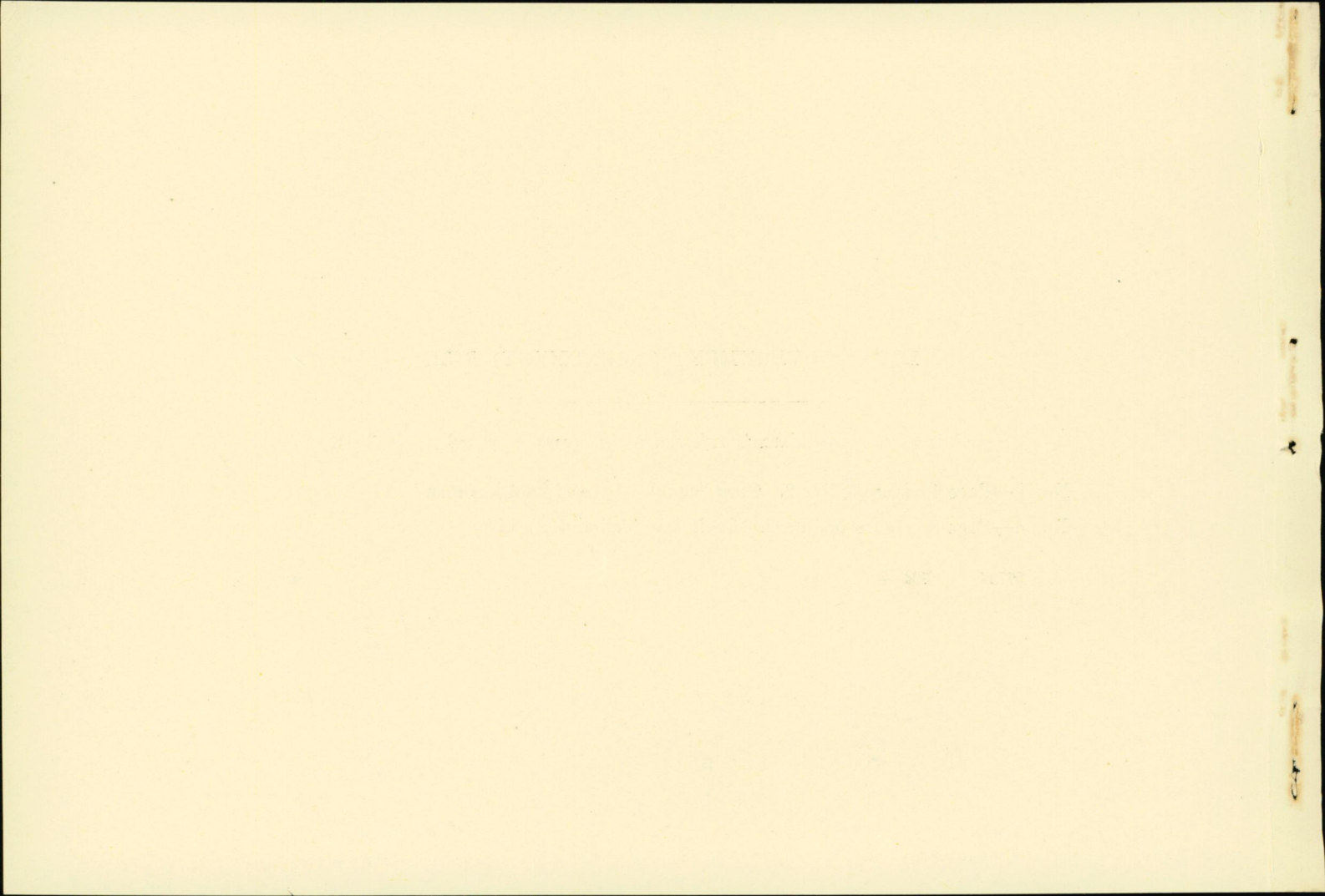


LOCAL GOVERNMENT (AMENDMENT) BILL.

Schedule of the Amendments referred to in Message of 3rd April, 1941.

No. 1.—Page 4, clause 5, line 2. *Omit* “equal to” *insert* “**not less than**”

No. 2.—Page 4, clause 5, line 5. *Omit* “subsection (2A) of”



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

W. R. McCOURT,
Clerk of the Legislative Assembly.

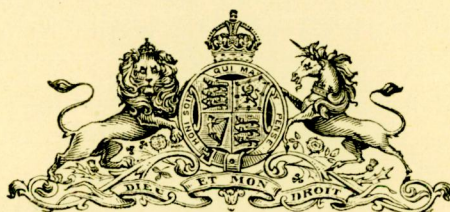
*Legislative Assembly Chamber,
Sydney, 27 March, 1941.*

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

W. K. CHARLTON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 3rd April, 1941.*

New South Wales.



ANNO QUINTO

GEORGII VI REGIS.

Act No. , 1941.

An Act to amend the Local Government Act, 1919, and certain other Acts in certain respects to validate certain matters; 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:—

5

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Local Government (Amendment) Act, 1941."

Short title and division into Parts.

67737 494—A

(2)

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

Local Government (Amendment).

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

5 PART III.—GENERAL.

PART II.

AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

2. (1) This Part shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts. Construction.

(2) The Local Government Act, 1919, as so amended, is in this Part referred to as the Principal Act.

3. The Principal Act is amended by inserting at the end of subsection two of section thirty-three the following words:— Amendment of Act No. 41, 1919. Sec. 33 (2).

In the application of this subsection to a person who at the date of his election or appointment is absent from the State on war service as defined in the Defence Act, 1903-1939, of the Parliament of the Commonwealth of Australia or who at the date is engaged in munitions works, Red Cross work or Australian Comforts Funds work abroad in connection with the Defence Force as defined in that Act, this subsection shall be read and construed as if the words "if such return is within sixty days of the election or appointment" were omitted. (Oath of allegiance and declaration of office.)

4. (1) The Principal Act is further amended— Further amendment of Act No. 41, 1919.

(a) (i) by inserting in subsection four of section one hundred and seventy-seven after the word "section" the words "other than for the purpose of works for extending electricity works trading undertakings into rural districts and the purchase of necessary machinery and equipment for such purpose"; Sec. 177 (4). (Approval of certain ordinary loans.)

(ii)

Local Government (Amendment).

- 5 (ii) by inserting at the end of the same sub-
section the words "The approval of the
Governor of an ordinary loan for the
purpose of works for extending electricity
works trading undertakings into rural
districts and for the purchase of necessary
machinery and equipment for such purpose
shall not be given after the thirty-first day
of December, one thousand nine hundred
and forty-one";
- 10 (b) by omitting from subsection five of section 422B
the words "thirtieth day of June, one thousand
nine hundred and forty" and by inserting in
lieu thereof the words "thirty-first day of
December, one thousand nine hundred and forty-
one";
- 15 (c) by inserting at the end of subsection four of
section 493A the following words: "except in
the case of borrowings made by a council in
respect of which the Minister had prior to that
date undertaken to the council to make a
recommendation or in the case of borrowings
for the purpose of works for extending
electricity works trading undertakings into
rural districts and for the purchase of necessary
machinery and equipment for such purpose. A
recommendation shall not be made by the
Minister in respect of such borrowings after
the thirty-first day of March, one thousand nine
hundred and forty-two."
- 20 (2) Subsection one of this section shall be deemed
to have commenced on the thirtieth day of June, one
thousand nine hundred and forty.
- 25 **5.** The Principal Act is further amended by inserting
next before section one hundred and seventy-eight the
following new section:—
- 30 177B. Notwithstanding any other provision of this
Act, a loan for the purpose of any work or service
or any object which the council is authorised by law
to construct, carry on or effect, may be raised as
an ordinary loan in any case where the Minister
by

Sec. 422B
(5).
(Agreement
by Treasurer
in relation
to certain
franchises.)

Sec. 493A
(4).
(Agreement
by Treasurer
—loan
liabilities.)

Further
amendment of
Act No. 41,
1919.
Sec. 177B.

