

Sydney Corporation (Amendment) Bill, 1945.

EXPLANATORY NOTE.

THE object of this Bill is to provide for a large number of amendments to the Sydney Corporation Act, 1932-1942. The amendments may be classified as follows:—

- (a) Amendments of a formal character;
- (b) Amendments to give the Municipal Council of Sydney certain powers which are given to Councils under the Local Government Act, 1919;
- (c) Amendments to extend the powers of the Municipal Council of Sydney in various directions;
- (d) Amendments designed to serve the public interest generally.

The Bill, however, covers such an extensive field that it is not practicable to include a reference to all the proposed amendments in the explanatory note.

Brief mention is therefore made of the provisions for—

- (i) setting up machinery for the alteration of the City of Sydney;
- (ii) grouping of candidates for election to the Municipal Council of Sydney;
- (iii) altering the method of election of the Lord Mayor;
- (iv) extending to all permanent servants of the Municipal Council of Sydney the right to a public inquiry before dismissal, and the right to compensation if dismissed, notwithstanding a favourable finding;
- (v) disqualification from office of Aldermen of the City of Sydney of persons subject to a special disqualification under the Local Government Act, 1919;
- (vi) the placing and removal of vehicle crossings;
- (vii) the prevention of the removal of rubbish from premises otherwise than by the Council;
- (viii) loans for the acquisition of land for public ways to be classed as loans for essential services;
- (ix) empowering the Municipal Council of Sydney to do works on private lanes or rights-of-way;
- (x) empowering the Municipal Council of Sydney to secure the provision of adequate means of escape from fire in buildings;
- (xi) the sale by the Public Trustee of land for overdue rates;
- (xii) improving the provisions of the Sydney Corporation Act, 1932-1942, relating to public health by enabling the Municipal Council of Sydney—
 - (a) to enforce the installation in new and existing dwellings of kitchen sinks, facilities for bathing and washing clothes, and the provision of bathrooms and washhouses;
 - (b) to regulate the keeping of dogs and cats and the taking of animals into public parks;
 - (c) to regulate the use of open spaces for the storage for sale of builders' materials, hardware, bottles and the like;
- (xiii) enabling the Municipal Council of Sydney to regulate the use of structures on wheels;
- (xiv) enabling the Municipal Council of Sydney to be registered as proprietor in fee simple under the provisions of the Real Property Act, 1900, of the site to the Town Hall;
- (xv) giving the Municipal Council of Sydney certain powers of disposition over the Queen Victoria Buildings and the Exhibition Building;
- (xvi) numbering of buildings;
- (xvii) empowering the Municipal Council of Sydney to write off rates owing by old age and invalid pensioners;
- (xviii) extending the time for instituting proceedings for breaches of the building regulation powers;
- (xix) omitting the necessity for persons voting at elections of the Municipal Council of Sydney to make a declaration before the presiding officer.

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1945.

A BILL

To amend the Sydney Corporation Act, 1932, and certain other Acts in certain respects; and for purposes connected therewith.

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 :—

1. (1) This Act may be cited as the "Sydney Corporation (Amendment) Act, 1945."

Short title and citation.

Sydney Corporation (Amendment).

(2) The Sydney Corporation Act, 1932, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Sydney Corporation Act, 1932, as amended by subsequent Acts and by this Act, may be cited as the Sydney Corporation Act, 1932-1945.

2. The Principal Act is amended—

Amendment of Act No. 58, 1932. New Part IIA.

(a) by inserting next after section eight the following new Part—

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PART IIA.

ALTERATION OF THE CITY AND OF MUNICIPALITIES AND SHIRES UNDER THE LOCAL GOVERNMENT ACT, 1919.

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8A. In this Part unless inconsistent with the context or subject matter— Definitions.

“Area” means municipality or shire.

“City council” means The Municipal Council of Sydney.

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“Council” when used in relation to an area means council of a municipality or shire and when used in relation to a county district means council of a county district.

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“County district” means county district constituted under Part XXIX of the Local Government Act, 1919.

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“Elector” when used in relation to an area or part of an area has the meaning given to that expression in the Local Government Act, 1919.

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“Enrolled” when used in relation to an elector means enrolled as an elector under the Local Government Act, 1919.

“Local Government Act, 1919,” means the Local Government Act, 1919, as amended by subsequent Acts.

“Municipality”

126

Sydney Corporation (Amendment).

5 "Municipality" means area constituted a municipality under the Local Government Act, 1919, or under the Local Government Act, 1906, or under any Act repealed by that Act or constituted a municipality under this Act for the purposes of the Local Government Act, 1919.

10 "Ordinance" means ordinance in force under the Local Government Act, 1919.

"Proclamation" means a proclamation of the Governor published in the Gazette.

15 "Shire" means shire constituted under the Local Government Act, 1919, or the Local Government Act, 1906, or any Act repealed by that Act or constituted a shire under this Act for the purposes of the Local Government Act, 1919.

20 8B. The Governor may at any time by proclamation— Alteration of boundaries.

(a) alter the boundaries of the city and of an area by taking part of the area and adding it to the city or by taking part of the city and adding it to the area; cf. Act No. 41, 1919, s. 16.

25 (b) take land from the city or from the city and any one or more areas and constitute such land a separate shire or municipality for the purposes of the Local Government Act, 1919;

30 (c) divide the city and any whole areas or the city and any whole areas and parts of areas or the city and any parts of areas into a number of different divisions and constitute one of such divisions as the city under this Act and the remaining divisions as municipalities or shires for the purposes of the Local Government Act, 1919;

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(d)

Sydney Corporation (Amendment).

- 5 (d) divide any whole areas and parts of the city or whole areas, parts of areas and parts of the city into a number of different divisions and constitute such divisions as municipalities or shires for the purposes of the Local Government Act, 1919;
 - 10 (e) unite the city and any areas or the city and any areas and parts of areas and constitute the whole as the city under this Act;
 - 15 (f) unite areas and parts of the city or areas, parts of areas and parts of the city and constitute the whole as a municipality or shire for the purposes of the Local Government Act, 1919;
 - 20 (g) give names to any areas constituted under this Part;
 - 20 (h) correct errors in the proclamation of the boundaries of the city or areas.
- 8c. (1) Where the city is altered in any manner provided by this Part the Governor shall by proclamation set forth—
- 25 (a) in Schedule A to such proclamation the altered boundaries of the city;
 - (b) in Schedule B to such proclamation the altered boundaries of any ward or wards of the city.
- (2) The boundaries set forth in Schedule A to such proclamation shall—
- 30 (a) be the boundaries of the city, and where reference is made to the city in this Act or in any Act, by-law or regulation in force at the date of such proclamation the samē shall be deemed to refer and shall apply to and have operation within the city as bounded in manner set forth in that Schedule;
 - 35

Proclama-
tion of city
boundaries.

(b)

128

Sydney Corporation (Amendment).

5 (b) be thereafter printed by the Government Printer in substitution for the boundaries set out in the Second Schedule to this Act in any reprint thereof.

(3) The boundaries set forth in Schedule B to such proclamation shall—

- 10 (a) be the boundaries of the ward or wards named in that Schedule;
- (b) be thereafter printed by the Government Printer in substitution for the boundaries of the relevant ward or wards set out in the Third Schedule to this Act in any reprint thereof.

15 (4) Where a proclamation has been amended pursuant to paragraph (h) of section 8B of this Act a reference in this section to a proclamation shall be construed as a reference to the proclamation as so amended.

20 8D. A new municipality shall not be constituted in accordance with this Part unless—

- 25 (a) it contains a population of at least three thousand inhabitants;
- (b) it has an average density of population of at least one inhabitant per acre; and
- 30 (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.

New municipality—
conditions precedent.
cf. Act No. 41, 1919, s. 17.

35 For the purposes of this paragraph “general rate” means general rate under the Local Government Act, 1919, and the valuations of the unimproved capital value of ratable land for the time being in force under that Act or this Act as the case may be shall be used in calculating the annual income
40 the rate would yield.

Sydney Corporation (Amendment).

8E. The city or any area when newly constituted or altered under this Part shall consist of adjoining territories.

City and areas to be continuous. cf. Act No. 41, 1919, s. 18.

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8F. (1) A proposal to the Governor to exercise any power in paragraphs (a) to (f), both inclusive, of section 8B of this Act, may be submitted to the Minister—

Proposals for alteration of boundaries. cf. *Ibid.* s. 19.

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(a) by the city council or by the council of any area which will be affected by the proposal; or

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(b) in a case where the status of the city as a whole will be directly affected—by fifty citizens; or

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

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(d) in a case where part of the city is proposed to be separated from the city and attached to an area or is proposed to be created a separate area—by fifty citizens of that part or any number of citizens not less than one-third of those enrolled in respect of land situated in that part; or

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(e) in a case where part of an area is proposed to be separated from the area and attached to the city—by fifty electors of that part or by any number of electors not less than one-third of those enrolled in respect of land situated in that part; or

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(f) in a case where it is proposed to exercise in respect of the city and one or more adjoining areas the powers of one or more of the said paragraphs, by the city council, the council of any such area or by an officer of the Minister.

Sydney Corporation (Amendment).

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

5 (3) Within the time fixed in such notice objection to the proposal may be lodged—

(a) by the city council; or

(b) by fifty citizens; or

10 (c) in a case where part of the city is proposed to be taken from the city and added to an area, or is proposed to be created a separate area, by fifty citizens of that part, or by any number of citizens not less than one-third of those enrolled in respect of land situated in that part; or

15 (d) by the council of any area affected; or

(e) by fifty electors of any such area; or

20 (f) in a case where part of an area is proposed to be taken from the area and added to the city, by fifty electors of that part or by any number of electors not less than one-third of those enrolled in respect of land situated in that part.

25 (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.

30 (5) 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), the proposal with such modification, if any, as may be found advisable, may be submitted for the Governor's decision.

(6)

Sydney Corporation (Amendment).

(b) the council of the area—where the land is for the time being situated in that area.

5 If land which has been rated as one parcel be (as the result of such alteration) partly in the city and partly in one or more areas the city council and the council of that area or the city council and the councils of those areas, as the case may be, may agree upon an apportionment
10 of the amounts so due between them.

15 If land which has been rated as one parcel be (as the result of such alteration) partly in two or more areas, the councils of those areas may agree upon an apportionment of the amounts so due between them.

(2) Where the city and one or more areas are altered by—

- 20 (a) taking part of one area and adding it to the city; or
- (b) taking part of the city and adding it to an area; or
- 25 (c) taking land from the city or from the city and any one or more areas for the purpose of constituting such land a separate municipality or shire under the Local Government Act, 1919,

30 the city council shall be deemed to be the city council in respect of the city altered by the taking away or addition, and the council of the area from which any land is taken or to which any land is added shall be deemed to be the council of the area altered by the taking away or addition, and no reconstitution of the city council, or council of the area, or of the city or
35 area shall be necessary.

(3) Where—

- 40 (a) it is proposed—
 - (i) to exercise the powers of paragraph (a) of section 8B of this Act; or
 - (ii)

Sydney Corporation (Amendment).

