

**[CONFIDENTIAL]**

**(Rough Draft for Consideration Only.)**

No. , 1933.

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**A BILL**

To make certain provisions relating to the election of the aldermen and Lord Mayor of the City of Sydney; to alter the provisions of the Sydney Corporation Act, 1932, in relation to the franchise of occupiers and lodgers, the method of preparing rolls, the conduct of elections of aldermen and Lord Mayor and the method of counting votes; to validate certain matters; to amend the Sydney Corporation Act, 1932, the Valuation of Land Act, 1916, the Local Government Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith.

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Sydney Corporation (Further Amendment) Act, 1933." Short title and citation.

(2) This Act shall be read and construed with the Sydney Corporation Act, 1932, as amended by subsequent Acts.

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

(4) The Principal Act as amended by this Act may be cited as the Sydney Corporation Act, 1932-1933.

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

PART I.—PRELIMINARY.

PART II.—POSTPONED TRIENNIAL ELECTION.

DIVISION 1.—*Preliminary.*

DIVISION 2.—*Aldermen.*

DIVISION 3.—*Lord Mayor.*

DIVISION 4.—*Rolls for postponed triennial election.*

PART III.—LISTS AND ROLLS OF CITIZENS AND RATEPAYERS.

DIVISION 1.—*Citizens.*

DIVISION 2.—*Ratepayers.*

PART IV.—FRANCHISE.

DIVISION 1.—*Alteration of qualification as occupier or lodger.*

DIVISION 2.—*Declaration by lodger.*

PART

PART V.—ELECTION OF ALDERMEN.

DIVISION 1.—*Nominations.*

DIVISION 2.—*Mode of voting and counting votes.*

DIVISION 3.—*Postal voting.*

PART VI.—ELECTION OF LORD MAYOR.

PART VII.—FURTHER AMENDMENTS OF SYDNEY CORPORATION ACT, 1932.

PART VIII.—AMENDMENTS OF VARIOUS ACTS.

PART II.

POSTPONED TRIENNIAL ELECTION.

DIVISION 1.—*Preliminary.*

3. In this Part of this Act “ the postponed triennial election ” means the postponed triennial election of aldermen which, by the Sydney Corporation (Amendment) Act, 1933, is directed to be held upon a day (not being later than the thirtieth day of June in the year one thousand nine hundred and thirty-four) to be appointed by the Governor and notified by proclamation published in the Gazette.

Interpretation.

DIVISION 2.—*Aldermen.*

4. (1) Each alderman elected at the postponed triennial election shall, subject to the Principal Act, continue in office until the next following triennial election of aldermen which shall be held on the first day of December, in the year one thousand nine hundred and thirty-six, or until the occurrence of an extraordinary vacancy in his office, whichever happens first.

Aldermen elected at postponed triennial election.

He shall, if otherwise qualified, be eligible to be re-elected at such general election or at an election to fill any such extraordinary vacancy.

(2) The Principal Act is amended by omitting from section nineteen the words "one thousand nine hundred and thirty-three," and by inserting in lieu thereof the words "one thousand nine hundred and thirty-six."

Amendment of Act No. 58, 1932, s. 19.

DIVISION 3.—*Lord Mayor.*

5. (1) The aldermen elected at the postponed triennial election shall, on the ninth day after the date of such election, assemble at the Town Hall for the purpose of electing one of their own number to be Lord Mayor of the city.

Election of Lord Mayor.

The Lord Mayor so elected shall enter into office on the sixteenth day after the date of the postponed triennial election, and shall, subject to the Principal Act, continue in office until the thirty-first day of December, in the year one thousand nine hundred and thirty-four, and shall be eligible for re-election if still qualified.

The Lord Mayor in office immediately before the date of the postponed triennial election shall hold such office until the sixteenth day after such date, and shall be eligible for re-election if still qualified.

The rules set out in the Thirty-third Schedule to the Principal Act (as inserted by paragraph (b) of section fourteen of this Act) shall apply to and in respect of the election of a Lord Mayor under this section.

(2) If the aldermen fail to elect a Lord Mayor in pursuance of subsection one of this section, the Governor may appoint one of the aldermen to be the Lord Mayor and to hold office until the thirty-first day of December, in the year one thousand nine hundred and thirty-four.

DIVISION 3.—*Rolls for postponed elections.*

6. (1) Lists and rolls of citizens for use at the postponed triennial election shall be made in the manner provided by the Principal Act, as amended by this Act.

Time for making lists and rolls of citizens.

(2) The times at, during, and within which the several matters and the courts hereinafter mentioned may  
or

or shall be performed or held for the purpose of making such lists and rolls shall, in lieu of those mentioned in the Principal Act, be as follows:—

- (a) The date on or before which the collectors shall be appointed as provided in subsection one of section ten shall be the            day of one thousand nine hundred and            .
- (b) The time during which the collectors shall make out lists of citizens entitled to be enrolled as provided in subsection one of section eleven shall be the months of            and            , one thousand nine hundred and            .
- (c) The lists of citizens shall be exhibited in the manner prescribed in section twelve from the            day of            , one thousand nine hundred and            to the            day of            , one thousand nine hundred and            , both days inclusive.
- (d) Notices of claim or objection under section thirteen may be made at any time from the            day of            , one thousand nine hundred and            , to the            day of            , one thousand nine hundred and            , both days inclusive, and the duties to be performed under subsection two of the said section shall be performed as soon as possible after the said            day of            .
- (e) The revision courts to be held under section fourteen shall be held during the month of            , one thousand nine hundred and            .

(3) For the purposes of the postponed triennial election and of the making of lists and rolls of citizens for use thereat, section nine of the Principal Act shall be read as if the words "the first day of May of the year in which a roll is to be prepared as hereinafter provided" wherever occurring were omitted and the words "the            day of            in the year one thousand nine hundred and            " were inserted in lieu thereof.

(4)

(4) The rolls of citizens made in accordance with the provisions of this section shall be deemed to be rolls of citizens for all purposes made under the provisions of Part IV of the Principal Act, as amended by this Act.

PART III.

LISTS AND ROLLS OF CITIZENS AND RATEPAYERS.

DIVISION 1—Citizens.

7. The Principal Act is amended—

Amendment of Act No. 58, 1932.

(a) by omitting from subsection three of section nine the words "chamber magistrate of the Central Police Court" and by inserting in lieu thereof the words "town clerk";

Sec. 9. (Qualifications of citizens.)

(b) (i) by omitting from subsection five of the same section the words "chamber magistrate of the Central Police Court" and by inserting in lieu thereof the words "town clerk";

(ii) by omitting from the same subsection the words "chamber magistrate aforesaid" and by inserting in lieu thereof the words "town clerk";

(c) (i) by omitting from subsection one of section ten the words "stipendiary magistrates, and the acting and deputy stipendiary magistrates, of the Metropolitan Police District, or any three of such magistrates, shall appoint members of the police force as " and by inserting in lieu thereof the words " council shall appoint ";

Sec. 10. (Appointment of collectors.)

