest direct. Alteration of private works in roads. cf. C.T.W. & S. Act, 1880, s. 69. cf. C.T.W. & S. (Amendment) Act, 1905, s. 19.

(2) This section shall apply to any such works whether placed under the authority of any statute or by any statutory body or with or without the permission of the council, and whether so placed before or after the commencement of this Act.

(3) If the alteration be not made with all reasonable speed the council may make the same as it thinks fit.

(4) Where the council alters any main works under this section it shall forthwith make the necessary alterations of all branch works connected therewith.

(5) An alteration shall not be made in such manner as to injure permanently any such works or prejudicially affect their use.

(6) Except where otherwise agreed or otherwise provided by statute, the cost of the alteration shall be borne by the council.

(7) The expression "works" in this section includes any water-pipe, gas-pipe, sewer, drain, tunnel, wire, cable, rail, or structure.

(8) Where the Minister for Public Works is carrying out any work under the provisions of Part XIV of this Act the provisions of this section shall apply mutatis mutandis to the said Minister as though the said Minister were the council.

DIVISION 3.—*Ordinances.*

513. Ordinances may be made for carrying this Part into effect, and in particular for and with respect to— Ordinances.

(a) authorising the seizure and destruction of goats found at large in any public place;

(b) regulating the days and times when the offices of the council shall be open for the transaction of business with the public;

(c) regulating the use of buildings provided by the council for public meetings, drill halls, and other public purposes;

(d) regulating the use of night shelters;

(e) the licensing control and regulation of seamen's boarding-houses and of persons engaged in supplying seamen;

(f) regulating the stacking or storing of timber, firewood, casks, or barrels; (g)

(g) defining and regulating public rights to water and pasturage on public watering places;

(h) the installation and distribution of electric light or power wires and appliances;

(i) the regulation or prevention of the storage and use of explosives for blasting purposes;

(j) regulating or prohibiting the use of any prescribed description of vehicle in any prescribed roads of a municipality or town in a shire during prescribed hours;

(k) regulating, and if necessary, restricting the carrying on vehicles upon any road of long, large, heavy or projecting goods; cf. Q'ld. L.A. Acts (Amendment) Act, 1912, s. 14 (2).

(l) the licensing of vehicles to be used for the carrying or hauling of two tons or over of timber with teams, consisting of not more than twelve bullocks or six horses; the licensing of similar vehicles with teams of more than twelve bullocks or six horses; the prevention of the use of unlicensed vehicles, or of vehicles having larger teams than those covered by the license or of the practice of the aiding of one team by another or part of another, **or of the use of tackle for the pulling of a load greater than can be pulled by the team alone**; the licensing of the drivers of such vehicles; the suspension and cancellation of licenses of vehicles or drivers or both for practices likely to cause to the roads damage other than fair wear and tear or for practices likely to obstruct or inconvenience other traffic; and the prevention of the use of such vehicles on public roads except when in charge of a licensed driver.

(m) the licensing control and regulation of public vehicles;

(n) the fixing of stands in public places for public vehicles and preventing the use thereof by private vehicles;

(o)

(o) regulating and controlling in the interests of public safety, convenience, and decency, the keeping and use of stud animals;

(p) **the protection and preservation of native flora** on public and private lands;

(q) **regulating advertisements and structures used or to be used for the display of advertisements.**

DIVISION 4.—*Associations.*

514. The council may pay a yearly subscription to ~~either~~—

Subscriptions. cf. L.G. Acts, 1906-8, s. 179 (2).

(a) the Local Government Association of New South Wales; ~~or~~

(b) the Shires Association of New South Wales;

(c) **the Annual Town Planning Conference.**

PART XXIV.

ANCILLARY POWERS.

DIVISION 1.—*Application of this Part.*

515. Subject to the provisions of this Act—

Application.

(a) this Part shall apply to municipalities and shires;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

DIVISION

DIVISION 2.—*Contracts.*

516. (1) The council may enter into any contract for any of the purposes of this Act. Power to contract. cf. Municipal Corp. Act, 1903, s. 131 (1) (N.Z.).

(2) This section shall be deemed to extend to—

(a) any contract for the execution of any work directed or authorised by or under this or any other Act to be done by the council, or for furnishing materials, or for any other things necessary for the purposes of this or any other such Act; cf. Sydney Corp. Act, 1902, s. 203, No. 1197, s. 38 (Victoria).

(b) any contract for the performance of any service directed or authorised by or under this or any other Act to be performed by the council. cf. L.G. Act, 1906, s. 86.

(3) Ordinances may be made for or with respect to the mode of making and the form of and the management and carrying out of contracts. Ordinances as to contracts.

517. The council may agree to pay for any purchase lawfully made, or for the performance of any work which it might lawfully undertake, by instalments extending over a period of years. Time payment contracts. Vide L. G. Acts, 1906–8, s. 87 (2).

DIVISION 3.—*Sale and lease.*

518. (1) Subject to the provisions of this Act the council may sell or exchange any land or building or other real or personal property vested in or belonging to the council or under its care, control, and management. Power to sell or exchange property. cf. L.G. Act, 1906, ss. 85, 101.

(2) Unless otherwise expressly provided, nothing in this Division shall be deemed— cf. C.T.W. & S. Act, 1880, s. 91.

(a) to authorise any sale or exchange of any land, unless the approval of the Governor has been first obtained;

(b) to authorise the sale or exchange of any public reserve, public place, or cemetery, or any land subject to a trust.

(3) In any case where the council may open, alter, widen, divert, extend, or close any public road or any portion thereof, the council may, with the approval of the Governor, exchange any portion of a public road vested cf. Sydney Corporation Act, 1902, s. 75. See also s. 235 ante.

vested in the council for land required for the purpose of opening, altering, widening, diverting, extending, or closing a public road or portion thereof.

(4) Where the council diverts or alters the course of any public road, and the diversion or alteration is completed and opened for public use, the council may, if it obtains the consent of all persons having any estate or interest in land abutting upon any portion of the old road rendered unnecessary by the diverting or altering, and if the Governor approves, cancel the dedication of and close that portion, and may hold or sell and transfer or convey the land therein, or may transfer or convey it in compensation, or part compensation, for any other land.

Power re property.

519. (1) Subject to the provisions of this Act the council may, in such manner as it thinks fit, let by way of lease any land or building or other real or personal property vested in or belonging to the council.

See s. 536, post.

(2) Except as elsewhere provided or as prescribed by ordinance the council shall not without the approval of the Governor enter into any lease for a term exceeding two years.

Public auction

520. In any approval under this Division the Governor may direct that the sale or lease in pursuance of such approval shall be by public auction.

DIVISION 4.—*Joint action.*

Joint undertakings—Agreements.

Joint action by councils. Vide L. G. Acts, 1906-8, s. 109 (xxxvi).

521. (1) The councils of adjoining areas may enter into agreements for the carrying out jointly of works or undertakings authorised by any Act, or for the joint performance of duties or exercise of powers under any Act, for the mutual benefit of their areas.

Agreements re joint action.

(2) Such agreements may provide for the control, regulation, maintenance, and management of such works and undertakings, or for the control, regulation, and management of the performance of such duties or exercise of such powers, either by the councils themselves jointly, or by a joint committee composed of members of the councils.

(3)

(3) The councils may in such agreements delegate to such committee such of their powers as are specifically mentioned therein.

Boundary roads, bridges, and ferries to be maintained at joint expense of adjoining areas.

Vide L.G. Acts, 1906–8, s. 106.

522. (1) Where one side of a public road or one bank of a river, watercourse, or inland water, tidal or non-tidal, lies in one area, and the other side of the public road or the other bank lies in another adjoining area, or where the middle line or one side of a public road, river, watercourse or inland water, tidal or non-tidal, forms a common boundary of the areas, the councils of such areas shall unite in making or repairing such public road, and in building, providing, maintaining, and managing necessary bridges, ferries, and other works over or upon such river, watercourse, or inland water, so far as the same follows the boundaries or the common boundary of the respective areas.

(2) Where drainage or the natural soakage from land flows or should if not obstructed flow from one area to another the councils may unite in the construction of any works needed to deal therewith.

(3) Where any watercourse lies near to the boundary between two or more areas the councils may unite in the construction and maintenance of any works thereon such as road crossings, ferries, causeways, bridges, drains, and the like, and any works incidental thereto.

Agreements by councils. Differences. See s. 657.

(4) Either of the councils may request the other to enter into an agreement with it for the above purpose, and on failure to agree, a difference under this Act shall be deemed to have arisen.

Application of section.

(5) This section shall apply—

City of Sydney.

(a) to municipalities and shires;

(b) to the city of Sydney, and for that purpose the word "area" includes the city of Sydney; and

(c) to the Western Division, and for that purpose the word "area" includes the "Western Division," and the word "council" includes the Minister for Public Works.

(6) This section shall apply to things constructed or done at the time of any difference with respect thereto arising, as well as to things to be constructed or done.

523.

523. Any expenditure incurred by a council in pursuance of any agreement or order under this Division of this Part shall be lawful expenditure, notwithstanding that the work or object of expenditure may not be within the area of the council. Expenditure outside boundary legalised.

DIVISION 5.—*Power of entry.*

524. (1) For the purposes and subject to the provisions of this Act and the ordinances the council and any person authorised by it may— Entry and other powers. cf. L.G. Act, 1906, s. 105.

(a) enter upon any land or building at all reasonable hours in the daytime and at any hour during which business is in progress or is usually carried on in the premises;

(b) in or upon any land or building make inspections, and for that purpose open any ground and remove any flooring and take such measures as may be necessary to ascertain the character and condition of the land or building and of any pipe sewer drain wire and fitting in connection therewith; cf. Public Health Act, 1902, s. 57 (2). cf. L.G. Act, 1906, s. 105.

(c) inspect any premises, food, matter, or thing;

(d) in or upon any land make surveys and take levels, and for those purposes dig trenches, break up the soil, and set up any posts, stakes, or marks; Survey.

(e) take temporary possession of and use such land or building as is necessary for the carrying out, alteration, repair, improvement, or renewal of any works or undertakings; Temporary possession. cf. Sydney Corporation Act, 1902, s. 155.

(f) in and from any land to which this paragraph extends search for, dig, raise, gather, take and carry away with horses, carts, or otherwise any materials necessary for improving or maintaining any public place under the control of the council, or for the carrying out, alteration, repair, improvement, or renewal of any works or undertakings authorised by or under this Act, and for the purposes of this paragraph pass and repass over any other land in order to obtain convenient access and exit to and from the land on which the materials are. Taking materials. cf. L.G. Act, 1906, s. 77.

(2)

(2) Paragraph (f) of subsection one of this section shall be deemed to extend to any land, whether owned by the Crown or by any council or by any person: Provided that—

(a) the paragraph shall not be deemed to extend to the site or curtilage of a dwelling-house, or to any garden, lawn, yard, court, park, plantation, planted walk, avenue, vineyard, orchard, or nursery for trees, or to any part of the land which is within fifty feet of any building of a permanent character, bridge, dam, jetty, or other like structure, or which is within two hundred yards of any dwelling-house, or to any quarry actually worked as such; cf. L.G. Act, 1906, s. 77.

(b) any building, road, bridge, ford, dam, jetty, or other like structure shall not be damaged;

(c) the course of any river or creek shall not be unduly diverted, interfered with, or interrupted;

(d) in the case of enclosed land the council or person authorised by it shall give notice in writing to the owner or occupier of the land seven days at least before entering thereon, and shall conform to any ordinance prescribing the conditions to be performed and the things to be done in relation to the exercise of the powers conferred by the clause.

Damage.

(3) In the exercise of any power conferred by this section the council shall— cf. Melbourne Metropolitan Bill, 1915, s. 448 (2).

(a) do as little damage as possible;

(b) provide where necessary other means of access or works of accommodation in place of any taken away or interrupted by it.

Holes and pits.

(4) If in the exercise of any power conferred by this section any pit or hole is made, the council shall if the owner or occupier of the land so requires— cf. *Ibid.*, s. 449.

(a) cause the same to be fenced and kept securely fenced so long as it remains open or not sufficiently sloped down; and

(b) without unnecessary delay cause the same to be filled up or levelled or to be sufficiently sloped down.

(5)

(5) In respect of any damage under this section, other than damage arising from work done for the purpose of an inspection, the council shall make compensation to all parties interested. Compensation. cf. *Ibid.*, s. 448 (3). See s. 584.

(6) In the case of land of which temporary possession has been taken or use made the compensation may be a gross sum or a rent. cf. *Ibid.*

(7) Notwithstanding the other provisions of this section, materials shall not be removed from land which has been dedicated a State forest under the Forestry Act, 1909 or 1916, except with the consent of the Forestry Commission. State forests excepted.

DIVISION 6.—*Various powers.*

Works and undertakings.

525. (1) For the purposes and subject to the provisions of this Act the council may— Powers in relation to works and undertakings.

(a) erect, construct, or carry out any works necessary or convenient in connection with any works or undertakings authorised by or under this Act;

(b) alter, repair, improve, renew, pull down, or re-erect any works authorised by or under this Act.

(2) For the purposes of this Act works shall be deemed to include any road, building, bridge, drain, canal, river, gravel-pit, or quarry. Definition of works.

Trusts.

526. The council may— Power to accept trusts. cf. Sydney Corporation Act, 1902, s. 206.

(a) accept and hold any real or personal property conveyed, assigned, devised, or bequeathed to it for any charitable or public purpose;

(b) act in the administration of such property for the purposes and according to the trusts for which the same may have been conveyed, devised, assigned, or bequeathed.

Local

Local committees.

527. (1) The council may appoint in respect of any work park reserve cemetery or undertaking under the control of the council, a committee of local citizens, and delegate to the committee the care control and management (subject to the council and the ordinances) of the work park reserve cemetery or undertaking, and the expenditure of such moneys as the council may vote. Council may appoint local committees.

(2) Any such committee may be dissolved by the council at any time.

(3) Each such committee shall cease to hold office at the expiration of three months after the general election of the council next following upon the appointment of the committee but shall be eligible for re-appointment.

Insurance.

528. The council may insure any property of or under the control and management of the council, and for the purpose of any such insurance shall be deemed to have an insurable interest in the subject matter thereof. Power to insure.

Necessary acts.

529. The council may do any acts not otherwise unlawful which may be necessary to the proper exercise and performance of its powers and duties. Power to do necessary acts. cf. L.G. Acts, 1906–8, s. 87 (1).

Power to regulate.

530. Any power given by this Act to regulate or to make ordinances for regulating shall be deemed to confer power to license prevent or prohibit. Power to regulate.

~~Compensation—Act-of-grace.~~

533. Where complaint is made to the council by any person that he has suffered damage by an act or omission of the council in carrying out its powers under this Act, and payment of compensation or damages is not Compensation for damage.

not provided by law for the damage so complained of, the council may in its discretion award the person so complaining such measure of relief as may be reasonable in the circumstances.

PART XXV.

Acquisition of Land.

Application and interpretation.

Application.

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

(a) this Part shall apply to municipalities and shires;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area;

(c) in respect of any area this Part shall apply to land within or outside the area.

Interpretation.

(2) In this Part, unless inconsistent with the context or subject matter—

Land: easements.

"land" means either land in fee simple or any easement, right, or privilege in, over, or affecting land.

cf. Melb. Metrop. Council Bill, s. 442.

Acquisition of land.

How to acquire land.

532. The council may acquire land within or outside the area for any purpose of this Act by lease, purchase, appropriation, or resumption in accordance with this Part.

cf. L.G. Acts, 1906-8, s. 129. cf. C.T.W. & S. (Amendment) Act, 1905, s. 21.

Lease.

533. The acquisition of land by the council by lease for a term exceeding two years shall not have effect unless and until approved by the Governor.

See s. 521 ante.

Purchase.

534. The acquisition of land by the council by purchase for any sum exceeding one thousand pounds shall not have effect unless and until approved by the Governor.

Other adjoining land.