- 5 (ii) to unite the city or the city and one or more areas with a part of an area or parts of areas under paragraph (e) of section 8B of this Act; or
- (iii) to unite one or more areas or one or more areas and parts of areas with a part or parts of the city under paragraph (f) of section 8B of this Act; or
- 10 (b) the powers of paragraph (b), (c) or (d) of section 8B of this Act have been exercised,

15 subsections four to ten, both inclusive, of this section shall have effect:

20 Provided that where it is proposed to exercise the powers of paragraph (a) of section 8B of this Act, and the Minister is of opinion that the change is not one of such magnitude as substantially to affect the position of creditors, he may dispense with the making of any arrangement under subsections four to ten, both inclusive, of this section.

25 (4) The Minister shall require the city council and the councils of the areas affected to confer with one another and to agree upon an arrangement as to the apportionment of assets, rights and liabilities between the city and the areas affected and to agree with creditors (if
30 any) as to any division of debts included in such arrangement.

(5) Where the city council and the councils of areas affected or the city council, councils of areas affected and creditors (if any) have
35 not agreed within a period of three months from the date of the Minister's requisition as aforesaid the Minister may make a draft of such an arrangement and give the prescribed notice thereof by advertisement. The city council and
40 the councils of the areas affected and their creditors may agree to any such draft with or without amendment. (6)

Sydney Corporation (Amendment).

5 (6) Where the city council and the councils of areas affected or the city council, councils of areas affected and creditors (if any) do not agree to any such draft with or without amendment, the city council or any council of an area affected 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
 10 evidence and determine the matter and make an arrangement which shall be final and shall be embodied in a proclamation.

15 (7) 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 a proclamation.

20 (8) Where such prescribed notice has been duly given the city council, council of any area affected, or creditor who does not make a submission as aforesaid shall be deemed to have agreed to such arrangement.

25 (9) A person to whom the city council or a council of an area affected owes less than one hundred pounds at the date of any agreement under subsection four hereof, or the advertisement of such notice, shall be deemed not to be a creditor within the meaning of this Part.

30 (10) Where after the publication of a proclamation under this Part it is found that any provision of this section has not been complied with, neither the proclamation nor the arrangement embodied therein shall be invalidated, but the Governor may amend such
 35 arrangement in such respects (if any) as he may deem advisable, and such amended arrangement shall be deemed to have been validly proclaimed.

Sydney Corporation (Amendment).

5 (11) (a) Where there is a contract or agreement in existence between the city council or the council of an area and any person relating to the performance of a work or service or the granting of a privilege throughout the whole or part of the city or the area and any alteration of the city or area is made under this Part the following provisions shall have effect as from the date of the alteration—

10 (i) where any portion of the city embraced by the contract or agreement is taken from the city and added to the area of a council or constituted a separate municipality or shire under the Local Government Act, 1919, the duties, rights, privileges and liabilities of the city council under such contract or agreement shall be limited to the land which is within the city and is embraced by the contract or agreement; while the corresponding duties, rights, privileges and liabilities under the contract or agreement so far as they relate to the portion of the city embraced by the contract or agreement and added to the area of a council or constituted a separate municipality or shire under the Local Government Act, 1919, shall apply to and in respect of the council of the area or the council of the newly constituted shire or municipality as the case may be;

35 (ii) where any portion of the area embraced by the contract or agreement is taken from the area of a council which is a party to the contract or agreement and added to the city, the duties, rights, privileges and liabilities of such council under such contract or agreement shall be limited to the land which is within its

Sydney Corporation (Amendment).

5 its area and is embraced by the contract or agreement; while the corresponding duties, rights, privileges, and liabilities under the contract or agreement so far as they relate to the portion of the area embraced by the contract or agreement and added to the city shall apply to and in respect of the city council;

10 (iii) where by dividing or uniting areas and parts of the city or areas, parts of areas and parts of the city, the area of a council which is a party to the contract or agreement is abolished and a
15 new area or new areas are constituted the duties, rights, privileges and liabilities of such council under such contract or agreement shall apply to and in respect of the council in whose area
20 the land embraced by the contract or agreement is included or if such land is included in two or more areas such duties, rights, privileges and liabilities shall apply to and in respect of each
25 of the councils of such areas with respect to the portion of the land included in its area;

(iv) where by dividing or uniting the city
30 and any areas or the city and any areas and parts of areas, the area of a council which is a party to the contract or agreement is abolished and the city is newly constituted or the city and one
35 or more areas are newly constituted, the duties, rights, privileges and liabilities of such council under such contract or agreement shall apply to and in respect of—

40 (a) the city council—where the land embraced by the contract or agreement

Sydney Corporation (Amendment).

agreement is included in the city as newly constituted; or

- 5 (b) the council of the newly constituted area—where the land embraced by the contract or agreement is included in that area:

10 Provided that where part only of such land is included in the city or area as newly constituted the duties, rights, privileges and liabilities of the city council or council of the newly constituted area shall be limited in the case

15 of the city council to that part of the land included in the city as newly constituted, and in the case of the council of the newly constituted area to that part of the land included in that area;

- 20 (v) where there is a division or union of the city and any areas or the city and any areas and parts of areas the duties, rights, privileges and liabilities of the city council under the contract or agreement to which it is a party shall—

- 25 (a) continue to apply to and in respect of the city council—where the land embraced by the contract or agreement is included in the city as newly constituted;

- 30 (b) apply to and in respect of the council of the newly constituted area—where the land embraced by the contract or agreement is included in that area:

35 Provided that where part only of such land is included in the city or area newly constituted, the duties, rights, privileges and liabilities of the city council or council of the newly constituted area shall be limited in the case

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Sydney Corporation (Amendment).

of the city council to that part of the land included in the city as newly constituted, and in the case of the council of the newly constituted area to that part of the land included in that area;

5 (vi) in every such case the duties, rights, privileges and liabilities under the contract or agreement of the other party or parties thereto shall continue in full force and effect in relation only to—

10 (a) the city council—where the land embraced by the contract or agreement or part of such land is included in the city as altered;

15 or

(b) the council or councils in whose area or areas the land embraced by the contract or agreement or part of such land is included;

20 and the city council, council of an area or councils of areas, as the case may be, shall be deemed to be substituted in the contract or agreement for the council of the area or city council therein named so far as such land or

25 portion thereof is included in the city or area, as the case may be.

(b) Where the original contract or agreement confers a right of purchase or of

30 cancellation upon the city council or the council of an area that right shall not without the consent of the other party or parties to the contract or agreement be exercised (after the alteration of boundaries or reconstitution afore-

35 said) unless all of the councils of areas and the city council for the time being parties or deemed to be parties to the contract or agreement exercise it in concert.

(c) This subsection may be set aside

40 by agreement between the parties concerned.

8i.

Sydney Corporation (Amendment).

8r. Where the city and one or more areas are altered by—

Applica-
tion of
Ordinances
under the
Local Gov-
ernment
Act.
cf. Act No.
41, 1919,
s. 20A.

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(a) taking part of one area and adding it to the city; or

(b) taking part of the city and adding it to an area; or

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(c) taking land from the city or from the city and any one or more areas and constituting such land a separate shire or municipality,

then as from the date specified in that behalf in the proclamation, or if no date is so specified as from the date of the publication in the Gazette of the proclamation, the following provisions shall have effect:—

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(i) The ordinances which shall thereafter apply to the part of the city added and to the area as so altered are the ordinances for the time being in force in the area to which the part of the city was so added;

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(ii) The ordinances in force in the area from which a part is taken shall continue until repealed, varied or amended under the Local Government Act, 1919, to apply within the remainder of that area.

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8j. (1) Where the city is newly constituted by its union with any areas in accordance with paragraph (e) of section 8B the provisions of this section shall have effect.

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Liability
of city
council on
union of
city and
areas.

(2) The city council shall be and remain liable for all outstanding loans to and all liabilities and obligations of the respective councils of the areas united with the city and shall be bound by and shall observe and perform all conditions relating to the said loans and to the maintenance and creation of reserves for the repayment thereof.

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cf. *Ibid.*
s. 20B.

Sydney Corporation (Amendment).

5 (3) The limited overdraft accounts of
 each of the councils of the areas united may,
 subject to the respective rights of the banks
 granting the same, be operated upon by the city
 council in place of and to the same extent as the
 10 respective councils of the areas united could
 have operated on the same until the estimates
 of the next year are published or until the audit
 of accounts for the next year, and the city
 council shall be and remain liable to the
 respective banks for the moneys from time to
 time owing on each such limited overdraft
 account.

15 (4) Each security given by the councils
 of the areas united with the city for any loans
 shall be deemed to be a security given by the
 city council and shall remain valid and effectual
 to the same extent as it was valid and effectual
 20 immediately before the union with the city:
 Provided that, notwithstanding subsection two
 of section one hundred and eighty-eight of the
 Local Government Act, 1919, each security shall
 as between the respective holders thereof retain
 25 the same priority in regard to the income
 the subject of such security as existed at the
 time of the union, and for that purpose the
 city council shall continue to keep a separate
 account of the income in respect of which each
 such security was given until an agreement shall
 30 be made between the city council and the holders
 of securities of the areas united as provided by
 subsection five of this section.

35 (5) As soon as practicable after the city
 has been newly constituted the Minister shall
 require the city council to agree with the holders
 of securities given by the councils of the areas
 united with the city as to the order of priority
 of their respective securities.

Until

Sydney Corporation (Amendment).

Until an agreement has been made and executed by all the security holders, each security holder shall continue to have security over the income the subject of such security as he held security over immediately before the union of such areas with the city.

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8k. (1) Where under section 8B of this Act a new area is constituted or the boundaries of an area are altered, every person who immediately before the day of such constitution or alteration was an officer or servant of the city council or was a servant of the council of any area affected and who was wholly or principally employed on or in connection with any work, trading undertaking, right, power, authority, duty, obligation, or function which becomes transferred to, vested in, exercisable by or conferred or imposed upon the council of the new area or of another area, shall on such day (subject to any agreement which may be entered into between the city council or council of the area affected, the council of such new or other area and the officer or servant)—

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- (a) be transferred to the service of the council of such new or other area; and
- (b) become a servant of the council of such new or other area; and
- (c) be paid salary or wages not less than at the rate at which he was employed immediately before such day until such salary or wages is or are varied or altered by the council of such new or other area: Provided that such salary or wages shall not be reduced for a period of at least two years from date of such transfer; and
- (d) be deemed to have been appointed and employed by the council of such new or other area under the provisions of the Local Government Act, 1919.

Transfer of officers and servants to service of another council. cf. Act No. 41, 1919, s. 20c.

The

Sydney Corporation (Amendment).

5 The person so transferred shall on and from such day until otherwise directed by the council of such new or other area continue to perform the duties which attached to his employment immediately before such day.

10 (2) Where any condition of employment of any person so transferred to the council of such new or other area is at the date of his transfer regulated by an award or industrial agreement, such condition shall continue to be so regulated until an award regulating such condition and binding the council of such new or other area is made by a competent tribunal or such condition is regulated by an industrial agreement to which the council of such new or other area is a party.

