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[CONFIDENTIAL.]
(Rough Draft for Consideration Only.)

No. , 1939.

A BILL

To authorise the Municipal Council of Sydney to levy a special general rate for the construction, reconstruction or maintenance of public ways; to confer on that Council certain powers in relation to private lanes and ways; to authorise Councils under the Local Government Act, 1919, to exempt certain lands from water and sewerage local rates; for these and other purposes to amend the Sydney Corporation Act, 1932-1934, the Local Government Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith.

Sydney Corporation (Amendment).

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:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Sydney Corporation (Amendment) Act, 1939." Short title:

10 2. This Act is divided into Parts as follows:— Division into Parts.

PART I—PRELIMINARY.

PART II—AMENDMENTS OF SYDNEY CORPORATION ACT, 1932-1934.

15 3. **PART III—AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.**

PART II.

AMENDMENTS OF SYDNEY CORPORATION ACT, 1932-1934.

3. The Sydney Corporation Act, 1932-1934, as amended by subsequent Acts, is amended— Amendment of Act No. 58, 1932.

20 (a) by inserting after section six the following new section:— New sec. 6A.

6A. All courts and persons having by law or consent of parties authority to hear, receive and examine evidence— Judicial notice of seal.

25 (a) shall take judicial notice of the seal of The Municipal Council of Sydney affixed to any document; and cf. Act No. 41, 1919, s. 617.

30 (b) shall until the contrary is proved presume that such seal was properly affixed thereto.

(b)

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- (b) by omitting from subsection one of section twenty-seven the words "or such other citizen" and by inserting in lieu thereof the words "or such other person";
- 5 (c) by inserting after section seventy-four the following new section:—
- 74A. 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 Lord Mayor or chairman at a subsequent meeting of the council shall be prima facie evidence—
- 10 (a) that the business as therein recorded was transacted at the meeting; and
- 15 (b) that the meeting was duly convened and held.
- (d) by inserting at the end of section eighty-six the following new subsections:—
- (2) The council may place or lay crossings over the footway in any public way where in the opinion of the council such crossings are necessary for the traffic of vehicles across the footway to or from any premises.
- 20 (3) Where the council constructs or repairs a crossing for the traffic of vehicles across a footway of any public way, it may recover, in any court of competent jurisdiction, the cost of such construction or repair as a debt from the owner for the time being of the premises thereby served.
- 25 This subsection shall bind the Crown.
- (e) by inserting next after section eighty-six the following new section:—
- 86A. (1) Where a crossing either constructed under the authority of section eighty-six of this Act or in existence at the commencement of the Sydney Corporation (Amendment) Act, 1939, has in the opinion of the council ceased to be used
- 35 for

Sec. 27.
(Returning officer.)

New sec.
74A.

Minute book.
cf. Act
No. 41, 1919,
s. 625.

Sec. 86.
(Footways, etc.)

cf. Act No.
41, 1919, ss.
240 (1) (d),
244.

New sec.
86A.

Removal of
crossings.

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5 for the traffic of vehicles across the footway of any public way the council may take up and remove such crossing and construct the footway and lay the kerb so that the footway as constructed and the kerb as laid shall be similar to the adjacent footway and kerb.

10 (2) Where the council has carried out works under the authority of subsection one of this section, it may recover, in any court of competent jurisdiction, the cost of such works as a debt from the owner for the time being of the premises which, at the date of the taking up of such crossing, could or might be served thereby.

This subsection shall bind the Crown.

15 (f) by inserting in subsection one of section one hundred and twenty-three after the words "Land and Valuation Court" the words "or the court of petty sessions, as the case may be,"; Sec. 123. (Confirmation of assessment books.)

20 (g) by inserting next after section one hundred and forty the following new section:— New sec. 140A.

25 140A. Notwithstanding any other provision of this Act, the council may in and for the year one thousand nine hundred and forty or any subsequent year, in addition to any other rate under this Act, make and levy a special general rate not exceeding one farthing in the pound on the unimproved capital value of all ratable property in the city and the proceeds of such rate shall be paid into the city fund. Special general rate.

30 Without limiting the powers of the council in respect of other moneys required by this Act to be carried to the city fund, such proceeds shall be applied by the council in payment of the costs of making, levying and collecting such special
35 general rate and for the construction, reconstruction or maintenance of public ways in the city.

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5 The special general rate referred to in this section shall not be taken into account in determining the total amount leviable under this Division of this Part, or any other provisions of this Act.

(h) by omitting section one hundred and sixty-two and by inserting in lieu thereof the following section:— Substituted sec. 162.