535. Where the council proposes to acquire land for any purpose it may also acquire other land adjoining or in the vicinity.

See s. 483 ante.

Machinery

Machinery of resumption.

536. (1) Where the council proposes to acquire land by appropriation or resumption it may apply to the Governor through the Minister. Method of resumption.

(2) The council shall make provision to the satisfaction of the Governor for the payment of compensation for the land together with interest and all necessary charges and expenses incidental to the appropriation or resumption.

(3) The Governor may authorise the appropriation or resumption of the land. cf. L.G. Acts, 1906-8, s. 130.

(4) Thereupon the Minister for Public Works may— cf. C.T.W. & S. (Amendt.) Act, 1905, s. 21.

(a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and

(b) notify that the land is vested in the council.

(5) Thereupon the land shall vest in the council.

(6) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

(7) Whenever land is appropriated or resumed under this Act a copy of the Gazette notification declaring such land to be so appropriated or resumed, certified under the hand of the Minister for Public Works, shall in every case be lodged with the Registrar-General, and be registered by him in the general register of deeds, unless the land so resumed is wholly or in part comprised in a grant or a certificate of title under the Real Property Acts, in which case, upon production of such copy of the Gazette notification so certified as aforesaid, it shall be the duty of the Registrar-General to deal with and give effect to such notification as if the same were a memorandum of transfer duly executed under the said Acts.

PART

PART XXVI.

National Works.

Miscellaneous public works. Vide L.G. Acts, 1906-8, s. 128.

537. (1) The Governor may by proclamation declare any road, bridge, ferry, wharf, public reserve, or public work of whatever character in any area to be a national work.

(2) Thereupon such work, if a new work, shall be constructed subject to the provisions of the Public Works Act, 1912; and such work, whether it be a new work or already in existence, shall be maintained, managed, and administered by the Minister for Public Works.

(3) Any such work may at any later time by proclamation be handed over, either temporarily or permanently, to the council, and shall thereupon be maintained, managed, and administered by the council, and shall cease either temporarily or permanently to be a national work.

(4) Any work in any area which is a national work within the meaning of the Local Government Act, 1906, at the commencement of this Act, shall be a national work within the meaning of this Act.

(5) The Minister for Public Works may appoint any council to be his agent for the care control and management of any national work, and for the enforcement of any ordinance relating thereto, and the council may act upon such appointment notwithstanding that the work may be partly outside the council's area. A council acting upon any such appointment may take legal proceedings in its own name to recover penalties prescribed by or under this Act.

(6) Ordinances may be made for or with respect to the control, management, maintenance, and discontinuance of national works.

Closer settlement roads. cf. L.G. Acts, 1906-8, s. 127.

538. Where by reason of a large area of Crown lands being thrown open to sale or lease in any area it is necessary to construct new public roads to give access to such lands, and the council shows that the cost of constructing such roads would be largely beyond its financial ability the Minister for Lands may (if the

construction of the roads is not declared to be a national work) pay to the council a proportion of the cost of such construction.

Construction of works for council and advance of money for works.

539. (1) The Minister for Public Works may, at the request of the Minister, construct for a council any work which the council might lawfully construct.

(2) The Minister may, from moneys provided by Parliament for the purpose, make advances to councils for the construction of works.

(3) Before any such work is constructed, or any such advance is made, the Minister may require the council to enter into a contract conditioned to secure the payment by it of annual instalments for defraying—

(a) the cost of the work or the refund of the money advanced or a portion of such cost or money; and

(b) interest on such cost or money at such rate as the Minister may decide.

(4) If any such instalment be not paid on the due date there shall be added thereto a sum equal to ten per centum thereof; and such instalment, together with such additional sum, may be recovered by the Minister.

(5) The provisions of this or any other Act relating to moneys borrowed by councils shall not apply to advances made under this section.

(6) Where before the commencement of this Act the Minister or any other Minister of the Crown has—

(a) expended any public moneys in or for the construction of works for a council; or

(b) made advances of public moneys to a council for the construction of any works; or

(c) in connection with such expenditure or advances entered into any contract or agreement with a council,

such expenditure and such advances shall be deemed to have been lawfully made, and such contract or agreement shall be deemed to have been lawfully entered into.

PART

PART XXVII.

URBAN AREAS.

DIVISION 1.—*Application of this Part.*

Application.

540. Subject to the provisions of this Act—

(a) this Part shall apply only to shires and urban areas created or declared therein;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each shire to the council thereof;

(c) the powers and duties conferred and imposed upon an urban committee shall apply in respect of each urban area to the committee thereof.

DIVISION 2.—*Creation and dissolution.*

Declaration of urban areas. cf. L.G. Acts, 1906–8, s. 108.

541. (1) An urban area shall be a part of a shire declared by the Governor by proclamation to be an urban area.

(2) The Governor may declare urban areas—

(a) on the application of the council; or

(b) if requested so to do by a poll of electors as hereinafter provided.

(3) Urban areas declared under the Acts repealed by this Act shall be urban areas under this Act.

Petitions for.

542. (1) Any number of electors may by petition request the council to make application for the declaration of an urban area.

(2) If the council declines to make application as requested any number of electors of the shire, not less than one hundred, may petition the Minister to hold a public inquiry and to order the taking of a poll.

Notice of application.

543. (1) Where the council applies for the declaration of an urban area, and where the Minister proposes to recommend the Governor to grant the application, he shall give notice as prescribed.

(2)

(2) Within the period specified in the aforesaid notice any number (not less than one hundred) of the electors enrolled in respect of that part of the shire which it is proposed to declare an urban area may petition the Minister to hold a public inquiry and to order the taking of a poll. Petitions against.

544. (1) Where a petition is made to the Minister as aforesaid the Minister may cause an inquiry to be held, and may grant or refuse the request for the taking of a poll. Inquiries and polls.

(2) Where the Minister grants the request in that behalf he may direct the council to take a poll of the electors enrolled in respect of that part of the shire which, as the result of the inquiry, appears to him to be suitable to declare as an urban area.

(3) The council shall, within six weeks thereafter, take the poll accordingly, and convey to the Minister the result thereof.

(4) The question to be submitted at the poll shall be as to whether the electors are in favour of requesting the Governor to declare the part of the shire aforesaid to be an urban area.

(5) If the decision of the poll be in the affirmative the Minister shall convey the request to the Governor. See s. 82.

545. (1) The Governor may dissolve urban areas, in accordance with procedure which may be prescribed by ordinance. Dissolution.

(2) Such procedure shall, subject to the provisions of this Act, be similar, mutatis mutandis, to the procedure of this Division for the creation or declaration of urban areas.

546. (1) The Governor may after consultation with the shire council by proclamation— Various powers.

(a) give names to urban areas;

(b) alter the names so given.

(2) The provisions of sections sixteen and twenty-one of this Act, so far as applicable, shall, mutatis mutandis, apply to urban areas as though they were areas, and to urban committees as though they were councils.

DIVISION

DIVISION 3.—*Powers of the council.*

Functions of council.

547. (1) The council of the shire shall have with respect to an urban area all the powers of the council of a municipality with respect to its area.

(2) The proceeds of any local rate levied only in the urban area shall be paid into a separate fund as prescribed, and shall be used only for purposes for the benefit of the urban area.

(3) This section shall be subject to the provisions of Division 4 of this Part.

DIVISION 4.—*Urban committees.*

Establishment.

Power to establish.

548. (1) The Governor may proclaim that an urban committee shall be established in respect of an urban area (whether such urban area was created or declared before or after the passing of this Act)—

(a) on the application of the council; or

(b) if requested so to do by a poll of electors.

(2) The procedure prescribed in respect of the creation or declaration of urban areas in Division 2 of this Part shall mutatis mutandis apply to the establishment of urban committees.

(3) Ordinances may be made setting out such procedure.

(4) Applications, petitions, inquiries, and polls in respect of the establishment of urban committees may be embodied in and held in conjunction with applications, petitions, inquiries, and polls in respect of the creation or declaration of urban areas, or subsequently to and separately therefrom.

(5) This section shall not apply to the shires of Hornsby, Sutherland, Ku-ring-gai, and Warringah.

Election, &c.

549. (1) Where the Governor proclaims that an urban committee shall be established the provisions of this section shall have effect.

(2)

(2) Within a reasonable time after such proclamation the council shall—

(a) cause urban area rolls of electors to be compiled by transcribing from the shire rolls the names of persons appearing thereon in respect of the urban area; and

(b) arrange for and hold an election of an urban committee by the electors of the urban area.

(3) The provisions of Divisions 6, 7, 8, 9 and 10 of Part IV, and the provisions of Part V of this Act, applicable to areas and to councillors, shall, subject to such modifications as may be prescribed by ordinance or necessarily implied, apply mutatis mutandis to urban areas, and to urban committeemen; but urban areas shall not be divided into wards: Vide s. 30, ante et seq.

Provided that a shire councillor shall not be qualified to be elected nor to act as committeeman of any urban area within the shire of which he is a councillor.

(4) An urban committee shall consist of three committeemen.

(5) Such committee may elect one of its members to be its chairman.

(6) Subject to the provisions of this Act, an urban committee shall retire from office at the time prescribed for the general retirement of councillors; and the succeeding committee shall be elected at the time of election of the council.

(7) Allowances or travelling expenses shall not be paid by the committee or by the shire council to any urban committeeman.

Powers of urban committees.

550. (1) The urban committee shall, at such time in each year as the council may fix, make an estimate of the sum or sums required for the purposes of this Act within the urban area, and make a written request to the shire council for such sum or sums to be raised by a local rate upon lands within the urban area. Urban committee to fix certain rates, and shire council to levy.

(2) Thereupon the council may, in accordance with the provisions of this Act relating to such rate, make and levy such rate.

(3)

(3) The moneys collected in respect of any such rate, less an amount not exceeding five per centum of such moneys which may be deducted by the council for administrative expenses, shall each month be paid into appropriate accounts in the name of the urban committee at some bank named by such committee.

(4) Money raised by a local rate may be expended by the urban committee only for the purposes for which such rate is levied.

(5) Where an urban committee is established the council shall not levy any local rate which is confined to land in the urban area except upon the request of the committee.

Shire council may hand urban committee portion of other funds.

(6) Where part or the whole of the moneys of any fund (other than moneys which by this section are required to be paid to the credit of the urban committee) is applicable to works within the urban area the council may vote from such fund moneys to be expended within the urban area by the committee on any works or services chargeable to such fund, or may carry out such works independently of the urban committee.

Loans.

551. (1) Where it is proposed to borrow money, the urban committee shall apply to the council, and the council shall, if it approve, proceed to obtain such loan as elsewhere in this Act provided.

Security.

(2) Any loan obtained only for the benefit of an urban area shall be secured only upon the credit of a local loan rate which the council shall levy in such area as elsewhere in this Act provided.

(3) The securities shall be given by the council in accordance with this Act.

Receiver.

(4) Where in case of default a receiver is appointed in respect of any such loan he shall exercise his powers only in respect of the urban area.

Loan proceeds.

(5) The proceeds of any such loan shall be paid by the council to a separate bank account in the name of the urban committee, and shall be applied by the committee as provided in this Act with respect to loan moneys.

(6) The proceeds of any local rate levied in connection with a loan under this section shall be paid by

by the council to the appropriate fund, and applied as elsewhere in this Act provided with respect to loan rates.

General powers of urban committee.

552. (1) The council may delegate and confer upon the committee any power of the council which it may exercise in the urban area.

(2) The committee shall, without any such delegation, have the powers of the council for the carrying out of—

(a) the purposes for which any local rate is levied by the council at the request of the committee;

(b) the purposes for which any moneys are granted by the council for expenditure by the committee;

(c) the purposes for which any loan is obtained under this Part; and

(d) nightsoil or garbage removal, or both.

(3) The council may revoke any delegation.

(4) Nothing in this section shall be held to relieve the council of its responsibility or obligation in respect of the exercise of any power or performance of any duty.

Limitation of expenditure

553. An urban committee shall not (except with the written consent of the council) incur any liability for expenditure in excess of the cash in the bank to its credit.

Suing.

554. (1) An urban committee may not sue or be sued.

(2) Any legal proceedings which but for this section would be brought by or against such urban committee shall be brought by or against the shire council.

DIVISION 5.—*Ordinances.*

Ordinances.

555. (1) Ordinances may be made for carrying this Part into effect, and in particular for and with respect to—

(a) meetings of an urban committee;

(b) the keeping and furnishing of accounts;

(c) the signing of cheques;

(d) the powers of the chairman of an urban committee;

(e)

(e) the circumstances under which the chairman of an urban committee may give a casting vote in addition to an original vote;

(f) the cases in which urban committeemen shall not vote, by reason of pecuniary interest or the interest of their relations;

(g) the undertaking and supervision by the shire engineer of work for an urban committee; and requiring such committee to avail itself of the engineer's services;

(h) applying mutatis mutandis to urban committees (subject to the provisions of this Part) any of the provisions of this Act relating to councils.

(2) The provisions of Part XXXI relating to the making, alteration, rescission, and enforcement of ordinances shall apply, mutatis mutandis, to this Part and to urban areas as if they were shires.

PART XXVIII.

Aquatic Pests.

Division 1.—*Application.*

556. Subject to the provisions of this Act— Application of Part.

(a) this Part shall apply to municipalities and shires; and

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

Division

DIVISION 2.—*General powers.*

Destruction of pests.

557. (1) The council shall have power to destroy aquatic pests, or to remove aquatic pests to and deposit them in any waters which are both tidal and salt within or beyond the area.

Power of entry on land. Compensation. See s. 584.

(2) The council may, by itself or its servants, upon any public or private land deposit and destroy any aquatic pest; but shall, in the absence of any agreement with the owner or occupier of any private land, pay fair and reasonable compensation for any damage done by the depositing and destruction on such land of aquatic pests taken from other land.

Navigation.

(3) The council may temporarily obstruct navigation in any waters to a reasonable extent for the purposes of its operations.

See also s. 472 et. seq.

(4) Aquatic pests are hereby declared to be noxious plants in all municipalities and shires for the purposes of this Act without the necessity for any proclamation.

558. (1) Subject to this Act where a swamp exists on any lands (including Crown lands) the council may, on application by the owner or any one of the owners, and (if objection be lodged as prescribed) after hearing the applicant and objector and any witnesses, drain the swamp for the purpose of destroying or of preventing the growth of any aquatic pest therein.

(2) This section shall apply only where the expenditure in connection with the draining of the swamp will not exceed the sum of five hundred pounds.

(3) The council shall recover the amount of its expenditure in connection with any work carried out under this section together with interest, if any, by a levy upon the persons ratable in respect of the land, in proportion to the quantity of water removed from the land of each, ascertained by survey of the normal level of water in the swamp before it is drained and after.

(4) Such levy shall be made by instalments over a term of not less than five nor more than twenty years,

years, shall be paid by the person for the time being ratable in respect of the land, and shall be recoverable as rates.

(5) Where under this section a swamp which is drained is partly situated upon Crown land which is not ratable, the amount of the levy shall be paid by the Crown.

DIVISION 3.—*Ordinances.*

559. (1) Ordinances may be made for carrying this Part into effect, and in particular for and with respect to— Ordinances.

(a) requiring the owners or occupiers of any land within a district to destroy aquatic pests on such land;

(b) specifying the method of destruction to be followed;

(c) prohibiting the cultivation or transport of aquatic pests, **and prohibiting the draining into navigable streams of waters containing aquatic pests except where the approval of the council is obtained to drain such waters into waters which are both tidal and salt.**

(d) requiring persons to destroy or remove trees, scrub, fallen timber, or rubbish in any river, watercourse, or inland waters, tidal or non-tidal, situated on the land owned or occupied by them.

PART

PART XXIX.

County Councils.

Division 1.—*Interpretation.*

560. In this Part, unless inconsistent with the context or subject-matter,— Definitions.

"Council concerned" means council whose area is wholly or partly included in a ~~country~~ **county** district.