15 (3) The period of service with the city council or the council of one or more municipalities, shires or county districts of any person so transferred shall upon such transfer be counted as service with the council of such new or other area for the purposes of the Local Government Act, 1919, or any other Act or of any ordinance under the Local Government Act, 1919, or of any regulation or by-law or of the terms and conditions of any staff agreement or of any award or agreement made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts.

20 (4) The transfer of any person under this section shall not affect any right to leave (including long service leave) of absence accrued prior to such transfer.

25 (5) If any person transferred under this section within a period of twelve months from the date of his transfer resigns his position with the council of such new or other area, except in anticipation of termination of his employment for misconduct, or if the employment of any person transferred under this section is terminated

148

Sydney Corporation (Amendment).

5 terminated by the council of such new or other
 area otherwise than for misconduct within a
 period of two years from the date of his
 transfer, the council of such new or other area
 shall grant to him a gratuity equivalent to the
 amount of four weeks' salary or wages for each
 year of service, such salary or wages being
 reckoned at the rate subsisting at the date of
 his transfer.

10 This subsection shall apply only to a person
 who has been employed continuously by the city
 council or the council of any one or more
 municipalities shires or county districts, or the
 city council and the council of any one or more
 15 municipalities shires or county districts, for a
 period of not less than one year immediately
 preceding the day of his transfer to the service
 of the council of such new or other area.

20 (6) Where a person who is transferred
 under this section was engaged by the city
 council or the council of the area affected under
 a subsisting contract of service which provides
 for payment of compensation in the event of the
 termination of his employment, and the
 25 employment of such person is, before the
 expiration of the period of the contract,
 terminated by the council of such new or other
 area otherwise than in accordance with the
 terms of such contract the council of such new or
 30 other area shall pay to such person the amount
 of compensation provided for in the contract
 and if the amount of such compensation be less
 than the amount that would be payable to such
 person under subsection five of this section, shall
 35 also pay to him a gratuity equivalent to the
 difference.

40 A person who is entitled to receive any
 compensation or gratuity under this subsection shall not be deemed
 entitled to receive a gratuity under subsection
 five of this section.

Sydney Corporation (Amendment).

5 (7) The provisions of the Local Government (Superannuation) Act, 1927, as amended by subsequent Acts, shall continue to apply to and in respect of any person transferred under this section in like manner and to the same extent as the said Act would have applied if this section had not been enacted.

10 (8) An officer or servant of the city council or a servant of the council of an area who, at the time of the constitution of a new area or the alteration of an area, is engaged on war service as defined in the Defence Act 1903 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts, shall for the
15 purposes of this section be deemed to be still in the employ of the city council or the council of the area as the case may be and his war service as well as his service with such council shall be counted as service with the council for the
20 purposes referred to in subsection three of this section and he shall be deemed to have been employed continuously by the council for the purposes of subsection five of this section.

25 8L. (1) Where under section 8B of this Act the city is newly constituted or the boundaries of the city are altered, every person who immediately before the day of such constitution or alteration was a servant of the council of any
30 area affected and who was wholly or principally employed on or in connection with any work, trading undertaking, right, power, authority, duty, obligation or function which becomes transferred to, vested in, exercisable by or conferred or imposed upon the city council, shall
35 on such day (subject to any agreement which may be entered into between the council of the area affected, the city council and the servant)—

Transfer of servants to service of city council. cf. Act No. 41, 1919, s. 20c.

(a) be transferred to the service of the city council; and

(b)

145

Sydney Corporation (Amendment).

- (b) become an officer or servant of the city council; and
- 5 (c) be paid salary or wages not less than at the rate at which he was employed immediately before such day until such salary or wages is or are varied or altered by the city council: Provided that such salary or wages shall not be reduced for a period of at least two years from date of such transfer; and
- 10 (d) be deemed to have been appointed and employed by the city council under the provisions of this Act.

15 The person so transferred shall on and from such day until otherwise directed by the city council continue to perform the duties which attached to his employment immediately before such day.

20 (2) Where any condition of employment of any person so transferred to the city council is at the date of his transfer regulated by an award or industrial agreement, such condition shall continue to be so regulated until an award regulating such condition and binding the city council is made by a competent tribunal or such condition is regulated by an industrial agreement to which the city council is a party.

25 (3) The period of service with the council of one or more municipalities, shires or county districts under the Local Government Act, 1919, of any person so transferred shall upon such transfer be counted as service with the city council for the purposes of this or any other Act or of any regulation or by-law or of the terms and conditions of any staff agreement or of any award or agreement made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts.

(4)

Sydney Corporation (Amendment).

(4) The transfer of any person under this section shall not affect any right to leave (including long service leave) of absence accrued prior to such transfer.

5 (5) If any person transferred under this section, within a period of twelve months from the date of his transfer, resigns his office or position with the city council except in anticipation of termination of his employment for
10 misconduct, or if the employment of any person transferred under this section is terminated by the city council otherwise than for misconduct within a period of two years from the date of
15 his transfer, the city council shall grant to him a gratuity equivalent to the amount of four weeks' salary or wages for each year of service, such salary or wages being reckoned at the rate subsisting at the date of his transfer.

20 This subsection shall apply only to a person who has been employed continuously by the council of any one or more municipalities, shires or county districts or by any one or more such councils and the city council, for a period of
25 not less than one year immediately preceding the day of his transfer to the service of the city council.

(6) Where a person who is transferred under this section was engaged by the council of an area affected under a subsisting contract of service which provides for payment of
30 compensation in the event of the termination of his employment, and the employment of such person is before the expiration of the period of the contract terminated by the city council otherwise than in accordance with the terms of
35 such contract the city council shall pay to such person the amount of compensation provided for in the contract, and if the amount of such
compensation

Sydney Corporation (Amendment).

compensation be less than the amount that would be payable to such person under subsection five of this section, shall also pay to him a gratuity equivalent to the difference.

5 A person who is entitled to receive any compensation or compensation and gratuity under this subsection shall not be deemed entitled to receive a gratuity under subsection five of this section.

10 (7) The provisions of the Local Government (Superannuation) Act, 1927, as amended by subsequent Acts, shall continue to apply to and in respect of any person transferred under this section in like manner and to the same extent as the said Act would have applied if this section had not been enacted.

15 In the application of the Local Government (Superannuation) Act, 1927, as amended by subsequent Acts, to and in respect of such person a reference to a council shall be deemed to include a reference to The Municipal Council of Sydney.

25 (8) A servant of the council of an area affected who, at the time the city is newly constituted or the boundaries of the city are altered, is engaged on war service as defined in the Defence Act 1903 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts, shall for the purposes of this section be deemed to be still in the employ of the council of the area affected and his war service as well as his service with the council shall be counted as service with the council for the purposes referred to in subsection three of this section, and he shall be deemed to have been employed continuously by the council for the purposes of subsection five of this section.

Sydney Corporation (Amendment).

8M. (1) For the purposes of this Part the Governor may (notwithstanding anything elsewhere in this Act provided) by proclamation or proclamations—

What may be provided in Governor's proclamation.

- 5 (a) provide for the substitution of—
 - (i) the city council for the council of an area; or
 - (ii) the council of an area for the city council; or
 - 10 (iii) the council of an area for the council of another area,
- 15 so as to enable the council so substituted to exercise or enforce on its own behalf any right or power formerly exercised or enforced by the council for which it was so substituted;
- 20 (b) make consequential alterations in the wards into which the city is divided or make consequential alterations in or abolish the wards or ridings into which areas are divided;
- 25 (c) provide for the transfer, apportionment, and continuance in force of—
 - (i) valuations made for the purposes of this Act or the Local Government Act, 1919; or
 - 30 (ii) rolls of citizens and of ratepayers provided under this Act and rolls of electors and of ratepayers prepared under the Local Government Act, 1919;
 - 35 (d) require the city council and councils of areas to furnish information for the compilation of lists and rolls for the purposes of this Act or the Local Government Act, 1919, and provide for the compilation and revision of such lists and rolls;

cf. Act No. 41, 1919, s. 21.

(e)

Sydney Corporation (Amendment).

5 (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.

In this paragraph "rates" means rates under this Act or the Local Government Act, 1919;

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

In this paragraph "rates" means rates under this Act or the Local Government Act, 1919;

15 (g) provide for the readjustment of rights and rates of endowment existing under the Local Government Act, 1919;

20 (h) continue or dissolve or recreate urban areas and urban committees existing under the Local Government Act, 1919, and provide for such matters connected therewith as he may deem necessary;

25 (i) provide for the termination of office, continuance in office, appointment or election of the Lord Mayor and aldermen;

(j) provide for the termination of office, continuance in office, appointment or election of—

30 (i) officers of councils of areas; and
(ii) urban committees.

35 In this paragraph the word "officers" has the meaning given to that expression in the Local Government Act, 1919, and the expression "urban committees" means urban committees to which Division 4 of Part XXVII of that Act applies;

(k)

Sydney Corporation (Amendment).

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

5

(l) appoint a provisional council of an area and empower it to exercise all or any of the powers of a council of an area pending the election of a council of such area:

Provided that if any member of the provisional council so appointed—

10

(i) dies;

(ii) resigns his office by writing under his hand addressed to the Governor through the Minister;

15

(iii) is removed from office by the Governor;

(iv) becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;

20

(v) is convicted of a felony or indictable misdemeanour;

(vi) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898, as amended by subsequent Acts;

25

(vii) declines office;

(viii) is absent without the leave of the council from four consecutive ordinary meetings of the council,

30

the office of any such member shall become vacant and the Governor may by proclamation appoint a person to fill the vacant office;

35

(m) give effect to any arrangement made as elsewhere provided by agreement between the city council, councils of areas and creditors, or by the Minister, or by a district court judge, with respect to

Sydney Corporation (Amendment).

- to the apportionment of assets, rights and liabilities;
- 5 (n) transfer or provide for the transfer of any unascertained liabilities of the city council or of the council of an area (including liabilities for damages only) which are not included in any arrangement referred to in the last preceding paragraph to the council of an area, the
- 10 council of another area or the city council as the case may be, subject to such conditions or limitations as he may think just;
- 15 (o) grant approval to the city council and councils of areas, subject to conditions specified in such approval, to borrow for the purpose of meeting any liabilities transferred to them under the proclamation;
- 20 (p) provide for the allotment and apportionment of property not covered by any such arrangement as aforesaid;
- (q) provide for the giving and completing of documents to give effect to any
- 25 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,
- 30 any part of the city or area affected by the proclamation;
- (r) extend or limit as to locality the operation of any Act as necessitated by such proclamation;
- 35 (s) prescribe in the case of the constitution of an area in accordance with paragraphs (b), (c), (d) or (f) of section 8B of this Act what ordinances under the Local Government Act, 1919, are to
- 40 be in force in the area so constituted or any part thereof, and such ordinances

Sydney Corporation (Amendment).