10 162. The council may from time to time under and in accordance with section one hundred and sixty-three of this Act grant a lease of the building known as the Old Exhibition Building, in Prince Alfred Park, or any part thereof, in all respects as if such building were premises held by or belonging to the council. Power to let building.

15 (i) by inserting next after section 246A the following new section:— New sec. 246B.

20 246B. (1) The power to resume lands conferred upon the municipal council of Sydney by section sixteen of the Sydney Corporation Amendment Act, 1905 (whether as originally enacted or as amended from time to time), shall be deemed always to have extended to the resumption of lands of the Crown, or lands vested in any corporation created by statute which held lands on behalf of the Crown, or lands vested in any statutory body representing the Crown where, at the date of publication of the notice of resumption in the Gazette, such lands formed the whole or part of a road, highway, street, square, lane, court, alley or other thoroughfare or place used for the passage of the public through or along the same, and in respect of which the said municipal council of Sydney had, at any time prior to the publication of the said notice of resumption, expended money in the formation, paving, maintenance, lighting, cleansing or draining the same. Resumption under Sydney Corporation Amendment Act, 1905, of streets, etc., vested in Crown.

(2)

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5 (2) This section shall not extend to such
of the lands of the Crown purported to have
been resumed by the municipal council of Sydney
before the twenty-second day of December, one
thousand nine hundred and thirty-two, and in
respect of which the said municipal council of
Sydney obtained from the Crown, subsequently
to the date of publication in the Gazette of the
relevant notice of resumption, a Crown grant,
10 which grant shall have full force and effect as if
this section had not been enacted.

(j) by omitting from subparagraph (i) of para- Sec. 250.
graph (d) of section two hundred and fifty the (Compensa-
following figures and words:— tion.)

15 (2) The judge before whom any such action is
tried shall in no case have power to direct a
reference to arbitration.

20 (3) Either party in any such action may move
for a new trial in accordance with the practice
of the Supreme Court or the district court, as
the case may be;

(k) by omitting section two hundred and fifty-two Sec. 252.
and by inserting in lieu thereof the following (Actions for
section:— compensa-
tion.)

25 252. If, within ninety days after the notifica- Claims for
tion to the claimant of the council's valuation, compensa-
the council and the claimant do not agree as to tion.
the amount of compensation, the claimant may
proceed and the claim for compensation shall be
30 heard and determined under and in accordance
with section nine of the Land and Valuation
Court Act, 1921, as amended by subsequent Acts.

(l) by inserting next after section two hundred and New sec. 270A.
seventy the following new section:—

35 270A. Where by virtue of this Act, or any Apportionment
regulation or by-law— of expenses.
cf. Act No. 41,
1919, s. 643.

(a) two or more persons are or may be
directed by the council to do or join in
doing

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5 (b) the council permits two or more persons to join together in doing any act or paying any sum of money, costs or expenses,

10 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.

(m) by inserting after section two hundred and seventy-eight the following new sections:—

15 278A. 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—

New secs. 278A and 278B.

Formal matters. cf. Act No. 41, 1919, s. 616.

- 20 (a) the persons constituting the council;
- (b) the election or appointment of the Lord Mayor;
- (c) the extent or boundaries of the city or of any ward;
- 25 (d) the fact that any particular place is within the city or within any ward;
- (e) the appointment of the town clerk or of any other officer or servant;
- 30 (f) any order to prosecute; or the authority of any officer or servant of the council to prosecute;
- (g) the presence of a quorum of the council at the passing of any resolution or the making of any order or the doing or any act;
- 35 (h) the fact that the defendant is or at any relevant time was the owner or occupier of any land in question.

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278B. (1) All documents purporting to be issued or written by or under the direction or authority of the council and purporting to be signed by the Lord Mayor or the town 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 or authority of the council without proof unless the contrary is shown.

Documents issued by council.
cf. Act No. 41, 1919, s. 620.

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(2) In this section the word "documents" includes orders, directions, notices and demands.

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(n) by inserting next after section two hundred and eighty-seven the following new section:—

New sec. 287A.

287A. (1) Where land is used as a private lane, right of way or means of access to two or more premises the council may, by notice in writing, direct the owners of the premises fronting, adjoining or abutting thereon, to do such one or more of the following things as may be specified in the notice, that is to say—

Private lanes, etc.

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- (a) level, pave or drain such land to the satisfaction of the council;
- (b) remove from such land any matter or thing which may, in the opinion of the council, cause any insanitary or objectionable condition thereon;
- (c) light such land between the hours of sunset and sunrise to the satisfaction of the council.

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(2) Where land is used as a private lane, right of way or means of access to two or more premises the council may, in lieu of giving a direction under subsection one of this section, do any one or more of the following things, that is to say, level, pave or drain such land, and may recover

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recover the costs and expenses incurred in so doing from the owners of the premises fronting, adjoining or abutting on the land so used.

