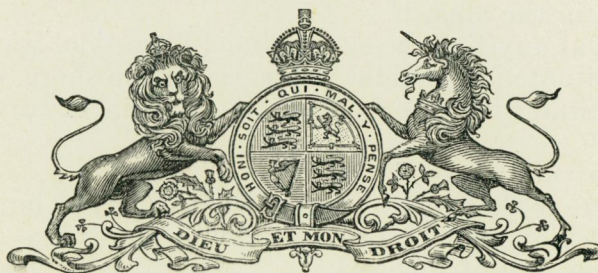


# New South Wales.



ANNO OCTAVO

## EDWARDI VII REGIS.

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### Act No. 28, 1908.

An Act to amend the Local Government Act, 1906 ; to amend the law relating to local government, and for that purpose to amend Acts relating to public health, water and sewerage and drainage, public watering places, public roads and public parks and cemeteries ; to amend the Stage Carriages Act, 1899, and the Audit Act, 1902, and certain other Acts ; and for purposes consequent thereon or incidental thereto. [Assented to, 24th December, 1908.]

**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 :—

#### *Preliminary.*

1. This Act may be cited as the "Local Government (Amending) Act, 1908."

In

Short title.



*Local Government (Amending).*

In this Act "Principal Act" means Local Government Act, 1906.

In amendments inserted by this Act in the Principal Act, the expression "this Act" means the Principal Act, as amended by this or any other Act.

*Constitution of areas.*

Section 14,  
Principal Act.

Land on boundary  
of area.

2. Section fourteen of the Principal Act is repealed, and the following is substituted in its place :—

14. (1) Any land on the boundary of but not within an area as constituted shall be deemed, with any building or structure thereon, to be included in the area, if—

- (a) it has at any time been reclaimed from tidal waters ; or,
- (b) it is situate under tidal waters or on the shore, or on or below high water-mark, or below the margin of any tidal waters, and—
  - (i) is privately owned ; or
  - (ii) there is thereon any jetty, wharf, pier, or building ; or
  - (iii) the Governor by proclamation declares that the land shall form part of the area.

(2) For the purposes of this section "tidal waters" includes the waters of the sea or of any lake, estuary, river, bay, or lagoon in which the tide ebbs and flows.

*Reconstitution.*

Section 15,  
Principal Act.

3. (1) Subsection one of section fifteen of the Principal Act is amended—

- (a) by inserting after paragraph (e) new paragraphs, as follows :—
- (f) Add any land not within an area, except land in the Western Division, to a municipality or shire.
- (b) by adding at the end of the subsection the following :—

But the Governor may exercise the powers of paragraph (c), (e), or (f) without reconstituting the area.

(2) Subsection two of the same section is repealed, and the following is substituted in its place :—

(2) Provided that before exercising the power in paragraph (a) or (e) of subsection one of this section a poll of ratepayers shall, at the request of one-third of the ratepayers of any such area, be taken in each area, and such power shall not be exercised unless at such polls a majority of the votes has, in each area, been cast in favour of the power being exercised.

(3) The following new subsection is added at the end of the section :—

(6) Where before the first day of January, one thousand nine hundred and nine, the reconstitution of an area or the alteration of



*Local Government (Amending).*

of its boundaries under subsection one of this section have been ordered or proclaimed, such order or proclamation shall be valid, although the provisions of this Act may have been contravened, or may not have been carried out.

4. Section sixteen of the Principal Act is amended by adding to subsection four the following paragraphs:—

- (c) conferring and imposing on the council of the reconstituted area all or any of the powers and duties which had been, prior to such reconstitution, conferred or imposed upon or acquired by the council of any old area forming part of the reconstituted area;
- (d) appointing and constituting a provisional council, whose members shall hold office until a council is elected or appointed under section forty-six of this Act.

Section 16,  
Principal Act.

*Divisions of areas.*

5. (1) Subsection three of section nineteen of the Principal Act is amended by omitting the words "persons resident within" and substituting therefor the words "electors of."

Section 19,  
Principal Act.

(2) Subsection two of section twenty-one of the Principal Act is amended—

Section 21,  
Principal Act.

- (a) by inserting after "such division" where first occurring in the subsection the words "made under this Act or any Act hereby repealed"; and
- (b) by omitting "persons resident within" and inserting "electors of."