- ordinances so prescribed shall be in force in such area or part;
- 5 (t) fix in the case of the constitution of an area in accordance with paragraphs (b), (c), (d) or (f) of section 8B of this Act the limit not exceeding which the council of that area may borrow and re-borrow by way of limited overdraft in respect of any fund of the council, except a trust fund, until the estimates for the next year are published or until the audit of the accounts for the next year under the Local Government Act, 1919;
- 10
- 15 (u) fix in the case where the city is newly constituted in accordance with paragraph (c) or (e) of section 8B of this Act the limit not exceeding which the city council may borrow and re-borrow by way of limited overdraft in respect of the city fund, until the audit of the accounts for the next year under this Act;
- 20
- 25 (v) provide in the case of the constitution of a new area by the union of two or more areas and parts of the city or two or more areas, parts of areas and parts of the city in accordance with paragraph (f) of section 8B of this Act or in a case where a new area has already been so constituted—
- 30 (i) for the alteration or variation of the banking arrangements of the city council and councils of the areas which are united in whole or in part and for the making by the council of the new area of further or other arrangements with its creditors within the limits of the borrowing powers of the areas which are so united;
- 35 (ii)
- 40

152

Sydney Corporation (Amendment).

5 (ii) that all acts and things done by
 the council of the new area pur-
 suant to any proclamation made
 under this paragraph shall be as
 valid and effectual as if the pro-
 10 visions of this Act and the Local
 Government Act, 1919, relating
 to loans made to the city council
 and councils of the areas which
 had been complied with and that
 the council of the new area may
 give fresh securities in respect
 15 of any fresh arrangements made
 by it in accordance with any
 proclamation made under this
 paragraph;

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

(2) Any such proclamation shall have the
 force of law.

25 8N. (1) The Governor may make regulations *Regulations.*
 not inconsistent with this Act prescribing all
 matters which by this Part of this Act are
 required or permitted to be prescribed or which
 are necessary or convenient to be prescribed for
 carrying this Part of this Act into effect.

30 (2) The regulations shall—
 (a) be published in the Gazette;
 (b) take effect from the date of such pub-
 lication or from a later date specified
 in such regulations;
 35 (c) be laid before both Houses of Parlia-
 ment within fourteen sitting days after
 publication if Parliament is in session,
 and

Sydney Corporation (Amendment).

and if not, then within fourteen sitting days after the commencement of the next session.

5 (3) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House, disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(b) by inserting in subsection one of section 285A next after the word "Governor" where firstly occurring the words "or the Minister";

Section 285A. (Public Inquiries.)

15 (c) by inserting in section one next before the heading "Part III—Qualification of Citizens and Preparation of Rolls—ss. 9-181" the heading "Part II_A—Alteration of the City and of Municipalities and Shires under the Local Government Act, 1919—ss. 8_A-8_N."

Consequential amendment of s. 1.

20 3. The Principal Act is further amended—

Further amendment of Act No. 58, 1932.

(a) by inserting at the end of subsection one of section twenty-four the following word and new paragraph:—

s. 24. (Persons disqualified.)

"and

25 (h) every person who has been convicted of having acted in a civic office under the Local Government Act, 1919, as amended by subsequent Acts, while subject to a special disqualification within the meaning of that Act, as so amended, and whose period of disqualification therefor has not elapsed."

30 (b) (i) by inserting next after section thirty-two the following new section:—

New sec. 32A.

35 32A. (1) (a) Candidates nominated for election may apply to the returning officer to have

Grouping of candidates. cf. Local Government Ordinance 9, clause 5A.

154

Sydney Corporation (Amendment).

have their names grouped in the ballot-papers in the manner hereinafter prescribed.

5

(b) A group shall include the names of those candidates only each of whom applies in writing to the returning officer not later than noon of the fifteenth day next before the election to have his name included in that group with the names of the other candidates in that proposed group, and with those names only.

10

(c) A candidate shall not be entitled to have his name included in more than one group.

15

(d) An application made in pursuance of this section shall not be rejected by the returning officer if he is satisfied that its intention is reasonably clear.

20

(e) Upon the receipt of applications in accordance with this section, from all the candidates in any proposed group, the returning officer shall include the names of those candidates in a group and shall notify each member of the group of the fact that he has included his name in a group, and of the names of the other candidates included in the group.

25

(2) In printing the ballot-papers—

30

(a) the names of candidates included in groups in pursuance of this section shall be printed in groups on the ballot-papers before the names of candidates not included in groups;

35

(b) the names in each group shall be printed in the alphabetical order of the surnames comprised in that group;

(c)

156

Sydney Corporation (Amendment).

relative alphabetical order of the surnames next occurring in each of those groups; and

- 5 (v) if the order of priority cannot be determined in the manner provided for under the preceding subparagraphs of this paragraph, it shall be determined by the returning officer;
- 10
- 15 (d) before the square opposite the surname of each candidate in the first group in the ballot-papers there shall be printed the letter A; before the square opposite the surname of each candidate in the second group in the ballot-papers there shall be printed the letter B, and so on, as the case requires;
- 20
- 25 (e) if there are two or more candidates having the same surname in any group their names shall, subject to the provisions of this subsection, be arranged according to the alphabetical order of their Christian names, or if their Christian names are the same then according to the alphabetical order of their residences, which shall in such cases be arranged and stated in the ballot-papers;
- 30
- 35 (f) the order of the names of the candidates whose names are not included in any group shall be determined in the same manner as the order in a group of the names of the candidates included in that group;

(g)

Sydney Corporation (Amendment).

5 (g) where similarity in the names of two or more candidates is likely to cause confusion the names of those candidates may be arranged with such description or addition as will distinguish them from one another.

(ii) by omitting the Ninth Schedule and by inserting in lieu thereof the following Schedule:— Subst. Ninth Schedule.

10 NINTII SCHEDULE. Secs. 32, 35.

BALLOT-PAPER.

15 ELECTION of (here insert the number of vacancies which the election is being held to fill) Aldermen on the day of 19 .

For Ward of the City of Sydney. Candidates.

20	A <input type="checkbox"/>	B <input type="checkbox"/>	C <input type="checkbox"/>	<input type="checkbox"/>
	A <input type="checkbox"/>	B <input type="checkbox"/>	C <input type="checkbox"/>	<input type="checkbox"/>
	A <input type="checkbox"/>		C <input type="checkbox"/>	<input type="checkbox"/>
	A <input type="checkbox"/>		C <input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>

The number of Aldermen to be elected is

25 (Note—If the letter “A” or “B” or “C,” etc. appears before the square opposite a candidate’s surname, it indicates that that candidate and each other candidate who has the same letter appearing before the square opposite his surname have been grouped by mutual consent. The fact that no letter appears before the square opposite a candidate’s surname indicates that the name of that candidate has not been included in any group.)

35 *Directions.*—In marking his vote on this ballot-paper the voter must place in the squares respectively opposite the names of at least (here insert the number which represents twice the number of Aldermen to be elected plus one, or, if the number of candidates is less than that number, the total number of candidates)

158

Sydney Corporation (Amendment).

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candidates) candidates, the figures "1," "2," "3," "4," and so on up to and inclusive of the number (*here insert the number which represents twice the number of Aldermen to be elected plus one, or, if the number of candidates is less than that number, the total number of candidates*), so as to indicate the order of his preference for such candidates, and if there are any more candidates, may in addition indicate the order of his preference for as many of them as he pleases by placing in the squares respectively opposite their names other figures next in numerical order after those already used by him.

(c) by omitting paragraph (b) of subsection one of section thirty-five and by inserting in lieu thereof the following paragraph:— Sec. 35. (Mode of voting.)

(b) Subject to section 35A of this Act, if such person is not, in accordance with section forty-two of this Act, precluded from voting, a presiding officer or a poll clerk shall give him a ballot-paper according to the form in the Ninth Schedule hereto, after initialling the same on the back;

(d) (i) by omitting subsection one of section 35A and by inserting in lieu thereof the following subsection:— Sec. 35A. (Tender of second vote.)

(1) If on any person claiming to vote at any polling-place it is found that a line has been drawn through such person's name upon the roll specially provided for that polling-place as mentioned in subsection one of section thirty-five of this Act, as indicating that he has already received a ballot-paper, the presiding officer shall put to the person so claiming to vote the questions set out in subsection two of section forty-two of this Act. Before any such person is permitted to vote under this section he shall make and subscribe before the presiding officer a declaration in the form contained in the Eleventh Schedule hereto.

Any

159

Sydney Corporation (Amendment).

5 Any person who refuses to answer such questions or who fails to answer the first and second of such questions in the affirmative and the third and fourth in the negative or who does not make and subscribe before the presiding officer such declaration as aforesaid shall not be permitted to vote;

(ii) by inserting at the end of the same section the following new subsection:—

10 (4) Every person wilfully making a false answer to any question put to him in pursuance of subsection one of this section or wilfully making a false declaration under this section shall be guilty of a misdemeanour.

(e) by omitting section forty-two and by inserting in lieu thereof the following section:—

Subst. sec. 42.

20 42. (1) Every person claiming to vote at any polling-place shall state to the presiding officer the name under which he claims to vote, and such other particulars as the presiding officer shall require for the purpose of ascertaining upon the roll the name so given.

Declaration by voter.

25 (2) The presiding officer shall ascertain that the name so given by such person is upon the roll in force for the ward for which such polling-place has been appointed, and, subject to section 35A of this Act, may, if he thinks fit, and shall, if required by any scrutineer at the polling-place at which he presides, require any such person to make and subscribe before the presiding officer a declaration in the form contained in the Eleventh Schedule hereto; and may, if he thinks fit, and shall, if required so to do as aforesaid, put to any such person, before such person shall receive a ballot-paper, but not afterwards, the following questions:—

30 (i) Are you the person whose name appears as number on the citizens' roll for this ward?

40

(ii)

160

Sydney Corporation (Amendment).

- (ii) Are you of the full age of twenty-one years?
- (iii) Have you already voted either here or elsewhere at this election?
- 5 (iv) Are you disqualified from voting?

(3) Any person who refuses to answer such questions as are put to him or who fails to answer the first and second questions in the affirmative and the third and fourth questions in the negative or who when required so to do in accordance with this section does not make and subscribe before a presiding officer such declaration as aforesaid shall not be permitted to vote:

15 Provided that a person shall not be debarred from voting because of errors or omissions in the entry of his name as appearing on the roll, if he satisfies the presiding officer of his identity as the person referred to by that name.

20 (4) Every person wilfully making a false answer to any such question, or wilfully making a false declaration under this section, shall be deemed guilty of a misdemeanour.

(f) by omitting subsection three of section fifty-two;

Sec. 52.
(What to constitute an extraordinary vacancy.)

25 (g) by inserting next after section fifty-two the following new section:—

New sec. 52A.

52A. (1) The council may from time to time elect an alderman to act as deputy Lord Mayor either for the Lord Mayoral year or for a limited term as may be resolved by the council.

Deputy of Lord Mayor.
cf. Act No. 41, 1919, s. 26.

30 (2) A deputy Lord Mayor may act in the office of Lord Mayor during such time (if any) as the Lord Mayor 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 Lord Mayor.

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(3)

161

Sydney Corporation (Amendment).

(3) While so acting the deputy Lord Mayor shall have the powers, authorities, duties and liabilities of the Lord Mayor.