Ordinary
loans may
be raised.

Local Government (Amendment).

by notice published in the Gazette has indicated that a supplementary advance ~~equal to~~ **not less than** twenty-five per centum of the estimated cost of such work or service or object will be made to the council under ~~subsection (2A) of~~ section five hundred and thirty-nine of this Act.

6. The Principal Act is further amended—

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

282A. The council shall have and shall be deemed always to have had the power to undertake the collection and the disposal for salvage purposes of waste products.

Further amendment of Act No. 41, 1919.
New sec. 282A.
Collection of salvage.

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

Sec. 289 (m).

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

Quarries, mines, &c.

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

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

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

Any owner who has been served with a notice under this paragraph may within the

Local Government (Amendment).

the time and in the manner prescribed by rules of court appeal to a district court judge having jurisdiction within the area against the direction given in the notice.

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

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

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

(c) (i) by omitting from subsection five of section three hundred and seventy-nine the words "may supply water free of charge to any such hospital or institution" and by inserting in lieu thereof the words "shall supply water free of charge to any such hospital and may so supply water to any such institution";

Sec. 379(5).
(Hospitals—
charitable
institutions
—free
water.)

(ii) by omitting from paragraph (a) of the same subsection the word "fifty" and by inserting in lieu thereof the word "sixty-five";

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

Sec. 418.
(Extending
outside
boundaries.)

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

Local Government (Amendment).

distribution in that area only or in any area to which such undertaking may be extended in accordance with this section either as a separate trading undertaking or as part of its existing trading undertaking.

- 5 (e) (i) by inserting after subsection one of section four hundred and ninety-three the following new subsection:—

Sec. 493.
New subsec.
(1A).

10 (1A) Where any area is served by a ferry service or where the council deems it advisable that a ferry service should be extended to or established to serve its area, the council may enter into an agreement

15 guaranteeing to the person or company operating the ferry service payment in each year of the period covered by the agreement and subject to such conditions as may be specified therein of an amount

20 which shall not exceed the deficiency (if any) of the annual earnings of the ferry service in relation to the annual working expenses thereof plus interest on the capital cost thereof; and in such agreement provision shall be made for ascertaining the

25 amount of such deficiency. Where more than one area is or is to be served by the ferry service the councils of such areas may join in making an agreement under this subsection.

Guarantees
—Ferry
services.

- 30 (ii) by inserting in subsection three of the same section after the words "subsection one" the words "subsection (1A)";
- (iii) by inserting in paragraph (a) of the same subsection after the word "tramway" the words "or ferry service";

- 35 (f) by inserting after section five hundred and sixteen the following new section:—

New sec.
516A.

40 516A. (1) This section shall apply only to contracts for the removal of night-soil or garbage or trade refuse or any combination of such

Cancellation
of certain
contracts.

Local Government (Amendment).

such removals which were entered into by the council prior to the third day of September, one thousand nine hundred and thirty-nine.

5 (2) Where the council is satisfied that it is in the public interest so to do, and that such action has become desirable owing to war conditions, the council may, subject to the approval of the Minister, cancel a contract on such terms and conditions as may be agreed upon by the council and the contractor.

10 (g) by inserting after section five hundred and eighteen the following new section:— New sec. 518A.

15 518A. On the sale of any land under this Division the council may, where the land is sold for housing purposes and if the Governor so approves, transfer the land and take a first or second mortgage, as the case may require, over such land to secure the repayment of the purchase money: Sale of land for housing.

20 Provided, however, that the amount secured by any second mortgage taken by the council in pursuance of this section shall not exceed an amount equal to twenty per centum of the estimated value of the land and the dwelling house to be erected thereon.

25 (h) (i) by inserting in paragraph (a) of subsection two of section five hundred and twenty-four after the word "fallow" the words "improved pasture"; Sec. 524 (2). (Entry and other powers.)

30 (ii) by inserting after paragraph (d) of the same subsection the following new paragraph:— New par. (e).

35 (e) the council or person authorised by it shall, unless the owner or occupier of the land otherwise consents, or the Minister otherwise approves, dig, raise, gather, take and carry away any necessary materials from pits or holes and not otherwise.

Such

Local Government (Amendment).

5 Such pits or holes shall be made by
the council or by the person autho-
rised by it on sites on the land
selected by the council in agreement
with the owner or occupier and, in
default of an agreement between the
council and the owner or occupier, a
site shall be selected by a person
appointed for that purpose by the
10 Minister.

(iii) by omitting subsection seven of the same
section and by inserting in lieu thereof the
following new subsection:—

15 (7) Notwithstanding the other provisions
of this section, materials shall not be
removed from land which has been dedi-
cated a State forest under the Forestry
Act, 1909, or the Forestry Act, 1916-1935,
except with the consent of the Forestry
20 Commission, or from land comprised within
a travelling stock reserve within the mean-
ing of the Pastures Protection Act, 1934,
except with the consent of the Pastures
Protection Board of the district.

25 **7.** The Principal Act is further amended by inserting
after subsection one of section five hundred and ninety-
seven the following new subsection:—

30 (1A) Proceedings for the recovery of any rate by
suit in equity for the enforcement of the charge on
the land shall not be taken after the commencement
of the Local Government (Amendment) Act, 1941.

Further
amendment
of Act No.
41, 1919.
Sec. 597.
(Proceed-
ings.)

Local Government (Amendment).

PART III.

GENERAL.

S. (1) In order to resolve doubts it is hereby declared that—

Validation
of certain
elections.

- 5 (a) on the first day of January, one thousand nine hundred and forty-one, five vacancies in the office of aldermen existed in the Municipal Council of Liverpool;
- 10 (b) the extraordinary election held on the eighteenth day of January, one thousand nine hundred and forty-one, to fill the vacancies referred to in paragraph (a) of this subsection is hereby validated;
- 15 (c) the following persons, namely, Harold Havelock Chapman, Esquire, Edwin Clarence Gruchy, Esquire, William James Newcombe, Esquire, John Malcolm Kelly, Esquire, Henry Charles Leslie Sampson, Esquire, who were, in pursuance of the election referred to in
- 20 paragraph (b) of this subsection, declared to have been elected as aldermen of the Municipal Council of Liverpool shall be deemed to have been validly elected as such aldermen and the
- 25 oaths of allegiance and declarations of office taken and subscribed by such persons shall be deemed to have been validly taken and subscribed;
- 30 (d) extraordinary vacancies in the office of such aldermen or any of them shall not be deemed to have occurred by reason only of the absence of such aldermen or any of them from any meetings of the Municipal Council of Liverpool held between the eighteenth day of January, one thousand nine hundred and forty-one, and
- 35 the date of commencement of this Act.

(2) Nothing contained in this section shall limit the effect of section forty-eight of the Local Government Act, 1919.

Sydney: Thomas Henry Tennant, Government Printer—1941.

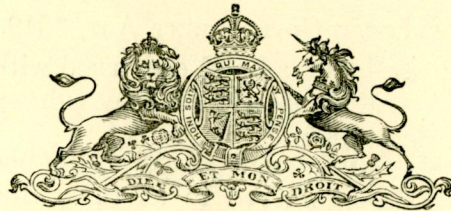
[10d.]

494—B

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

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 27 March, 1941.

New South Wales.



ANNO QUINTO

GEORGII VI REGIS.

Act No. , 1941.

An Act to amend the Local Government Act, 1919,
and certain other Acts in certain respects;
to validate certain matters; and for pur-
poses connected therewith.

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Local Govern-
ment (Amendment) Act, 1941."

67737 494—A

(2)

Short title
and division
into Parts.

Local Government (Amendment).

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

5 PART III.—GENERAL.

PART II.

AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

2. (1) This Part shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts. Construction.

(2) The Local Government Act, 1919, as so amended, is in this Part referred to as the Principal Act.

3. The Principal Act is amended by inserting at the end of subsection two of section thirty-three the following words:— Amendment of Act No. 41, 1919. Sec. 33 (2).