6. Section twenty-five of the Principal Act is amended by adding thereto the words "or where such increase has been made may be decreased to six provided that before any such increase or decrease is made the council shall take a poll of electors on the question, and the decision of the majority of the votes cast at such poll shall determine the question."

Section 25,  
Principal Act.

7. The following new sections are inserted next after section forty-seven of the Principal Act:—

Section 47,  
Principal Act.

47A. If any member of a council is absent without leave granted by resolution of the council from the meetings of the council for three consecutive months, he shall thereupon cease to hold office, and his office shall be vacant.

Vacancy by reason  
of absence of  
member of council  
from meetings.

47B. Notwithstanding anything to the contrary in this Part a council may, out of the general fund of its area, pay the reasonable expenses of one of its members elected by the council to represent it as delegate to any conference of councils of municipalities or of shires on matters relating to local government, or the business of the council.

Conference expenses.

*Primary*



*Local Government (Amending).**Primary functions.*

Section 73,  
Principal Act.

8. Section seventy-three of the Principal Act is amended as follows:—

- (a) By adding to paragraph (ii) the words “including roads and bridges which are national works, provided that such control shall not interfere with the powers of the Minister for Public Works in carrying out necessary repairs or alterations to such national works, or in regulating the weight of loads or classes of traffic permitted to cross national bridges.”
- (b) By adding to paragraph (v) the words “Such power may be exercised with respect to offices outside the shire where the council so decides by the vote of an absolute majority of its members, passed at one meeting and confirmed by a similar majority at a subsequent meeting held within six weeks after the first meeting.”
- (c) In paragraph (ix), sub-paragraph (b), after “eleven” by inserting the words “and seventeen.”
- (d) By adding to paragraph (ix) the following sub-paragraph:—
  - (d) Notwithstanding anything in the said Act, a council may let any public watering place on lease for a term not exceeding ten years; and may grant an extension of any lease for a term not exceeding five years at the same or an increased rental without calling for public tenders where the council considers such extension is justified by the nature of the improvements made by the lessee.
- (e) In paragraph (xi), after “thereto” by inserting the word “constructed”
- (f) By inserting after paragraph (xi):—
  - (xii) The provision of drinking troughs for animals in public places and water therefor.
- (g) By adding the following subsections:—
  - (2) The fact that any offices leased, acquired, erected, or maintained by a shire council before the thirtieth day of September, one thousand nine hundred and eight, were situate outside the shire, or that the business of such council was transacted at any offices so situate, shall not be deemed to have affected and shall not affect the validity of such lease, acquisition, erection, or maintenance, or of anything done or to be done in pursuance thereof, or the validity of any act done or to be done by the council or its president.
  - (3) For the purposes of this Act “public road” shall include—
    - (a) any road proclaimed or dedicated under any Act dealing with public roads, or under the Crown Lands Acts, or classified as a main road in the Gazette of the thirty-first day



*Local Government (Amending).*

day of December, one thousand nine hundred and six, or approved by the council under section ninety-nine of this Act; or any road of which the council has the care, control, and management under subsection one, paragraphs i (e) and (x) of this section, or under sections seventy-four and seventy-eight of this Act;

- (b) any road left in division or subdivision of Crown lands, or used as a road over Crown lands, and with respect to which a council signifies its intention to take control, provided the approval of the Secretary for Lands be first obtained;
- (c) any road left in division or subdivision of private lands, and of which a council, by notice in the Gazette, signifies its intention to take control, provided that the council shall, before publishing such notice, serve on the owner of the land comprising the road notice of such intention; and such owner may, as prescribed, appeal within thirty days of such service to a district court judge having jurisdiction within the area against the carrying out of such intention. Such judge may hear and determine such appeal, and make such order as he thinks fit.

9. Section seventy-four of the Principal Act is amended by Section 74, Principal Act. inserting after "disposal" in paragraph (i) the words "within or outside the area (subject to the approval of the night-soil depôt by the Board of Health)."

10. The following sections are inserted next after section New section. seventy-five of the Principal Act:—

75A. Where, by the operation of this Act, a public ferry which Public ferries. was in operation at any time during the year ended on the thirty-first day of December, one thousand nine hundred and six, passed to the care of a council, such council shall cause such ferry to be worked for the use of the public, unless the Minister grants permission to close such ferry. This provision may be enforced against the council at the suit of the Minister, or of any person interested.