5 (4) If the deputy Lord Mayor be prevented by absence, illness or otherwise from performing the duties of the Lord Mayor when occasion arises for him so to act the council may elect another deputy Lord Mayor to act in his place.

10 (5) Whenever a deputy Lord Mayor acts in place of the Lord Mayor pursuant to this section the town clerk shall formally report the fact together with the dates upon which the deputy Lord Mayor so acts in order that a record thereof shall be kept in the minutes of proceedings of the council.

4. The Principal Act is further amended—

Further amendment of Act No. 58, 1932. Sec. 61A. (Inquiry before dismissal of certain officers.) cf. Act No. 19, 1945, s. 7 (b).

20 (a) by inserting at the end of subsection one of section 61A the following words:—

This section shall also apply to all officers and servants of the council who have had at least one year's continuous service with the council.

25 (b) by inserting in subsection two of the same section next after the word "officer" the words "or servant";

(c) by inserting in subsection three of the same section next after the word "officer" wherever occurring the words "or servant";

30 (d) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection:—

(5) (a) The person holding the inquiry shall make a report in writing.

35 (b) The original of the report shall be furnished by him to the council, and copies of the report shall at the same time be furnished by him to the Minister and the officer or servant respectively.

(c)

162

Sydney Corporation (Amendment).

- (c) The report shall be read in open council.
- (e) by inserting in subsection nine of the same section next after the word "officer" the words "or servant";
- (f) by inserting in subsection ten of the same section next after the word "officer" the words "or servant";
- (g) by inserting next after the same subsection the following new subsection:—
 - (11) (a) In any case where the council decides to terminate the services of the officer or servant notwithstanding that the report of the person holding the inquiry is substantially favourable to the officer or servant, the Minister on the application of the officer or servant made within fourteen days after termination of his services may, after such inquiry as he deems sufficient, direct the council to pay to the officer or servant as from the date of termination of his services, compensation not exceeding an amount equivalent to the amount of four weeks' salary or wages for each year of service, such salary or wages being reckoned on the average of the weekly salary or wages paid to him during the fifty-two weeks immediately preceding the date upon which the inquiry was ordered or the date of his suspension as the case may be.
 - (b) The council shall pay to the officer or servant the amount of compensation as directed by the Minister, and if the council fails to do so, the officer or servant may recover the amount as a debt due to him by the council.

5. The Principal Act is further amended by inserting next 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

Further amendment of Act No. 58, 1932. New sec. 74A Minute book. Act No. 41, 1919, s. 625.

Sydney Corporation (Amendment).

Lord Mayor 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
- 5 (b) that the meeting was duly convened and held.

6. The Principal Act is further amended—

- 10 (a) 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.

Further amendment of Act No. 58, 1932. Sec. 86. (Paving of footways, etc.) cf. Act No. 41, 1919, ss. 240 (1) (d).

- 15 (3) Where the council constructs or repairs a crossing over a footway in any public way for the traffic of vehicles across the footway to or from any premises, the council may recover, in any court of competent jurisdiction, the cost of such construction or repairs as a debt from the owner for the time being of the premises thereby served.
- 20

cf. *Ibid.* s. 244.

- 25 (b) by inserting next after section eighty-six the following new section:—

New sec. 86A.

- 25 86A. (1) Where a crossing over the footway in any public way for the traffic of vehicles across the footway to or from any premises either constructed under the authority of subsection two of section eighty-six of this Act or in existence at the commencement of the Sydney Corporation (Amendment) Act, 1945, has in the opinion of the council ceased to be used for the traffic of vehicles as aforesaid 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.
- 30
- 35

Removal of crossings.

164

Sydney Corporation (Amendment).

5 (2) Any costs incurred by the council in carrying out works under the authority of subsection one of this section shall be charged against and shall on demand be payable to the council by the owner for the time being of the premises which, immediately prior to the taking up of such crossing, could or might be thereby served and in default of payment the council may recover the amount from such owner in any court of competent jurisdiction as a debt due by such owner to the council;

15 (c) by omitting from subsection one of section eighty-eight the words "and resident within the city by leaving the same at his usual place of abode or business, and shall also cause such notice to be put on the door or other conspicuous part of the premises, or otherwise to be served upon the tenant thereof (if any) by leaving the same on the premises" and by inserting in lieu thereof the words "and shall also cause such notice to be served upon the tenant thereof (if any)";

Sec. 88.
(Dangerous buildings to be taken down or repaired at owner's expense.)

25 (d) (i) by omitting from section one hundred and one the words "of twelve feet";
(ii) by inserting in the same section next after the words "in the city" the words "fixed and declared by the council under subsection two of section ninety-nine of this Act within which it shall not be lawful to erect any building";

Sec. 101.
(Every encroachment to be reported by the city surveyor to the council.)

30 (e) by inserting next after section one hundred and thirteen the following new section:—

New sec. 113A.

35 113A. The owner of any building the rain water from which flows under any portion of a public way by means of an earthenware pipe shall, within thirty days after service upon him of a notice requiring him so to do and signed by the town clerk or the city engineer, remove and take away from the public way any such pipe and lay in place thereof a cast iron pipe of rectangular

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Pipes under public ways.

165

Sydney Corporation (Amendment).

5 rectangular section capable of withstanding a
 vertical pressure of at least seventy-five pounds
 per square inch and otherwise conforming with
 the type design and size prescribed therefor.
 10 Such owner shall make good to the satisfaction
 of the city engineer the damage which may
 thereby have been done to the public way. In
 the event of such owner failing to comply with
 such notice within the prescribed time, the
 15 council may carry out the work and the expense
 thereof as certified by the city engineer shall be
 charged against and shall on demand be payable
 to the council by such owner and in default of
 payment the council may recover the amount
 from such owner in any court of competent
 jurisdiction as a debt due by such owner to the
 council.

20 (f) (i) by inserting in subsection three of section
 one hundred and fourteen after the words
 "public way" the symbol "(a)";

Sec. 114.
 (Power to
 lay out
 plantations,
 etc., on
 public ways.)

(ii) by inserting at the end of the same
 subsection the following new paragraph:—
 25 (b) as a site for a police call box and the
 Commissioner of Police is hereby
 empowered to erect such police call
 boxes upon any part of a public way
 so set apart;

30 (g) by inserting next after section one hundred and
 fifteen the following new section:—

New
 sec. 115A.

35 115A. Where by or under any Act any person
 is authorised to construct wholly or partially
 within the city any work and by reason of the
 construction of such work it becomes necessary
 in the opinion of the city engineer to repair,
 reconstruct, renew or alter any works of the
 council or the levels of a public way the council
 shall, notwithstanding the provisions of any
 other Act, be the sole authority to execute such
 40 work of repair, reconstruction, renewal or
 alteration and the costs incurred by the council
 in

Repair,
 etc., after
 construction
 of a work.

166

Sydney Corporation (Amendment).

5 in so doing as ascertained and certified to the council by the city engineer shall be charged against and shall on demand be payable to the council by the person so authorised as aforesaid; and in default of payment the council may recover the amount from such person in any court of competent jurisdiction as a debt due by such person to the council.

7. (1) The Principal Act is further amended—

10 (a) by omitting from section one hundred and twenty the words “upon the respective premises whether occupied or not” and by inserting in lieu thereof the words “on the owner of the property assessed. Any such notice may be served as prescribed in section two hundred and
15 eighty-five of this Act”;

Further amendment of Act No. 58, 1932. Sec. 120. (Notice of assessment.)

20 (b) by inserting in subsection one of section one hundred and twenty-three next after the words “Land and Valuation Court” the words “or a court of petty sessions, as the case may be”;

Sec. 123. (Confirmation of assessment books.)

(c) by omitting from subsection one of section one hundred and twenty-eight the word “each” and by inserting in lieu thereof the word “two”;

Sec. 128. (Notice of rate to be gazetted.)

25 (d) (i) by inserting in subsection one of section one hundred and forty-seven next after the word “owner” the symbols and words “(not being the Crown)”;

Sec. 147. (Payment of rates.)

30 (ii) by omitting from the same subsection the words “or the Crown” wherever occurring;

(iii) by inserting at the end of the same subsection the words—

35 Where the property 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.

(e)

167

Sydney Corporation (Amendment).

(e) by omitting section one hundred and fifty-one and by inserting in lieu thereof the following section:—

Subst. sec. 151.

5 151. (1) In any case where before or after the commencement of the Sydney Corporation (Amendment) Act, 1945, 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 way in the city, 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.

Rental for wires, cables, etc. cf. Act No. 41, 1919, s. 171.

20 (2) The fair annual charge shall be based upon the nature and extent of the benefit enjoyed by the person concerned.

25 (3) If any person is aggrieved by the amount of such annual charge he may appeal therefrom to the Land and Valuation Court and such Court shall determine the amount of such annual charge.

30 (4) Any person dissatisfied with the decision of such Court as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the Land and Valuation Court.

(5) Nothing in this section shall be deemed to apply to the Crown.

35 (6) This section shall extend to the rails, pipes, wires, poles, cables, tunnels, and structures of the Sydney County Council.

(2) The amendments made by paragraph (d) of subsection one of this section shall commence upon the first day of January, one thousand nine hundred and forty-six.

168

Sydney Corporation (Amendment).

8. The Principal Act is further amended—

Further amendment of Act No. 58, 1932. Subst. sec. 1C2.

(a) by omitting section one hundred and sixty-two and by inserting in lieu thereof the following section:—

5 162. 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
10 respects as if such building were premises held by or belonging to the council.

Power to let Old Exhibition Building.

(b) (i) by inserting next after section one hundred and seventy-two the following new section:—

New sec. 172A.

15 172A. (1) (a) The land described in the Thirty-first Schedule hereto shall be deemed by virtue of Act Thirty-two Victoria Number Four, intituled "An Act to
20 authorize the appropriation of the Old Burial Ground or Cathedral Close in Sydney to certain municipal and other public purposes," to have been vested in the council in fee simple.

Town Hall site.

25 (b) The council shall by virtue of such Act and this Act be entitled to be registered as the proprietor in fee simple under the provisions of the Real Property Act, 1900, of the land described in the
30 Thirty-Second Schedule hereto.

(2) The lands referred to in paragraph (b) of subsection one of this section shall be held by the council for municipal purposes.

35 (3) The Registrar-General shall upon application of the council issue to the council a certificate of title under the Real Property Act, 1900, for the land referred to in paragraph (b) of subsection one of this

Sydney Corporation (Amendment).

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this section without causing any examination or report to be made as to the title to the land and without considering such title except in so far as may be necessary to give effect to subsection four of this section.

10

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(4) In dealing with the application referred to in subsection three of this section it shall not be necessary to locate the boundaries of the land, but it shall be sufficient if the Registrar-General is satisfied with respect to any certificate of title proposed to be issued by him in pursuance of this section that the land to be comprised in the certificate of title is included in the land so deemed to have vested.

20

(5) In any certificate of title issued in pursuance of this section the land may be described in terms of or by reference to the Thirty-Second Schedule to this Act.

(ii) by inserting next after the Thirtieth Schedule the following new Schedules:—

New
Thirty-First
and Thirty-
Second
Schedules.

25

THIRTY-FIRST SCHEDULE.