"Delegation" means delegation of powers from a group of councils of areas to a county council in accordance with this Part.

"District" means a ~~country~~ **county** district constituted under this Act.

Division 2.—*County districts.*

561. (1) The Governor may, by proclamation, constitute as a county district for local government purposes any groups of wholes and parts of municipalities or shires, or of both municipalities and shires, and may, by proclamation, alter the boundaries of county districts. Constitution of county districts.

(2) Any proclamation hereunder may be rescinded, altered, or varied by the Governor by proclamation.

(3) The Governor may, by proclamation, give names to such districts, and may alter such names. Naming.

(4) The provisions of Part III, so far as applicable, shall, mutatis mutandis, apply to county districts as though they were areas, and to county councils as though they were councils of areas. Part III applied.

Division 3.—*County councils.*

562. (1) For each county district there shall be a county council composed of the delegates elected as hereinafter provided. Constitution of county councils.

(2) On the constitution of a county district the council of each municipality and shire included, or partly included therein, shall forthwith elect one of its members to be a delegate to the county council for such district, and shall inform the Minister of the name and address of such delegate: First election of delegates.

Provided

Provided that in any special case where it seems just so to do the Minister may authorise the council of any such municipality or shire to elect more than one delegate:

Provided also that where the number of councils entitled to elect delegates is less than three the Minister may fix the number of delegates to be elected at any number not exceeding seven, and may also fix the number of delegates to be elected by each council.

Triennial retirements and elections

(3) After each general election of a council of a municipality or shire included or partly included in a district, the council shall forthwith elect one (or such other number as the Minister has fixed as aforesaid) of its members to be a delegate, and upon such election the term of office of the delegate theretofore representing such council shall end.

(4) Any delegate may resign his office by letter to the county council. The county council shall thereupon advise the council which elected him.

Filling vacancies.

(5) Where the office of a delegate becomes vacant, the council by which such delegate was elected shall forthwith elect one of its members to fill the vacancy.

Notification.

(6) The council shall advise the county council of each election of a delegate.

Corporate body.

563. (1) A county council shall be a corporate body with perpetual succession and a common seal, and the provisions of subsection two of section twenty-two of this Act shall, mutatis mutandis, apply thereto.

First meeting.

(2) The first meeting of the county council after the proclamation of a district shall be convened by the Minister by letter addressed to each delegate.

Chairman.

(3) The county council shall elect a chairman, who shall preside at its meetings, shall have power to give effect to the resolutions of the county council, and shall have a deliberative vote, and, in case of equal voting, a casting vote. The election of the chairman shall be held—

(a) within one month after the first constitution of the county council; and

(b)

(b) within the month of January in each year thereafter; and

(c) within one month after the occurrence of a vacancy.

(4) In default of an election within the prescribed time the Governor may appoint a delegate to be the chairman. On the election or appointment of a chairman his predecessor shall cease to hold the office except he be re-elected or appointed.

Minutes. (5) The county council shall cause minutes to be kept of all resolutions passed at its meetings, and the book containing such minutes shall be open to public inspection at all reasonable times.

Quorum. (6) A majority in number of the delegates to the county council shall form a quorum; and all meetings duly convened at which a quorum is present shall be competent to transact business.

Procedure. (7) Meetings of the county council shall be convened and conducted in accordance with the procedure prescribed for meetings of councils of shires so far as the same are applicable.

Meetings. (8) All meetings of the county council and all its sittings in committee of the whole shall be open to the public.

Annual report. (9) The county council shall forward to each shire and municipal council within its district, and to the Minister, a report on its operations and income and expenditure for each year.

Expenses (10) The county council may, subject to the ordinances in that behalf, pay to its members reasonable allowances towards their expenses in travelling to and from its meetings or on its business.

DIVISION 4.—*Functions of county councils.*

Powers. **564.** (1) A county council may undertake any function delegated to it in accordance with this Act for the joint benefit of the areas included within the county district.

Councils may delegate powers. (2) The councils of the municipalities and shires concerned in a district (constituted or proposed) may,

may, by resolution under seal transmitted to the Minister before or after the constitution of the district, request the Governor to delegate to the county council the power to exercise or perform for the benefit of the county district any power or duty which by law those councils or any one of them may exercise or perform; and the delegation may be either particular or general; and in describing any such general power or duty it shall be sufficient to quote the part or section number of the statute prescribing the power or duty.

(3) Where there are only two councils of areas concerned in a district (constituted or proposed) and where the request for delegation is made by one only the Governor may cause inquiry to be made and decide the matter and may proclaim the delegation.

(4 3) Where the request for delegation is made by the majority in number of the councils of the municipalities and shires aforesaid the Governor may proclaim the delegation.

(5 4) Upon the proclamation of the delegation of powers or duties the county council shall have full power to exercise the powers and shall perform the duties so delegated; and for that purpose it shall have all the powers which by law may be exercised by the council of an area in or in connection with the exercise of the delegated powers and the performance of the delegated duties and the provisions of any laws relating to areas, and their councils shall, mutatis mutandis, apply for the purposes of this Part to county districts and county councils:

Provided that the power to levy rates or the power to borrow shall not be deemed to have been conferred upon a county council unless it is expressly mentioned in the delegation. Rating and borrowing powers.

(6 5) Any delegation may be amended or repealed by following, mutatis mutandis, the procedure prescribed for the making of a delegation and a fresh delegation may be made.

565. (1) Before or after the constitution of a county district a majority of the councils concerned therein may, under their common seals, enter into a joint agreement Assessment of cost.

agreement respecting the whole or any part of the powers delegated to the county council, and particularly, in respect of any matter for which the county council is not authorised to rate, prescribing the manner in which the expenses of the county council are to be met by the municipal and shire councils concerned.

(2) Such joint agreement shall take effect when approved by the Governor after consideration of the fairness of the agreement to the dissenting councils (if any).

(3) The county council shall give effect to any such agreement so approved.

(4) Any such agreement may be amended or repealed by a further agreement made and approved in accordance with this section, and a fresh agreement may in a like manner be made and approved.

(5) In default of any such agreement in respect of any matter for which the county council is not authorised to rate, that council may assess its expenditure upon the municipal and shire councils concerned in like manner to the assessment of cost of destruction of aquatic pests as in this Part provided.

Recovery.

(6) The county council may recover as a debt any sum assessed upon any municipal or shire council in accordance with any such agreement or with this Act and not paid within one month after service of requisition. If any fresh assessment, or correction, or adjustment of assessment be made, then amounts over-paid shall be refunded and amounts short-paid may be recovered.

DIVISION 5.—*Aquatic pests destruction—assessment of costs.*

Application of this Division.

566. This division shall apply to a district in which the powers of Part XXVIII of this Act relating to the destruction of aquatic pests have been delegated to the county council.

Estimates.

567. (1) The county council shall, once in each year, prepare estimates in relation to the exercise of such powers, of—

(i) the amount of the proposed expenditure;

(ii)

(ii) (a) the amount in hand available for such expenditure;

(b) the amount of fines and other revenue likely to be so available;

(c) the amount of Government subsidy likely to be so available;

(d) the additional amount required to be raised by assessment on the councils concerned for such expenditure.

Assessment pro rata according to unimproved capital value.

(2) The county council shall then assess the additional amount required upon the councils concerned in proportion to the unimproved capital value of that portion of the ratable land in each of them which is situated within the district. The estimates and assessment shall be entered in the minutes of the county council.

Requisition for payment.

(3) The county council shall serve upon each council a copy of the estimates and of the assessment, together with a requisition upon the council for the amount assessed to be paid by it. A copy of such estimates and assessment shall be forwarded by the county council to the Minister.

Amended assessments.

(4) Any council so assessed may make representations in writing to the county council against the estimates and assessment if it consider that the estimates are excessive, or that there has been an error in calculating the assessment; and the county council may in its discretion thereupon amend its estimates, and make a fresh assessment accordingly, or may correct errors of calculation of assessment, and make a fresh assessment to adjust the errors.

Council may pay from general fund.

(5) A council so assessed may pay the amount of the assessment from the appropriate fund, or from the proceeds of a special or local rate for the purpose.

Subsidy.

568. In respect of the destruction of aquatic pests there shall, if funds be voted by Parliament, be payable to the county council six half-yearly subsidies as follows:—

(a) For the first half-year, that is to say for the period between the constitution of the district and the end of the half-year in which the constitution

constitution takes place, a subsidy at the rate of twenty shillings for every pound of revenue (excluding the subsidy) actually collected by the county council during that period in respect of the destruction of aquatic pests.

(b) For the second half-year, a subsidy at the rate of twenty shillings as aforesaid.

(c) For the third and fourth half-years respectively a subsidy at the rate of fifteen shillings as aforesaid.

(d) For the fifth and sixth half-years respectively a subsidy at the rate of ten shillings as aforesaid.

Validation—Richmond River County Council.

569. (1) For the purposes of this section this Part of this Act shall be deemed to have come into force on the first day of July, one thousand nine hundred and fifteen.

(2) The body known as the Richmond River Water Hyacinth Board shall be deemed to have been constituted as the Richmond River County Council in accordance with this Part, and the acts of the said board done after the said date, so far as they are within the provisions of this Act, shall be deemed to have been done by the said county council in pursuance of this Act as if this Act had been in force when they were so done.

(3) The Governor may, by proclamation as hereinbefore provided, constitute a district in respect of the said Richmond River County Council; and such district shall be deemed to have been constituted on and from the first day of July, one thousand nine hundred and fifteen.

(4) The delegation to the Richmond River County Council of the powers of Part XXVIII of this Act shall be deemed to have been proclaimed on the first day of July, one thousand nine hundred and fifteen.

(5) The assessments and subsidies paid to the Richmond River Water Hyacinth Board before the commencement of this Act in anticipation of its passing are hereby validated.

(6) If before the commencement of this Act any council or the Treasurer has paid less or more to the funds of the Richmond River County Council than, according

according to the provisions of this Act should have been paid, an adjustment shall be made according to the provisions of this Act, so that surpluses received by the county council shall be credited against future liabilities of the Treasurer or municipal or shire council, as the case may be, and deficiencies may be recovered by the county council as debts.

DIVISION 6.—*General.*

Ancillary powers.

Power to do all lawful acts.

570. The county council may do all things not otherwise unlawful which are necessary or incidental to the carrying out of its duties or the exercise of its powers under this Act.

Valuations.

571. The council of each municipality and of each shire within or partly within a district shall within one month after the constitution of the district furnish to the county council a certified statement of the total unimproved capital value as at the date of constitution of the district of all the ratable land within the council's area which is within the district, and in January of each year thereafter shall furnish to the county council the like information as to the said value.

Rating.

572. (1) Where a power of rating is delegated to a county council it may either levy the rate directly or may require the councils concerned to act as its agent in levying the rate and to account for the proceeds.

(2) Where the county council levies a rate directly it shall adopt the valuations in force in the areas or parts of areas included in the county district, and for that purpose shall be allowed free access to the books and records of the councils concerned.

Ordinances.

573. (1) Ordinances may be made for carrying this Part into effect, and in particular for and with respect to—

(a) applying, mutatis mutandis, to county councils (subject to the provisions of this Part) any of the provisions of this Act relating to councils and

(b) requiring councils concerned to furnish necessary information to the county council.

(2)

(2) The provisions of Part XXXI relating to the making, alteration, rescission, and enforcement of ordinances shall apply, mutatis mutandis, to this Part and to county councils as if they were councils of areas.

~~PART XXX.~~

LOCAL GOVERNMENT INSURANCES.

Joint scheme to be prepared by Local Government Association and Shires Association.

576. (1) The Local Government Association of New South Wales and the Shires Association of New South Wales may jointly prepare and submit for the approval of the Governor a scheme for the establishment of a fund for effecting insurances for municipal and shire councils.

Scheme may be embodied in ordinances.

(2) The Governor may, if he approve of such scheme, embody it in ordinances under this Act.

~~Ordinances.~~

(3) Such ordinances shall provide for the establishment of a local government insurance board of directors to carry out such scheme.

Board of directors to be corporate body.

(4) The board of directors established by such ordinances shall be a corporate body with perpetual succession and a common seal, and shall have power to transact the forms of insurance named in such ordinances subject to the conditions therein prescribed.

What scheme shall deal with.

(5) Any such scheme as aforesaid shall contain clauses dealing with the following subjects:—

(a) a quinquennial actuarial investigation of the fund;

(b) a method of meeting the liabilities of the fund if at any time the assets are insufficient therefor;

(c) the charging of rates of premium, the amount of such rates, and the conditions under which such rates may be reduced;

(d) the taking of actuarial advice before altering any rates of premium;

(e) the investment of funds;

(f)

(f) the constitution of the board of directors; the powers of the board and of the chairman of the board; and the fees to be paid to directors;

(g) any other matters necessary or incidental to the formation, maintenance, and management of the fund, and the establishment and conduct of the board.

(6) Ordinances may be made for carrying this Part into effect; and the provisions of Part XXXI relating to the making, alteration, rescission and enforcement of ordinances shall, mutatis mutandis, apply to this Part. Ordinances.

PART ~~XXXI.~~ XXX.

SUPPLEMENTARY.

DIVISION 1.—*Application of this Part.*

574. Subject to the provisions of this Act— Application.

(a) this Part shall apply to municipalities and shires;

(b) the powers and duties conferred and imposed upon a council under this Part shall apply in respect of each area to the council of the area.

DIVISION 2.—*Ordinances.*

Making of ordinances.

575. The Governor may make, alter, and rescind ordinances by proclamation. Making by Governor.

576. (1) Ordinances may be made in relation to all or any of the following matters or matters incidental thereto:— General power to make ordinances.

(a) Any of the powers or duties conferred or imposed upon councils.

(b) Any of the powers conferred or duties imposed upon the Governor or the Minister.

(c) Any matter which by this Act is required or permitted to be prescribed, or which is necessary or convenient to be prescribed for giving effect to this Act or any Act administered by a council.

(d)

(d) Matters with respect to which it is elsewhere provided in this Act that ordinances may be made.

(e) Matters which, under any Act (other than this Act), applying to a council and its area, may be the subject of by-laws, rules, or regulations: Provided that when ordinances are so made the power given by any such Act to make by-laws, rules, or regulations shall, in so far as such power relates to matters provided for by such ordinances, be thereby repealed. See Newcastle Elect. Light Act, 1892. See Balmain Elect. Light. Act, 1906. See Broken Hill Abattoirs Act, 1900, and others.

(f) Generally for carrying into effect the provisions of this Act, or of any Act administered by a council, and for enforcing and securing the observance thereof. cf. L. G. Acts, s. 187-1 (xli). cf. C.T.W. and S. Act, 1880, s. 13. C.T.W. and s. (Amendment) Act, 1905, ss. 69, 70.

(g) Any matter mentioned in this Act, although the same or a similar matter may have been already provided for by the Police Offences Act, 1901. cf. L.G. Acts, s. 187-1 (xlii).

(2) Without affecting the generality of any other provision of this Act an ordinance may be made for and with respect to—

(a) any premises person or matter in any case where by this Act the council is authorised or required to control regulate license appoint inspect examine register authorise permit prohibit prevent require define or classify;

(b) preventing obstruction of any person acting under the authority of the council or under the provisions of this Act or of any ordinance;

(c) preventing destruction injury damage interference or misuse by any person in respect of any public place or any work undertaking or property of or under the control or management of the council;

(d) regulating the use by the public of any public place or any work undertaking or property of or under the control or management of the council and authorising or directing the removal of trespassers and other persons causing annoyance or inconvenience; cf. Sydney Corporation Act, 1902, s. 200 (v).

(e)

(e) enforcing and securing the observance of the provisions of this Act or of any ordinance.

(3) An ordinance may extend to the whole or a part only of the area. Extent.

(4) An ordinance may—

(a) impose a penalty for any breach thereof and also distinct penalties in case of successive breaches thereof, but no such penalty shall exceed fifty pounds; General provisions as to ordinances. cf. 9 Edw. VII, No. 12, s. 21 (Queensland).