75B. A council shall, in respect of any public road or part of a public road in its area, have the right to lodge a caveat against the bringing of such road or part of a road under the provisions of the Real Property Act, 1900.

11. Section seventy-eight of the Principal Act is amended by Section 78, Principal Act. omitting "subsection" in subsection two and substituting "section," and by inserting the following at the end of subsection three:—"Provided that nothing herein shall affect the power of the Secretary for Lands to make compensation or part compensation in land in pursuance of the said Act."

12. Section eighty-two of the Principal Act is amended by Section 82, Principal Act. inserting after the words "may cause notice" the words "to be served on the owner or on the person causing such encroachment or obstruction Encroachment on a road. and";



*Local Government (Amending).*

and"; and by adding at the end of subsection one the following words:—  
 "The above provisions shall apply also to any encroachment or obstruction, being a hedge, fence, wall in the nature of a fence, post, steps, awning or verandah, or post supporting any awning or verandah, drain, watercourse, or any structure of bark, ruberoid, canvas, or other like material, planted, erected, or made before or after the commencement of this Act. In this section, 'encroachment' includes any obstruction on the footway or carriage-way of a road."

Section 87,  
Principal Act.

13. Section eighty-seven of the Principal Act is amended by adding the following subsection:—

(2) A council may agree to pay for any purchase lawfully made, or for the performance of any work which it might lawfully undertake, by instalments extending over a period of years.

Section 103,  
Principal Act.

14. Section one hundred and three of the Principal Act is omitted, and the following is substituted therefor:—

103. (1) A council may fix, with the approval of the Governor, and may recover from the person to whom or on whose order any service is rendered by the council, in pursuance of its powers under this Act, fees and charges for such service. Proceedings for the recovery of such fees and charges may be taken at any time within twelve months after the making of a written demand for payment.

(2) After the thirty-first day of December, one thousand nine hundred and eight, a council shall, in cases where the service is rendered, make such charges as aforesaid, recoverable as aforesaid, for the removal of nightsoil or garbage, or both nightsoil and garbage, payable by the occupier of the premises served. At the request of the council such charges shall be paid in advance, subject to the right of the person making such payment to a refund, on the determination of his occupation, of any amount overpaid by him. Such charges shall be carried to a special fund. The cost of nightsoil and garbage removal shall not be paid out of the general fund, but out of the said special fund: Provided that the Governor may, from time to time by proclamation, exempt any council from the operation of this subsection.

Recovery of fees  
and charges.

(3) All fees and charges owing to any existing municipality on the first day of January, one thousand nine hundred and seven, may be recovered from the person liable to pay the same under the Acts repealed by the Principal Act: Provided a written demand be made for the payment thereof, and proceedings be taken for the recovery thereof within three months from the passing of this Act.

Section 106,  
Principal Act.

15. Section one hundred and six of the Principal Act is amended—

- (a) in subsection one by inserting "or one side" after the word "centre";
- (b) in subsection two by omitting the words "in the prescribed manner."



*Local Government (Amending).*

16. Section one hundred and seven of the Principal Act is amended— Section 107,  
Principal Act.

- (a) in paragraph (i), after “disposal” by inserting the words “within or outside the area (subject to the approval of the nightsoil depôt by the Board of Health)”;
- (b) in paragraph (i), after “situation of privies” by inserting the words “the regulation of.”

*Additional functions.*

17. Section one hundred and nine of the Principal Act is amended by adding at the end thereof the following paragraph :— Section 109,  
Principal Act.

- (li) The regulation of the interment of the dead, with power, subject to the Governor’s approval, to prohibit burials in any cemetery or land in any case where such course appears to the council to be necessary for the prevention of the pollution of any water supply, or for the better protection of the health of residents in the neighbourhood of such cemetery or land.
- (lii) The advertising of the advantages of the area for purposes of settlement or touring.
- (liii) The supply and sale of stone or gravel from the council’s quarries or pits.