(ii) by omitting from the same subsection the words "Central Police Court" and by inserting in lieu thereof the words "Town Hall";

(iii) by omitting subsection two of the same section;

(d)

(d) (i) by omitting from paragraph (a) of subsection one of section eleven the words " chamber magistrate of the Central Police Court " and by inserting in lieu thereof the words " town clerk "; Sec. 11.  
(Collectors to make out list.)

(ii) by omitting paragraph (b) of the same subsection, including the words "Such sum shall be carried to the Consolidated Revenue Fund";

(iii) by omitting from subsection two of the same section the words "said chamber magistrate" and by inserting in lieu thereof the words "town clerk";

(iv) by omitting from subsection three of the same section the words "procure a copy of such list and cause it" and by inserting in lieu thereof the words "also cause a copy of such list";

(e) by omitting from section twelve the words " chamber magistrate " and by inserting in lieu thereof the words "town clerk"; Sec. 12.  
(Lists exhibited.)

(f) (i) by omitting from subsection one of section thirteen the words "chamber magistrate of the Central Police Court" and by inserting in lieu thereof the words "town clerk"; Sec. 13.  
(Notices of claims and objections.)

(ii) by omitting from subsection two of the same section the words "said chamber magistrate" and by inserting in lieu thereof the words "town clerk";

(g) by inserting next after subsection two of section fourteen the following new subsection:— Sec. 14.  
(Revision courts to be held.)

(3) The stipendiary magistrates, and the acting and deputy stipendiary magistrates, of the Metropolitan Police District, or any three of such magistrates, shall appoint clerks of the revision courts to be held for that year under this Act.

(h)

- (h) by omitting from subsection one of section fifteen the words "chamber magistrate of the Central Police Court" and by inserting in lieu thereof the words "town clerk"; Sec. 15.  
(Procedure at revision courts.)
- (i) by omitting from the Sixth Schedule the words "chamber magistrate of the Central Police Court," and by inserting in lieu thereof the words "town clerk, Town Hall, Sydney"; Sixth Schedule.
- (j) by omitting from the Seventh Schedule the words "chamber magistrate of the Central Police Court," and by inserting in lieu thereof the words "town clerk, Town Hall, Sydney." Seventh Schedule.

DIVISION 2.—Ratepayers.

8. The Principal Act is further amended by inserting next after Part IV the following new Part:— Further amendment of Act No. 58, 1932.

PART IVA.

ROLLS OF RATEPAYERS.

- 18A. A person shall be entitled to be enrolled and to vote as a ratepayer if— Qualification of ratepayer.  
cf. L.G. Act, s. 79.
- (a) he is enrolled on the citizens' roll; and
  - (b) his enrolment on that roll is as owner or as occupier, if he is liable for or has contracted with the owner to pay the rates, or as lessee of lands owned by the Crown, or as lessee for private purposes of lands vested in the Railway Commissioners for New South Wales, or as tenant of lands vested in the Sydney Harbour Trust Commissioners; and
  - (c) he retains the qualification under which he was enrolled on that roll.

18B. (1) When lists of citizens are being prepared the Town Clerk shall include in the entry of the name and other particulars of each person entitled to be enrolled as a ratepayer the word "ratepayer." Roll of ratepayers.  
Ibid. s. 80.

(2)



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

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

PART IV.

FRANCHISE.

DIVISION 1.—*Alteration of qualification as occupier or lodger.*

9. The Principal Act is further amended—

Further Amendment of Act No. 58, 1932. Sec. 9 (1) (b). (Occupiers.)

(a) by omitting from paragraph (b) of subsection one of section nine the words "ten pounds" and by inserting in lieu thereof the words "thirty pounds."

(b) (i) by omitting from paragraph (c) of subsection one of section nine the words "six months" and by inserting in lieu thereof the words "twelve months";

(ii) by omitting from the same paragraph the words "of ten pounds or upwards" and by inserting in lieu thereof the words "unfurnished of thirty pounds or upwards";

(iii) by inserting at the end of the same paragraph the following words:—

"Lodgings" for the purpose of this paragraph means lodgings whether furnished or unfurnished and whether the amount paid or agreed to be paid to the proprietor of the lodgings does or does not include payment for any board supplied to the lodger.

The

The clear yearly value unfurnished of lodgings shall be ascertained as follows:—

- (i) Where the lodgings are unfurnished and the payment therefor does not include payment for any board, the clear yearly value unfurnished of the lodgings shall be the amount paid or agreed to be paid for the lodgings, calculated on a yearly basis;
- (ii) where the lodgings are furnished and the payment therefor does not include payment for any board, the clear yearly value unfurnished shall be four-fifths of the amount paid or agreed to be paid for the furnished lodgings, calculated on a yearly basis;
- (iii) where the lodgings are either furnished or unfurnished and the payment therefor includes payment for partial board, the clear yearly value unfurnished of the lodgings shall be three-fifths of the amount paid or agreed to be paid for the lodging and partial board calculated on a yearly basis;
- (iv) where the lodgings are either furnished or unfurnished and the payment therefor includes payment for full board, the clear yearly value unfurnished of the lodgings shall be two-fifths of the amount paid or agreed to be paid for the lodging and full board, calculated on a yearly basis;

- (c) (i) by omitting from subsection three of the same section the word "twenty" wherever occurring and by inserting in lieu thereof the word "sixty"; Sec. 9 (3).  
(Joint occupation.)
- (ii) by inserting in the same subsection after the words "clear yearly value" the word "unfurnished";

(iii)

- (iii) by omitting from the same subsection the word "ten" wherever occurring and by inserting in lieu thereof the word "thirty."

DIVISION 2.—*Declaration by lodger.*

10. The Principal Act is further amended—

Further amendment of Act No. 58, 1932.

- (a) by inserting next after paragraph (a) of subsection one of section eleven the following paragraph:—

Sec. 11.  
(Lodger's declaration.)

(a1) (i) A collector shall not enter the name of any person on the list as possessing the qualification referred to in paragraph (c) of subsection one of section nine of this Act unless such person delivers or causes to be delivered to the collector a declaration in or to the effect of the form prescribed in the Thirty-first Schedule to this Act, and unless the collector is satisfied, after such inquiries and investigations as he may think fit to make, that such person is qualified under by virtue of the said paragraph.

(ii) Each collector shall, when delivering the list to the town clerk, as provided in paragraph (a) of this subsection, deliver all declarations received by him under subparagraph (i) of this paragraph to the town clerk.

(iii) Any person who makes a wilfully false statement in any such declaration shall be liable upon summary conviction to a penalty not exceeding *ten* pounds.

- (b) by inserting next after the Thirtieth Schedule the following new Schedule:—

New Thirty-first Schedule.

THIRTY-FIRST SCHEDULE.

DECLARATION BY LODGER.

Sec. 11 (1)  
(a).