(b) impose also a daily penalty for any continuing breach thereof not exceeding five pounds per day;

(c) fix a minimum as well as a maximum penalty;

(d) require any work or thing to be executed or done of such materials within such time or in such manner as is directed or approved in any particular case by the council or the mayor or president or the proper servant or any person duly authorised, and require works to be executed only by qualified or licensed persons;

(e) authorise the council or the mayor or president or the proper servant to pull down remove or alter any work building structure material or thing erected or being in breach of this Act or any ordinance, and to recover all expenses incurred in so doing:

Provided that the exercise of this authority shall not relieve any person from liability to any penalty incurred by reason of such breach;

(f) authorise any matter or thing to be from time to time determined applied or regulated by the council by resolution or by the mayor or president or by the proper servant either generally or for any class of cases or in any particular case;

(g) provide for the issue making revocation cancellation or suspension of licenses registrations certificates or permits to or with respect to persons and property and for the payment of license registration and permit fees;

(h) provide for the payment of fees for inspections and other services rendered by servants of the council;

(i)

(i) prescribe the time and manner of lodging objections appeals and the like;

(j) prescribe the form and contents of any estimates applications notices demands orders licenses registrations certificates, or permits under this Act or the ordinances:

Provided that any notice demand order license registration certificate or permit in or to a similar effect as the form so prescribed shall be sufficient in law.

Publication and commencement.

577. (1) An ordinance shall—

(a) be published in the Gazette;

(b) take effect from the date of publication or from a later date to be specified in the ordinance; and

(c) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not then within fourteen days after the commencement of the next session.

(2) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such ordinance has been laid before such House disallowing the ordinance or any part thereof, such ordinance or part shall thereupon cease to have effect.

(3) Subject to the provisions of this section, an ordinance shall have the force of law.

Incorporation of amendments.

578. (1) Where any ordinance is amended by—

(a) the repeal or omission of certain words or figures; or

(b) the substitution of certain words or figures in lieu of any repealed or omitted words or figures; or

(c) the insertion of certain words or figures,

the ordinance as so amended may be printed by the Government Printer in the form certified as correct by the Attorney-General.

(2) The provisions of the Amendments Incorporation Act, 1906, shall mutatis mutandis apply to any ordinance so amended.

579.

579. (1) An ordinance shall save as therein otherwise expressly provided be construed as if the Interpretation Act, 1897, applied mutatis mutandis to the interpretation thereof. Interpretation.

(2) Section eighteen of the Interpretation Act of 1897 is amended by inserting after the word "regulations" the word "ordinances." Amendment of Interpretation Act, 1897.

DIVISION 3.—*Legal and other proceedings—against the council or its members or servants.*

580. (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the council or any member thereof, or any servant of the council or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the council or the member servant or person as provided in this section. Notice of action. cf. Sydney Harbour Trust Act, 1901, s. 26. cf. also No. 1197, s. 151 (Victoria). See s. 133 of C.T.W. & S. Act, 1880.

(2) The notice shall state—

(a) the cause of action;

(b) the time and place at which the damage or injury was sustained;

(c) the name and place of abode or business of the intended plaintiff and of his attorney (if any) in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the council shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money (if any) expended in repairing the same, shall be given to him. Representative of council to be permitted to inspect property injured.

(4) In the case of injury to the person any duly qualified medical practitioner, who produces on demand his authority from the council, shall be permitted to examine the person injured, and all facilities and information necessary to enable him to ascertain Medical practitioner to be permitted to examine person injured.

ascertain fully the nature and extent of the injury and the loss or expenses arising therefrom shall be given to him.

(5) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

(a) amend any defect in the notice on such terms and conditions (if any) as the court or judge may fix;

(b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

Action to be commenced in six months.

(6) Every such action shall be commenced within six months next after the occurring of the cause of action and not afterwards.

Amends. cf. 1197, s. 156 Victoria.

(7) The council or any member servant or person to whom any such notice of action is given as aforesaid may tender amends to the plaintiff his attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

General issue. cf. Sydney Harbour Trust Act, 1901, s. 26. cf. Stage Carriages Act, 1899, s. 14 (1)

(8) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

Compensation. cf. s. 234, ante.

581. (1) In any case where it is expressly provided that compensation may be claimed under this Act, such claim, in case of dispute, may by agreement between the council and the person claiming such compensation, be referred to arbitration under the Arbitration Act, 1902.

(2) Failing such agreement within one month after notice of the claim is served on the council either party may refer the claim to a district court judge having jurisdiction in the locality in which the subject matter of the claim is situated: such judge shall act as sole arbitrator, and the claim shall be deemed to be submitted to him under the said Act.

(3)

(3) Such judge may hear and determine the matter and make such order with respect to the claim and the costs of the case as having regard to the circumstances of the case and to the public interest he shall think just.

Amends tendered for trespass before action brought.

582. If any person commits any irregularity trespass or other wrongful proceeding in the execution of this Act or by virtue of any power or authority given by or under this Act whereby any actionable damage is occasioned, and if before action brought in respect thereof such person makes tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action.

cf. No. 1197, s. 155 (Vic).

Members acting bona fide not personally liable.

583. Any matter or thing done and any contract entered into by the council and any matter or thing done by any member or servant of the council or by any person acting under the direction of the council shall not if the matter or thing was done or the contract was entered into bona fide in pursuance of and for the purpose of executing this Act and for and on behalf of the council subject them or any of them personally to any action liability claim or demand.

cf. *Ibid.* s. 161.

Suing for penalty.

584. Subject to the provisions of this or any other Act any penalty or any surcharge recoverable against the council or against any member or servant of the council may be sued for without notice by any person.

Service.

585. Any writ summons notice or document required to be served upon the council may be served by being given personally to the town or shire clerk.

cf. No. 1893, s. 690 (Vic.).

DIVISION 4.—*Legal and other proceedings—by the council or its servants.*

Power of the council to direct proceedings.

586. The council may order either generally or in any particular case that proceedings be taken—

(a) for the recovery of any rate charge fee or money under the provisions of this Act or of any ordinance regulation or by-law;

cf. No. 1893, s. 694 (Victoria).

(b) for the recovery of any penalty or in respect of any offence under the provisions of this Act or of any ordinance regulation or by-law;

(c) for any purpose that it may deem proper.

587.

Interests of the public.

587. In any case in which the Attorney-General might take proceedings on the relation or on behalf or for the benefit of the council for or with respect to enforcing or securing the observance of any provision made by or under this Act, the council shall be deemed to represent sufficiently the interests of the public and may take the proceedings in its own name.

Initiating proceedings. cf. L.G. Act, 1906, s. 202.

588. (1) Subject to the provisions of this Act the mayor or president on his own initiative or any other person authorised by the council in that behalf may order either generally or in any particular case that proceedings be taken—

(a) for the recovery of any rate charge fee or money under the provisions of this Act or of any ordinance regulation or by-law;

(b) for the recovery of any penalty or surcharge or in respect of any offence under the provisions of this Act or of any ordinance regulation or by-law.

(2) Nothing in this section shall prevent any person from taking proceedings against the council or against any member or servant of the council for the recovery of any penalty or surcharge or in respect of any offence under the provisions of this Act or of any ordinance, regulation, or by-law.

Authentication. cf. No. 1893, s. 691 (Vic.).

589. Any summons order direction notice or document requiring authentication by the council may be sufficiently authenticated without the seal of the council if signed by the town or shire clerk.

Debts. cf. L.G. Act, 1906, s. 191.

590. (1) Unless otherwise expressly provided, any rate charge fee or money due to the council under the provisions of this Act or of any ordinance regulation or by-law may be recovered as a debt in any court of competent jurisdiction.

(2) Proceedings under this Act for the recovery of any rate charge fee or money so due to the council shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

(a) section twenty-four of the Common Law Procedure Act, 1899;

(b) section sixty-four of the District Courts Act, 1912;

(c)

(c) section twenty-five of the Small Debts Recovery Act, 1912.

(3) Fees may be demanded and taken for and on behalf of the council by the clerk, or by any person authorised in that behalf by a council, for the service by such clerk or person of any summons for the recovery in any court of petty sessions of any rates or charges payable to the council. Such fees shall be of the same amount and shall be paid by the same persons and subject to the same conditions as in the case of service by a bailiff of a court of petty sessions.

Penalties. cf. No. 1197, s. 168 (Victoria).

591. In any proceedings for the recovery of penalties (unless otherwise expressly provided) or in respect of any offence the information or complaint may be laid and made—

(a) in the name of the council where not required to be made on oath; or

(b) in any case by the town or shire clerk or by any other servant of the council appointed generally or in respect of any special proceeding or by any member of the police force.

Averment of ownership of the council.

592. In any proceedings (whether for the enforcement of a penalty or criminal proceedings) in relation to any property of or under the control and management of the council it shall be sufficient to state generally that the property is the property of the council.

Appearance in petty sessions. cf. No. 1893, s. 695; No. 1197, s. 163 (Victoria).

593. In all proceedings in any court of petty sessions or before any justice, any member of the council or the town or shire clerk or any other servant of the council appointed by the mayor or president in writing under his hand may—

(a) represent the council in all respects as though he were the party concerned; and

(b) institute and carry on any proceedings which the council is authorised to institute and carry on under this Act.

Bankruptcy. cf. No. 1893, s. 693 (Victoria).

594. (1) If any person against whom the council has any claim or demand takes the benefit of any Act relating to bankruptcy or for the relief of insolvent debtors the town or shire clerk or proper servant of the council in all proceedings against the estate of such bankrupt or insolvent or under any adjudication sequestration

tration or act of bankruptcy or insolvency against or of such insolvent or bankrupt may represent the council and act in its behalf in all respects as if such claim or demand were the claim or demand of the town or shire clerk or proper servant, as the case may be.

Winding up.

(2) If any company against which the council has any claim or demand is being or is wound up, the town or shire clerk or proper servant of the council may represent the council in all proceedings relating to such winding up and act on its behalf as if such claim or demand were the claim or demand of the town or shire clerk, or proper servant, as the case may be.

Reimbursement of servant.

cf. No 1893, s. 696; No. 1197, s. 169 (Victoria).

595. The town or shire clerk or other servant of the council who by reason of any proceedings which he is authorised by or under this Act to take is put to or chargeable with any damages costs charges and expenses shall have the same reimbursed by the council out of the appropriate fund.

DIVISION 5.—*Legal and other proceedings—Recovery of rates.*

Time within which proceedings to be taken.

cf. L.G. Act, 1906, s. 144 (7).

See also s. 601 (1) (g).

596. Proceedings for the recovery of any rate under this Act or under any Act repealed by this Act may, notwithstanding any statute of limitations or anything contained in this Act, be taken at any time within twenty years from the date when the same became due and payable.

Proceedings.

597. (1) Proceedings for the recovery of any rate may be by action at law for the amount due in respect of the rate or by suit in equity for the enforcement of the charge on the land.

cf. L.G. Act, 1906, s. 144 (7).

(2) All rates due and payable by the same person, whether in respect of the same or of different land, may be recovered in one action or suit.

cf. *Ibid.*, s. 144 (7).

(3) Where the proceedings are taken in a district court or in a court of petty sessions, the proceedings may be taken in the court for the district in which any of the land is situated, or in the court nearest to the office of the council or to the residence of the defendant as the council may decide, whether the rates are in respect of land in the same or in different districts.

(4) Nothing in this section shall preclude the taking of separate proceedings or the taking of proceedings in any district court or court of petty sessions available under the provisions of the District Courts Act, 1912, or the Small Debts Recovery Act, 1912.

Plaintiff's case. cf. L.G. Act, 1906, s. 146.

598. (1) In any proceedings by or on behalf of a council for the recovery of any rate, proof shall not, except as provided in this section, be required of the rate or of the right to the amount claimed in respect thereof.

(2) Where the proceedings are taken within ten years after the year in respect of which the rate is claimed, proof may be required—

(a) of the amount due in respect of the rate; and

(b) that the rate notice has been duly served.

(3) Where the proceedings are taken more than ten years after the year in respect of which the rate is claimed, proof may be required of the amount due in respect of the rate.

(4) In order to prove the amount due in respect of the rate it shall be sufficient to prove entries in the rate-book purporting to show the amount debited in respect of the rate.

(5) In order to prove that the rate notice has been duly served it shall be sufficient to prove that the notice was served in any of the modes provided for by this Act; and objection shall not be taken to the notice on the ground of any error or omission therein, if in the opinion of the court the notice sufficiently indicates the land intended to be rated and the person intended to be served.

(6) Unless an appropriate plea notice of defence or statement of defence, as the case may be, is duly filed, proof shall not be required of any of the matters of which proof might otherwise be required under this section.

Defendant's case. cf. L.G. Act, 1906, s. 146 (3).

599. (1) If an appropriate plea notice of defence or statement of defence, as the case may be, is duly filed, the defendant may dispute his liability for the rate or for part thereof, as the case may be, on any one or more of the following grounds, that is to say—

(a)

(a) that the amount debited in the rate-book in respect of the rate has been debited through fraud, erroneous calculation, clerical mistake, or accidental slip;

(b) that the rate notice was not duly served;

(c) that the defendant is not and was not at any relevant time a ratable person in respect of the rate: Provided that this ground shall not apply where the proceedings are against the defendant as a person who would not be liable except for his occupation of the land; cf. s. 150 ante.

(d) that the proceedings are against the defendant as a person who would not be liable except for his occupation of the land, and that the conditions (including the occupation and demand for payment) in virtue of which the council is entitled to recover from the person so in occupation have not been fulfilled; cf. s. 150 ante.

(e) that the proceedings should not under the provisions of this Act have been taken against the defendant unless and until the council had in proceedings against some other specified person failed to obtain payment from such person, and that the council has not so failed; cf. s. 151 ante.

(f) that the defendant has by payment or otherwise ceased to be liable for the rate;

(g) that the liability did not accrue within twenty years before the proceedings were taken.

(2) Except as provided in this section, the defendant shall not be allowed to dispute his liability on any ground whatever.

600. (1) In any proceedings for the recovery of any rate, and subject to the provisions of this section— Evidence. cf. L.G. Act, 1906, s. 146 (2). Evidence Act, 1898, s. 44. See s. 673 (4) and 679.

(a) an entry in the rate-book, the entry being one of a series prescribed to be made, shall be evidence of the matters therein recorded;

(b) a copy of an entry in the rate-book, the entry being one of a series prescribed to be made, shall be evidence of the entry and of the matters therein recorded.

(2) The entry shall not be received in evidence under this section, unless the series of which it is one purports

purports to have been sealed with the seal of the council and to have been signed by the mayor or president and countersigned by the town or shire clerk.

(3) If the entry is one of a series which purports to have been sealed signed and countersigned as aforesaid, the entry shall until the contrary is shown be presumed to be one of a series prescribed to be made, and shall be received in evidence without proof of the seal or of the signatures or official characters of the persons appearing to have signed or countersigned the series.

(4) The copy of an entry shall not be received in evidence under this section unless the copy purports to be certified under the hand of the town or shire clerk as a true copy of an entry in a series prescribed to be made and purporting to have been duly sealed signed and countersigned as aforesaid.

(5) If the copy purports to be certified as aforesaid, the copy shall until the contrary is shown be presumed to be a copy of an admissible entry, and shall be received in evidence without proof of the signature or official character of the person appearing to have certified the same.

Facilitation of recovery. cf. L.G. Act, 1906, s. 146.

601. (1) In any proceedings for the recovery of any rate, objection to the validity of the rate shall not be allowed nor avail to prevent the recovery of the rate.

cf. L.G. Act, 1903 (Victoria), s. 317.

(2) A jurisdiction otherwise competent shall not be ousted on the ground that the title to the land, or that any annual rent or other matter in which rights in future may be bound, or that any general right or duty, is in question, but the decision in the proceedings shall not be evidence in any other court or in any other proceedings in relation to any such matter.

cf. Small Debts Recovery Act, 1912, s. 11.