18. Section one hundred and thirteen of the Principal Act is amended— Section 113,  
Principal Act.

- (a) in subsection one, after the words “control within” by inserting the words “or outside”; and
- (b) in subsection three, after “as aforesaid” by omitting words “in an area,” and inserting the words “or when any council has in conjunction with any other council jointly established an abattoir”; and, after “exposure for sale within the area,” by inserting the words “of any such councils”; and
- (c) in subsection five, by inserting after the word “sheep” the words “horses, mules, asses, camels, and goats.”

19. Section one hundred and fifteen of the Principal Act is amended :— Section 115,  
Principal Act.

- (a) By omitting subsection (a) and inserting the following :—  
“Regulate and control all hoardings in the area and prevent the erection or use of such hoardings as may affect injuriously the amenities of a public park or pleasure promenade, or disfigure the natural beauty of a landscape or harbour foreshore.”
- (b) By omitting subsection (b)
- (c) By omitting in subsection (c) “all hoardings now or hereafter  
“to be erected and”

(d)



*Local Government (Amending).*

(d) By adding the following proviso at the end of subsection (d):—  
Provided that—

- (1) The charge for or for renewal of any license for a hoarding shall not exceed a sum calculated at the rate of one penny per annum per square yard of advertising space on such hoarding and where such license is issued or renewed after the first day of January in any year, the charge shall be calculated for the remainder of the year at the above rate, any fraction of a week being counted as a full week, the minimum charge to be ten shillings.
- (2) All hoardings in use for advertising purposes on thirty-first October, one thousand nine hundred and eight, shall be exempt from the provisions of this section for a period of five years from the thirty-first December, one thousand nine hundred and seven, if the charges before mentioned are regularly paid and the hoardings are not allowed to fall in a state of disrepair.
- (3) The maximum fee which may be charged for bill-posters' licenses shall be one shilling.

Section 115,  
Principal Act.

Public vehicles.

**20.** The following section is inserted next after section one hundred and fifteen of the Principal Act:—

115A. Where any council has, under this Act, the power to regulate and license public vehicles, and the drivers and conductors thereof, the Stage Carriages Act, 1899, shall not apply within the area of such council: Provided that sections thirteen and fourteen of the said Act shall apply within the area, and in so applying such sections the words "the Local Government Act, 1906, and any ordinances thereunder, so far as they relate to public vehicles," shall be read for the words "this Act"; and the words "the ordinances under the said Act" shall be read for the words "the last preceding section."

Section 131,  
Principal Act.

**21.** Section one hundred and thirty-one of the Principal Act is amended as follows:—

- (a) By omitting paragraph (d) of subsection one and substituting the following:—"Lands the property of the Crown which are not occupied or on which any public works are in course of construction by or for the Crown," and by inserting the following additional paragraph:—
- (f) lands held under lease or agreement for lease from the Crown for purposes of oyster culture.
- (b) In subsection three by omitting the words after "tenancy" to the end of the subsection and inserting the following: "shall be liable to the amount per pound of any rate struck; but where such rate is struck on the improved capital value, the Crown shall only be liable for the said rate per pound on the unimproved



*Local Government (Amending).*

unimproved capital value of its land. This subsection shall not apply to rates made after the first day of January, one thousand nine hundred and nine, under the Country Towns Water and Sewerage Acts, 1880-1905."

*Values and valuations.*

22. Section one hundred and thirty-two of the Principal Act Section 132, Principal Act. is amended—

- (a) in subsection two, paragraph (e), by adding the following:—  
 "Where councils have not caused valuations to be made in accordance with this subsection for the years one thousand nine hundred and seven and one thousand nine hundred and eight in the case of shires and one thousand nine hundred and eight in the case of municipalities, such councils may cause such valuations to be made at any time, and such valuations shall for the purposes of any rates made or to be made be deemed to have come into force on the first day of January, one thousand nine hundred and seven, in the case of shires and on the first day of January, one thousand nine hundred and eight in the case of municipalities."
- (b) In subsection three after the word "held" in line one insert the words "for pastoral or agricultural purposes."
- (c) In subsection three, by adding the following words: "or, if such lease or license was not in force during such preceding year, twenty times the rent payable to the Crown thereunder for the year in which the valuation is made."