(c)

- (c) by inserting next after subsection one of section thirteen the following new subsection:—
- (1A) Every such notice given by or on behalf of a person who claims to have his name inserted in the list by virtue of the qualification referred to in paragraph (c) of subsection one of section nine shall be accompanied by the declaration referred to in paragraph (a1) of subsection one of section eleven of this Act.
- Any person who makes a wilfully false statement in any such declaration shall be liable upon summary conviction to a penalty not exceeding ten pounds.
- (d) by inserting at the end of subsection one of section fifteen the words "together with all declarations received by him in pursuance of paragraph (a1) of subsection one of section eleven, or subsection (1A) of section thirteen of this Act";
- (e) by inserting at the end of the Sixth Schedule the following additional foot-note:—

Sec. 13.  
(Lodger's  
declara-  
tion.)

Sec. 15.  
(Procedure  
at revision  
courts.)

Sixth  
Schedule..

NOTE.—Where the notice of claim is given by or on behalf of a person who claims to have his name inserted in the list as a lodger, the notice shall, in pursuance of subsection (1A) of the Sydney Corporation Act, 1932-1933, be accompanied by the declaration as to his qualification referred to in paragraph (a1) of subsection one of section eleven of that Act.

## PART V.

### ELECTION OF ALDERMEN.

#### DIVISION 1.—Nominations.

11. The Principal Act is further amended by omitting from subsection one of section twenty-eight the words "tenth day and until noon of the fifth day" and by inserting in lieu thereof the words "twentieth day and until noon of the fifteenth day."

Further  
amendment of  
Act No. 58,  
1932.  
Sec. 28.  
(Nomination  
of aldermen.)

DIVISION

*DIVISION 2.—Mode of voting and counting votes.*

**12.** The Principal Act is further amended—

Further  
amendment of  
Act No. 58,  
1932.

- (a) (i) by omitting subsection two of section thirty-five and by inserting in lieu thereof the following subsection:—

Sec. 35 (2).  
(Mode of  
voting.)

(2) Such citizen shall take such ballot-paper into an inner compartment, and there without delay record his vote on the ballot-paper, and shall then fold up such ballot-paper so as to conceal the names, and immediately put it into the ballot-box, and thereupon he shall at once quit such booth or room, and shall not re-enter the same during the election.

- (ii) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection:—

(4) A citizen shall record his vote on a ballot-paper as follows:—He shall vote for not less than the prescribed number of candidates by placing the figure “1” in the square opposite the name of the candidate for whom he votes as his first preference and by placing the figures “2,” “3,” “4” (and so on as the case requires) in the squares respectively opposite the names of so many other candidates as will, with the candidate for whom he votes as his first preference, complete the prescribed number.

The citizen may, in addition, indicate the order of his preference for as many more candidates as he pleases by placing in the squares respectively opposite their names other figures next in numerical order after the figures already placed by him on the ballot-paper.

In

In this subsection "the prescribed number means a number equal to twice the number of the candidates to be elected, plus one, or, if there are fewer candidates than that number, the total number of candidates.

- (b) by omitting from section thirty-eight the words Sec. 38.  
 "place a cross opposite the name of any person (Blind or illiterate citizens.)  
 nominated upon such ballot-paper for whom the citizen shall declare his intention to vote" and by inserting in lieu thereof the words "mark the ballot-paper according to the instruction of such citizen";
- (c) (i) by inserting in subsection one of section forty Sec. 40.  
 after the word "ballot-papers" the words (Scrutiny.)  
 "including postal ballot-papers received up to the close of the poll";  
 (ii) by inserting after the same subsection the following new subsection:—  
 (1A) The method of counting the votes to Mode of counting.  
 ascertain the result of the election shall be as prescribed in the Thirty-second Schedule to this Act.
- (iii) by omitting from subsection two of the same section the word "second" and by inserting in lieu thereof the word "fourth";
- (d) by omitting from section forty-three the words Sec. 43.  
 "fourteen days" and by inserting in lieu thereof (Extra-ordinary vacancy.)  
 the words "one month";
- (e) by omitting section forty-six and by inserting in Sec. 46.  
 lieu thereof the following sections:— (Returning Officers' casting vote.)

46. (1) A ballot-paper shall be informal and shall be rejected at the count, if—
- (a) it is not authenticated by the initials required by subsection one of section thirty-five of this Act;
  - (b) the figure "1" standing alone indicating a first preference for some candidate is not placed on the ballot-paper; or
  - (c)
- Informal ballot-papers. cf. C'with. Electoral Act, 1918-1928, s. 133.

- (c) the figure " 1 " standing alone indicating a first preference is placed opposite the name of more than one candidate; or
- (d) it has upon it any mark or writing by which in the opinion of the returning officer the voter can be identified; or
- (e) 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 so many other candidates as will, with the candidate for whom he votes as his first preference, be equal in number to the prescribed number as defined in subsection four of section thirty-five of this Act.

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

(3) Notwithstanding anything to the contrary in this Act at any election at which only one alderman is to be elected, and at which there are not more than two candidates, a ballot-paper shall not be informal by reason only of the fact that the voter has indicated his vote by placing in one square the figure "1" or a cross, and by leaving the other square blank, and in that case the cross shall be deemed to be equivalent to the figure "1."

46A. The returning officer or a presiding officer or poll clerk shall not place upon any ballot-paper any mark or writing which would enable any person to identify the voter by whom it is used.

Identification of voter. C'wlth Electoral Act, 1918-1928, s. 134.

Any person who contravenes any of the provisions of this section shall be liable to a penalty not exceeding *ten* pounds.

(f)

(f) by inserting next after section fifty-nine the following new section:—

59A. The town clerk shall report to the Minister within seven days the occurrence of a vacancy in the office of alderman or in the office of Lord Mayor, and shall similarly report the election or appointment of a person to fill such vacancy and the name of such person.

New s. 59A.

Minister to be informed of elections.

(g) by omitting the Ninth Schedule and by inserting in lieu thereof the following Schedule:—

Ninth Schedule.

NINTH SCHEDULE.

Secs. 32, 35. cf. C'with Electoral Act, 1918-1928, Schedule Form E.

BALLOT-PAPER.

ELECTION of Aldermen (or an Alderman) on the day of 19 .

For Ward of the City of Sydney:

List of Candidates for Election.

Names. Addresses.

Four empty square boxes for marking votes.

The number of aldermen to be elected is .

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] 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.

(h)



(h) by inserting after the Thirty-first Schedule (as inserted by paragraph (b) of section nine of this Act) the following new Schedule:—

New Thirty-second Schedule.

THIRTY-SECOND SCHEDULE.

Sec. 40.

METHOD OF COUNTING VOTES.

Division 1.

Where one alderman only is to be elected at an election in any ward, the votes shall be counted and the result of the election ascertained by the returning officer, or under his direction and supervision, in accordance with the following provisions:—

- (a) The unrejected ballot-papers shall be arranged under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate.
- (b) The total number of first preferences given for each candidate on such ballot-papers shall then be counted.
- (c) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.
- (d) If no candidate has received an absolute majority of first preference votes a second count shall be made.
- (e) On the second count the candidate who has received the fewest first preference votes shall be excluded, and each unexhausted ballot-paper counted to him shall be counted to the candidate next in the order of the voter's preference.
- (f) If a candidate then has an absolute majority of votes he shall be declared elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his unexhausted ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated until one candidate has received an absolute majority of votes.
- (g) The candidate who has received an absolute majority of votes shall be declared elected.