In the application of this subsection to a person who at the date of his election or appointment is absent from the State on war service as defined in the Defence Act, 1903-1939, of the Parliament of the Commonwealth of Australia or who at the date is engaged in munitions works, Red Cross work or Australian Comforts Funds work abroad in connection with the Defence Force as defined in that Act, this subsection shall be read and construed as if the words "if such return is within sixty days of the election or appointment" were omitted. (Oath of allegiance and declaration of office.)

4. (1) The Principal Act is further amended— Further amendment of Act No. 41, 1919.

(a) (i) by inserting in subsection four of section one hundred and seventy-seven after the word "section" the words "other than for the purpose of works for extending electricity works trading undertakings into rural districts and the purchase of necessary machinery and equipment for such purpose"; Sec. 177 (4). (Approval of certain ordinary loans.)

(ii)

Local Government (Amendment).

- (ii) by inserting at the end of the same subsection the words "The approval of the Governor of an ordinary loan for the purpose of works for extending electricity works trading undertakings into rural districts and for the purchase of necessary machinery and equipment for such purpose shall not be given after the thirty-first day of December, one thousand nine hundred and forty-one";
- (b) by omitting from subsection five of section 422B the words "thirtieth day of June, one thousand nine hundred and forty" and by inserting in lieu thereof the words "thirty-first day of December, one thousand nine hundred and forty-one";
- (c) by inserting at the end of subsection four of section 493A the following words: "except in the case of borrowings made by a council in respect of which the Minister had prior to that date undertaken to the council to make a recommendation or in the case of borrowings for the purpose of works for extending electricity works trading undertakings into rural districts and for the purchase of necessary machinery and equipment for such purpose. A recommendation shall not be made by the Minister in respect of such borrowings after the thirty-first day of March, one thousand nine hundred and forty-two."
- (2) Subsection one of this section shall be deemed to have commenced on the thirtieth day of June, one thousand nine hundred and forty.
- 5.** The Principal Act is further amended by inserting next before section one hundred and seventy-eight the following new section:—
- 177B. Notwithstanding any other provision of this Act, a loan for the purpose of any work or service or any object which the council is authorised by law to construct, carry on or effect, may be raised as an ordinary loan in any case where the Minister
- by

Sec. 422B
(5).
(Agreement
by Treasurer
in relation
to certain
franchises.)

Sec. 493A
(4).
(Agreement
by Treasurer
—loan
liabilities.)

Further
amendment of
Act No. 41,
1919.

Sec. 177B.

Ordinary
loans may
be raised.

Local Government (Amendment).

5 by notice published in the Gazette has indicated that a supplementary advance equal to twenty-five per centum of the estimated cost of such work or service or object will be made to the council under subsection (2A) of section five hundred and thirty-nine of this Act.

6. The Principal Act is further amended—

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

10 282A. The council shall have and shall be deemed always to have had the power to undertake the collection and the disposal for salvage purposes of waste products.

Further amendment of Act No. 41, 1919.
New sec. 282A.
Collection of salvage.

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

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

Sec. 289 (m).

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

Quarries, mines, &c.

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

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

40 Any owner who has been served with a notice under this paragraph may within the

Local Government (Amendment).

the time and in the manner prescribed by rules of court appeal to a district court judge having jurisdiction within the area against the direction given in the notice.

5

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

10

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

15

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

20

- (c) (i) by omitting from subsection five of section three hundred and seventy-nine the words "may supply water free of charge to any such hospital or institution" and by inserting in lieu thereof the words "shall supply water free of charge to any such hospital and may so supply water to any such institution";
- (ii) by omitting from paragraph (a) of the same subsection the word "fifty" and by inserting in lieu thereof the word "sixty-five";

25

30

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

35

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

40

Sec. 379(5).
(Hospitals—
charitable
institutions
—free
water.)

Sec. 418.
(Extending
outside
boundaries.)

Local Government (Amendment).

5 distribution in that area only or in any area to which such undertaking may be extended in accordance with this section either as a separate trading undertaking or as part of its existing trading undertaking.

- (e) (i) by inserting after subsection one of section four hundred and ninety-three the following new subsection:—

Sec. 493.
New subsec.
(1A).

10 (1A) Where any area is served by a ferry service or where the council deems it advisable that a ferry service should be extended to or established to serve its area, the council may enter into an agreement

15 guaranteeing to the person or company operating the ferry service payment in each year of the period covered by the agreement and subject to such conditions as may be specified therein of an amount

20 which shall not exceed the deficiency (if any) of the annual earnings of the ferry service in relation to the annual working expenses thereof plus interest on the capital cost thereof; and in such agreement provision shall be made for ascertaining the

25 amount of such deficiency. Where more than one area is or is to be served by the ferry service the councils of such areas may join in making an agreement under this subsection.

Guarantees
—Ferry
services.

30 (ii) by inserting in subsection three of the same section after the words "subsection one" the words "subsection (1A)";

(iii) by inserting in paragraph (a) of the same subsection after the word "tramway" the words "or ferry service";

35

- (f) by inserting after section five hundred and sixteen the following new section:—

New sec.
516A.

40 516A. (1) This section shall apply only to contracts for the removal of night-soil or garbage or trade refuse or any combination of such

Cancellation
of certain
contracts.

Local Government (Amendment).

such removals which were entered into by the council prior to the third day of September, one thousand nine hundred and thirty-nine.

5 (2) Where the council is satisfied that it is in the public interest so to do, and that such action has become desirable owing to war conditions, the council may, subject to the approval of the Minister, cancel a contract on such terms and conditions as may be agreed upon by the council and the contractor.

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

15 518A. On the sale of any land under this Division the council may, where the land is sold for housing purposes and if the Governor so approves, transfer the land and take a first or second mortgage, as the case may require, over such land to secure the repayment of the purchase money:

20 Provided, however, that the amount secured by any second mortgage taken by the council in pursuance of this section shall not exceed an amount equal to twenty per centum of the estimated value of the land and the dwelling house to be erected thereon.

25 (h) (i) by inserting in paragraph (a) of subsection two of section five hundred and twenty-four after the word "fallow" the words "improved pasture";

30 (ii) by inserting after paragraph (d) of the same subsection the following new paragraph:—

35 (e) the council or person authorised by it shall, unless the owner or occupier of the land otherwise consents, or the Minister otherwise approves, dig, raise, gather, take and carry away any necessary materials from pits or holes and not otherwise.

Such

Local Government (Amendment).

Such pits or holes shall be made by the council or by the person authorised by it on sites on the land selected by the council in agreement with the owner or occupier and, in default of an agreement between the council and the owner or occupier, a site shall be selected by a person appointed for that purpose by the Minister.

(iii) by omitting subsection seven of the same section and by inserting in lieu thereof the following new subsection:—

(7) Notwithstanding the other provisions of this section, materials shall not be removed from land which has been dedicated a State forest under the Forestry Act, 1909, or the Forestry Act, 1916-1935, except with the consent of the Forestry Commission, or from land comprised within a travelling stock reserve within the meaning of the Pastures Protection Act, 1934, except with the consent of the Pastures Protection Board of the district.

7. The Principal Act is further amended by inserting after subsection one of section five hundred and ninety-seven the following new subsection:—

(1A) Proceedings for the recovery of any rate by suit in equity for the enforcement of the charge on the land shall not be taken after the commencement of the Local Government (Amendment) Act, 1941.

Further amendment of Act No. 41, 1919. Sec. 597. (Proceedings.)

Local Government (Amendment).

PART III.

GENERAL.

8. (1) In order to resolve doubts it is hereby declared that—

Validation
of certain
elections.