23. Section one hundred and thirty-five of the Principal Act Section 135, Principal Act. is amended as follows:—

- (a) By omitting subsections one, two, three, and four, and inserting in place thereof the following subsections:—

(1) A council shall at least once in every three years cause valuation to be made of all ratable land in its area: Provided that the council may, without causing a fresh valuation to be made, adopt as the valuations for any period the whole or any part of the valuations in force at the close of the next preceding period when such valuations are considered by the council to be still just and equitable.

In a municipality such valuation shall be of the unimproved capital value, the improved capital value, and the assessed annual value.

In a shire the valuation of the unimproved capital value shall be compulsory, and of the improved capital value, and the assessed annual value, optional.

Provided that a council may adopt the valuations under the Land and Income Tax Assessment Act of 1895 as the first valuation of unimproved capital value under this Act.

(2)



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*Local Government (Amending).*

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(2) A council may, whenever it thinks necessary, cause valuations to be made of any or of all ratable land in its area.

(3) Where a valuation is made of land which was not ratable before the commencement of the then current year, the rate thereon shall be proportionate to the portion of such year during which such land was ratable.

Where a valuation is made of land which had not been rated, but which was ratable at the commencement of the then current year, the rate thereon shall be for the whole of such year, except where otherwise provided in this Act.

In any other case the valuation shall come into force on the first day of January next following the making of the valuation, except where otherwise provided in this Act.

(4) Where any court holds that a valuation is invalid for any reason except that the land valued is not ratable, the council may cause fresh valuation to be made, which shall take the place of the valuation so held to be invalid, and shall, for the purposes of any rates made or to be made, be deemed to have come into force at the time when the last-mentioned valuation came into force.

(4A) All valuations made in a municipality during the year one thousand nine hundred and eight shall be and be deemed to have been as valid as if they were made within the first year after the constitution of the council of the municipality. This provision shall apply to every municipality without exception, notwithstanding the decision of any court. Every valuation of land made after the first day of January, one thousand nine hundred and seven, in a shire, or one thousand nine hundred and eight in a municipality, with amendments (if any) on appeal, shall remain in force until a fresh valuation of such land comes into force; but the valuation in force shall be subject to appeal each year as prescribed.

(b) By adding the following subsection:—

(7) Any valuation or entry of valuation made under this Act may be altered at any time in any case where it is found that an error has been made as to the area, ownership, or occupation of land, or any mistake of calculation of values has been made, or where there is a change of ownership or occupation. Where any land has been subdivided, and a portion sold or let, the valuation of such land may be altered, and such valuation and any unpaid rates due on such land may be apportioned by the council. Such alteration or alteration and apportionment shall be initialled by the president or mayor and clerk after resolution of the council making such alteration or apportionment: Provided that in every such case of alteration or apportionment notice thereof shall be served, and an appeal therefrom shall lie, as provided in section one hundred and thirty-eight with respect to valuations, and such alteration or apportionment shall take effect from the date fixed by the resolution of the council.

Other



*Local Government (Amending).*

Other minor errors in the valuation book not affecting the amount at which land is valued may be altered as prescribed by ordinance.

24. (1) The following words are added to section one hundred and thirty-six of the Principal Act:—"Where any portion of a mine as defined in this Act is separately let or sublet to and occupied by any person for residential, business, grazing, or agricultural purposes, such portion shall be valued and rated separately." Section 136,  
Principal Act.

(2) Subsection one of section one hundred and thirty-seven of the Principal Act is amended by adding the words "and, where a mine is situated in two or more areas, the council of any one of such areas may at any time require the councils of the other areas to appoint valuers for the purpose of making a joint valuation of the mine." Section 137,  
Principal Act.

25. (1) Section one hundred and thirty-eight of the Principal Act is amended— Section 138,  
Principal Act.

- (a) in subsection one, paragraph (a), by omitting "such valuation," and inserting the words "the valuation of the unimproved capital value of the land";
- (b) in subsection one by adding the following at the end of the subsection:—"In such appeal the question may be raised whether the land is ratable";
- (c) in subsection two by inserting, after "amend," the words "or strike out";
- (d) in subsection four by inserting at the end of the subsection the following: "any appellant may appear at an appeal court by his counsel, solicitor, or agent, provided such agent is authorised by the appellant in writing."
- (e) in subsection five by omitting the words "as to the amount of such assessment."

(2) Section one hundred and forty of the Principal Act is amended— Section 140,  
Principal Act.