Division

*Division 2.*

Where two aldermen are to be elected at an election in any ward, the votes shall be counted and the result of the election ascertained by the returning officer or under his direction and supervision, in accordance with the following provisions:—

- (a) One of the candidates shall be elected in accordance with the provisions of Division 1 of this Schedule.
- (b) All the unrejected ballot-papers shall be rearranged under the names of the respective candidates in accordance with the first preference indicated thereon, except that each ballot-paper on which a first preference for the elected candidate is indicated shall be placed in the parcel of the candidate next in the order of the voter's preference.
- (c) The number of ballot-papers in the parcel of each candidate shall then be counted and the total number of votes so counted to each candidate shall be ascertained.
- (d) If a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the count shall proceed as provided in paragraphs (d) (e) and (f) of Division 1 of this Schedule, until one candidate has received an absolute majority of votes:

Provided that in the application of paragraphs (d) and (e) of Division 1 of this Schedule, any reference to first preference votes shall be read as a reference to all the votes counted to a candidate in pursuance of this Division.

- (e) The candidate who has received an absolute majority of votes shall be elected.

*Division 3.*

Where three aldermen are to be elected at an election in any ward two of the candidates shall be elected in accordance with the provisions of Division 1 and Division 2 of this Schedule.

A third candidate shall be elected in the manner provided in Division 2 of this Schedule as regards the election of the second candidate: Provided that a ballot-paper on which a first preference for any elected candidate is marked shall be placed in the parcel of the continuing candidate next in the order of the voter's preference.

*Division*

*Division 4.*

1. In the process of counting under Division 1 or Division 2 or Division 3, as the case may be, of this Schedule, exhausted ballot-papers shall be set aside as finally dealt with and shall thenceforth not be taken into account in the election of a candidate under that particular Division.

2. (a) When a candidate is elected or excluded, each ballot-paper counted to him shall be deemed to be exhausted if there is not indicated upon it a next preference for one continuing candidate.

(b) "Next preference" in paragraph (a) of this rule includes the first of the subsequent preferences marked on the ballot-paper which is not given to an elected or excluded candidate: Provided that where there is a break in the consecutive numbering of preferences marked on a ballot-paper (other than a break necessitating the rejection of the ballot-paper as informal in pursuance of paragraph (e) of subsection one of section forty-six of this Act), only those preferences preceding the break shall be taken into account.

3. (a) If on any count two or more candidates have an equal number of votes, and one of them has to be excluded, the returning officer shall determine by lot between them which of them shall be excluded.

(b) If in the final count for the election of a candidate, two candidates have an equal number of votes, the returning officer shall decide by his casting vote which shall be elected; but except as provided in this paragraph he shall not vote at the election.

4. In this schedule—

"Continuing candidate" means a candidate not already elected or excluded from the count.

"An absolute majority of votes" means a greater number than one-half of the whole number of ballot-papers other than informal and exhausted ballot-papers. The casting vote of the returning officer given in pursuance of paragraph (b) of Rule 3 of this Division of this Schedule shall be included in reckoning an absolute majority of votes.

"Unrejected ballot-papers" means all ballot-papers not rejected as informal.

"Determine

“Determine by lot” means determined in accordance with the following directions:—

The names of the candidates concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification, and mixed and drawn at random, the candidate or candidates shall, for the purpose of exclusion from the count, be excluded in the order in which their names are drawn.

DIVISION 3.—Postal Voting.

13. The Principal Act is further amended—

Further amendment of Act No. 58, 1932.

Sec. 36.

(a) by omitting section thirty-six and by inserting in lieu thereof the following section:—

36. (1) Any citizen who

Postal voting.

(a) does not reside within the city; or

(b) though he resides within the city will not throughout the hours of voting at the election be within five miles by the nearest practicable route of the polling-booth; or

(c) though he resides within the city is seriously ill or infirm and by reason of such illness or infirmity will be precluded from attending at the polling-booth to vote, or in the case of a woman will, by approaching maternity, be precluded from attending at the polling-booth to vote,

may make application to the returning officer for a postal vote certificate and postal ballot-paper for the purpose of enabling him to vote by post at an election in any ward provided that he has not already made an application under this section in respect of the same election in that ward.

(2) The provisions of the Parliamentary Electorates and Elections Act, 1912-1929, relating to voting by post shall, mutatis mutandis, and

and with such alterations, additions, or omissions as may be prescribed by the by-laws, apply to and in respect of voting by post under this Act.

(3) The Governor may by proclamation published in the Gazette set out the provisions of the Parliamentary Electorates and Elections Act, 1912-1929, relating to voting by post, with such alterations, additions, or omissions as may be prescribed by the by-laws or as he may think necessary or convenient to adapt such provisions to the purposes of voting by post under this Act.

The provisions so proclaimed shall—

- (a) be set out in the form of a Schedule to be inserted in this Act;
- (b) be thereafter printed by the Government Printer as a Schedule to this Act in any reprint thereof; and
- (c) have the same force and effect as if the Schedule had been originally inserted in this Act, and as if subsection two of this section had referred to the Schedule as setting out the true and full meaning of the application of the Parliamentary Electorates and Elections Act, 1912-1929, to and in respect of voting by post under this Act.

Any proclamation under this subsection may from time to time be amended or be rescinded and substituted by a like proclamation, and a reference in this subsection to a proclamation shall be construed as a reference to the proclamation as amended, or the substituted proclamation, as the case may require.

(4) A reference in this section to the provisions of the Parliamentary Electorates and Elections Act, 1912-1929, relating to voting by post

post shall, if such provisions are amended or replaced, be construed as a reference to such provisions as so amended or replaced.

- (b) by omitting the Tenth Schedule.

Tenth Schedule.

PART VI.

ELECTION OF LORD MAYOR.

14. The Principal Act is further amended—

Further amendment of Act No. 58, 1932.

- (a) by omitting from subsection one of section twenty the words " The person who at the date of the commencement of this Act holds the office of Lord Mayor shall continue to hold such office until the thirty-first day of December, one thousand nine hundred and thirty-two, and shall be eligible for re-election if still qualified," and by inserting in lieu thereof the words " The rules set out in the Thirty-third Schedule to this Act shall apply to and in respect of any election of a Lord Mayor."

Sec. 20. (Election of Lord Mayor.)

- (b) by inserting next after the Thirty-second Schedule (as inserted by paragraph (f) of section eleven of this Act) the following new Schedule:—

New Thirty-third Schedule.

THIRTY-THIRD SCHEDULE.

Sec. 20.

ELECTION OF LORD MAYOR.

DIVISION 1.—*Nomination and Voting.*

1. The town clerk or deputy town clerk shall be the returning officer for the election.

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

(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.