All that piece or parcel of land situate in the City of Sydney Parish of St. Andrew County of Cumberland and State of New South Wales being allotment 12 of Section 19 as shown on plan catalogued S. 338.858 in the Department of Lands, Sydney.

Sec. 172A
(1) (a).

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THIRTY-SECOND SCHEDULE.

All that piece or parcel of land situate in the City of Sydney Parish of St. Andrew County of Cumberland and State of New South Wales being part of allotment 12 of Section 19 bounded on the north by the southern building line of Druitt-street on the north-east by the new building line of Druitt-street as widened by The Municipal Council of Sydney in 1931 on the east by the western boundary of an area of 9¼ perches appropriated by the Crown on 16th September, 1932, on the south by the northern boundary of the land comprised in Crown Grant Registered Volume 1467 folio 178 and the northern

Sec. 172A
(1) (b).

35

40

Sydney Corporation (Amendment).

5 northern boundary of the land described in the eighth part of the Second Schedule of the Saint Andrew's Cathedral Site Act, 1935, and on the west by the eastern boundaries of allotments 7, 6, 5, 4 and 3 being lands purchased and resumed by The Municipal Council of Sydney.

(c) by inserting next after section 172A the following new section:—

New sec. 172B.

10 172B. Notwithstanding the limitations and restrictions contained in the Grant by the Crown to the Mayor, Aldermen and Councillors of the City of Sydney dated the fourth day of November one thousand eight hundred and forty-six and enrolled in the Registrar-General's Office, Sydney, in the Register of Grants, G2 pages 327, 328 and 329 on the thirteenth day of February one thousand eight hundred and forty-seven, the council shall have and shall be deemed always to have had in relation to the land described in such Grant the powers and authorities set out in paragraph (d) of section six of this Act. In the exercise of any such powers and authorities after the commencement of the Sydney Corporation (Amendment) Act, 1945, the council shall not sell any part of the land described in such Grant otherwise than to the Sydney County Council and the Sydney County Council shall not sell any land so acquired without the approval of Parliament.

Queen Victoria Buildings.

30 (d) by inserting next after section one hundred and seventy-five the following new section:—

New sec. 175A.

35 175A. (1) The owners or occupiers of lands on which buildings are erected or which are subdivided into building allotments and which have frontages to or entrances from public ways shall for the purpose of distinguishing them mark the buildings or fences or frontages with such numbers and in such manner and form as the council may from time to time direct or approve, so that such markings may be readily seen from the public way, and shall renew such markings

Numbering of buildings. cf. Act No. 41, 1919, s. 249B.

Sydney Corporation (Amendment).

markings as often as they are destroyed, obliterated or defaced.

5 (2) If any such owner or occupier neglects for one week after notice to him from the council to mark any such building, or fence or frontage with such number and in such manner and form as the council may direct or approve, or to renew the marking thereof as aforesaid, he shall be guilty of an offence under this Act.

10 (3) Where the occupier of any lands incurs expenses in complying with the requirements of any notice given to him under subsection two of this section he shall be entitled to recover such expenses from the owner of the lands.

20 (4) Any person who without the authority of the council destroys, pulls down, obliterated or defaces any such marking or who marks any such number otherwise than in accordance with this section shall be guilty of an offence under this Act; and the council may cause any unlawful marking to be obliterated or destroyed.

25 (e) by inserting next after section one hundred and seventy-seven the following new section:—

New sec. 177A.

30 177A. The council may celebrate, commemorate or observe any national ceremonial or other special occasion and may welcome and entertain or combine with any other person in welcoming and entertaining any distinguished visitor.

Celebrations

9. The Principal Act is further amended—

35 (a) by inserting next after section two hundred and four the following new section:—

Further amendment of Act No. 58, 1932.

New sec. 204A.

204A. (1) No person (other than the servant of or contractor with the council or the contractor's servant) shall, except with the license of

Removal of rubbish from premises.

Sydney Corporation (Amendment).

5 of the council under its corporate seal, be entitled to remove any rubbish from any premises within the city: Provided that the owner or occupier of any such premises may without such license but only by himself his servants or employees remove rubbish arising from any such premises owned or occupied by him.

- 10 (2) For the purposes of this section:--
- 15 "Rubbish" shall mean 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 without limiting the generality of the foregoing shall include nightsoil, garbage, trade refuse and articles of human food unfit for human consumption;
- 20 "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, manure, and ashes;
- 25 "Trade refuse" shall be deemed to include all kinds of refuse in any trade or business or calling; and
- 30 "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.

- 35 (3) The council may make by-laws—
- (a) prescribing the conditions upon which licences to remove rubbish may be granted by the council;
- 40 (b) prescribing matters which under this section are permitted or required to be prescribed or which are necessary or convenient to be prescribed; (c)

Sydney Corporation (Amendment).

(c) controlling regulating and prohibiting the keeping on premises of all rubbish and the removal, disposal and destruction thereof.

5 (4) The council may receive at any sanitary depot or destructor for the disposal or destruction of rubbish which is vested in managed or controlled by it and dispose of or
10 destroy any rubbish whether it is brought to the depot or destructor by the council or any other council constituted under the Local Government Act, 1919, as amended by subsequent Acts, or by any statutory body representing the Crown or by any person.

15 All rubbish removed from any public place or from any premises by or on behalf of the council, or received at any depot or destructor of the council, shall be the property of the council.

20 (b) (i) by inserting in paragraph (e) of subsection one of section two hundred and thirty-four next after the word "particular" the words "dogs, cats"; Sec. 234. (Various further powers.)

25 (ii) by inserting next after the same subsection the following new subsection:—

(1A) The council may make by-laws in relation to all or any of the powers or duties conferred or imposed on the council by subsection one of this section.

30 10. The Principal Act is further amended—

Further amendment of Act No. 58, 1932.

(a) by omitting from subparagraph (i) of paragraph (d) of section two hundred and fifty the following figures and words:— Sec. 250. (Compensation.)

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

(3)

Sydney Corporation (Amendment).

(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.”;

5 (b) by omitting section two hundred and fifty-two and by inserting in lieu thereof the following section:— Subst. sec. 252.

10 252. If, within ninety days after the notification to the claimant of the council’s valuation, the council and the claimant do not agree as to the amount of compensation, the claimant may proceed and the claim for compensation shall be heard and determined under and in accordance with section nine of the Land and Valuation Court Act, 1921, as amended by subsequent Acts. 15

11. The Principal Act is further amended by inserting next after paragraph (c) of the definition of “Loan for essential services” in subsection eleven of section 20 262E the following new paragraph:— Further amendment of Act No. 58, 1932. Sec. 262E.

(c1) the acquisition of land the whole or any portion of which may be required for the opening widening extending or diverting of a public way or carrying out works consequential thereon. (Polls as to loans.)

25 12. The Principal Act is further amended— Further amendment of Act No. 58, 1932. Sec. 263.

(a) by inserting next after paragraph (c) of subsection one of section two hundred and sixty-three the following new paragraph:— (By-laws.)

30 (c1) the making of applications to the Public Trustee to sell land and the evidence by which such an application is to be supported.

(b) by inserting next after paragraph (m) of the same subsection the following new paragraph—

35 (m1) the regulation of the photographing of persons for gain in any public place; (c)

175

Sydney Corporation (Amendment).

- (c) by inserting next after paragraph (v) of the same subsection the following new paragraph—
 - (v1) the control and regulation of the taking of animals into a public park, garden, shrubbery, market or place which is the property of or has been or shall hereafter be granted or dedicated to the council or the permitting or suffering of animals to be in or upon any such public park, garden, shrubbery, market or place;
- (d) by inserting next after paragraph (w) of the same subsection the following new paragraph—
 - (w1) the control and regulation of the conditions under which dogs may be in or upon public ways and the prevention of fouling by dogs of public ways and adjoining premises;
- (e) by omitting paragraph (vv) of the same subsection and by inserting in lieu thereof the following new paragraph:—
 - (vv) requiring that any new or existing dwelling-house shall be provided with suitable kitchen sinks and facilities approved by the council for bathing and for washing clothes, with water laid thereto, and regulating the maintenance of any sinks and facilities so provided.
- (f) by omitting paragraph (fff) of the same subsection and by inserting in lieu thereof the following new paragraphs:—
 - (fff) the regulation of the type, design and size of pipes by means of which rain water from a building flows under any portion of a public way and requiring the owner of a building from which rain water so flows to keep such pipes in repair and to renew or replace any defective pipes;

(ggg)

Sydney Corporation (Amendment).

5 (ggg) the regulation control and management of yards or open spaces used for the storage and/or the sale of builders' materials, builders' hardware, timber, machinery, scrap metal, bottles, bones, or old articles or things whether of a similar or different nature;

10 (hhh) prescribing and regulating the shape design size and colour of the number plates referred to in section 175A of this Act and the materials of which such number plates are to be made and the manner and position in which they are to be affixed to any building, group or class of buildings within the city;

15 (iii) generally for carrying out the provisions of this Act and for enforcing and securing the observance thereof.

13. The Principal Act is further amended—

20 (a) by inserting next after section two hundred and seventy the following new section:—

Further amendment of Act No. 58, 1932. New sec. 270A.

270A. Where by virtue of this Act, or any regulation or by-law—

Apportionment of expenses. cf. Act No. 41, 1919, s. 643.

25 (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

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

35 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.

(b)

Sydney Corporation (Amendment).

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

New secs.
278A-278D.

5 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—

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

- 10 (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;
- (d) the fact that any particular place is within the city or within any ward;
- 15 (e) the appointment of the town clerk or of any other officer or servant;
- (f) any order to prosecute; or the authority of any officer or servant of the council to prosecute;
- 20 (g) 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;
- 25 (h) the fact that the defendant is or at any relevant time was the owner or occupier of any land in question.

278B. All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

Judicial notice of seal.

- 30 (a) shall take judicial notice of the seal of the Municipal Council of Sydney affixed to any document; and
- (b) shall until the contrary is proved presume that such seal was properly affixed thereto.

cf. *Ibid.* s. 617.

40 278c. (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

Documents issued by council.
cf. *Ibid.* s. 620.

178

Sydney Corporation (Amendment).

5 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.

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

10 278b. In any case in which the Attorney-General may 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, or the City of Sydney Improvement Act (Act 42 Vic. No. 25) or any other Act having reference to buildings in the City, the council shall be deemed to represent sufficiently the interests of the public and may take proceedings in its own name.

Interests of the public. cf. Act No. 41, 1919, s. 587.

20 (c) by inserting next after section two hundred and seventy-nine the following new section:—

New sec. 279A.

25 279A. (1) Unless the contrary intention is expressly provided by any Act passed after the commencement of the Sydney Corporation (Amendment) Act, 1945—

Exemption from taxes. cf. *Ibid.* s. 651.

(a) taxes or rates shall not be chargeable or payable under any Act in force at the date of such commencement or thereafter in force upon:

30 (i) any land vested in or under the management and control of the council; or

(ii) any property or income of the council; and

35 (b) stamp duties shall not be chargeable or payable under any Act in force at the date of such commencement or thereafter in force upon:

40 (i) any receipt or acquittance given by one officer or servant of the council

Sydney Corporation (Amendment).

council to another in the course of the internal administration of the council's business; and

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(ii) 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.