- (a) in subsection one by inserting after "made" the words "or in relation to the question whether the land is ratable";
- (b) in subsection one by adding at the end of the subsection the following—"or to the question whether the land is ratable";
- (c) in subsection two by inserting after "principle" the words "or the said question."
- (d) by adding a new subsection six as follows:—

Notwithstanding anything in section one hundred and forty-six, in any action for the recovery of rates made before the first day of January, one thousand nine hundred and nine, the defence that the land was not ratable may be raised.

*Rates.*



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*Local Government (Amending).*


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*Rates.*

Section 144,  
Principal Act.

Lessors and lessees—  
Land Tax (Leases)  
Act.  
Extension s. 72.

**26.** (1) Section one hundred and forty-four of the Principal Act is amended by omitting subsection six and substituting the following therefor :—

(6) Provided that where a lessee of ratable land in an area has agreed with the owner, or with the mesne lessee from whom he immediately holds, to pay municipal or local government taxes, whether under those designations or under any words of description which would include municipal or local government taxes, and, in the case of land within a municipality, such agreement was made before the commencement of this Act, and, in the case of land within a shire, was made before the commencement of the Shires Act, the owner and all the lessees, including mesne lessees, shall, notwithstanding such agreement and during the currency of such agreement, be respectively liable, as between themselves, for so much of the local government rate under this Act as is equal to the amount of the land tax, or tax in lieu of land tax, on the land which they respectively would have been liable to pay under the Acts mentioned in Schedule Three if the operation of the said Acts had not been suspended, based on the valuation of the unimproved capital value under this Act. The adjustment of the Commissioners of Taxation under the fourth section of the Land Tax (Leases) Act, 1902, shall be made on the application of any person interested in such agreement, and shall be on the basis of such valuation, and of a land tax or tax in lieu of land tax, without exemptions, and after the first adjustment, there shall be a readjustment by the commissioners at every subsequent period of valuation. Such adjustment shall be final and shall not be subject to appeal in any court.

Any person interested in any such agreement as aforesaid may notify the council of the terms of such agreement. Where such notification has been received by the council, such council shall (notwithstanding the provisions of subsection one of this section) first proceed for the recovery of the whole of any rates due under this Act from the lessee who is the last lessee within the knowledge of the council bound by any such agreement. In the case of rates made after the commencement of this Act unless the council be notified as aforesaid before the making of any rates, the council may recover the whole of such rates from the lessor.

Failing in any legal proceedings against any person as aforesaid, the council shall next so proceed against the lessor from whom such person immediately holds; and, failing in any such proceedings against a lessor who is a mesne lessee, the council shall next so proceed against the lessor from whom he immediately holds; and so on.

Any



*Local Government (Amending).*

Any lessee who has paid, or any mesne lessee who has paid or suffered the deduction as hereinafter provided of any such rates may recover as a debt from, or deduct from any moneys due to, the lessor from whom he immediately holds, the proportionate amount of rates determined as aforesaid by the said commissioners to be the portion payable in respect of the land rated by all the persons under whom he derives title; and any lessor who has made any payment to the council or to his immediate lessor in respect of such rates may recover as a debt from any lessee under him such portion thereof as such lessee is liable for under his agreement and the terms of this subsection.

The council, the commissioners aforesaid, and any authorised servant of either of them, may, under the prescribed penalty, demand the production within a reasonable time of any agreement as aforesaid from any owner, lessee, or person having the custody of such agreement, or require any person in occupation of land, or in receipt of the rent of land, to answer any question for the purposes of this subsection. A certificate of such adjustment aforesaid purporting to be signed by the said commissioners, or their secretary, or registrar, shall be prima facie evidence of such adjustment.

This subsection shall apply and shall be deemed to have applied to all rates made under this Act after the first day of January, one thousand nine hundred and eight.

In this subsection the word "lessor" includes his successors in title.

(2) Subsection seven of section one hundred and forty-four of the Principal Act is amended by inserting at the end of the subsection the following words:—"All amounts due as rates by the same person may be recovered in one proceeding. Where proceedings are taken by a council in a district court or court of petty sessions to recover any rates, such proceedings may be so taken in any such court for the district in which the land in respect of which the rates are claimed to be due is situate."