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

4. If more candidates than one are duly nominated, an election by secret ballot shall be held.

5. (a) The returning officer shall prepare or cause to be prepared a sufficient number of ballot-papers for use at the election.

(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.

(c) The returning officer shall, in the presence of the aldermen assembled, deliver one and not more than one ballot-paper to each alderman present.

6. Each alderman shall mark his vote on the ballot-paper in the manner prescribed by rule eight of this Division of this Schedule; he shall then fold up the ballot-paper so as to conceal the names of the candidates and deliver it to the returning officer.

7. An alderman present at the assembly shall not leave the same before the completion of the election and the declaration of the result unless with the consent of the majority of the aldermen present.

8. 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, so as to indicate by numerical sequence the order of his preference for them.

A ballot-paper shall be informal if the voter has failed to indicate his preference in respect of the name of any candidate.

*DIVISION 2.—Counting of Votes.*

1. The returning officer shall examine the ballot-papers delivered to him, and shall reject all informal ballot-papers.

2. The returning officer shall proceed to count, in accordance with the rules in this Division of this Schedule, the votes recorded on the valid ballot-papers.

3. The returning officer shall count the total number of first preferences recorded on the valid ballot-papers for each candidate.

4.

4. The returning officer shall then arrange the candidates on a list (in this Division of this Schedule referred to as "the order of preferences") in the order of the number of first preferences recorded for each candidate, beginning with the candidate for whom the greatest number of first preferences is recorded.

The order of preference.

If the number of first preferences recorded for any two or more candidates (in this Division of this Schedule referred to as "equal candidates") is equal, the returning officer shall ascertain the number of second preferences recorded on all the ballot-papers for each of the equal candidates, and shall arrange the equal candidates as amongst themselves on the order of preferences in the order of the second preferences recorded for each such candidate, beginning with the candidate for whom the greatest number of second preferences is recorded.

If the number of first and second preferences recorded for any two or more equal candidates is equal, the returning officer shall, in like manner, ascertain the number of third preferences recorded on all the ballot-papers for each of such last-mentioned equal candidates and arrange such candidates on the order of preferences accordingly, and so on until all the candidates are arranged in order on the order of preferences.

If the number of first, second, third, and all other preferences recorded for any two or more equal candidates is equal, the returning officer shall determine by lot the order in which such candidates are to be arranged on the order of preferences.

5. The candidate who, as a result of the count referred to in rule three of this Division of this Schedule has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected. And in such a case it shall not be necessary for the returning officer to arrange the candidates on the order of preference as required by rule four of this Division of this Schedule.

6. If no candidate has received an absolute majority of first preference votes, the returning officer shall make a second count.

7. On the second count the candidate who has received the fewest number of first preference votes shall be excluded, and each ballot-paper counted to him shall be counted to the candidate next in the order of the voter's preference.

8. If a candidate then has an absolute majority of votes he shall be declared elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his



his ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated by the returning officer until one candidate has received an absolute majority of votes.

9. The candidate who has received an absolute majority of votes shall be elected.

10. Where as the result of the counting two candidates only remain unexcluded, and each of such candidates is credited with an equal number of votes, one of such candidates shall be excluded in accordance with rule eleven of this Division of this Schedule, and the unexcluded candidate shall be elected.

11. (a) Where a candidate has to be excluded at any count and two or more candidates have an equal number of votes, such number being the fewest, regard shall be had to the total number of original votes credited to each of those candidates, and the candidate with the fewest such total number shall be excluded.

(b) Where such total numbers of original votes are equal, regard shall be had to the total number of votes credited to each of those candidates at the earliest count at which they had an unequal number of votes, and the candidate with the fewest such total number at that count shall be excluded.

(c) Where those candidates had an equal number of votes at all counts, that one of those candidates who is lowest on the order of preferences shall be excluded.

12. In this Division of this Schedule the expression "an absolute majority of votes" means a greater number than one half of the whole number of ballot-papers counted.

The expression "continuing candidate" means a candidate not already excluded at the count.

The expression "original vote" in regard to any candidate means a vote derived from a ballot-paper on which a first preference is recorded for that candidate.

The expression "determine by lot" means determine in accordance with the following directions, that is to say, the names of the candidates concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification and mixed and drawn at random, the candidates concerned shall as amongst themselves be arranged on the order of preferences in the order in which the slips containing their names are drawn, beginning with the candidate whose name is on the slip drawn first.

PART VII.

FURTHER AMENDMENTS OF SYDNEY CORPORATION ACT, 1932.

15. The Principal Act is further amended—

Further amendment of Act No. 58, 1932.

- (a) by omitting section one hundred and ten and by inserting in lieu thereof the following section:—  
Sec. 110.  
(Penalty for blasting.)

110. Any person who uses, or causes to be used, explosives for blasting purposes within the city without having a written license therefor under the hand of the city surveyor shall, for every such offence, be liable to a penalty not exceeding *ten* pounds nor less than *one* pound.

Penalty for blasting without license.

- (b) (i) by omitting from subsection two of section one hundred and twenty-two the words "one hundred and nineteen" and by inserting in lieu thereof the words "one hundred and twenty-one";  
Sec. 122.  
(Correc-  
tion.)

- (ii) by omitting from subsection four of the same section the words "one hundred and nineteen" and by inserting in lieu thereof the words "one hundred and twenty-one";

- (c) by omitting from section one hundred and forty-three the words "two hundred and eighty-three" and by inserting in lieu thereof the words "two hundred and eighty-five";  
Sec. 143.  
(Correc-  
tion.)

- (d) by omitting from section two hundred and forty-eight the word "four" and by inserting in lieu thereof the word "two";  
Sec. 248.  
(Notices.)

- (e) by inserting at the end of subsection two of section two hundred and sixty-three the following words "The council may by any such by-laws fix a minimum as well as a maximum penalty";  
Sec. 263.  
(By-laws.)

- (f) by omitting from clause three of the Twenty-first Schedule the word "four" wherever occurring and by inserting in lieu thereof the word "five";  
Twenty-first  
Schedule.

(g)

(g) by inserting next after Part V the following new part:— New Part VA.

PART VA.

POLLS OF ELECTORS AND/OR RATEPAYERS.

59A. (1) The council may for its information and guidance on any matter under this or any other Act take a poll of electors or ratepayers as it thinks appropriate. Optional polls.  
cf. L.G. Act, 1919, s. 81.  
Ibid. s. 83.

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

59B. Where the council is required by this Act to take a poll of ratepayers, the decision shall be in accordance with the majority of the votes cast: Provided that in the case of the votes being equal the question shall be undetermined, and that if the decision of the poll is against the proposal voted upon, the same question or one substantially the same shall not be again submitted to a poll for a period of at least one year. Compulsory polls.

- (h) (i) by inserting in subsection one of section seventy-five after the word " extend " the word " close "; Public ways vested in council.
- (ii) by omitting from subsection two of the same section the words " or extended " and by inserting the words " extended or closed " in lieu thereof;
- (iii) by inserting at the end of the same section the following new subsections:— cf. Ibid. s. 232.