- 5 (a) on the first day of January, one thousand nine hundred and forty-one, five vacancies in the office of aldermen existed in the Municipal Council of Liverpool;
- 10 (b) the extraordinary election held on the eighteenth day of January, one thousand nine hundred and forty-one, to fill the vacancies referred to in paragraph (a) of this subsection is hereby validated;
- 15 (c) the following persons, namely, Harold Havelock Chapman, Esquire, Edwin Clarence Gruchy, Esquire, William James Newcombe, Esquire, John Malcolm Kelly, Esquire, Henry Charles Leslie Sampson, Esquire, who were, in pursuance of the election referred to in
- 20 paragraph (b) of this subsection, declared to have been elected as aldermen of the Municipal Council of Liverpool shall be deemed to have been validly elected as such aldermen and the oaths of allegiance and declarations of office
- 25 taken and subscribed by such persons shall be deemed to have been validly taken and subscribed;
- 30 (d) extraordinary vacancies in the office of such aldermen or any of them shall not be deemed to have occurred by reason only of the absence of such aldermen or any of them from any meetings of the Municipal Council of Liverpool held between the eighteenth day of January, one thousand nine hundred and forty-one, and
- 35 the date of commencement of this Act.

(2) Nothing contained in this section shall limit the effect of section forty-eight of the Local Government Act, 1919.

Sydney: Thomas Henry Tennant, Government Printer—1941.

[10d.]

494—B

Local Government (Amendment) Bill, 1941.

EXPLANATORY NOTE.

THIS Bill amends the Local Government Act, 1919.

The objects of the Bill are—

- (1) (a) To continue in force until 31st December, 1941, the period within which a council may borrow by way of ordinary loan for the purpose of extending electricity works trading undertakings into rural districts.
- (b) To continue in force until 31st December, 1941, the period within which the Treasurer may make agreements in relation to certain electricity franchises.
- (c) To continue in force until 31st March, 1942, the period within which the Treasurer may make agreements in relation to the loan liabilities of councils.
- (2) To provide that a loan for the purpose of any work or service which is being constructed by the council and in respect of which a Government grant equivalent to 25 per cent. of the cost of such work or service is being made may be raised by way of ordinary loan.
- (3) To enable councils with the consent of contractors and with the approval of the Minister to cancel certain contracts made prior to the outbreak of war.
- (4) To enable councils to subsidise ferry services.
- (5) To empower councils to sell land for housing purposes and to take a second mortgage to secure the purchase money.
- (6) To restrict the power of councils to take materials for road-making purposes from private lands and from travelling stock reserves.
- (7) To release members of the Defence Forces and certain other persons who are elected to civic office from the requirement of making an oath of allegiance and declaration of office within the prescribed time.
- (8) To empower councils to collect waste products for salvage purposes.
- (9) To give councils greater powers in relation to quarries and waterholes.
- (10) To make further provision in relation to the extension by councils of gas and electricity trading undertakings outside their areas.
- (11) To require councils having works of water supply to supply water within certain limits free of charge to public hospitals.
- (12) To abolish taking of proceedings by way of suit in equity for the enforcement of the charge for rates on land.
- (13) To validate an extraordinary election held by the Municipal Council of Liverpool to fill certain vacancies on that council.

Local Government

EXPLANATION

This Bill amends the Local Government Act, 1972, in relation to the powers of the local authorities in relation to the management of the public health and the environment.

(1) The local authority shall have the power to do all such things as may be necessary or expedient for the purpose of the exercise of its functions under this Act.

(2) The local authority shall have the power to acquire any land or interest in land for the purpose of the exercise of its functions under this Act.

(3) The local authority shall have the power to borrow money for the purpose of the exercise of its functions under this Act.

(4) The local authority shall have the power to enter into contracts for the purpose of the exercise of its functions under this Act.

(5) The local authority shall have the power to make any arrangements for the purpose of the exercise of its functions under this Act.

(6) The local authority shall have the power to make any regulations for the purpose of the exercise of its functions under this Act.

(7) The local authority shall have the power to make any orders for the purpose of the exercise of its functions under this Act.

(8) The local authority shall have the power to make any by-laws for the purpose of the exercise of its functions under this Act.

(9) The local authority shall have the power to make any rules for the purpose of the exercise of its functions under this Act.

(10) The local authority shall have the power to make any schemes for the purpose of the exercise of its functions under this Act.

(11) The local authority shall have the power to make any plans for the purpose of the exercise of its functions under this Act.

(12) The local authority shall have the power to make any proposals for the purpose of the exercise of its functions under this Act.

(13) The local authority shall have the power to make any arrangements for the purpose of the exercise of its functions under this Act.

(14) The local authority shall have the power to make any regulations for the purpose of the exercise of its functions under this Act.

(15) The local authority shall have the power to make any orders for the purpose of the exercise of its functions under this Act.

(16) The local authority shall have the power to make any by-laws for the purpose of the exercise of its functions under this Act.

(17) The local authority shall have the power to make any rules for the purpose of the exercise of its functions under this Act.

(18) The local authority shall have the power to make any schemes for the purpose of the exercise of its functions under this Act.

(19) The local authority shall have the power to make any plans for the purpose of the exercise of its functions under this Act.

(20) The local authority shall have the power to make any proposals for the purpose of the exercise of its functions under this Act.

No. , 1941.

A BILL

To amend the Local Government Act, 1919,
and certain other Acts in certain respects;
to validate certain matters; and for pur-
poses connected therewith.

[MR. L. O. MARTIN;—25 *March*, 1941.]

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Local Govern-
ment (Amendment) Act, 1941."

67737 494—A

(2)

Short title
and division
into Parts.

Local Government (Amendment).

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

5 PART III.—GENERAL.

PART II.

AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

10 2. (1) This Part shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts. Construction.

(2) The Local Government Act, 1919, as so amended, is in this Part referred to as the Principal Act.

15 3. The Principal Act is amended by inserting at the end of subsection two of section thirty-three the following words:— Amendment of Act No. 41, 1919. Sec. 33 (2).

20 In the application of this subsection to a person who at the date of his election or appointment is absent from the State on war service as defined in the Defence Act, 1903-1939, of the Parliament of the Commonwealth of Australia or who at the date is engaged in munitions works, Red Cross work or Australian Comforts Funds work abroad in connection with the Defence Force as defined in that Act, this subsection shall be read and construed (Oath of allegiance and declaration of office.)

25 4. (1) The Principal Act is further amended— Further amendment of Act No. 41, 1919.

30 (a) (i) by inserting in subsection four of section one hundred and seventy-seven after the word "section" the words "other than for the purpose of works for extending electricity works trading undertakings into rural districts and the purchase of necessary machinery and equipment for such purpose"; Sec. 177 (4). (Approval of certain ordinary loans.)

(ii)

Local Government (Amendment).

5 (ii) by inserting at the end of the same sub-
 section the words "The approval of the
 Governor of an ordinary loan for the
 purpose of works for extending electricity
 works trading undertakings into rural
 districts and for the purchase of necessary
 machinery and equipment for such purpose
 shall not be given after the thirty-first day
 of December, one thousand nine hundred
 and forty-one";

10 (b) by omitting from subsection five of section 422B
 the words "thirtieth day of June, one thousand
 nine hundred and forty" and by inserting in
 lieu thereof the words "thirty-first day of
 15 December, one thousand nine hundred and forty-
 one";

20 (c) by inserting at the end of subsection four of
 section 493A the following words: "except in
 the case of borrowings made by a council in
 respect of which the Minister had prior to that
 date undertaken to the council to make a
 recommendation or in the case of borrowings
 for the purpose of works for extending
 25 electricity works trading undertakings into
 rural districts and for the purchase of necessary
 machinery and equipment for such purpose. A
 recommendation shall not be made by the
 Minister in respect of such borrowings after
 the thirty-first day of March, one thousand nine
 30 hundred and forty-two."

(2) Subsection one of this section shall be deemed
 to have commenced on the thirtieth day of June, one
 thousand nine hundred and forty.

35 5. The Principal Act is further amended by inserting
 next before section one hundred and seventy-eight the
 following new section:—

40 177B. Notwithstanding any other provision of this
 Act, a loan for the purpose of any work or service
 or any object which the council is authorised by law
 to construct, carry on or effect, may be raised as
 an ordinary loan in any case where the Minister
 by

Sec. 422B
 (5).
 (Agreement
 by Treasurer
 in relation
 to certain
 franchises.)