Sale of land by the Public Trustee.

Application for sale.

602. (1) Where any rate levied in respect of any land before or after the commencement of this Act is overdue for more than seven years, the council may apply to the Public Trustee to sell the land under this Act.

(2) Application for the sale shall –

(a) be made as prescribed; (b)

(b) be accompanied by a certificate in writing signed by the town or shire clerk, stating what rates are due or payable to the council in respect of the land, with particulars of the rates, and when the same became due or payable;

(c) be supported by such evidence as may be prescribed; and

(d) be accompanied by a deposit for expenses of such amount as the Public Trustee may deem reasonable.

Powers and duties of the Public Trustee.

603. (1) The Public Trustee shall—

(a) fix a convenient time (being not more than six months and not less than three months from the date of the application) and a convenient place for the sale;

(b) give such notice of the sale as he may deem sufficient by advertisement in the Gazette and in a newspaper; and

(c) make such searches against the land and give such notice (if any) as he may deem reasonable or practicable to any person who appears from search to be interested in the land.

(2) The Public Trustee may—

(a) sell the land under such conditions of sale as he may deem proper;

(b) employ an auctioneer; and

(c) do such other acts as he may deem expedient for selling the land at its full value and for carrying out the sale.

(3) If the land is not sold at the time originally fixed, the Public Trustee may from time to time fix such time and place as he may deem proper, and may in his discretion sell the land by private contract if a satisfactory offer is received in the meantime.

(4) If the land is sold the purchase money shall be paid to the Public Trustee, and his receipt shall be an effectual discharge to the purchaser therefor.

(5) At any sale under this section the council may bid for land and may purchase the fee-simple of the land without obtaining the approval of the Governor to such purchase.

604.

604. (1) The Public Trustee upon payment to him of the purchase money may convey or transfer the land to the purchaser by virtue of the authority conferred by this Act: Conveyance or transfer of the land. cf. Public Works Act, 1912, s. 43.

Provided that if the land has only been brought under the provisions of the Real Property Act, 1900, for an estate less than the fee-simple the land shall be conveyed and transferred by two separate instruments, that is to say by a conveyance so far as the estate not under the provisions of that Act is concerned, and by a transfer so far as the estate under the provisions of that Act is concerned.

(2) Any conveyance or transfer by the Public Trustee purporting to be made under this Act shall vest the land in the purchaser for an estate in fee-simple in possession, freed and discharged from all trusts obligations estates interests contracts charges and rates, but subject to any exceptions and reservations in any Crown grant and to any easements restrictive covenants and public rights of way affecting the land:

Provided that where the land has only been brought under the provisions of the Real Property Act, 1900, for an estate less than the fee-simple, the two separate instruments of conveyance and transfer by the Public Trustee purporting to be made under this Act shall be necessary so to vest the land, but shall not operate to bring the fee-simple under the provisions of the Real Property Act, 1900, and the transfer shall for the purposes of that Act pass only the estate already under the provisions thereof:

Provided also that where the land or any estate therein is under the provisions of the Real Property Act, 1900, the Mining Act, 1906, or the Crown Lands Consolidation Act, 1913—

(a) the transfer shall by virtue of this Act be registrable under the provisions of the Act concerned, notwithstanding anything in such Act contained;

(b) the transfer shall not operate at law until the same is registered under the Act concerned.

(3)

(3) Where the land or any estate therein is under the provisions of the Real Property Act, 1900, the Registrar-General upon the production to him of any transfer made by the Public Trustee and purporting to be made under this Act shall register the transferee as the proprietor of the land or estate as the case may be :

Provided that—

(a) the Registrar-General may make such entries notifications and cancellations in the register-book as are required to give effect to the provisions of this section ;

(b) except as regards such of the following as may immediately before the registration of the transferee as proprietor be notified on the folium of the register-book constituted by the Crown grant or certificate of title, that is to say except as regards any exceptions or reservations in a Crown grant or any easements restrictive covenants and public rights of way affecting the land and so notified, it shall not be necessary for the Registrar-General to make any entries or notifications of any of the same, and it shall be sufficient to notify on the folium of the register-book from time to time constituted by the Crown grant or certificate of title that the proprietor holds subject to the provisions of this section ;

(c) unless the duplicate Crown grant or certificate of title is presented with the transfer, the Registrar-General shall cancel the folium of the register book constituted by the Crown grant or certificate of title, and shall make out to the transferee a certificate of title ;

(d) in any case where the duplicate Crown grant or certificate of title is not presented with the transfer, such duplicate shall be deemed to be wrongfully retained within the meaning of subsection one of section one hundred and thirty-six of the Real Property Act, 1900, and the provisions of that Act applicable in respect of a grant certificate or instrument wrongfully retained shall apply in respect of such duplicate ;

(e)

(e) the forms to be used for carrying this section into effect may be prescribed by ordinance;

(f) the fees payable to the Registrar-General for the making of any entry, notification, or cancellation or doing any act under the authority of this section may be prescribed by ordinance.

(4) Neither the purchaser nor the Registrar-General nor any official to whom a transfer made by the Public Trustee and purporting to be made under this Act is produced for registration shall be concerned to inquire whether the provisions of this Act in respect of the sale or transfer have been complied with or otherwise into the regularity or validity of the sale or transfer.

The Public Trustee Act, 1913.

605. (1) Any moneys which come into the hands or under the control of the Public Trustee under this Act shall be deemed to be moneys which come into his hands or under his control within the meaning of the Public Trustee Act, 1913.

(2) Subject to the provisions of this Act the powers duties and immunities conferred on the Public Trustee by the Public Trustee Act, 1913, shall mutatis mutandis be deemed to be conferred on the Public Trustee in relation to this Act.

Application of purchase money.

606. (1) Any purchase money received by the Public Trustee under this Act shall be applied by him to the following purposes and in the following order, that is to say, in or towards the payment of—

(a) firstly, the fees and expenses of the Public Trustee;

(b) secondly, the expenses of the council as assessed by the Public Trustee;

(c) thirdly, any rate or charge due to the council;

(d) fourthly, any debt (of which the Public Trustee has notice) due to the King;

(e) fifthly, any rate or charge (of which the Public Trustee has notice) due to any other rating authority.

(2) Notwithstanding that the amount (if any) paid by the Public Trustee to the council or to any other rating authority in or towards expenses or rates is insufficient

insufficient therefor, the council or other rating authority, as the case may be, on receiving the amount (if any) paid as aforesaid or on receiving notice in writing from the Public Trustee that no money is available for the purpose, shall treat the amount due in respect of the expenses or rates as satisfied and discharged, and any deficiency shall be written off the books of account of the council or rating authority accordingly.

Balance to be held in trust.

607. Any balance of the purchase money shall subject to the provisions of this Act be held by the Public Trustee in trust for the persons having estates or interests in the land immediately before the sale according to their respective estates and interests.

Balance not exceeding £500.

608. (1) Where the balance of the purchase money does not exceed five hundred pounds, the Public Trustee may pay and distribute the balance or any part thereof to or among the persons who are in his opinion clearly entitled thereto, and the receipt of the person to whom any payment or distribution is so made shall be an effectual discharge to the Public Trustee therefor.

(2) If the Public Trustee has any doubt as to the title of any person to the balance or any part thereof, he may pay transfer or deposit the same to or with the Master in Equity under Part III of the Trustee Act, 1898.

Balance exceeding £500.

609. Where the balance of the purchase money exceeds five hundred pounds, the Public Trustee shall pay the same to the Master in Equity under Part III of the Trustee Act, 1898.

Part III of the Trustee Act, 1898.

610. (1) For the purposes of sections fifty-nine, sixty-one, and sixty-three of the Trustee Act, 1898—

(a) the particular trust in the matter of which the balance of the purchase money or any part thereof is paid transferred or deposited by the Public Trustee to or with the Master in Equity may be described as a trust for the persons entitled to the balance of purchase money of land (described so as to be distinguishable) sold by the Public Trustee for rates due to the council;

(b)

(b) notwithstanding anything to the contrary in this subsection, the Supreme Court in its equitable jurisdiction may in any particular case or by any general rule in that behalf direct in what manner the balance or any part thereof is to be paid transferred or deposited to or with the Master in Equity.

(2) Sections sixty and sixty-two of the Trustee Act, 1898, shall not be deemed to apply to the balance or any part thereof paid transferred or deposited to or with the Master in Equity in pursuance of this Act.

Payment to the council after twenty years.

611. (1) If the balance of the purchase money or any part thereof has been in the hands or under the control of the Public Trustee for more than twenty years, and he has no information or knowledge of the existence of any person entitled or claiming to be entitled thereto, the Public Trustee shall pay and transfer the same to the council.

(2) If the balance of the purchase money or any part thereof has been paid transferred or deposited to or with the Master in Equity under Part III of the Trustee Act, 1898, and at the expiration of twenty years from such payment transfer or deposit the Master in Equity has no information or knowledge of the existence of any person entitled or claiming to be entitled thereto, the Supreme Court in its equitable jurisdiction on application by the council shall, unless the court deems that there is some special reason to the contrary, order that the balance or any part thereof, as the case may be, be paid transferred and delivered out to the council :

Provided that nothing in this subsection shall preclude the council from making any subsequent application.

(3) Where the balance or any part thereof is paid transferred or delivered out to the council, whether under subsection one or under subsection two of this section, the council shall be deemed to be the person solely entitled thereto, and any title of any other person thereto shall be deemed to be barred and extinguished : Provided that the council may at any time after receiving any balance under this subsection pay the balance to any person who may prove to the council's satisfaction that he would, but for the provisions of this Act, be entitled thereto.

(4)

(4) In any case where there has been an alteration of areas affecting the council originally entitled to receive the balance the Public Trustee or the court, as the case may be, may pay such balance to the council which in his or its opinion and under the circumstances of the particular case is entitled to represent such first mentioned council.

(5) Any balance or part thereof paid transferred or delivered out to the council as aforesaid shall be allocated by the council to such fund as the council may determine.

References to balance.

612. In this Act any reference to the balance of the purchase money of any land sold by the Public Trustee under this Act shall include any investments representing the same and any interest thereon.

Fees and expenses of the Public Trustee.

613. Notwithstanding any other provision of this Act, the Public Trustee shall be entitled—

(a) to retain out of the purchase money of any land sold by him under this Act all proper fees and expenses due to or incurred by him in relation to this Act, and to charge the same to or between the shares of any persons entitled or claiming to be entitled to the balance of the purchase money, as he may deem just ;

(b) to recover from the council all proper fees and expenses due to or incurred by him in relation to this Act, so far as the same are not retained by him out of any purchase money.

Land seized under repealed Act.

614. Where any council has taken possession of and leased any land under section one hundred and forty-eight of the Local Government Act, 1906, the provisions of this Act in respect to the sale of land by the Public Trustee shall not apply until the expiration of the lease, but if at such expiration any rate levied in respect of the land before or after the commencement of this Act is overdue the rate shall be deemed to be overdue for seven years within the meaning of those provisions and the same shall apply accordingly.

DIVISION 6.—*Legal and other proceedings—Recovery of charges, fees, and other debts.*

Proceeding for the recovery of charges and fees.

615. (1) If any charge or fee is due and payable to the council for more than six months, proceedings for the recovery thereof shall forthwith be taken. (2)

(2) Proceedings for the recovery of the charge or fee may, notwithstanding any statute of limitations or anything contained in this Act, be taken at any time within six years from the date when the same became due and payable.

(3) Any charge or fee may be recovered separately or in the same proceedings with any other charge or fee or with any rate or money and in any competent court: and if it is sought to recover any rate in the same proceedings, the proceedings may be taken in any court in which proceedings for the recovery of the rate may be taken.

(4) In any proceedings for the recovery of a charge or fee, a copy of an entry in a book of account of the council shall be evidence of the matters therein recorded:

cf. Evidence Act, 1898, s. 45.

See ss. 603 and 624.

Provided that it be first proved orally or by affidavit—

(a) that the book was at the time of the making of the entry one of the ordinary books of the council;

(b) that the entry was made in the usual and ordinary course of business;

(c) that the book is in the custody or control of the council; and

(d) that the copy has been examined with the original entry and is correct.

DIVISION 7.—*Legal and other proceedings—Evidence.*

Formal matters.

616. In any prosecution or other legal proceeding under this or any other Act instituted by or under the direction or on behalf or for the benefit of the council proof shall not until evidence is given to the contrary be required of—

cf. No. 1893, s. 697 of Victoria.

cf. L.G. Act, 1906, s. 193.

(a) the incorporation of the council;

(b) the persons constituting the council;

(c) the election or appointment of the mayor or president;

(d) the extent or boundaries of the area or of any urban area or of any district or division of the area or of any urban area;

(e) the fact that any particular place is within the area or within any urban area;

(f)

(f) the appointment of the town or shire clerk or of any other servant;

(g) the particular or general appointment of the town or shire clerk or of any servant of the council as the proper servant within the meaning of this Act;

(h) any order to prosecute; or the authority of the town or shire clerk or any servant of the council to prosecute;

(i) the presence of a quorum of the council at the passing of any resolution or the making of any order or the doing of any act;

(j) the fact that the defendant is or at any relevant time was the owner or occupier of any land in question;

(k) the fact that the defendant is or at any relevant time was the owner or in possession, control or charge of any animal or thing in question.

Judicial notice of the seal of the council.

cf. No. 1197, s. 6 (Victoria).

617. All courts and persons having by law or consent of parties authority to hear receive and examine evidence—

(a) shall take judicial notice of the seal of the council affixed to any document; and

(b) shall until the contrary is proved presume that such seal was properly affixed thereto.

Proclamation, regulation, by-law, &c.

cf. No. 1893, s. 698; No. 1197, s. 152 (Victoria).

618. (1) The production of—

(a) a copy of the Gazette containing any proclamation notification ordinance regulation by-law order direction or notice purporting to be made or given under this Act or any Act repealed by this Act;

(b) a copy of any printed paper purporting to be or to contain any proclamation notification ordinance regulation by-law order direction or notice made or given under this Act or any Act repealed by this Act and purporting to be printed by the Government Printer;

(c) a copy purporting to be a true copy of any order direction or notice made by the council and purporting to be certified as such under the hand of the mayor or president or town or shire clerk,

shall

shall be prima facie evidence of the due making existence confirmation approval and giving of such proclamation notification ordinance regulation by-law order direction or notice, and of all preliminary steps necessary to give full force and effect to the same, and of the contents thereof.

(2) A copy of any order direction or notice certified as aforesaid shall be delivered to any person who demands the same on payment to the council of a sum not exceeding one shilling.

(3) The provisions of this section shall, unless inconsistent with the context or subject matter, extend to any proclamation notification or notice made or given under any Act relating to municipal or local government, whether made or given before or after the commencement of this Act, and whether made or given under an Act since repealed or under a future Act.

Service of notices, orders or demands.

cf. No. 1893, s. 699 (Victoria).

cf. L.G. Act, 1906, s. 195.

619. If any servant of the council or other person who has in the manner directed by or under this Act served any order direction notice or demand required to be given by the council, indorses upon or annexes to a true copy of the same a statutory declaration stating the place the time and the manner in which the same has been so served, such statutory declaration purporting to have been so made shall be prima facie evidence of the service of such order direction notice or demand.

Document issued by council.

cf. No. 1893, s. 700 (Victoria).

620. (1) All documents purporting to be issued or written by or under the direction of the council and purporting to be signed by the mayor or president or the town or shire clerk shall be received as evidence by all courts and all persons having by law or consent of parties authority to hear receive and examine evidence and shall be deemed to be issued or written by or under the direction of the council without proof unless the contrary is shown.

(2) In this section the word "documents" includes orders directions notices and demands.

Rate book.

cf. *Ibid.* s. 701.

See s. 603, 618 (4) ante.