(3) Except where otherwise expressly provided, every public way, and the soil thereof, and all materials of which the public way is composed, shall by virtue of this Act vest in fee-simple in the council, and

and the council, if it so desires, shall by virtue of this Act be entitled to be registered as the proprietor of the public way under the provisions of the Real Property Act, 1900.

(4) The vesting in fee-simple under this section shall be deemed to be not merely as regards so much of the soil below and of the air above as may be necessary for the ordinary use of the public way as a public way, but so as to confer on the council, subject to the provisions of this Act, the same estate and rights in and with respect to the site of the public way as a private person would have if he were entitled to the site as private land held in fee-simple with full rights both as to the soil below and to the air above.

(5) Unless otherwise expressly provided nothing in this section shall be deemed—

- (a) to affect any express or implied dedication to the public;
- (b) to affect any existing right of the Crown or of any person in respect of any easement or under the provisions of any Act, except in so far as the council is authorised by or under this Act to control and regulate the digging up of public ways;
- (c) to affect any right of the Crown or of any person in respect of any minerals below the surface of any public way;
- (d) to authorise the council to grant, demise, dispose of, or alienate the public way or the soil or materials thereof;
- (e) to impose on the council any liability in respect of any dividing fence under the Dividing Fences Act, 1902, or any liability.

liability in any case where the council would not be subject to the liability if this Act conferred on the council the care, control, and management of the public way and did not vest the public way in fee-simple in the council; and

(f) to prevent any land from being considered as adjoining within the meaning of section one hundred and twenty-four of the Public Works Act, 1912.

(6) This section shall bind the Crown.

(i) (i) by omitting the second paragraph of subsection five of section seventy-eight and by inserting the following paragraph in lieu thereof:—

Sec. 78.  
(Re-align-  
ment.)

Such value and damage shall be ascertained and such compensation shall be payable in the case of vacant land as at the date when notice is served upon the owner of the land affected and in all other cases as at the date when such land is cleared of buildings and obstructions by the owner or lessee whether for the purpose of rebuilding to the new alignment or not, and subject to the provisions of this section from the date when such value and damage shall be payable the land shall vest in the council for a public way.

(ii) by inserting at the end of subsection eight of the same section after the word "re-alignment," the words " and in either event the re-alignment of the public way shall upon completion of such purchase or resumption be deemed to be annulled and of no further effect as regards the said land ";

(j) by inserting next after section seventy-nine the following new section:—

Sec. 79.

79A. The council may without limitation of this or any other power conferred by this Act determine

Width and  
formation  
of streets.

determine what proportion of the width of a public way shall be devoted to carriageway, footway, tree-planting, gardens, grass plots, island refuges, public conveniences, street lamps, fountains, monuments, statues, and the like;

- (k) (i) by inserting in section eighty-six after the figures " 86 " the index number "(1)"; Sec. 86.  
(Paving of footways, etc.)
- (ii) by inserting at the end of the same section the following new subsection:—

(2) The council may repair or renew all such area lights, rainwater pipes, pipe connections, and other services of a like nature situated under or set in any footway as now or hereafter may require to be repaired or renewed. The expenses of such repair or renewal shall be repaid to the council by the owner of the premises, and if not so repaid may be recovered in the same way as any city rate.

- (l) by omitting from subsection ten of section one hundred and eighteen the words " not exceeding six per centum " and by inserting in lieu thereof the words " not less than five per centum "; Sec. 118.  
(Assessment of lands, houses, etc.)

- (m) by inserting in subsection three of section one hundred and twenty-two after the word " newspapers " the words " and shall be given to the appellant "; Sec. 122.  
(Hearing of appeal.)

[NOTE.—Section 122 is already amended in this Part.]

- (n) by inserting in subsection two of section one hundred and twenty-three after the words " previous assessment " the following words: " or any land or property which has ceased to be ratable since the date of such assessment "; Sec. 123.  
(Confirmation of assessment books.)

- (o) (i) by omitting from section one hundred and thirty-eight paragraphs (ii) and (iii); Sec. 138.  
(Rate on unimproved capital value.)
- (ii)

(ii) by omitting the definitions of "unimproved capital value" and "owner" in the same section and by inserting the following definition in lieu thereof:—

"Unimproved capital value" has the meaning given to "unimproved value" in the Valuation Act, 1916, as amended by subsequent Acts.

(p) by inserting in section one hundred and forty-four after the words "change of ownership" the following words:—"or where land which was ratable when the valuation was made ceases to be ratable";

Sec. 144.  
(Alteration of valuations.)

(q) by omitting paragraph (f) of subsection one of section two hundred and thirty-four and by inserting in lieu thereof the following paragraph:—

Sec. 234.  
(Various further powers.)

(f) control and regulate or prohibit the erection of stables on premises and license such stables.

16. The Principal Act is further amended—

Further amendment of Act No. 58, 1932.

(a) (i) by omitting subsection one of section two hundred and forty-one and by inserting the following subsections in lieu thereof:—

Sec. 241.  
(Audit of accounts.)

(1) All accounts aforesaid with all vouchers and papers relating thereto shall, in the months of July and January in every year, be submitted to the Auditor-General and shall by him be examined and audited.

cf. Metrop. W.S. & D. Act, 1912, s. 112; L.G. Act, 1919, s. 211.

(1A) If found to be correct the Auditor-General shall so certify and sign the said accounts.

(1B) The Auditor-General shall have in respect of such accounts all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts as well as all powers conferred on him by this Act.

(1c)

(1c) The Auditor-General shall report to the board and the Minister—

- (a) whether or not in his opinion —
  - (i) due provision has been made for the repayment of loans; and
  - (ii) the value of assets has (so far as he can judge) been in all cases fairly stated; and
  - (iii) due diligence and care have been shown in the collection and banking of income; and
  - (iv) the expenditure incurred has been duly authorised, vouched, and supervised; and
  - (v) proper account has been kept of plant, stores, and materials; and
  - (vi) any of the moneys or other property of the board have been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed by the regulations.

(ii) by omitting from subsection four of the same section the words “ the amount payable by the Crown in respect of the salaries of the auditors of public accounts above referred to ” and by inserting the following words in lieu thereof:—“ defraying the cost and expenses of such audit ”;

(b) (i) by inserting at the commencement of subsection one of section two hundred and forty-three the words “ subject to the approval of the Governor first had and obtained ”; Amendment of s. 243. (Loans.)

(ii) by inserting next after subsection one of the same section the following new subsections:—

(1A) Before applying for the approval of the Governor under subsection one of this section, cf. L.G. Act, 1919, s. 181.



section, the council shall notify reasonable particulars of the proposal in a newspaper and allow one month in which any number not less than ten per centum of the ratepayers may petition the council to take a poll of ratepayers as to whether the ratepayers approve of the loan.

(1B) If a formal petition is lodged within the prescribed time the council shall forthwith arrange for and take a poll of the ratepayers of the area.