Sec. 493A
 (4).
 (Agreement
 by Treasurer
 —loan
 liabilities.)

Further
 amendment of
 Act No. 41,
 1919.

Sec. 177B.)

Ordinary
 loans may
 be raised.

Local Government (Amendment).

5 by notice published in the Gazette has indicated that a supplementary advance equal to twenty-five per centum of the estimated cost of such work or service or object will be made to the council under subsection (2A) of section five hundred and thirty-nine of this Act.

6. The Principal Act is further amended—

10 (a) by inserting after section two hundred and eighty-two the following new section:—

Further amendment of Act No. 41, 1919.

New sec. 282A.

Collection of salvage.

282A. The council shall have and shall be deemed always to have had the power to undertake the collection and the disposal for salvage purposes of waste products.

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

Sec. 289 (m).

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

Quarries, mines, &c.

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

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

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

40 Any owner who has been served with a notice under this paragraph may within the

Local Government (Amendment).

the time and in the manner prescribed by rules of court appeal to a district court judge having jurisdiction within the area against the direction given in the notice.

5 Such judge may determine whether the direction of the council is reasonable in all the circumstances of the case and whether it shall or shall not be carried out either in its entirety or with modifications, and may extend the time within 10 which anything is to be done. The costs of the appeal shall be in the discretion of the judge.

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

For the purposes of this paragraph a "dangerous waterhole" means any quarry, pit, excavation, dam or waterhole which, in the opinion of the council, is, or 20 may become, dangerous to life.

(c) (i) by omitting from subsection five of section three hundred and seventy-nine the words "may supply water free of charge to any such hospital or institution" and by inserting in lieu thereof the words "shall supply water free of charge to any such hospital and may so supply water to any such institution";

25 (Hospitals—charitable institutions—free water.)

30 (ii) by omitting from paragraph (a) of the same subsection the word "fifty" and by inserting in lieu thereof the word "sixty-five";

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

35 (Extending outside boundaries.)

(4A) The power of a council to extend a trading undertaking referred to in paragraph (a) or paragraph (b) of subsection one of this section into another area shall include the power to trade in electricity or gas as the case may be 40 within that area for the purpose of sale or distribution

Local Government (Amendment).

distribution in that area only or in any area to which such undertaking may be extended in accordance with this section either as a separate trading undertaking or as part of its existing trading undertaking.

- 5 (e) (i) by inserting after subsection one of section four hundred and ninety-three the following new subsection:—

Sec. 493.
New subsec.
(1A).

10 (1A) Where any area is served by a ferry service or where the council deems it advisable that a ferry service should be extended to or established to serve its area, the council may enter into an agreement

15 guaranteeing to the person or company operating the ferry service payment in each year of the period covered by the agreement and subject to such conditions as may be specified therein of an amount

20 which shall not exceed the deficiency (if any) of the annual earnings of the ferry service in relation to the annual working expenses thereof plus interest on the capital cost thereof; and in such agreement provision shall be made for ascertaining the

25 amount of such deficiency. Where more than one area is or is to be served by the ferry service the councils of such areas may join in making an agreement under this subsection.

Guarantees
—Ferry
services.

- 30 (ii) by inserting in subsection three of the same section after the words "subsection one" the words "subsection (1A)";

(iii) by inserting in paragraph (a) of the same subsection after the word "tramway" the words "or ferry service";

35

- (f) by inserting after section five hundred and sixteen the following new section:—

New sec.
516A.

40 516A. (1) This section shall apply only to contracts for the removal of night-soil or garbage or trade refuse or any combination of such

Cancellation
of certain
contracts.

Local Government (Amendment).

such removals which were entered into by the council prior to the third day of September, one thousand nine hundred and thirty-nine.

5 (2) Where the council is satisfied that it is in the public interest so to do, and that such action has become desirable owing to war conditions, the council may, subject to the approval of the Minister, cancel a contract on
10 such terms and conditions as may be agreed upon by the council and the contractor.

(g) by inserting after section five hundred and eighteen the following new section:— New sec. 518A.

15 518A. On the sale of any land under this Division the council may, where the land is sold for housing purposes and if the Governor so approves, transfer the land and take a first or second mortgage, as the case may require, over such land to secure the repayment of the purchase money: Sale of land for housing.

20 Provided, however, that the amount secured by any second mortgage taken by the council in pursuance of this section shall not exceed an amount equal to twenty per centum of the estimated value of the land and the dwelling
25 house to be erected thereon.

(h) (i) by inserting in paragraph (a) of subsection two of section five hundred and twenty-four after the word "fallow" the words Sec. 524 (2). (Entry and other powers.)
"improved pasture";

30 (ii) by inserting after paragraph (d) of the same subsection the following new paragraph:— New par. (e).

35 (e) the council or person authorised by it shall, unless the owner or occupier of the land otherwise consents, or the Minister otherwise approves, dig, raise, gather, take and carry away any necessary materials from pits or holes and not otherwise.

Such

Local Government (Amendment).

5 Such pits or holes shall be made by
the council or by the person autho-
rised by it on sites on the land
selected by the council in agreement
with the own̄er or occupier and, in
10 default of an agreement between the
council and the owner or occupier, a
site shall be selected by a person
appointed for that purpose by the
Minister.

(iii) by omitting subsection seven of the same
section and by ins̄erting in lieu thereof the
following new subsection:—

15 (7) Notwithstanding the other provisions
of this section, materials shall not be
removed from land which has been dedi-
cated a State forest under the Forestry
Act, 1909, or the Forestry Act, 1916-1935,
20 exc̄ept with the consent of the Forestry
Commission, or from land comprised within
a travelling stock reserve within the mean-
ing of the Pastures Protection Act, 1934,
except with the consent of the Pastures
Protection Board of th̄e district.

25 **7.** The Principal Act is further amended by inserting
after subsection one of section five hundred and ninety-
seven the following new subsection:—

30 (1A) Proceedings for the recovery of any rate by
suit in equity for the enforcement of the charge on
the land shall not be taken after the commencement
of the Local Government (Amendment) Act, 1941.

Further
amendment
of Act No.
41, 1919.

Sec. 597.
(Proceed-
ings.)

Local Government (Amendment).

PART III.

GENERAL.

8. (1) In order to resolve doubts it is hereby declared that—

Validation
of certain
elections.

- 5 (a) on the first day of January, one thousand nine hundred and forty-one, five vacancies in the office of aldermen existed in the Municipal Council of Liverpool;
- 10 (b) the extraordinary election held on the eighteenth day of January, one thousand nine hundred and forty-one, to fill the vacancies referred to in paragraph (a) of this subsection is hereby validated;
- 15 (c) the following persons, namely, Harold Havelock Chapman, Esquire, Edwin Clarence Gruchy, Esquire, William James Newcombe, Esquire, John Malcolm Kelly, Esquire, Henry Charles Leslie Sampson, Esquire, who were, in
- 20 pursuance of the election referred to in paragraph (b) of this subsection, declared to have been elected as aldermen of the Municipal Council of Liverpool shall be deemed to have been validly elected as such aldermen and the
- 25 oaths of allegiance and declarations of office taken and subscribed by such persons shall be deemed to have been validly taken and subscribed;
- 30 (d) extraordinary vacancies in the office of such aldermen or any of them shall not be deemed to have occurred by reason only of the absence of such aldermen or any of them from any meetings of the Municipal Council of Liverpool held between the eighteenth day of January, one thousand nine hundred and forty-one, and
- 35 the date of commencement of this Act.

(2) Nothing contained in this section shall limit the effect of section forty-eight of the Local Government Act, 1919.

2

collation
-
-
-
-

1

2

New South Wales.



ANNO QUINTO

GEORGI VI REGIS.

Act No. 29, 1941.

An Act to amend the Local Government Act, 1919, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 10th April, 1941.]

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Local Government (Amendment) Act, 1941."

Short title
and division
into Parts.