621. In any proceeding—

(a) for recovering any rate ; or

(b) for enforcing any charge upon land ; or

(c) consequent upon any of the foregoing,

the

the rate books of the council and all entries purporting to be made therein or certified copies thereof as elsewhere in this Part provided shall by the production thereof alone be prima facie evidence of such rate and of the contents thereof without any evidence that the notices required by or other requirements of this Act have been given or complied with.

Ownership. cf. *Ibid.* s. 701.

622. (1) In any legal proceedings under this Act in addition to any other method of proof available—

(a) evidence that the person proceeded against is rated in respect of any land to any rate under this Act; or

(b) evidence by a certificate of the Registrar-General or his deputy that any person appears from any registration of any deed conveyance or other instrument under the Registration of Deeds Act, 1897, or from the register-book under the Real Property Act, 1900, to be the owner or lessee of any land,

shall be prima facie evidence that such person is owner or lessee, as the case may be, of the land.

(2) The Registrar-General or his deputy shall on the written application of the town or shire clerk furnish to the council a certificate giving from the register-book the name and address of the owner or lessee of any land, the situation and description of the land, and the date of registration on payment of two shillings for each certificate.

(3) All courts and all persons having by law or by consent of parties authority to hear receive and examine evidence shall for the purposes of this Act take judicial notice of the signature of the Registrar-General and his deputy.

Public road. cf. L.G Act, 1906, s. 194.

623. In any proceeding by or under the direction or on behalf or for the benefit of the council in respect of any offence on a public road or footway or in respect of any impounding, it shall not be necessary to prove the gazettal or alignment or dedication of the public road or footway, but it shall be sufficient evidence of the fact that the place whereon the offence is alleged to have been committed or from which the animal is impounded

impounded is a public road or a footway, if it is proved that such place is a thoroughfare in the nature of a road or footway and is so used by the public.

Offences on boundaries. cf. L.G. Act, 1906, s. 194.

624. In any proceeding in respect of any offence alleged to have been committed in any part of a public road or of a river watercourse or tidal or non-tidal water any part of which forms the boundary of the area, it shall not be necessary to prove that the place where the offence is alleged to have been committed was on either side of the boundary, but it shall be sufficient to prove that the place where the offence is alleged to have been committed is part of the road river watercourse or water, and the council of the area or the council of any adjoining area may take proceedings in respect of any such offence.

Minute-book. cf. L.G. Act 1906, s. 196.

625. Every entry in the minute or other book purporting to be a minute of the business transacted at a meeting of the council and to be signed by the mayor or president or chairman at a subsequent meeting of the council shall be prima facie evidence—

(a) that the business as therein recorded was transacted at the meeting; and

(b) that the meeting was duly convened and held.

DIVISION 8.—*Legal and other proceedings—Notices by the council.*

The Crown. cf. L.G. Act, 1906, s. 195.

626. (1) Any notice required to be served upon the Crown may be served as provided in this section.

(2) Where a department of the Government is concerned, the service may be—

(a) in the case of a notice of valuation or a rate notice, upon the Treasurer;

(b) in any other case, upon the permanent head of the department;

(c) in any case, upon such person as may be prescribed by ordinance.

(3) Where a statutory body representing the Crown is concerned, the service may be—

(a) upon the secretary thereof; or

(b) upon such person as may be prescribed by ordinance.

627.

627. (1) Any notice required to be served upon the council of a municipality or shire may be served upon the clerk thereof. Councils and corporations.

(2) Any notice required to be served upon any other corporate body may be served upon the secretary thereof.

628. (1) Any notice required by or under this Act to be served upon any ratable person or upon any owner or occupier of any land building or premises may be served as provided in this section. Ratable persons, owners, and occupiers. cf. Sydney Corporation Act, 1902, s. 216.

(2) The service may be—

(a) personal; or

(b) by delivering the notice at or on the premises at which the person to be served lives or carries on business, and leaving the same with any person apparently above the age of fourteen years resident or employed thereat; or

(c) by posting the notice by prepaid letter addressed to the last known place of abode or business of the person to be served; or

(d) by affixing the notice on any conspicuous part of the land building or premises.

(3) In addition to the modes of service prescribed by subsection two of this section— cf. L.G. Act, 1906, s. 195.

(a) in any case where the person to be served is or after inquiry appears to be absent from New South Wales, the service may be upon the agent of such person by any of the modes prescribed in clauses (a) (b) and (c) of subsection two of this section;

(b) in any case where the land building or premises are unoccupied and the owner thereof or his address or place of residence is not known to the council, the service may be by advertisement as prescribed by ordinance.

(4) The notice may be addressed by the description of "ratable person" or "owner" or "occupier" of the land building or premises (naming or otherwise sufficiently indicating the same) in respect of which the notice is served, and without further name or description. cf. No. 1893, s. 705 (Victoria).

(5)

(5) The notice may be wholly or partly in printing or in writing or in both. cf. *Ibid.*

(6) Where the notice has been served by any of the modes prescribed by this section, all inquiries requisite under this section shall be deemed to have been made, and the service shall be conclusive evidence thereof. cf. L.G. Act, 1906, s. 195.

(7) Proof by affidavit or orally that the notice has been posted in accordance with this section shall be conclusive evidence of service. cf. *Ibid.*

(8) For the purpose of this section a justice of the peace is hereby authorised to take and receive an affidavit, whether any matter to which the affidavit relates is or is not pending in any court.

629. Any notice required to be served upon any ratable person or upon any owner or occupier shall, if due service has been once made upon the ratable person or upon the owner or occupier, be binding upon any person claiming through or under or in trust for or in succession to the ratable person or being a subsequent owner or occupier, as if the notice had been served on such person. Effect. cf. No. 1893 s. 706; No. 1197, s. 160 (Victoria).

630. The provisions of this Division relating to notices shall, unless inconsistent with the context or subject matter, apply to any demand direction or order as well as to any notice. Notice, demand, direction, or order.

631. Any reference in this Division to the service of a notice shall include a reference to the giving or sending of a notice or to any similar expression in relation thereto. Service.

Division 9.—*Enforcement of Act.*

632. Where any matter or thing is by or under this Act directed or forbidden to be done, or where the council or any person is authorised by this Act to direct any matter or thing to be done, or to forbid any matter or thing to be done, and such matter or thing if so directed to be done remains undone, or if so forbidden to be done is done, then in every such case every person offending against such direction or prohibition shall be guilty of an offence under this Act. Offence under this Act. cf. No. 1893, s. 718; No. 1197, s. 165 (Victoria). cf. L.G. Act, 1906, s. 199.

633.

Penalty.

633. (1) Every person guilty of an offence under this Act shall for every such offence be liable to the penalty expressly imposed, and if no penalty is so imposed to a penalty not exceeding twenty pounds, and to a further daily penalty not exceeding five pounds. cf. No. 1893, s. 719; No. 1197, s. 165 (Victoria).

cf. L.G. Acts, 1906-8, s. 207.

(2) The council may at its discretion prior or subsequently to or in lieu of prosecuting for such offence do any such matter or thing and recover the costs and expenses thereof from such person in any court of competent jurisdiction.

Official defaults.

cf. Sydney Corporation Act, 1912, s. 208; L.G. Act, 1906, s. 205.

634. (1) If any council or any member thereof neglects or refuses to do anything which by or under this Act it or he is directed or required to do, it or he shall for every such offence be liable to a penalty not exceeding fifty pounds.

(2) If any servant of the council neglects or refuses to do anything which by or under this Act he is directed or required to do, he shall for every such offence be liable to a penalty not exceeding five pounds.

Obstruction.

cf. Sydney Corporation Act, 1902, s. 214.

635. If any person wilfully obstructs any of the following in the exercise of any power or in the execution of any duty under ~~this Act~~ **any Act, ordinance or regulation conferring or imposing powers or duties upon a council,** that is to say—

(a) the Governor;
(b) the Minister;
(c) the council;
(d) an inspector of accounts;
(e) an auditor;
(f) a person elected or appointed to any office or for any purpose under this Act;
(g) a servant of the council;
(h) a member of the police force,

the person so obstructing shall be liable to a penalty not exceeding fifty pounds.

Occupier or agent refusing to give name of owner.

cf. No. 1893, s. 715; No. 1197, s. 113 (Victoria).

636. If on the request of the council or of any proper servant the occupier of any property or any agent or owner of the property refuses or wilfully omits to disclose or wilfully mis-states to the council or to the servant making the request the name and address of the owner of the property or of the person receiving or authorised to receive the rents of the same, the occupier or agent or owner shall be liable to a penalty not exceeding ten pounds.

637.

637. Every penalty imposed by or under this Act in the case of any person committing an offence shall extend and apply also to any person— Penalties extended to persons causing offences.

(a) who causes the commission of the offence; or cf. *Ibid.*, s. 167.

(b) by whose order or direction the offence is committed; or

(c) who aids abets counsels or procures or by act or omission is directly or indirectly concerned in the commission of the offence. cf. Crimes Act, 1900, s. 351.

638. (1) Whether any penalty imposed upon any person by or under this Act has been recovered or not, the council may recover from such person— Other remedies.

(a) any sum for damage sustained by it through his act or default; cf. No. 2016, s. 355 (Victoria).

(b) the costs and expenses incurred by it in remedying any such damage; and

(c) the value of anything wasted misused or unlawfully consumed diverted or taken by him.

(2) Any such penalty may be recovered notwithstanding that the council has not exercised any other right of recovery.

(3) A prosecution or conviction for an offence under this Act shall not affect any right of action of any person for any damage sustained by him.

639. (1) Any penalty imposed by this Act or by any ordinance regulation or by-law may be recovered in a summary way before any stipendiary or police magistrate or any two justices in petty sessions. Recovery of penalties. cf. L.G. Act, 1906, s. 191. See also s. 587, ante.

(2) Where the penalty is a daily penalty, it may be recovered either under a separate information or complaint for each day or under an information or complaint for the sum of the daily penalties. cf. Sydney Corporation Act, 1902, s. 173.

640. (1) Any penalty fine or forfeiture under any Act recovered in proceedings instituted or commenced by or under the direction or on behalf or for the benefit of the council shall— Application of penalties. cf. L.G. Act, 1906, s. 191. Sydney Corporation Act, 1902, s. 209.

(a) be paid to the council;

(b) be allocated by the council to the appropriate fund.

(2) The provisions of this Act relating to proceedings instituted or commenced by or under the direction or on behalf or for the benefit of the council shall be deemed to extend to any proceedings instituted or commenced by a member of the police force for any penalty fine or forfeiture under this Act or any ordinance regulation or by-law. Proceedings by police.

641. Whenever default is made by the owner of any land building or premises in the execution of any work which by this Act or by any ordinance regulation by-law or by any lawful order direction or notice of the council is required to be executed by him— Right of occupier to act in certain cases on default of owner. cf. No. 1893, s. 713; No. 1197, s. 114 (Victoria).

(a) the occupier of such land building or premises may with the approval of the council cause such work to be executed;

(b) the expense thereof shall except where there is an agreement otherwise be repaid to such occupier by the owner of the land building or premises; and

(c) the occupier may until repayment deduct the amount of such expense, with interest thereon at the rate of five pounds per centum per annum, out of the rent from time to time becoming due from him to such owner, or may recover the same with such interest from such owner in any court of competent jurisdiction.

642. (1) If the occupier of any premises prevents the owner or agent from obeying or carrying into effect any provisions of this Act or of any ordinance regulation or by-law or of any order direction or notice under this Act or under any ordinance regulation or by-law, any justice to whom application is made in that behalf may by order in writing require the occupier to permit the execution of any work, if it appears to the justice to be necessary for the purpose of obeying or carrying into effect the said provisions. Occupier preventing owner. cf. L.G. Acts, 1906-8, s. 208; Sydney Corporation Act, 1902, s. 173.

(2) If the occupier does not comply with the order within forty-eight hours after the time when it was made, he shall be liable to a penalty not exceeding five pounds for every day during the continuance of such non-compliance.

(3)

(3) Every such owner during the continuance of the non-compliance shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works if he satisfies the court that he has bona fide endeavoured to comply with the said provisions.

Apportionment of expenses.

cf. Melbourne Metropolitan Council Bill, 1915, cl. 494.

643. Where by virtue of this Act or any ordinance regulation or by-law—

(a) two or more persons are or may be directed by the council to do or join in doing any act or to pay or join in paying any sum of money costs or expenses; or

(b) the council permits two or more persons to join together in doing any act or paying any sum of money costs or expenses,

the council may apportion the matter to be done or the sum of money costs or expenses to be paid between such persons in such manner as the council thinks just and reasonable, and the same shall be done or paid accordingly.

Demanding name of offender.

cf. L.G. Act, 1906, s. 199.

644. (1) Any servant of the council or member of the police force who finds a person committing an offence under this Act shall—

(a) demand from the person his name and place of abode; and

(b) report the offence and the name and place of abode of the person to the council as soon as may be practicable.

(2) Any person who upon demand made as aforesaid—

(a) refuses to state his name or place of abode; or

(b) states a name or place of abode which in the opinion of the servant of the council or the member of the police force making the demand is false,

may without any other warrant than this Act be apprehended by the servant of the council or by the member of the police force and taken before any court of summary jurisdiction, there to be dealt with according to law.

(3)

(3) Any person who upon demand made as aforesaid—

(a) refuses to state his name or place of abode; or

(b) states a false name or place of abode,

shall be liable to a penalty not exceeding ten pounds.

DIVISION 10.—*Adaptation of Acts.*

Mutatis mutandis.

cf. Housing and Town Planning, &c., Act, 1909, Fourth Schedule. cl. 15 (England).

645. (1) Where any section of this Act provides for the application mutatis mutandis of the provisions of any Act, the Governor may by proclamation set out the provisions of the Act concerned with such modifications as he may deem necessary to adapt the same to the purposes of this Act.

(2) The provisions so proclaimed shall—

(a) be set out in the form of a schedule to be inserted in this Act;

(b) be thereafter printed by the Government Printer as a schedule to this Act in any reprint thereof; and

(c) have the same force and effect as if the schedule had been originally inserted in this Act, and as if the section of this Act providing for the application mutatis mutandis of the provisions of the Act concerned had referred to the schedule as setting out the true and full meaning of such application.

(3) This section shall not be taken to affect the application of any section in respect of which no such proclamation is made.

References to municipalities and shires.

646. Subject to the provisions of this Act a reference in any Act regulations or by-laws to municipalities and shires, and their councils and servants, shall apply to municipalities and shires under this Act and to the councils and servants thereof.

DIVISION 11.—*General.*

Proclamations.

cf. L.G. Act, 1906, s. 198.

647. (1) The Governor may by proclamation rescind revoke amend or vary any order proclamation or notification under this Act or any Act repealed by this Act or by the Local Government Act, 1906.

(2)

(2) This section or any proclamation under it shall not affect anything done before the publication of the proclamation.

Validity of proclamations. cf. L.G. Act, 1906, s. 206.

648. (1) A proclamation or notification of the Governor purporting to be made under this Act and being within the powers conferred on the Governor shall not be deemed invalid by reason of any non-compliance with any matter required by this Act as a preliminary to the making of the proclamation or notification.

(2) A misnomer or inaccurate description or omission of description in any proclamation or notification under this Act shall not affect the operation of the proclamation or notification.

Public inquiries. cf. L.G. Act, 1906, s. 201.

649. (1) The Governor or the Minister may appoint any one or more persons a commissioner to hold a public inquiry and to report to the Governor or the Minister, as the case may be, with respect to—

(a) any matter relating to the carrying out of the provisions of this or any other Act conferring powers or imposing duties on the council; and

(b) any act or omission of any member of the council or of any servant of the council or of any person elected or appointed to any office or position under this or any other Act conferring powers or imposing duties on the council—

such act or omission having relation to the carrying out of the provisions of the Act referred to, or to the office or position held by the member, servant, or person under the said Act, or to the powers or duties of that office or position.

(2) The provisions of the Royal Commissioners Evidence Act, 1901, and the provisions of section one hundred and fifty-two of the Justices Act, 1902, shall mutatis mutandis apply to any commissioner appointed under this section.