5 This subsection shall not be construed so as to affect in any way the rights or powers of the council under section two hundred and seventy-five of this Act in any case where a direction has been given by the council under subsection one of this section.

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PART III.

AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

4. The Local Government Act, 1919, as amended by subsequent Acts, is amended—

Amendment of Act No. 41, 1919.

15 (a) by omitting paragraph (m) of section two hundred and eighty-nine and by inserting in lieu thereof the following new paragraph:—

Sec. 289 (m). (Quarries, mines, etc.).

20 (m) by notice in writing direct the owner of any land on which there is a dangerous waterhole to do such one or more of the following things as may be specified in the notice, that is to say—

- 25 (i) fence such waterhole;
(ii) empty such waterhole of water;
(iii) fill in such waterhole;
(iv) cover up such waterhole.

30 Where the council directs the owner of land to fence or cover up a dangerous waterhole it shall give to the owner reasonable particulars of the kind of fence or covering which it considers will be sufficient to comply with the requirements of the notice.

Where

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Where the dangerous waterhole is situated on two or more parcels of land which are not owned by the same person the council may in and by notices given under this paragraph direct the several owners to join in doing the thing or things specified in the notices.

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Any owner who has been served with a notice under this paragraph may within the time and in the manner prescribed by rules of court appeal to a district court judge having jurisdiction within the area against the direction given in the notice.

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Such judge may determine whether the direction of the council is reasonable in all the circumstances of the case and whether it shall or shall not be carried out either in its entirety or with modifications, and may extend the time within which anything is to be done. The costs of the appeal shall be in the discretion of the judge.

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If costs are awarded they may be recovered in like manner to costs awarded in a judgment of the district court.

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For the purposes of this paragraph a "dangerous waterhole" means any quarry, pit, excavation, dam or waterhole which, in the opinion of the council, is, or may become, dangerous to life.

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(b) by inserting at the end of subsection one of section 340A the following words:—

Sec. 340A.
(Public garden and recreation space.)

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"or, where such space is adjacent to land reserved or dedicated, under the Crown Lands Consolidation Act, 1913, for the purpose of public recreation, or to a public park which is not vested in the council, such space shall, if the council at any time so requires, be surrendered to the Crown."

(c)

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(c) by inserting after subsection (5A) of section three hundred and seventy-nine the following new subsection:—

Sec. 379.
(Water or
sewerage
local
rates.)

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(5B) The council may exempt from water or sewerage local rates any land which is situated within two hundred and fifty yards of a gravitation or rising water main or of a main sewer, as the case may be, and which is not connected thereto.

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(d) by inserting after subsection four of section four hundred and eighteen the following new subsection:—

Sec. 418.
(Extending
outside
boundaries.)

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(4A) The power of a council to extend a trading undertaking referred to in paragraph (a) or paragraph (b) of subsection one of this section into another area shall include the power to purchase, generate, manufacture or obtain electricity or gas as the case may be within that area for the purpose of sale or distribution in that area only.

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(e) by inserting next after section five hundred and three the following new section:—

New sec.
503A.

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503A. (1) The Minister may authorise any council for such time and on such conditions as he may decide—

National
service
expenditure;

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(a) to expend its corporate funds to promote or assist recruiting for military service or to promote or contribute towards the cost of promoting the training of persons for emergency services during time of war;

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(b) to pay the salary or wages of servants who are members of the Defence Forces of the Commonwealth whilst engaged upon military training.

(2) This section may be applied by the Minister to things done before the commencement of the Sydney Corporation (Amendment) Act, 1939.

(f)

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Sydney Corporation (Amendment).

(f) by inserting after subsection three of section five hundred and six the following new subsection:—

Sec. 506.
(Extension of water, gas, electricity, sewerage and other works outside area.)

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(4) The power of a council to supply gas or electricity to any place outside its area shall include the power to purchase, generate, manufacture or obtain electricity or gas as the case may be outside the area for the purpose of supply to that place only.

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(g) by inserting after subsection two of section five hundred and eighteen the following new subsection:—

Sec. 518.
(Power to sell or exchange land.)

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(3) Notwithstanding the provisions of subsection two of this section, where any land is vested in the council for public health, recreation, enjoyment or other public purpose of a like nature, or has been conveyed or transferred to the council pursuant to section 340A of this Act, and such land is adjacent to land reserved or dedicated, under the Crown Lands Consolidation Act, 1913, for the purpose of public recreation, or to a public park which is not vested in the council, the council may, with the approval of the Governor, surrender the land to the Crown.

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