Local Government (Amendment).

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

PART III.—GENERAL.

PART II.

AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

Construction.

2. (1) This Part shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts.

(2) The Local Government Act, 1919, as so amended, is in this Part referred to as the Principal Act.

Amendment of Act No. 41, 1919.

Sec. 33 (2).

(Oath of allegiance and declaration of office.)

3. The Principal Act is amended by inserting at the end of subsection two of section thirty-three the following words:—

In the application of this subsection to a person who at the date of his election or appointment is absent from the State on war service as defined in the Defence Act, 1903-1939, of the Parliament of the Commonwealth of Australia or who at the date is engaged in munitions works, Red Cross work or Australian Comforts Funds work abroad in connection with the Defence Force as defined in that Act, this subsection shall be read and construed as if the words "if such return is within sixty days of the election or appointment" were omitted.

Further amendment of Act No. 41, 1919.

Sec. 177 (4).

(Approval of certain ordinary loans.)

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

(a) (i) by inserting in subsection four of section one hundred and seventy-seven after the word "section" the words "other than for the purpose of works for extending electricity works trading undertakings into rural districts and the purchase of necessary machinery and equipment for such purpose";

(ii)

Local Government (Amendment).

- (ii) by inserting at the end of the same subsection the words "The approval of the Governor of an ordinary loan for the purpose of works for extending electricity works trading undertakings into rural districts and for the purchase of necessary machinery and equipment for such purpose shall not be given after the thirty-first day of December, one thousand nine hundred and forty-one";
- (b) by omitting from subsection five of section 422B the words "thirtieth day of June, one thousand nine hundred and forty" and by inserting in lieu thereof the words "thirty-first day of December, one thousand nine hundred and forty-one";
- (c) by inserting at the end of subsection four of section 493A the following words: "except in the case of borrowings made by a council in respect of which the Minister had prior to that date undertaken to the council to make a recommendation or in the case of borrowings for the purpose of works for extending electricity works trading undertakings into rural districts and for the purchase of necessary machinery and equipment for such purpose. A recommendation shall not be made by the Minister in respect of such borrowings after the thirty-first day of March, one thousand nine hundred and forty-two."
- (2) Subsection one of this section shall be deemed to have commenced on the thirtieth day of June, one thousand nine hundred and forty.

5. The Principal Act is further amended by inserting next before section one hundred and seventy-eight the following new section:—

177B. Notwithstanding any other provision of this Act, a loan for the purpose of any work or service or any object which the council is authorised by law to construct, carry on or effect, may be raised as an ordinary loan in any case where the Minister

by

Sec. 422B
(5).

(Agreement
by Treasurer
in relation
to certain
franchises.)

Sec. 493A
(4).

(Agreement
by Treasurer
—loan
liabilities.)

Further
amendment of
Act No. 41,
1919.

Sec. 177B.

Ordinary
loans may
be raised.

Local Government (Amendment).

by notice published in the Gazette has indicated that a supplementary advance not less than twenty-five per centum of the estimated cost of such work or service or object will be made to the council under section five hundred and thirty-nine of this Act.

6. The Principal Act is further amended—

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

282A. The council shall have and shall be deemed always to have had the power to undertake the collection and the disposal for salvage purposes of waste products.

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

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

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

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

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

Any owner who has been served with a notice under this paragraph may within
the

Further amendment of Act No. 41, 1919.
 New sec. 282A.

Collection of salvage.

Sec. 289 (m).

Quarries, mines, &c.

Local Government (Amendment).

the time and in the manner prescribed by rules of court appeal to a district court judge having jurisdiction within the area against the direction given in the notice.

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

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

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

- (c) (i) by omitting from subsection five of section three hundred and seventy-nine the words "may supply water free of charge to any such hospital or institution" and by inserting in lieu thereof the words "shall supply water free of charge to any such hospital and may so supply water to any such institution";
- (ii) by omitting from paragraph (a) of the same subsection the word "fifty" and by inserting in lieu thereof the word "sixty-five";
- (d) by inserting after subsection four of section four hundred and eighteen the following new subsection:—
- (4A) The power of a council to extend a trading undertaking referred to in paragraph (a) or paragraph (b) of subsection one of this section into another area shall include the power to trade in electricity or gas as the case may be within that area for the purpose of sale or distribution
- Sec. 379(5).
(Hospitals—
charitable
institutions
—free
water.)
- Sec. 418.
(Extending
outside
boundaries.)

Local Government (Amendment).

distribution in that area only or in any area to which such undertaking may be extended in accordance with this section either as a separate trading undertaking or as part of its existing trading undertaking.

Sec. 493.
New subsec.
(1A).

- (e) (i) by inserting after subsection one of section four hundred and ninety-three the following new subsection:—

Guarantees
—Ferry
services.

(1A) Where any area is served by a ferry service or where the council deems it advisable that a ferry service should be extended to or established to serve its area, the council may enter into an agreement guaranteeing to the person or company operating the ferry service payment in each year of the period covered by the agreement and subject to such conditions as may be specified therein of an amount which shall not exceed the deficiency (if any) of the annual earnings of the ferry service in relation to the annual working expenses thereof plus interest on the capital cost thereof; and in such agreement provision shall be made for ascertaining the amount of such deficiency. Where more than one area is or is to be served by the ferry service the councils of such areas may join in making an agreement under this subsection.

- (ii) by inserting in subsection three of the same section after the words “subsection one” the words “subsection (1A)”;

- (iii) by inserting in paragraph (a) of the same subsection after the word “tramway” the words “or ferry service”;

New sec.
516A.

- (f) by inserting after section five hundred and sixteen the following new section:—

Cancellation
of certain
contracts.

516A. (1) This section shall apply only to contracts for the removal of night-soil or garbage or trade refuse or any combination of such

Local Government (Amendment).

such removals which were entered into by the council prior to the third day of September, one thousand nine hundred and thirty-nine.

(2) Where the council is satisfied that it is in the public interest so to do, and that such action has become desirable owing to war conditions, the council may, subject to the approval of the Minister, cancel a contract on such terms and conditions as may be agreed upon by the council and the contractor.

- (g) by inserting after section five hundred and eighteen the following new section:— New sec.
518A.

518A. On the sale of any land under this Division the council may, where the land is sold for housing purposes and if the Governor so approves, transfer the land and take a first or second mortgage, as the case may require, over such land to secure the repayment of the purchase money: Sale of
land for
housing.

Provided, however, that the amount secured by any second mortgage taken by the council in pursuance of this section shall not exceed an amount equal to twenty per centum of the estimated value of the land and the dwelling house to be erected thereon.

- (h) (i) by inserting in paragraph (a) of subsection two of section five hundred and twenty-four after the word "fallow" the words "improved pasture"; Sec. 524 (2).
(Entry and
other
powers.)

- (ii) by inserting after paragraph (d) of the same subsection the following new paragraph:— New par.
(e).

(e) the council or person authorised by it shall, unless the owner or occupier of the land otherwise consents, or the Minister otherwise approves, dig, raise, gather, take and carry away any necessary materials from pits or holes and not otherwise.

Such

Local Government (Amendment).

Such pits or holes shall be made by the council or by the person authorised by it on sites on the land selected by the council in agreement with the owner or occupier and, in default of an agreement between the council and the owner or occupier, a site shall be selected by a person appointed for that purpose by the Minister.

- (iii) by omitting subsection seven of the same section and by inserting in lieu thereof the following new subsection:—

(7) Notwithstanding the other provisions of this section, materials shall not be removed from land which has been dedicated a State forest under the Forestry Act, 1909, or the Forestry Act, 1916-1935, except with the consent of the Forestry Commission, or from land comprised within a travelling stock reserve within the meaning of the Pastures Protection Act, 1934, except with the consent of the Pastures Protection Board of the district.

7. The Principal Act is further amended by inserting after subsection one of section five hundred and ninety-seven the following new subsection:—

(1A) Proceedings for the recovery of any rate by suit in equity for the enforcement of the charge on the land shall not be taken after the commencement of the Local Government (Amendment) Act, 1941.