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(2) This section shall not be deemed to extend to any rate or assessment made or levied by—

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(a) a council of an area constituted under the Local Government Act, 1919, as amended by subsequent Acts;

(b) the Metropolitan Water Sewerage and Drainage Board;

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(c) the Board of Fire Commissioners of New South Wales.

(d) by inserting next after section two hundred and eighty-seven the following new section:— New sec. 287A.

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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;

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(c) light such land between the hours of sunset and sunrise to the satisfaction of the council.

(2)

Sydney Corporation (Amendment).

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

10 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.

15 **14.** The Principal Act is further amended by inserting next after section two hundred and ninety-five the following new section:—

Further amendment of Act No. 58, 1932. New sec. 295A. Sites for accommodation of vehicles.

20 295A. The council may provide control and manage sites for the accommodation of vehicles in or near public ways and public reserves and charge a fee for the use thereof.

15. The Principal Act is further amended—

Further amendment of Act No. 58, 1932. Sec. 318. (Appointment of building advisory committee.)

25 (a) by omitting from paragraph (i) of subsection three of section three hundred and eighteen the words "Institute of Architects of New South Wales" and by inserting in lieu thereof the words "Royal Australian Institute of Architects";

30 (b) by inserting at the end of subsection one of section three hundred and twenty-seven the following new paragraph:—

Sec. 327. (Residential Districts.)

35 (g) prohibit the use in the district of any land for the storage of any goods or materials other than goods or materials reasonably required:—

(i) for domestic use or consumption in a building erected on land adjoining

Sydney Corporation (Amendment).

adjoining and occupied with the land on which such goods or materials are stored; or

5 (ii) for use in connection with any trade, industry, manufacture, shop, place of public amusement, business, avocation or calling upon land the use of which is not prohibited for any such purposes pursuant to this subsection.

10 (c) by inserting next after section three hundred and thirty-nine the following new section:—

New sec. 339A.

15 339A. Where any caravan, lorry, omnibus, tram car, or other similar thing, used, designed, or intended to be used for purposes of residence or occupation or for the sale or disposal of anything, or any stall, stand, barrow, or other similar thing (whether of a moveable or temporary character or otherwise) erected or placed on or in any premises either before or after the commencement of the Sydney Corporation (Amendment) Act, 1945, is in the opinion of the city building surveyor unsightly dilapidated or in a ruinous condition or interferes with the structural harmony of buildings in the neighbourhood or with the amenities of the neighbourhood the city building surveyor may order the owner or occupier thereof to remove the same from such premises or to demolish the same.

Powers as regard moveable structures.

30 Without limiting the powers of the council under this Part of this Act the person so ordered shall if he fails to comply with such order be and be deemed to be a person who has contravened the provisions of this Part of this Act.

35 (d) by omitting from paragraph (b) of subsection one of section three hundred and forty-two the words "Institute of Architects of New South Wales"

Sec. 342. (Members.)

182

Sydney Corporation (Amendment).

Wales" and by inserting in lieu thereof the words "Royal Australian Institute of Architects";

5 (e) by omitting from paragraph (b) of section three hundred and forty-seven the words "Institute of Architects of New South Wales" and by inserting in lieu thereof the words "Royal Australian Institute of Architects";

Sec. 347.
(Members.)

10 (f) by inserting at the end of section three hundred and fifty-eight the following new subsection:—

Sec. 358.
(Surveyor to make report and recommendation.)

(3) In any such report the city building surveyor may make recommendations:—

15 (a) that the building or any part thereof should not be used for any purpose; or

(b) that the building or any part thereof should not be used for specified purposes;

20 until the works or such part thereof or such provision of automatic sprinklers or drenchers as may be specified by the city building surveyor have been carried out or made in or in connection with such building.

25 (g) (i) by omitting from paragraph (c) of section three hundred and sixty the word "twelve" and by inserting in lieu thereof the word "three";

Sec. 360.
(Notice to owners.)

30 (ii) by inserting at the end of the same paragraph the words "and shall thereafter be completed within such period as may be specified therein";

(iii) by inserting at the end of the same section the following new paragraph—

35 (d) in any case where under the recommendations approved by the council it is provided that the building or any part thereof is not to be used for any purpose or for specified purposes until works or some part thereof or the provision of

183

Sydney Corporation (Amendment).

5 of automatic sprinklers or
 10 drenchers have been carried out or
 made in or in connection with such
 building, that the cessation of
 use of the building or any part
 thereof for any purpose or for
 specified purposes until the works
 or some part thereof or the
 provision of automatic sprinklers
 or drenchers have been carried out
 or made in or in connection with
 such building in accordance with
 the recommendations as approved
 by the council, if adopted, shall be
 15 effective as from a time to be
 specified in the notice (not being
 less than one month from the date
 of service of the notice);

20 (h) by inserting next after section three hundred
 and sixty-four the following new section:— New sec.
364A.

25 364A. (1) The adoption shall operate as an Completion
of work.
 order to the owner of the building to begin and
 complete the works therein specified in such
 manner and within such respective times as
 may be therein specified.

(2) If such works have not been begun
 and completed within such respective times the
 council may enter upon the building and the land
 upon which it stands and carry out the works
 30 so far as the same have not been carried out.

(3) The council may remove any
 materials demolished in carrying out such works
 to a convenient place and sell the same if and as
 it in its discretion thinks fit.

35 (4) Any expenses incurred by the
 council in connection with such works or sale
 as aforesaid (less the proceeds, if any, of any
 such sale) shall be charged against and shall on
 demand be payable to the council by the owner
 40 of the building; and in default of payment the
 council

184

Sydney Corporation (Amendment).

council may (but without prejudice to the owner's right to recover the same from any lessee or other person liable for the expenses of repair) recover the amount thereof from such owner in any court of competent jurisdiction as a debt due by such owner to the council.

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(i) by inserting at the end of subsection one of section three hundred and sixty-five the following new paragraphs and subsection:—

Sec. 365.
(By-laws.)

10

(yy) controlling and regulating the erection or placing of caravans, lorries, omnibuses, tram cars, or other similar things, used, designed, or intended to be used for purposes of residence or occupation or for the sale or disposal of anything, or stalls, stands, barrows, and other similar things (whether of a moveable or temporary character or otherwise) on or in any premises;

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20

(zz) the type, size, design, and construction of any caravans, lorries, omnibuses, tram cars, or other similar things, used, designed, or intended to be used for purposes of residence or occupation or for the sale or disposal of anything, or stalls, stands, barrows, and other similar things (whether of a moveable or temporary character or otherwise) which may be erected or placed on or in any premises;

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(aaa) requiring and regulating the provision of bathrooms wash houses baths and wash tubs in existing buildings and buildings hereafter erected.

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(1A) The owner of the building and any person who may be affected by any requirement made under any by-law made pursuant to paragraph (aaa) of subsection one of this section may

Sydney Corporation (Amendment).

may within the time and in the manner prescribed by rules of court appeal to a district court judge against the requirement.

5 Such judge may determine whether the requirement is reasonable in all the circumstances of the case and whether it shall or shall not be carried out in its entirety or with modifications and may extend the time within which anything is to be done.

10 The costs of the appeal shall be in the discretion of the judge.

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

15 (j) by inserting at the end of section three hundred and sixty-seven the following new paragraph and subsection:—

Sec. 367.
(General provisions as to by-laws.)

20 (g) adopt wholly or partially or by reference any of the standard rules recommended or adopted by the British Standards Institution or the Standards Association of Australia relating to the matter with which the by-law deals.

25 (2) Fees prescribed by any by-law made under paragraph (c) of subsection one of section three hundred and thirty-one of this Act may vary according to the class of building, the nature of the erection, the contract price, or the cost of the erection as estimated by the city building surveyor, or otherwise. The fees so prescribed may include an amount calculated according to the scale prescribed to cover the cost of checking computations in connection with the erection of the building: Provided that in no case shall the total amount of fees payable upon the application for a certificate of approval under section three hundred and thirty-one exceed four hundred pounds.

(k)

186

Sydney Corporation (Amendment).

(k) by inserting next after section three hundred and seventy-three the following new section:—

New sec.
373A.

373A. (1) In this section "residential premises" means any building of which the whole or any part is ordinarily occupied by any person as a residence, except—

Residential
premises
renovations.

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(a) premises licensed under the Liquor Act, 1912, or any Act amending or replacing that Act; and

10

(b) a building of which the only part so occupied is occupied by a caretaker or watchman of the building.

15

(2) If any residential premises be in a dilapidated or unsightly condition the council may, if the city building surveyor gives to the council a certificate in writing to that effect, order the owner of the residential premises to carry out, within a reasonable time to be fixed by the order, such work upon the exterior of the residential premises of renovation painting or repair as the order may specify.

20

Where in any such order the council orders the carrying out of any work of painting, whether alone or in addition to any other work, the council may order such work of painting to be carried out not only within the time fixed by such order but also in every fifth year after such work of painting shall have been completed.

25

(3) If the order is not obeyed the council may with all convenient speed enter upon the residential premises and the land upon which the same stand and execute the order.

30

(4) All expenses incurred by the council in relation to the execution of any such order may be recovered by the council from the owner of the residential premises together with all costs in respect thereof in a summary manner, but without prejudice to the owner's right to recover the same from any lessee or other person liable for the expense of repairs.

35

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(1)

Sydney Corporation (Amendment).

(1) by inserting at the end of section three hundred and seventy-eight the following new subsection:—

Sec. 378.
(Recovery of penalties.)

5 (3) Proceedings for the recovery of any such penalty may be instituted within twelve months from the time that the matter in respect of which the penalty is recoverable arose.

10 This subsection shall not apply to or in respect of any matter which arose more than six months before the commencement of the Sydney Corporation (Amendment) Act, 1945.

16. The Principal Act is further amended by omitting Division 1 of Schedule 7A and by inserting in lieu thereof the following Division:—

Further amendment of Act No. 58, 1932. Substituted Schedule 7A.—Div. 1. Sec. 20.

15 DIVISION 1.—*Nomination and Voting.*

1. The town clerk or, in his absence, the deputy town clerk shall be the returning officer for the election.

20 The returning officer shall be charged with the control and direction of all proceedings at an assembly of aldermen called for the purpose of electing a Lord Mayor.

Any direction not inconsistent with the rules in this Schedule, given by the returning officer to any person present at such assembly, shall be carried into effect.

25 The returning officer's decision on any question arising at such assembly shall be final.

2. An alderman present at the assembly shall not leave the same before completion of the election and the declaration of the result except with the consent of the returning officer.

30 3. (a) A nomination of an alderman for election to the office of Lord Mayor may be made without previous notice, by any other alderman.

35 (b) Each nomination shall be in writing signed by the nominator, and shall bear a statement signed by the alderman nominated, setting out that he consents to the nomination and will take the office of Lord Mayor if elected.

(c) Each nomination shall be delivered to the returning officer in the presence of the aldermen assembled.