(1c) If the decision of the poll is against the proposal it shall not be submitted to the Governor for his approval.

(1D) If the decision of the poll is in favour of the proposal, or if a petition asking for a poll (as to whether the ratepayers approve of the loan) is not duly lodged, the proposal shall be submitted to the Governor through the Minister.

(1E) The proposal so submitted shall contain particulars showing—

- (a) the purpose of the loan;
- (b) the amount of the loan and the rate of interest thereon;
- (c) the terms of repayment of the loan (including the scheme, if any, for repayment by instalments);
- (d) the total number of ratepayers on the roll for the area.

(1F) The Minister shall cause a report to be made on the proposal by such person as he may appoint.

(1G) The Minister may recommend the council to alter the proposal, and if the council adopt the recommendation, the altered proposal shall be substituted for that first submitted.

Where

Where the proposal has been so altered the council shall so notify the altered proposal unless the Minister certifies that the alteration is not of a substantial nature.

(1H) The Governor may, if satisfied that the provisions of this section have been complied with, approve of the proposal.

- (c) by inserting next after section two hundred and forty-five the following new section:—

245A. (1) The council may borrow by way of overdraft upon the credit of the corporation for any of the purposes of the council under this Act. Overdrafts. cf. L.G. Act, 1919, s. 174; L.G. Act, 1928 (Vic.), s. 435.

(2) The amount which may be so borrowed shall not exceed one-half the income of the corporation as shown in the last audited accounts.

(3) No greater sum shall be borrowed under this section than the amount stated in a certificate of the Auditor-General as being the amount which may be borrowed within the limits imposed by this section.

(4) The council may borrow and re-borrow from time to time within the limits provided by this section.

(5) A certificate purporting to be the certificate of the Auditor-General shall be conclusive as regards any lender that the amount mentioned therein may be lawfully borrowed and such certificate shall be operative as regards any lender until such lender shall receive a new certificate.

- (d) (i) by inserting in section two hundred and forty-nine after the figures "249" the index figure "(1)"; Sec. 249. (Vesting.)

- (ii) by inserting at the end of the same section new subsection two as follows:—

(2) No attornment by a lessee of any land vested in the council by this section shall be necessary.

(e)

(e) (i) by inserting in subsection one of section two hundred and fifty-five after the words " the said city " the following words:— Sec. 255.  
(Borrowing powers.)

“ The provisions of subsections .. to .. both inclusive of section two hundred and forty-three of this Act shall mutatis mutandis apply with respect to any such borrowing.”

(ii) by omitting from the same subsection the words "Any sums lawfully borrowed under this Act " and by inserting the words " Any sum lawfully borrowed for any of such purposes " in lieu thereof;

(iii) by omitting from paragraph (a) of the same section the words "under the provisions of this Act " and by inserting the words " under the provisions of this section " in lieu thereof;

(f) by inserting next after section two hundred and fifty-five the following new section:— New s. 255A.

255A. Subject to the provisions of this Act— Limit of borrowing.  
cf. L.G. Act, 1919, s. 184.

(a) the council shall not borrow under the provisions of section two hundred and fifty-five of this Act any moneys which, added to any other amounts then owing by the council in respect of loans under the said section or under section two hundred and forty-three or under any Act repealed by this Act exceed twenty per centum of the unimproved capital value of all ratable land in the city:

Provided that where the council satisfies the Governor that a net income will probably be or has already been derived from any loan work or service after making reasonable provision for the depreciation of the assets and payment of interest and instalments of repayment or reserve in respect of the loan,  
the

the Governor may direct that such loan or part thereof shall not be taken into account in calculating the council's limit of borrowing under this section.

*Alternative.*

(f) by inserting in subsection one of section two hundred and fifty-five—

Sec. 255.  
(Borrowing powers.)

(a) after the words " and issue of " the words " inscribed stock and ";

(b) (i) after the words " sale of " in paragraph (a) the words " inscribed stock and/or ";

(ii) before the word " debentures " where secondly and thirdly occurring in the same paragraph the words " inscribed stock or ";

(iii) after the words " Twenty-seventh Schedule " the words " (Part A) ";

(iv) at the end of the same paragraph the following words:—

“ The council shall, upon request in writing, issue a certificate in the form of the Twenty-seventh Schedule (Part B) hereto, of the proprietorship of the stock. The stock shall bear interest at a rate fixed by but not exceeding the rate approved by the Governor in respect of the particular borrowing, and the council may fix the price either at or below par at which such stock may be sold.”

(v) after paragraph (e) the following new paragraphs:—

(f) Inscribed stock shall be issued in multiples of twenty pounds with a minimum of one hundred pounds.

(g)

(g) Inscribed stock shall be transferable in the books of the council.

[New form on lines of Form 3 of Water Board Regulations (1926 vol. p. 207) to be included in 27th Schedule.]

(g) by inserting next after section two hundred and sixty the following new section:—

260A. (1) Notwithstanding the provisions of this or any other Act for securing repayment of the principal and interest on any moneys borrowed, the council may issue inscribed stock as prescribed by by-law. Inscribed stock, etc. cf. Act No. 50, 1924, s. 76.

(2) Inscribed stock shall be transferable in the books of the council in accordance with the by-laws.

(3) The due repayment of the inscribed stock and the interest thereon shall be a charge upon the income and revenue of the council.

(h) by inserting at the end of section two hundred and sixty-nine the following words and new paragraphs and subsections:—

“ and every such contract may be made, varied or discharged as follows (that is to say)—

(a) any contract which if made between private persons would be by law required to be in writing and under seal the council may make in writing and under the common seal of the council and in the same manner may vary or discharge the same. cf. L.G. Act, 1928 (Vic.), ss. 501-502; Local Authorities Act (Qld.), ss. 56 and 58.

(b) any contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith the council may make in writing signed by the Lord Mayor or any two aldermen acting by the

the direction and on behalf of the council and in the same manner may vary or discharge the same.

- (c) Any contract which if made between private persons would be by law valid although made by parole only and not reduced into writing the Lord Mayor or any two aldermen acting by the direction and on behalf of the council may make by parole only without writing and in the same manner may vary or discharge the same.

(2) All contracts made according to the provisions herein contained shall be effectual in law and shall be binding on the council and all other parties thereto, their successors, heirs, executors or administrators (as the case may be), and in case of default in the execution of any such contract either by the council or by any other party thereto such actions or suits may be maintained thereon and damages and costs recovered by or against the council or the other parties failing in the execution thereof as might have been maintained and recovered had the same contracts been made between private persons only.

(3) Except in cases of emergency before any contract for the execution of any work or the furnishing of any goods to the amount of one hundred pounds or upwards is entered into by the council, five clear days' notice at the least shall be given in some newspaper generally circulating in the neighbourhood expressing the purpose of such contract and inviting any person willing to undertake the same to make proposals for that purpose to the council. The council shall accept the proposal which on a view of all the circumstances appears to the council to be most advantageous, and shall take security for the due and faithful performance of every such contract or the council may decline to accept any such proposal.