Further
amendment
of Act No.
41, 1919.
Sec. 597.
(Proceed-
ings.)

Local Government (Amendment).

PART III.

GENERAL.

8. (1) In order to resolve doubts it is hereby declared that—

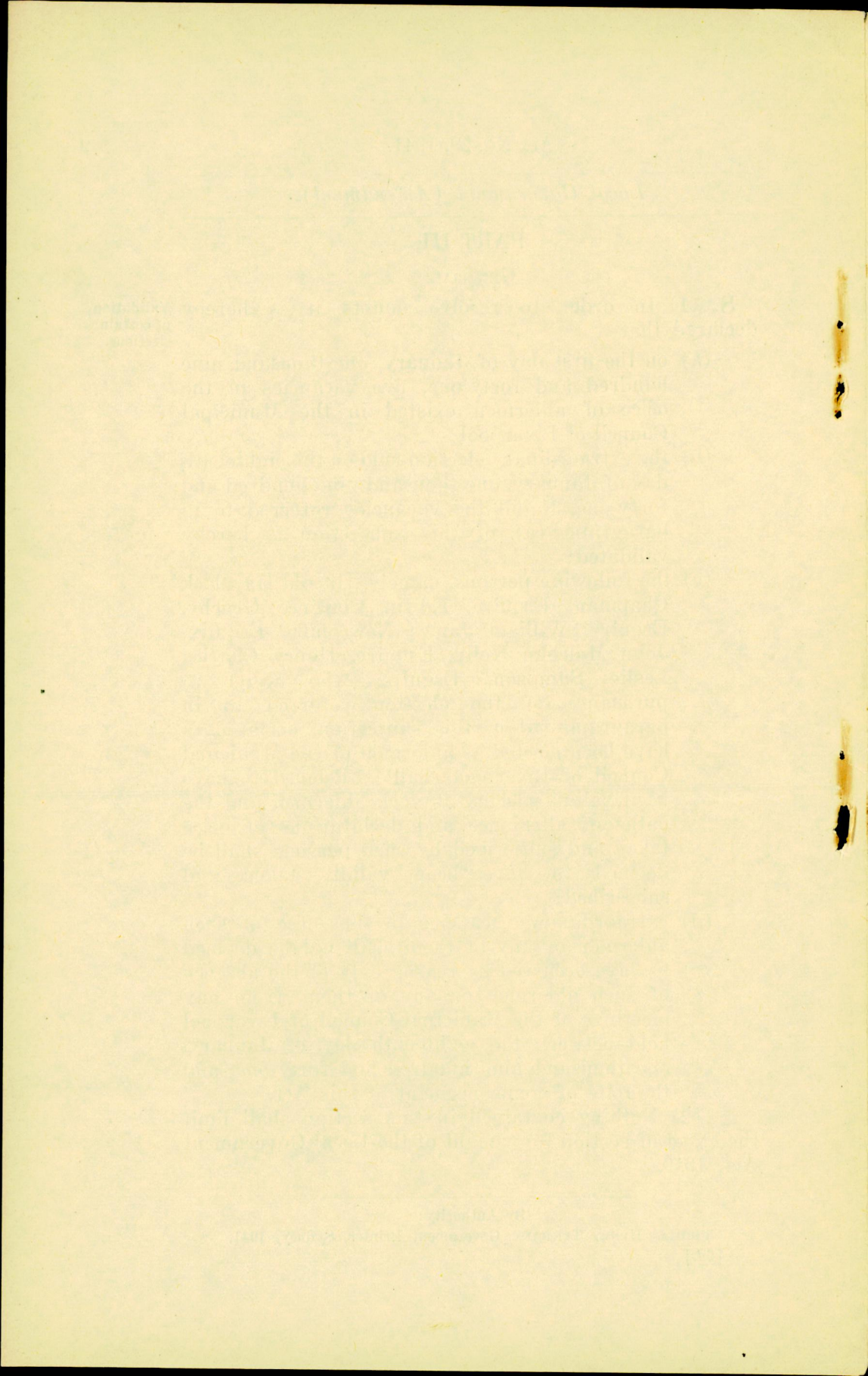
Validation
of certain
elections.

- (a) on the first day of January, one thousand nine hundred and forty-one, five vacancies in the office of aldermen existed in the Municipal Council of Liverpool;
- (b) the extraordinary election held on the eighteenth day of January, one thousand nine hundred and forty-one, to fill the vacancies referred to in paragraph (a) of this subsection is hereby validated;
- (c) the following persons, namely, Harold Havelock Chapman, Esquire, Edwin Clarence Gruchy, Esquire, William James Newcombe, Esquire, John Malcolm Kelly, Esquire, Henry Charles Leslie Sampson, Esquire, who were, in pursuance of the election referred to in paragraph (b) of this subsection, declared to have been elected as aldermen of the Municipal Council of Liverpool shall be deemed to have been validly elected as such aldermen and the oaths of allegiance and declarations of office taken and subscribed by such persons shall be deemed to have been validly taken and subscribed;
- (d) extraordinary vacancies in the office of such aldermen or any of them shall not be deemed to have occurred by reason only of the absence of such aldermen or any of them from any meetings of the Municipal Council of Liverpool held between the eighteenth day of January, one thousand nine hundred and forty-one, and the date of commencement of this Act.

(2) Nothing contained in this section shall limit the effect of section forty-eight of the Local Government Act, 1919.

By Authority:

THOMAS HENRY TENNANT, Government Printer, Sydney, 1941.

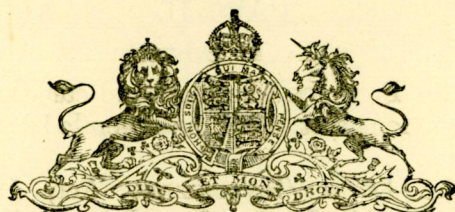


I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. R. McCOURT,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 8 April, 1941.*

New South Wales.



ANNO QUINTO

GEORGII VI REGIS.

Act No. 29, 1941.

An Act to amend the Local Government Act, 1919, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 10th April, 1941.]

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Local Government (Amendment) Act, 1941."
(2)
- Short title and division into Parts.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

W. W. HEDGES,
Chairman of Committees of the Legislative Assembly.

Local Government (Amendment).

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

PART III.—GENERAL.

PART II.

AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

Construc-
tion.

2. (1) This Part shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts.

(2) The Local Government Act, 1919, as so amended, is in this Part referred to as the Principal Act.

Amendment
of Act No.
41, 1919.
Sec. 33 (2).
(Oath of
allegiance
and decla-
ration of
office.)

3. The Principal Act is amended by inserting at the end of subsection two of section thirty-three the following words:—

In the application of this subsection to a person who at the date of his election or appointment is absent from the State on war service as defined in the Defence Act, 1903-1939, of the Parliament of the Commonwealth of Australia or who at the date is engaged in munitions works, Red Cross work or Australian Comforts Funds work abroad in connection with the Defence Force as defined in that Act, this subsection shall be read and construed as if the words "if such return is within sixty days of the election or appointment" were omitted.

Further
amendment of
Act No. 41,
1919.

Sec. 177 (4).
(Approval
of certain
ordinary
loans.)

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

(a) (i) by inserting in subsection four of section one hundred and seventy-seven after the word "section" the words "other than for the purpose of works for extending electricity works trading undertakings into rural districts and the purchase of necessary machinery and equipment for such purpose";

(ii)

Local Government (Amendment).