40 4. If only one candidate is duly nominated, the returning officer shall declare that candidate to be elected.

5. If more candidates than one are duly nominated, an election shall be held.

Alternative

188

Sydney Corporation (Amendment).

Alternative methods of election.

6. (a) The aldermen present at the assembly may by resolution decide whether the election shall be carried out by—

- 5 (i) open voting, or
- (ii) ordinary ballot, or
- (iii) preferential ballot;

and the election shall be carried out in accordance with the decision so resolved.

10 (b) Where no such decision is made the election shall be by ordinary ballot.

Open Voting.

7. (a) Where the election is by open voting and—

15 (i) there are only two candidates the candidate who receives the higher number of votes shall be declared elected; or

20 (ii) there are three or more candidates the candidate who receives the lowest number of votes shall be defeated and a fresh election shall be held respecting the remaining candidates of whom the candidate who receives the lowest number of votes shall be defeated. If there still be three or more candidates the same process shall be repeated until a final election is carried out respecting the last two candidates and the returning officer shall declare elected that candidate who receives the higher number of votes.

25 (b) Where at any election under paragraph (ii) of clause (a) of this rule (other than the final election respecting the last two candidates) the number of votes cast for two or more candidates is equal, and no candidate has received a less number of votes than the candidates who receive such equal number of votes, the returning officer may request the candidates with such equal number of votes to draw lots and, if any or all decline, shall himself draw lots for them and shall, in accordance with the result of such drawing of lots, declare which one of

30 (c) Where the voting is equal at any election under this rule—

- 35 (i) at which there are only two candidates; or
- 40 (ii) respecting the last two candidates for election under paragraph (ii) of clause (a) of this rule;

lots shall be drawn in accordance with clause (b) of this rule, and the successful candidate shall be declared elected.

Ballots.

45 8. (a) Where the election is to be carried out by ballot the returning officer shall prepare or cause to be prepared a sufficient number of ballot-papers for use at the election.

(b)

Sydney Corporation (Amendment).

(b) Each ballot-paper shall contain the names of all the candidates duly nominated printed or written thereon.

A square shall be placed opposite the name of each candidate.

- 5 (c) (i) Each alderman shall vote only once at the election.
- (ii) Each alderman shall vote in person at the assembly.

(d) An alderman who desires to vote shall approach the returning officer for a ballot-paper; and the returning officer having marked a ballot-paper on the back with his signature, shall deliver it to such alderman.

- 10 (e) If an alderman satisfies the returning officer that he has spoiled his ballot-paper by mistake or accident and surrenders the spoiled ballot-paper to the returning officer, the returning officer shall deliver another ballot-paper to such alderman, and forthwith destroy the spoiled ballot-paper.

15 *Ordinary ballot.*

9. (a) Where the election is by ordinary ballot the returning officer shall decide the manner in which the votes are to be marked thereon.

- 20 (b) If there be three or more candidates that candidate who receives the lowest number of votes shall be defeated; and a fresh ballot shall be held respecting the remaining candidates of whom the candidate who receives the lowest number of votes shall be defeated. If there still be three or more candidates the same process shall be repeated until a final ballot is taken
- 25 respecting the last two candidates, and the returning officer shall declare elected that candidate who receives the majority of votes cast.

- 30 (c) Where at any ballot under this rule the number of votes cast for two or more candidates is equal, and no candidate has received a less number of votes than the candidates who receive such equal number of votes the returning officer may request the candidates with such equal number of votes to draw lots and, if any or all decline, shall himself draw lots and shall, in accordance with the result of such drawing of lots, declare
- 35 which one of such candidates is unsuccessful in the ballot, and if it be a final ballot, shall declare the successful candidate to be duly elected.

(d) In an ordinary ballot a ballot-paper shall be informal if—

- 40 (i) it does not bear the signature of the returning officer referred to in rule eight of this Division of this Schedule; or
- (ii) it is so imperfectly marked that the intention of the voter cannot with certainty be ascertained; or
- (iii)

Sydney Corporation (Amendment).

(iii) any signature or any mark required to be placed thereon has been erased obliterated or torn or is missing from any cause whatever:

5 Provided that the returning officer, if any ballot-paper appears to be informal by reason only of the marking thereon not being made exactly as required and if in his opinion such marking clearly indicates the intention of the voter, may accept such ballot-paper as formal.

Preferential ballot.

10 10. (a) Where the election is by preferential ballot the provisions of rules eleven, twelve and thirteen of this Division of this Schedule shall apply.

15 (b) The votes cast at an election by preferential ballot shall be counted in the manner prescribed by Division Two of this Schedule.

11. Each alderman shall mark his vote on the ballot-paper in the manner prescribed by rule twelve of this Division of this Schedule and deliver it to the returning officer.

20 12. A voter shall mark his vote on the ballot-paper by placing the figure "1" in the square opposite the name of the candidate for whom he desires to give his first preference vote, and shall give contingent votes for all the remaining candidates by placing the figures "2," "3," "4," and so on, as the case may require, in the squares opposite the names of such candidates respectively, 25 so as to indicate by numerical sequence the order of his preference for them.

13. (1) A ballot-paper shall be informal if—

30 (a) it does not bear the signature of the returning officer referred to in rule eight of this Division of this Schedule; or

(b) the figure "1" standing alone indicating a first preference for some candidate is not placed on the ballot-paper; or

35 (c) the figure "1" standing alone indicating a first preference is placed opposite the name of more than one candidate; or

40 (d) it has no vote indicated on it, or it does not indicate the voter's first preference for one candidate and his consecutive preferences for all the remaining candidates.

(2) A ballot-paper shall not be informal for any reason other than the reasons specified in subclause one of this rule, but shall have effect according to the voter's intention, so far as his intention is clear.

191

Sydney Corporation (Amendment).

17. The Principal Act is further amended by inserting at the end of the Twenty-first Schedule the following new clauses:—

Further amendment of Act No. 58, 1932. Sched. 21.

5 8. The council may write off or reduce rates and interest on rates due by a person who is in receipt of a pension under the Invalid and Old-age Pensions Act 1908 as amended by subsequent Acts of the Parliament of the Commonwealth of Australia.

Abandonment of rates. Invalid and old-age pensioners. cf. Act No. 41, 1919. s. 160B.

10 9. (1) Where any rate levied in respect of any land before or after the commencement of the Sydney Corporation (Amendment) Act, 1945, is overdue for more than seven years the council may apply to the Public Trustee to sell the land under this Act.

Application for sale of land by Public Trustee.

Ibid. s. 602.

15 (2) Application for the sale shall—

- (a) be made as prescribed by by-law;
- (b) be accompanied by a certificate in writing signed by the town 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;
- 20 (c) be supported by such evidence as may be prescribed by by-law; and
- (d) be accompanied by a deposit for expenses of such amount as the Public Trustee may deem reasonable.

25 10. (1) The Public Trustee shall—

Powers and duties of the Public Trustee.

- (a) fix a convenient time (being not more than six months nor 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
- 30 (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.

cf. *Ibid.* s. 603.

35 (2) The Public Trustee may—

- (a) sell in one lot of adjoining parcels or in separate parcels the land under such conditions of sale as he may deem proper;
- (b) employ an auctioneer; and
- 40 (c) do such other acts as he may deem expedient for selling the land at its full value and for carrying out the sale.

191

Sydney Corporation (Amendment).

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Further amendment of Act No. 58, 1932. Sched. 21.

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Powers and duties of the Public Trustee.

cf. *Ibid.* s. 603.

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- (b) employ an auctioneer; and
- 40 (c) do such other acts as he may deem expedient for selling the land at its full value and for carrying out the sale.

Sydney Corporation (Amendment).

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—

- 5 (a) the transfer shall by virtue of this Schedule 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.

10 (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 Schedule shall register the transferee as the proprietor of the land or estate as the case may be:

15 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 clause;
- 20 (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 clause;
- 25 (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;
- 30 (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;
- 35 (e) the forms to be used for carrying this clause into effect may be prescribed by by-law;
- 40
- 45

194

Sydney Corporation (Amendment).

5 (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 clause may be prescribed by regulations made under the Conveyancing Act, 1919.

10 (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 Schedule is produced for registration shall be concerned to inquire whether the provisions of this Schedule in respect of the sale or transfer have been complied with or otherwise into the regularity or validity of the sale or transfer.

15 13. (1) Any moneys which come into the hands or under the control of the Public Trustee under this Schedule shall be deemed to be moneys which come into his hands or under his control within the meaning of the Public Trustee Act, 1913.

The Public Trustee Act, 1913. cf. Act No. 41, 1919, s. 605.

20 (2) Subject to the provisions of this Schedule 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 Schedule.

25 14. (1) Any purchase money received by the Public Trustee under this Schedule shall be applied by him to the following purposes and in the following order, that is to say, in or towards the payment of—

Application of purchase money. cf. *Ibid.* s. 606.

- (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;
- 30 (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.

35 (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 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.

40 15. Any balance of the purchase money shall subject to the provisions of this Schedule 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 to be held in trust. cf. *Ibid.* s. 607.

Sydney Corporation (Amendment).

5 16. (1) The Public Trustee may distribute the balance of the purchase money 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.

Distribution of balance. cf. Act No. 41, 1919, s. 608.

(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 IV of the Trustee Act, 1925.

10 17. For the purposes of Part IV of the Trustee Act, 1925—

Part IV of the Trustee Act, 1925. cf. *Ibid.* s. 610.

15 (a) the 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;

20 (b) notwithstanding anything to the contrary in this clause, 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.

25 18. (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 the same to the Treasury.

Payment to the Treasury after twenty years. cf. *Ibid.* s. 611.

30 (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 IV of the Trustee Act, 1925, 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 Master in Equity shall pay the same to the Treasury.

35 (3) Any sum paid to the Treasury under subclauses one and two of this clause shall be carried to a special trust account.

40 On proof to the Supreme Court in its equitable jurisdiction made at any time that any person is entitled to such sum or any part thereof the Court on application by the person claiming to be entitled may order the Treasurer to pay to such person the whole or any part of the money so paid to the Treasury but without interest thereon.

45 19. In this Schedule any reference to the balance of the purchase money of any land sold by the Public Trustee under this Schedule shall include any investments representing the same and any interest thereon.

Reference to balance. cf. *Ibid.* s. 612.

Sydney Corporation (Amendment).

20. Notwithstanding any other provision of this Schedule, the Public Trustee shall be entitled—

Fees and expenses of the Public Trustee.

5 (a) to retain out of the purchase money of any land sold by him under this Schedule all proper fees and expenses due to or incurred by him in relation to this Schedule, 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;

cf. Act No. 41, 1919, s. 613.

10 (b) to recover from the council all proper fees and expenses due to or incurred by him in relation to this Schedule, so far as the same are not retained by him out of any purchase money.

15 21. Where the council has taken possession of and leased any land under clause seven of this Schedule, the provisions of this Schedule in respect of 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 the Sydney Corporation (Amendment) Act, 1945, is overdue the rate shall be deemed to be overdue for
20 seven years within the meaning of those provisions and the same shall apply accordingly.

Land seized under clause seven.

cf. *Ibid.* s. 614.