Structures below high-water mark.

650. (1) The council shall not erect any structure below high-water mark—

(a) in the port of Sydney, without first obtaining the approval of the Sydney Harbour Trust Commissioners; or

(b)

(b) elsewhere than in the port of Sydney, without first obtaining the approval of the Minister for Lands.

(2) The expression "the port of Sydney" in this section shall have the same meaning as the expression "the port" in section three of the Sydney Harbour Trust Act, 1900.

Exemption from taxes.

651. Unless the contrary is expressly provided by any Act passed after the commencement of this Act, taxes and stamp duties shall not be chargeable or payable under any Act now or hereafter in force upon—

(a) any land vested in or under the management and control of the council;

(b) any property or income of the council;

(c) any receipt or acquittance given by one servant of a council to another in the course of the internal administration of the council's business; and

(d) any receipt for any money, or for the return of any money deposited by any person with the council in relation to any contract entered into by him with the council, or in relation to any tender made by him for any contract with the council.

(2) This section shall not be deemed to extend to any rate or assessment made or levied by—

(a) another council;

(b) the Board of Water Supply and Sewerage;

(c) the Board of Fire Commissioners of New South Wales.

The Commonwealth Constitution.

652. The provisions of this Act shall be read subject to the provisions of the Commonwealth of Australia Constitution Act.

Extension of boundaries on coast.

653. Where the boundary of any area has been described in any proclamation as being high-water mark on the ocean, such area shall, from the commencement of this Act, include the land between high-water mark and low-water mark on the said ocean, and include any river, creek, or inlet of the sea, within a straight line connecting two points at low-water mark opposite the outermost points of the headlands at the entrance of any such river, creek, or inlet of the sea.

Disputes

Disputes between councils, &c.

Disputes between councils, &c., may be submitted to Minister.

654. (1) If any difference, whether arising out of the construction of this Act or not, arise between the councils of any two or more areas, with respect to the carrying out of the provisions of this Act, or with respect to the fulfilment and exercise of the duties, powers, privileges, or authorities of councils under any Act, either council may submit such difference to the Minister, who may refer the matter for inquiry to some person appointed by him in that behalf, or may himself make such inquiry.

(2) The Minister may thereupon make such order as in the public interest and in the circumstances of the case may seem to him just and equitable, and by such order may direct the payment of any costs and expenses incidental to the conduct of the inquiry.

cf. Arbitration Act, 1902, s. 14.

(3) Any such order may, upon the application of the Minister or of either council, by leave of the Supreme Court, or a judge thereof, be enforced in the same manner as a judgment or order of the said court to the same effect. A writ of attachment shall not be issued to enforce payment of any money, costs, or expenses under any such order; but writs of fieri facias or capias ad satisfaciendum, and such other writs as may be necessary, may be issued by order of the court, or of the Judge, and every such order shall have the force and effect of a judgment at law or decree in equity.

Disputes between councils and Government Departments may be submitted to Minister.

(4) If any difference as aforesaid arise between any council and any department of the Government the parties to such dispute may mutually agree to submit the matter in dispute to the Minister, and in any such case the provisions of this section shall apply to the settlement of the dispute as if such dispute were between the councils of any two or more areas.

Meaning of Department.

(5) "Department of the Government" shall for the purposes of this section extend to and include—

(a) the Railway Commissioners for New South Wales;

(b) the Sydney Harbour Trust Commissioners;

(c) the Board of Fire Commissioners of New South Wales;

(d)

(d) the Board of Water Supply and Sewerage;
(e) the Hunter District Water Supply and Sewerage Board;
(f) the Commissioners of the Government Savings Bank of New South Wales;
(g) the Western Land Board of New South Wales;
(h) the Board of Health;
(i) the Water Conservation and Irrigation Commission or any trust constituted by or under any Act relating to irrigation;
(j) any union or trust constituted by or under the Water Act, 1912;
(k) any pastures protection board constituted by or under the Pastures Protection Act, 1912;
(l) the trustees of any public reserve, water reserve, cemetery, or common, or of any land, appointed by or under the Crown Lands Consolidation Act, 1913, the Public Parks Act, 1912, the Public Trusts Act, 1897, the Commons Regulation Act, 1898; or any trustees of any lands or works whatsoever held, constructed, or used for any public purpose;
(m) the Municipal Council of Sydney;
(n) the Newcastle District Abattoir Board; and
(o) the Metropolitan Meat Industry Board.

Validation.

Validation.

655. (1) Where a council has before the commencement of this Act borrowed for the purpose of recouping any fund for expenditure lawfully incurred, such borrowing shall be deemed to have been and to be valid and in accordance with the law.

(2) The sewerage rate levied by the council of the municipality of Lithgow during the year one thousand nine hundred and nineteen of twopence halfpenny in the pound on the unimproved capital value of all lands within one hundred and fifty feet from any sewer of the council, with a minimum rate of one pound twelve shillings and sixpence per annum in respect of each portion of ratable land or tenement shall be deemed to

to have been a rate and minimum rate respectively duly levied in accordance with the provisions of the Country Towns Water and Sewerage Acts, 1880–1905.

(3) The water rate levied by the council of the municipality of Lithgow during the year one thousand nine hundred and nineteen of one halfpenny in the pound on the unimproved capital value of the ratable land within the municipality of Lithgow deriving benefit from the expenditure of the rate, and providing for a minimum rate of ten shillings, shall be deemed to have been a rate and minimum rate respectively duly levied in accordance with the provisions of the Country Towns Water and Sewerage Acts, 1880–1905.

656. (1) Such of the provisions of this Act as relate to the audit of the books and accounts of the council, the appointment and cancellation of the appointment of auditors and inspectors of accounts, the inspection of accounts and the disallowance of any expenditure or entry in such books, and the surcharge of sums disallowed, and their recovery or deduction, including the powers and duties and the remuneration of auditors and inspectors of accounts, and all regulations and ordinances for the time being in force relating to the above matters shall, mutatis mutandis, apply to the city of Sydney and the municipal council thereof, and the books and accounts of the said council.

(2) Subsection two of section one hundred and ninety-one of the Sydney Corporation Act, 1902, is amended by omitting "Treasury inspector appointed as hereinafter mentioned" and inserting "auditor appointed in accordance with the Local Government Act, 1919."

(3) Subsection one of section one hundred and ninety-two of the same Act is amended by omitting "Treasury inspectors as may from time to time be appointed by the Colonial Secretary" and inserting "auditors appointed as aforesaid," and by omitting "inspectors" where secondly occurring and inserting "auditors."

SCHEDULES.

SCHEDULES.

SCHEDULE ONE.

Vide s. 260, ante.

2 Wm. IV No. 12
4 Wm. IV No. 11
14 Vic. No. 5
18 Vic. No. 15
20 Vic. No. 38
21 Vic. No. 8
24 Vic. No. 12
25 Vic. No. 7
35 Vic. No. 2
} Relating to roads, ferries, and tolls.

17 Vic. No. 16
18 Vic. No. 22
} Maitland roads.

11 Vic. No. 49 (South Head road).

SCHEDULE TWO.

Vide s. 119, ante.

Nos. of Acts.	Titles of Acts.
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895.
61 Vic. No. 21 ...	Land and Income Tax (Amendment) Act, 1897.
62 Vic. No. 37 ...	Land and Income Tax (Declaratory) Act, 1898.
59 Vic. No. 16 ...	Land Tax Act of 1895.
Act No. 28, 1900 ...	Land Tax (Assessment Books) Act, 1900.
Act No. 46, 1900 ...	Land Tax (Contribution) Act, 1900.
Act No. 115, 1902...	Land Tax (Leases) Act, 1902.

SCHEDULE THREE.

Temporary provisions until a valuation list is furnished to the council by the Valuer-General in accordance with the Valuation of Land Act, 1916. Vide s. 137, ante.

Application of Schedule.

1. For the purposes of this Act the provisions of this Schedule shall apply to all ratable land within the area of a council, including land owned by the Crown and land held under lease from the Crown.

Unimproved capital value. cf. Valuation of Land Act, 1916, ss. 6, 58 (2) (3).

2. (1) The unimproved capital value of land shall be the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona-fide seller would require, assuming that the improvements, if any, thereon or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made :

Provided that there shall be a reasonable deduction for profitable expenditure by the owner or occupier on visible and effective improvements (if any) which although not upon the land have been constructed for its drainage, for its protection from inundation, or otherwise for its more beneficial use.

cf. Valuation of Land Act, 1916, s. 58 (3).

(2) The deduction (if any) under this section shall be noted separately in the valuation book and in the notice of valuation ; and objection may be made thereto under this Schedule.

(3) This section shall be subject to the special provisions of this Schedule relating to mines.

Improved capital value. cf. *Ibid.* s. 5.

3. The improved capital value of land shall be the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona-fide seller would require.

Assessed annual value. cf. *Ibid.* s. 7.

4. The assessed annual value of land shall be nine-tenths of the fair average annual value of the land, with the improvements (if any) thereon :

Provided that such assessed annual value shall not be less than five per centum of the improved capital value of the land.

Making or adopting valuation.

5. A valuation of ratable land may be made or adopted in accordance with the provisions of this Schedule.

Compulsory and optional valuations. cf. L.G. Act, 1906-1908, s. 135 (1).

6. (1) There shall be a valuation of the unimproved vapital value of all ratable land in municipalities and shires.

(2) There shall be a valuation of the improved capital value and assessed annual value of all ratable land within a municipality.

(3) There shall be a valuation of the assessed annual value of all ratable land in urban areas.

(4) There may be a valuation of the improved capital value and the assessed annual value of all ratable land within a shire.

First valuations.

7. (1) In the case of the first valuation of the unimproved capital value improved capital value and assessed annual value under this Schedule, the council may—

(a) adopt (if the Minister's approval is obtained beforehand) any corresponding valuation made or adopted under the Local Government Act, 1906, by any council, if the valuation is in force at the date of the commencement of this Act, or has been made at that date and would but for this Act come into force on the 1st day of January next following that date; or

(b) cause any valuation to be made under this Schedule.

cf. L.G. Act, 1906, s. 135 (3).

(2) Subject to the provisions made by or under this Act—

cf. Act No. 28, 1908, s. 23.

(a) The first valuation adopted or made in accordance with this section shall come into force on either the first day of January preceding or the same day following the adoption or making as the council may decide.

(b) Any valuation (after the first) made in accordance with this section shall come into force on the first day of January next following the making.

(c) A valuation adopted or made as aforesaid (together with any amendments made therein in accordance with law) shall remain in force until a fresh valuation comes into force.

Valuation periods.

8. (1) A valuation of all ratable land shall be made—

cf. L.G. Act, 1906, s. 135 (1).

(a) once at least in every three years;

(b) for a valuation period, that is to say, for a period not exceeding three years.

(2) Notwithstanding any other provision of this Act the council may cause any valuation of any ratable land to be made at any time, whether during the currency of any valuation period or otherwise.

Inclusive valuations.

9. (1) Where several parcels of land adjoin, are owned by the same person, are of the same class of tenure, and no part is let to any person they shall be included in one valuation, unless the council otherwise directs:

cf. Valuation of Land Act, 1916, s. 26.

Provided that any such parcels of land shall be valued separately if buildings are erected thereon which are obviously adapted to separate occupation.

(2) Where several parcels of land adjoin, are owned by the same person, are of the same class of tenure, and are all let to one person, they shall be included in one valuation, unless the council otherwise directs.

Separate valuations.

10. (1) Where several parcels of land owned by the same person are not of the same class of tenure, or are separately let to different persons, they shall be separately valued.

cf. *Ibid*, s. 27.

(2) Lands which do not adjoin or which are separated by a public road, or are separately owned, shall be separately valued.

(3) Where a part of a parcel of land which has been valued is sold conveyed or resumed, fresh valuations shall be made of the portion sold conveyed or resumed and of the part remaining. (4)

(4) Where a part only of a parcel of land is subject to a particular rate, the value of such parcel shall be apportioned so as to show separately the value of that part which is subject to the particular rate.

(5) Where a part only of a parcel of land is ratable, the part which is ratable shall be separately valued. cf. Valuation of Land Act, 1916, s. 28.

11. Where any land in respect of which one valuation would otherwise be made under this Schedule is not wholly within the area but extends both inside and outside the area, the part within the area shall be separately valued. Land extending outside the area.

12. (1) In the case of every mine the unimproved capital value thereof shall be ascertained by one or other of the following methods of valuation as the council, either generally or for some period or mine only, may direct, that is to say— Mines—unimproved capital value. cf. L.G. Act, 1906, s. 132 (2).

(a) by valuation of the unimproved value in accordance with section 2 of this Schedule; or See also s. 153 et seq. of this Act.

(b) by valuation based on output in accordance with this section; or

(c) in the case of an undeveloped mine or of a mine which is idle or partially idle by multiplying the annual rent (if any) of the mine by twenty.

(2) In the case of a coal or shale mine the unimproved capital value thereof ascertained by valuation based on output shall be a sum equal to 3s. per ton of large coal or shale, and 1s. 6d. per ton of small coal, on the average annual output from the mine during the three years next preceding the year in which the valuation is made, or during such part of that time as the mine has been worked. cf. L.G. Act. 1906, s. 132 (2) (a).

(3) In the case of a mine other than a coal or shale mine the unimproved capital value thereof ascertained by valuation based on output shall be a sum equal to 20 per centum of the average annual saleable value to the mine-owner of the ore or mineral won from the mine or of the product derived from such ore or mineral during the three years next preceding the year in which the valuation is made, or during such part of that time as the mine has been worked. cf. *Ibid.*, s. 132 (2) (b).

(4) Where a valuation is being made, under paragraph (a) of subsection one of this section, of land other than Crown land, the presence of any mineral or mine which is held with the land by the owner of the land, and is not being worked as a mine, shall be taken into account in the valuation.

13. (1) Where a mine is situated partly in one area and partly in another or others, the valuers of such areas shall confer and shall jointly value the mine, and shall in like manner agree upon the apportionment of such valuation between the areas in which such mine is situated. Mines in two or more areas—joint valuation. cf. L.G. Act, 1906, s. 132 (2e).

(2) If the valuers cannot agree upon such apportionment or valuation, the question shall, upon the application of either of the valuers, be referred to the nearest court of petty sessions. The decision of that court as to apportionment shall be final.

(3) Where any part of a mine is under the sea, or under the tidal waters of any estuary or harbour, such part shall be valued with, and Mines under sea. cf. L.G. Act, 1906, s. 136 (2d).

and as part of, the mine of which it forms part, notwithstanding that the overlying land and water are not within the boundaries of any area.

(4) Where any part of a mine is separately let or sublet to and occupied by any person for residential, business, grazing, or agricultural purposes, such part shall be deemed to be distinct from the mine, and shall be valued and rated accordingly. Subletting. cf. *Ibid.* s.

14. (1) Every valuation shall be made by one or more competent valuers appointed by the council as prescribed. Valuers. cf. L.G. Act, 1906-8, s. 137.

(2) Every valuer shall before acting—

(a) make a statutory declaration before a justice of the peace that he will value impartially and truly ; and

(b) deliver the declaration to the town or shire clerk.

(3) Where a mine is situated in two or more areas, the council of any one of those areas may at any time require the council of the other areas to appoint valuers for the purpose of making a joint valuation of the mine. cf. L.G. Act, 1906, s. 137 (1).

(4) Every valuer may at all times during the day enter on any land for the purposes of this Act; and the owner or occupier or manager thereof shall answer any questions put to him by the valuer, and generally afford all necessary information to enable a correct valuation to be made. cf. Valuation of Land Act, 1906, s. 74.

(5) Where a valuation is to be made of a mine the valuer shall have power to call for and inspect the books, accounts, balance-sheets, reports, and transactions in respect of such mine, or certified extracts therefrom, and a statement showing the extent and value of the total output of the mine. cf. Ordinance 5 (19) under L.G. Act, 1906.