- (ii) by inserting at the end of the same subsection the words "The approval of the Governor of an ordinary loan for the purpose of works for extending electricity works trading undertakings into rural districts and for the purchase of necessary machinery and equipment for such purpose shall not be given after the thirty-first day of December, one thousand nine hundred and forty-one";
- (b) by omitting from subsection five of section 422B the words "thirtieth day of June, one thousand nine hundred and forty" and by inserting in lieu thereof the words "thirty-first day of December, one thousand nine hundred and forty-one";
- (c) by inserting at the end of subsection four of section 493A the following words: "except in the case of borrowings made by a council in respect of which the Minister had prior to that date undertaken to the council to make a recommendation or in the case of borrowings for the purpose of works for extending electricity works trading undertakings into rural districts and for the purchase of necessary machinery and equipment for such purpose. A recommendation shall not be made by the Minister in respect of such borrowings after the thirty-first day of March, one thousand nine hundred and forty-two."
- (2) Subsection one of this section shall be deemed to have commenced on the thirtieth day of June, one thousand nine hundred and forty.

Sec. 422B
(5).
(Agreement
by Treasurer
in relation
to certain
franchises.)

Sec. 493A
(4).
(Agreement
by Treasurer
—loan
liabilities.)

5. The Principal Act is further amended by inserting next before section one hundred and seventy-eight the following new section:—

Further
amendment of
Act No. 41,
1919.
Sec. 177B.

177B. Notwithstanding any other provision of this Act, a loan for the purpose of any work or service or any object which the council is authorised by law to construct, carry on or effect, may be raised as an ordinary loan in any case where the Minister

Ordinary
loans may
be raised.

by

Local Government (Amendment).

by notice published in the Gazette has indicated that a supplementary advance not less than twenty-five per centum of the estimated cost of such work or service or object will be made to the council under section five hundred and thirty-nine of this Act.

Further amendment of Act No. 41, 1919.
New sec. 282A.
Collection of salvage.

6. The Principal Act is further amended—

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

282A. The council shall have and shall be deemed always to have had the power to undertake the collection and the disposal for salvage purposes of waste products.

Sec. 289 (m).

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

Quarries, mines, &c.

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

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

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

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

Any owner who has been served with a notice under this paragraph may within
the

Local Government (Amendment).

the time and in the manner prescribed by rules of court appeal to a district court judge having jurisdiction within the area against the direction given in the notice.

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

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

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

- (c) (i) by omitting from subsection five of section three hundred and seventy-nine the words "may supply water free of charge to any such hospital or institution" and by inserting in lieu thereof the words "shall supply water free of charge to any such hospital and may so supply water to any such institution"; Sec. 379(5).
(Hospitals—
charitable
institutions
—free
water.)
- (ii) by omitting from paragraph (a) of the same subsection the word "fifty" and by inserting in lieu thereof the word "sixty-five";
- (d) by inserting after subsection four of section four hundred and eighteen the following new subsection:— Sec. 418.
(Extending
outside
boundaries.)
- (4A) The power of a council to extend a trading undertaking referred to in paragraph (a) or paragraph (b) of subsection one of this section into another area shall include the power to trade in electricity or gas as the case may be within that area for the purpose of sale or distribution

Local Government (Amendment).

distribution in that area only or in any area to which such undertaking may be extended in accordance with this section either as a separate trading undertaking or as part of its existing trading undertaking.

Sec. 493.
New subsec.
(1A).

- (e) (i) by inserting after subsection one of section four hundred and ninety-three the following new subsection:—

Guarantees
—Ferry
services.

(1A) Where any area is served by a ferry service or where the council deems it advisable that a ferry service should be extended to or established to serve its area, the council may enter into an agreement guaranteeing to the person or company operating the ferry service payment in each year of the period covered by the agreement and subject to such conditions as may be specified therein of an amount which shall not exceed the deficiency (if any) of the annual earnings of the ferry service in relation to the annual working expenses thereof plus interest on the capital cost thereof; and in such agreement provision shall be made for ascertaining the amount of such deficiency. Where more than one area is or is to be served by the ferry service the councils of such areas may join in making an agreement under this subsection.

- (ii) by inserting in subsection three of the same section after the words "subsection one" the words "subsection (1A)";
- (iii) by inserting in paragraph (a) of the same subsection after the word "tramway" the words "or ferry service";

New sec.
516A.

- (f) by inserting after section five hundred and sixteen the following new section:—

Cancellation
of certain
contracts.

516A. (1) This section shall apply only to contracts for the removal of night-soil or garbage or trade refuse or any combination of such

Local Government (Amendment).

such removals which were entered into by the council prior to the third day of September, one thousand nine hundred and thirty-nine.

(2) Where the council is satisfied that it is in the public interest so to do, and that such action has become desirable owing to war conditions, the council may, subject to the approval of the Minister, cancel a contract on such terms and conditions as may be agreed upon by the council and the contractor.

- (g) by inserting after section five hundred and eighteen the following new section:— New sec.
518A.

518A. On the sale of any land under this Division the council may, where the land is sold for housing purposes and if the Governor so approves, transfer the land and take a first or second mortgage, as the case may require, over such land to secure the repayment of the purchase money: Sale of
land for
housing.

Provided, however, that the amount secured by any second mortgage taken by the council in pursuance of this section shall not exceed an amount equal to twenty per centum of the estimated value of the land and the dwelling house to be erected thereon.

- (h) (i) by inserting in paragraph (a) of subsection two of section five hundred and twenty-four after the word "fallow" the words "improved pasture"; Sec. 524 (2).
(Entry and
other
powers.)

- (ii) by inserting after paragraph (d) of the same subsection the following new paragraph:— New par.
(e).

(e) the council or person authorised by it shall, unless the owner or occupier of the land otherwise consents, or the Minister otherwise approves, dig, raise, gather, take and carry away any necessary materials from pits or holes and not otherwise.

Such

Local Government (Amendment).

Such pits or holes shall be made by the council or by the person authorised by it on sites on the land selected by the council in agreement with the owner or occupier and, in default of an agreement between the council and the owner or occupier, a site shall be selected by a person appointed for that purpose by the Minister.

- (iii) by omitting subsection seven of the same section and by inserting in lieu thereof the following new subsection:—

(7) Notwithstanding the other provisions of this section, materials shall not be removed from land which has been dedicated a State forest under the Forestry Act, 1909, or the Forestry Act, 1916-1935, except with the consent of the Forestry Commission, or from land comprised within a travelling stock reserve within the meaning of the Pastures Protection Act, 1934, except with the consent of the Pastures Protection Board of the district.

Further
amendment
of Act No.
41, 1919.
Sec. 597.
(Proceed-
ings.)

7. The Principal Act is further amended by inserting after subsection one of section five hundred and ninety-seven the following new subsection:—

(1A) Proceedings for the recovery of any rate by suit in equity for the enforcement of the charge on the land shall not be taken after the commencement of the Local Government (Amendment) Act, 1941.

Local Government (Amendment).

PART III.

GENERAL.

8. (1) In order to resolve doubts it is hereby declared that—

Validation
of certain
elections.

- (a) on the first day of January, one thousand nine hundred and forty-one, five vacancies in the office of aldermen existed in the Municipal Council of Liverpool;
- (b) the extraordinary election held on the eighteenth day of January, one thousand nine hundred and forty-one, to fill the vacancies referred to in paragraph (a) of this subsection is hereby validated;
- (c) the following persons, namely, Harold Havelock Chapman, Esquire, Edwin Clarence Gruchy, Esquire, William James Newcombe, Esquire, John Malcolm Kelly, Esquire, Henry Charles Leslie Sampson, Esquire, who were, in pursuance of the election referred to in paragraph (b) of this subsection, declared to have been elected as aldermen of the Municipal Council of Liverpool shall be deemed to have been validly elected as such aldermen and the oaths of allegiance and declarations of office taken and subscribed by such persons shall be deemed to have been validly taken and subscribed;
- (d) extraordinary vacancies in the office of such aldermen or any of them shall not be deemed to have occurred by reason only of the absence of such aldermen or any of them from any meetings of the Municipal Council of Liverpool held between the eighteenth day of January, one thousand nine hundred and forty-one, and the date of commencement of this Act.

(2) Nothing contained in this section shall limit the effect of section forty-eight of the Local Government Act, 1919.

In the name and on behalf of His Majesty I assent to this Act.

*Government House,
Sydney, 10th April, 1941.*

WAKEHURST,
Governor.