Tenders to be called for by advertisement for contracts of £100 or over. cf. Local Government Act 1928 (Vic.), s. 502; Local Authorities Act (Qld.), s. 58.

(i)

(i) by inserting next after section two hundred and ninety-three the following new sections:— New s. 294.

294. (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the council or any member thereof, or any servant of the council or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the council or the member servant or person as provided in this section. Notice of action. cf. Sydney Harbour Trust Act, 1901, s. 26. cf. also No. 1197, s. 154 (Victoria). See s. 133 of C.T.W. & S. Act, 1880.

(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained;
- (c) the name and place of abode or business of the intended plaintiff and of his attorney (if any) in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the council shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money (if any) expended in repairing the same, shall be given to him. Representative of council to be permitted to inspect property injured.

(4) In the case of injury to the person any duly qualified medical practitioner, who produces on demand his authority from the council, shall be permitted to examine the person injured, and all facilities and information necessary to enable him to ascertain fully the nature and extent of the injury and the loss or expenses arising therefrom shall be given to him. Medical practitioner to be permitted to examine person injured.

(5) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in

296. Any matter or thing done and any contract entered into by the council and any matter or thing done by any member or servant of the council or by any person acting under the direction of the council shall not if the matter or thing was done or the contract was entered into bona fide in pursuance of and for the purpose of executing this Act and for and on behalf of the council subject them or any of them personally to any action liability claim or demand.

Members acting bona fide not personally liable.  
cf. No. 1197, s. 161 (Vic.).

297. Subject to the provisions of this or any other Act any penalty or any surcharge recoverable against the council or against any member or servant of the council may be sued for without notice by any person.

Suing for penalty.  
See s. 588 (2).

298. Any writ summons notice or document required to be served upon the council may be served by being given personally to the town or shire clerk.

Service.  
cf. No. 1893, s. 690 (Vic.).  
See also s. 627.

PART VIII.

AMENDMENTS OF VARIOUS ACTS.

17. (1) The Principal Act is further amended by inserting at the end of subsection two of section one hundred and eighteen the following words:—

Further amendment of Act No. 58, 1932, s. 118

In estimating the fair average annual value of any property occupied for the purpose of any trade, business, or manufacture, such property shall not include any machines, tools or other appliances which are not fixed to the property, or which are only so fixed that they may be removed from the property without interference with any part thereof.

(Rating.)

(2)



in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions (if any) as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(6) Every such action shall be commenced within six months next after the occurring of the cause of action and not afterwards.

Action to be commenced in six months.

(7) The council or any member servant or person to whom any such notice of action is given as aforesaid may tender amends to the plaintiff his attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

Amends. cf. 1197, s. 156 (Vic.).

(8) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

General issue. cf. Sydney Harbour Trust Act, 1901, s. 26. cf. Stage Carriages Act, 1899, s. 14 (1).

295. If any person commits any irregularity, trespass or other wrongful proceeding in the execution of this Act or by virtue of any power or authority given by or under this Act whereby any actionable damage is occasioned, and if before action brought in respect thereof such person makes tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action.

Amends tendered for trespass before action brought. cf. No. 1197, s. 155 (Vic.).

(2) The Valuation of Land Act, 1916, as amended by subsequent Acts, is amended—

Amendment of Valuation of Land Act, 1916.

(a) by inserting at the end of section fifty-nine the following new subsection:—

Sec. 59.

(2) For the purposes of this section in determining the improved value of premises occupied for trade, business, or manufacturing purposes, such premises shall not include any machines, tools, or other appliances which are not fixed to the premises or which are only so fixed that they may be removed from the premises without interference with any part thereof.

Improved value: machines, fixtures and fittings.

(b) by inserting at the end of section sixty the following new subsection:—

Sec. 60.

(2) For the purposes of this section in determining the assessed annual value of any premises occupied for trade, business, or manufacturing purposes, such premises shall not include any machines, tools, or other appliances which are not fixed to the premises or which are only so fixed that they may be removed from the premises without interference with any part thereof.

Assessed annual value: machines, fixtures and fittings.

(3) The Local Government Act, 1919, as amended by subsequent Acts, is amended—

Amendment of Act No. 41, 1919.

(a) by inserting at the end of section three of Schedule Three the following new proviso:—

Sch. III. Sec. 3.

Provided that for the purposes of fixing the improved capital value under this section of any premises occupied for trade, business, or manufacturing purposes, such premises shall not include any machines, tools, or other appliances which are not fixed to the premises or which are only so fixed that they may be removed from the premises without interference with any part thereof.

Improved value: machines, fixtures and fittings.

(b) by inserting at the end of section four of the same schedule the following new subsection:—

Sch. III. Sec. 4.

(2) For the purpose of fixing the assessed annual value under this section of any premises occupied

Assessed annual value: machines, fixtures and fittings.

occupied for any trade, business, or manufacturing purposes, such premises shall not include any machines, tools, or other appliances which are not fixed to the premises or which are only so fixed that they may be removed from the premises without interference with any part thereof.

18. (1) The Local Government Act, 1919, as amended by subsequent Acts, is further amended by inserting at the end of subsection two of section three hundred and seventy-three the following proviso:—

Further amendment of Act No. 41, 1919, s. 373 (2).  
(Sewerage works.)

Provided that any works of sewerage or works incidental thereto under this Part which are situated or are to be situated either wholly or in part outside the area of the council, may be constructed, managed and operated by the Minister for Public Works or the Council, as the case may require, notwithstanding the fact that the council of any area in which such works are situated or are to be situated either wholly or in part has not consented to such construction, management or operation.

(2) Subsection one of this section shall be deemed to have commenced upon the date of the commencement of the Local Government Act, 1919.

19. The Land and Valuation Court Act, 1921, is amended:—

Amendment of Act No. 10, 1921.

(a) by omitting from paragraph (d) of section eight the words "Sydney Corporation Act, 1902," and by inserting in lieu thereof the words "Sydney Corporation Act, 1932";

Sec. 8. (Correction.)

(b) by inserting in subsection one of section nine after the words "or any other Act" the words "including the Sydney Corporation Act, 1932, as amended by subsequent Acts."

Sec. 9.

20. (1) The Municipal Council of Sydney Electric Lighting Act, 1896-1928, is amended by inserting at the end of section twelve the following new subsection:—

Amendment of Sydney Electric Lighting Act, s. 12.

(2) The provisions of section one hundred and thirty-four of the Sydney Corporation Act, 1932, shall,

(Block lighting.)

shall, if the council pass a special resolution with regard thereto, apply to any locality in which the council has installed any special system of lighting.

(2) The Municipal Council of Sydney Electric Lighting Act, 1896-1928, is amended by omitting from section twenty-one thereof the words " or providing any person with electric lines, burners, meters, lamps and other fittings and things and for the repair thereof " and by inserting the words " and for the supply of meters."

Amendment  
of Act 60  
Vic. No. 23,  
s. 21.

(Electrical  
fittings, etc.)