(6) Every person who in any way obstructs or hinders any valuer in the exercise of his functions under this Act, or refuses to answer any relevant question or to afford any information in his power when duly required to do so, shall be liable to a penalty not exceeding £10. cf. *Ibid.* s. 75.

15. (1) Every valuation shall be entered in a valuation book. Valuation book.

(2) The valuation book shall be kept as prescribed. cf. L.G. Act, 1906, s. 187-1 (xxxv).

(3) Subject to the provisions of this Act any particulars in the valuation book may be entered in the rate book.

16. (1) Alterations may be made in the valuation book by resolution of the council at any time in any case where— Alterations in valuation book.

(a) it is found there has been an error as to the area, ownership, or occupation of land ;

(b) the valuer certifies in writing that he has made an arithmetical mistake in calculation of values ; or

(c) there has been a change of owners or occupiers and it is necessary in consequence to alter the names and other particulars forming part of the entry of the valuation.

(2) Where any land has been subdivided, and a portion sold or let, the valuation of the land and any unpaid rates may be apportioned accordingly by the council on the recommendation of the valuer. cf. L.G. Act, 1906, s. 135 (7), Act No. 28, 1908, s. 23.

(3) Alterations and apportionments under the preceding subsections of this section shall, for the purposes of notice and of objection, be deemed to be valuations.

(4)

(4) Other minor errors in the valuation book not affecting the amount at which the land is valued may be altered as prescribed.

(5) An alteration in the valuation book made in conformity with this Schedule shall be initialled by the town or shire clerk ; and, where a resolution of the council is necessary to authorise the alteration, a reference to the minute of the resolution shall be inserted in the valuation book.

Notice of valuation. cf. L.G. Act s. 135 (5).

17. (1) Notice of valuation shall be given by service of a valuation notice.

(2) The notice—

(a) shall be in or to the effect of the form prescribed ;

(b) may include any number of separate valuations provided that each valuation shall be separately shown ;

cf. *Ibid.* s. 135.

(c) may be included in a rate notice ;

cf. *Ibid.* s. 135 (6).

(d) may designate any ratable person, whose name is unknown to the council, as "the owner" without stating his name ;

cf. Valuation of Land Act, 1916, s. 29 (1).

(e) shall state a time not being less than thirty days after service within which any person ratable in respect of the land may lodge with the clerk a written objection to the valuation ;

(f) may be served in any manner provided by this Act for the service of notices by the council ;

(g) shall be served upon every person ratable in respect of the land :

Provided that where more than one person is ratable in respect of any land, and the notice is served upon one or more of such persons, the omission to serve the notice upon any other ratable person shall not affect the liability of the land or of any ratable person upon whom the notice is served :

cf. L.G. Act, 1906, s. 135 (5).

Provided also that in the case of the lessee of private land the liability for and the right to recover rates shall not (unless the name of the lessee is on the roll of ratepayers) be affected by reason only of the fact that notice has not been given to the lessee.

(3) Where the Crown is the ratable person the council shall comply with any request of the Treasurer for the grouping or separation of rates on rate notices.

Objections.

18. (1) Any ratable person may object to any valuation of any land in respect of which he is ratable.

Form and time. c.f Valuation of Land Act, 1916, s. 33. cf. *Ibid.* s. 29 (3).

(2) The objection shall—

(a) be in or to the effect of the form prescribed ;

(b) be lodged with the clerk of the council and with the registrar of the valuation court within the time stated in the valuation notice.

Grounds. cf. *Ibid.* s. 34.

(3) The only grounds upon which objection may be taken under this section shall be—

(a) that the values assigned are wrong ;

(b) that lands which should be included in one valuation have been valued separately ;

(c) that lands which should be valued separately have been included in one valuation ;

(d) that any apportionment of the valuation is not correct ;

(e)

(e) that the person named in or served with the valuation notice as a ratable person in respect of the land is not such a ratable person ;

(f) that the land is not ratable or that it is not ratable to any particular rate.

Pendency. cf. Valuation of Land Act, 1916, s. 36.

(4) The fact that an objection has been lodged shall not affect the valuation which is objected to, and any rate may be made, levied, and recovered on the valuation as if no objection were pending :

Provided that, if the valuation be altered on objection, a due adjustment shall be made, and any amount paid in excess shall be refunded, and any amount short-paid shall be recoverable as arrears.

Supply of forms. cf. *Ibid.* s. 33.

(5) Forms of objection shall on application be supplied by the council free of charge to any person who has the right to object.

Valuation Court. cf. L.G. Act, 1906, s. 138.

19. (1) The Valuation Court for the purposes of this Schedule shall be—

(a) the nearest court of petty sessions—where the valuation of the unimproved capital value of the land does not exceed £10,000 ; and

(b) the nearest district court—where the valuation of the unimproved capital value of the land does exceed £10,000.

(2) The Valuation Court shall hear and determine all objections duly lodged, and if it upholds any objection it shall make such order as it deems necessary for giving effect thereto, and in particular may—

(a) alter any valuation to such amount as it deems proper ;

(b) direct that lands be included in one valuation, and determine the amount of such inclusive valuation, or in lieu thereof direct that an inclusive valuation be made ;

(c) direct that lands be not included in one valuation, and determine the amount of the separate valuations, or in lieu thereof direct that separate valuations be made ;

(d) determine the correct apportionment of any valuation ;

(e) direct that the name of the objector be struck out of any valuation on the ground that he is not a ratable person in respect of the land ;

(f) direct that the valuation be struck out on the ground that the land is not ratable or declare that the land is not ratable to a particular rate.

cf. Valuation of Land Act, 1916, ss. 45, 46.

(3) Except where the unimproved capital value as stated in the valuation notice does not exceed £500, a valuation court may make such order as it thinks fit for the payment of the costs of any objection, and the order shall be enforceable as and be deemed to be a judgment within the meaning of the Districts Courts Act, 1912, or the Small Debts Recovery Act, 1912, as the case may be.

(4) An objector may appear at a valuation court personally or by counsel or solicitor, or by an agent authorised by the objector in writing.

(5) Subject to the provisions of this Act the decision of a valuation court shall be final and conclusive.

Appeals to Supreme Court. cf. L.G. Act, 1906, s. 140.

20. (1) Any person dissatisfied with the decision of a valuation court as being erroneous in point of law with relation to—

(a) the principle on which any objection should be determined ; or

(b) the question whether the objector is a ratable person in respect of the land ; or

(c)

(c) the question whether the land is ratable, or whether it is ratable to a particular rate,

may within sixteen days after the decision apply in writing to the valuation court to state and sign a case setting forth the facts and grounds of its decision so far as they relate to such principle or questions.

(2) The Supreme Court shall hear and determine the case, or may cause the case to be sent back for amendment, and thereupon it shall be amended accordingly and the determination of the Supreme Court shall be given after the amendment.

(3) The Supreme Court may make such order as to the costs of the parties in or in relation to the appeal as it may deem just.

(4) Any determination or order of the Supreme Court shall be carried out by the valuation court, and shall be final and conclusive.

(5) The Supreme Court may make rules regulating its practice in proceedings under this section.

Consequential alterations.

cf. Valuation of Land Act, 1916, s. 43.

21. Where a valuation court or the Supreme Court makes an order with respect to any valuation, the council shall make such consequential alterations in the valuation book as are necessary in order that the entries may be in conformity with the order

Invalid valuations.

cf. L.G. Act, 1906–1908, s. 135 (4).

22. (1) Where any court holds that a valuation is invalid for any reason except that the land is not ratable, the council may cause a fresh valuation to be made in place of the valuation held to be invalid.

(2) Any valuation so made shall for the purposes of any rate made or to be made be deemed to have come into force at the time when the invalid valuation would if valid have come into force.

Ordinances.

23. The Governor may make ordinances for carrying this Schedule into effect, and in particular for and with respect to—

(a) the appointment, powers, and duties of valuers; cf. L.G. Act, 1906–1908, s. 137 (1); s. 187 (1) (xxxiv).

(b) the giving of notice of valuation; cf. *Ibid.*, s. 135 (5).

(c) the form, preparation, sealing, keeping, and inspection of the valuation-book (whether combined with the rate-book or not) the entries which are to be made therein, the alteration of minor errors not affecting the amount at which the land is valued, and the mode of making and authenticating entries in conformity with the order of a court; cf. *Ibid.*, s. 135 (7).

(d) the objection to which a valuation in force is to be subject each year; cf. *Ibid.* s. 135 (4) (a).

(e) the time and manner of objections to a valuation court, and the duties of the council and its servants in relation thereto; cf. *Ibid.* s. 138 (1); s. 187 (1) (xxxv)

(f) the hearing of objections by a valuation court. cf. *Ibid.*, s. 138 (4).

Application to Metropolitan Water and Sewerage Acts.

cf. L.G. Act, 1906, s. 160.

24. The assessed annual value under this Act shall be the valuation which, under the provisions of the Metropolitan Water and Sewerage Act of 1880, and the Hunter District Water Supply and Sewerage Act of 1892, shall not be exceeded by any valuation for the purposes of making and levying rates payable to the Metropolitan Board of Water Supply and Sewerage, and to the Hunter District Board of Water Supply and Sewerage respectively.

SCHEDULE FOUR.

Sydney Metropolitan Area.

See ss. 219, 230-239 re Main Roads.

County of Cumberland, parishes of Alexandria, Bankstown, Botany, Broken Bay, Bulgo, Cowan, Concord, Eckersley, Field of Mars, Gordon, Holsworthy, Hunter's Hill, Liberty Plains, Manly Cove, Narrabeen, North Colah, Petersham, South Colah, St. George, St. John, St. Luke, St. Andrew, St. James, St. Phillip, St. Lawrence, and Willoughby. Area about 556 square miles: Commencing at a point midway between Barrenjoey and Box or Hawke Head; and bounded thence by the channel of the Hawkesbury River (being the line of greatest depth as per soundings shown on chart catalogued Misc. 144) upwards to meet the northerly prolongation of a line along the middle of Berowra Creek; by that prolongation and line generally southerly to its intersection with the southerly prolongation of the eastern boundary of portion 164, parish of North Colah; by that prolongation and boundary northerly; by the northern boundaries of that portion and portion 139 westerly, part of the eastern boundary of portion 55 and a line northerly; part of the southern boundary of portion 107 and the southern boundaries of portions 7, 6, and 5, westerly; by the western boundaries of portions 108 and 44 southerly; by the southern boundary of the latter portion easterly; by eastern and northern boundaries of portion 133 southerly, easterly, and again southerly; the southern boundary of that portion westerly; the eastern boundary of portion 141 southerly; by Cabbage Tree Hollow upwards; the western boundaries of portions 134 and 128 southerly; by Carter's Gully downwards, the western and southern boundaries of portion 174 southerly and easterly; the eastern boundary of portion 172 southerly; the southern boundary of that portion and part of the southern boundary of portion 192 westerly; the eastern boundaries of portion 171, parish of North Colah, 62, 63, and 67, parish of South Colah, southerly; the north-eastern boundaries of portions 25 and 114; the north-eastern and south-eastern boundaries of portions 26, 32, and 80 generally southerly; part of the northern boundary of portion 110 easterly; the eastern boundary of that portion and of portion 111 and the western side of Hull-road southerly; the northern and north-western boundaries of section 1, as shown on deposited plan 1,879 in Registrar-General's office, and the northern boundary of public school land at Pennant Hills, south-westerly and westerly; by a line west and the western side of the Pennant Hills road southerly; part of the northern boundaries of portions 45 and 44, parish of Field of Mars westerly, the western boundary of portion 44 southerly; by a line along the middle of Cross-street southerly; part of the northern boundary of portion 53 easterly; by the western boundaries of portions 54 and 56, and their prolongation southerly; by a line along the middle of Moseley's-lane easterly; by a line and the eastern boundaries of lots 10 and 1, shown on deposited plan 7,281 in Registrar General's office, southerly; by a line along the middle of the road on the southern boundaries of lots 1 to 5 on that plan westerly; by a line along the middle of the road forming the eastern boundaries of lots "D" and "C" of Mobb's Estate, shown on plan (L) 436,

436, Registrar-General's office, southerly; by the northern boundaries of lots "B" and "A" of that estate westerly; by the western boundary of the last mentioned lot and a line southerly; by a line along the middle of Felton-lane westerly; by a line and part of the western boundary of lot 7 of the last-mentioned subdivision northerly; by the southernmost boundary of the area of 204 acres 1 rood 32 perches, shown on application plan 18,884, westerly by the south-eastern boundary of the area of 285 acres 0 roods 26¼ perches, shown on application plan 10,525, south-westerly; part of the eastern and northern boundaries of portion 154 generally westerly to the south-western corner of portion 3 of 76 acres; by part of the western boundary of that portion northerly to Hunt's Creek; by the right bank of that creek downwards to its junction with Darling Mills Creek; thence a line along the middle of the Parramatta River downwards to its intersection with the north-easterly prolongation of the north-western boundaries of portions 77 to 81, parish of St. John; by that prolongation south-westerly, the south-western boundary of the Hospital for Insane's farm, and by north-western and south-western boundaries of Parramatta Park generally southerly; by lines along the middle of Amos (Payten) street westerly and Good-street southerly to the southern side of the Great Western road; by that side of that road easterly and lines along the middle of Steele-street southerly, Banks-street easterly, Pitt Row southerly, Railway street West south-easterly, Fox-street southerly, Robert-street easterly, Peel-street southerly, and Walpole-street easterly to the middle of the Great Southern railway; by the middle line of that railway southerly to the line of pipes for the Sydney water supply; by that line of pipes south-easterly; thence by lines along the middle of Chetwynd-road southerly, the Promenade easterly, East-street southerly, to a point east of the north-east corner of portion 84 of 50 acres; by a line west to that corner; by the eastern boundary of that portion southerly; by lines along the middle of Fairfield-road easterly, Manderin-street southerly, Tangerine and Denison streets westerly, Normanby-road southerly, Belmore-street easterly, the western boundaries of portions 95 of 40 acres and 94 of 58 acres southerly, and the south-eastern boundary of portion 92 of 160 acres south-westerly to Prospect Creek; by the middle line of that creek downwards to meet the north-westerly prolongation of a line along the middle of Water Reserve street; by that prolongation and line south-easterly, and by lines along the middle of Prospect Creek road, George's Hall road, Johnstone's Parade, and the Junction-road generally southerly; the middle line of George's River upwards; lines along the middle of Riverside-road southerly, Alfred-road westerly, the western boundary of portion 27 of section 2 of the Moorebank Estate, and a line southerly; the northern, western, and southern boundaries of portion 29 of 160 acres, parish of Holsworthy, the western boundary of portion 48, south-westerly boundary of portion 49 and the western boundary of portion 36, generally southerly, the middle line of Harris Creek downwards and Williams Creek upwards, the northern and eastern boundaries of portions 19 and 79, the southern boundary of portion 91, and the western and southern boundaries of portion 71 generally south-easterly; by the middle line of

Deadman's

Deadman's Creek upwards, by the eastern boundaries of portions 184, 175, 179, 185, and 192, the southern boundaries of portions 192, 180, and 182, the eastern boundaries of portions 170, 169, and 168, the southern boundary of the latter portion by the middle line of William's Creek upwards, by the north and east boundaries of portion 41, parish of Eckersley, the east boundary of portion 22, by the middle line of Woniora River upwards to a point west of Westmacott Trigonometrical Station; by a line east to that station; by a line south-easterly to the intersection of the Illawarra-road with the north-westerly prolongation of a south-west boundary of the National Park; by that prolongation and boundary and a south boundary of the Park easterly; by the middle line of Port Hacking River upwards; by a line partly forming the north boundary of portion 43, parish of Bulgo, easterly by the west boundary of portion 47, the west, north, and east boundaries of portion 48, and the north boundary of portion 44 to the South Pacific Ocean; thence a line easterly to its intersection with a line following the general contour of the coast and distant three miles therefrom; by that line generally northerly to a point east of the point of commencement; and by a line west to that point.