27. Subsection five of section one hundred and fifty-one of the Principal Act is amended by omitting the words "which has levied a" Section 151 (5), Principal Act. and inserting in their place the words "over and above the said," and by inserting after "may" where it first occurs in the said subsection the words "on the same or subsequent estimate," and by inserting after "roll of ratepayers" the words "or if the number on the roll be less than six hundred, then one-sixth of the ratepayers on such roll."

28. Subsection six of section one hundred and fifty-three, and subsection four of section one hundred and fifty-four of the Principal Act are respectively amended by omitting the words "after the first constitution or" and inserting in their place "before the thirty-first day of December, one thousand nine hundred and eight, or within six months after." Sections 153 and 154, Principal Act.

*Loans.*



*Local Government (Amending).**Loans.*

Section 176,  
Principal Act.

Temporary  
borrowing.

29. Section one hundred and seventy-six of the Principal Act is repealed, and the following sections are read in its place:—

176. (1) Notwithstanding the provisions of this Act, a council may temporarily borrow in any year on the credit of the area and on the security of its revenues an amount not exceeding one-third of the estimated revenue to be received from rates if the consent of the Minister has been first obtained. For securing the repayment of any moneys borrowed or to be borrowed temporarily by a council under this Act, together with interest, if any, thereon, the council of a shire shall have the same powers to give security as the council of a municipality.

Validation of certain  
shire borrowings.

(2) All temporary loans made to and securities for the same given by any council of a shire after the commencement of this Act and before the commencement of the Local Government (Amending) Act, 1908, to secure the repayment of moneys borrowed with the consent of the Minister, or of which the Minister has at any time approved, together with interest, if any, thereon, shall be deemed to have been and to be good and valid loans and securities, and to have been lawfully made and given, notwithstanding that the amount of such loan may have been greater than that authorised by the statute law.

Repayment of tem-  
porary borrowings  
validated.

(3) Where a council has temporarily borrowed to an amount greater than that authorised as aforesaid, and such borrowings are validated hereunder, such council shall, before the thirtieth day of June, one thousand nine hundred and nine, repay such temporary borrowings to the extent necessary to reduce the amount owing to the amount so authorised.

Temporary loan  
fund.

(4) A council borrowing temporarily under this section shall keep a temporary loan fund as prescribed, and shall pay moneys to and out of such fund as prescribed.

Saving.

(5) Nothing in section one hundred and fifty-six of this Act shall apply to any temporary borrowing under this section.

Validation of  
previous loans and  
securities in  
municipalities.

176A. Where before the first day of June, one thousand nine hundred and eight, a loan has been made to the council of a municipality or of an existing municipality, such loan shall be deemed to have been a good valid and legal loan, and to have been lawfully contracted by such council, and the securities given for such loan shall be deemed to have been and to be good and valid securities, and to have been lawfully given to secure the repayment of such loan.

176B. A council of a shire or municipality shall not borrow money in any way except as provided by this or some other Act; nor obtain any loan in anticipation of the Governor's approval or Minister's consent, as the case may be, when such approval or consent is required by any Act to be given in order to authorise the loan.



*Local Government (Amending).*

30. Section one hundred and seventy-nine of the Principal Act Section 179, Principal Act. is amended in subsection two—

(a) by inserting the following paragraph next after paragraph (xii):—

(xiii) The payment of a yearly subscription to the Local Government Association of New South Wales or the Shires Association of New South Wales.

(b) by adding the following at the end of the subsection:—

Provided also that, except for the lighting of dangerous points on roads or bridges, the cost of lighting roads and streets shall not be paid from the general fund, but nevertheless a council of a municipality whose area is wholly situate within twenty miles from the Sydney Post Office, and of any municipality the whole area of which derives any benefit or advantage from the expenditure on lighting streets, may in its discretion pay such cost out of its general fund.

Where a local rate is made for lighting roads or streets a poll may not be demanded as to whether such rate shall be made.

*Transfers from fund to fund.*

31. The following new section is inserted in the Principal Act Transfers from fund to fund validated. next after section one hundred and eighty-one:—

181A. (1) Where, before the first day of July, one thousand nine hundred and eight, the proceeds of any rate, other than a general rate, and other than a rate under the Country Towns Water and Sewerage Acts, 1880–1905, which was directed by any Act to be paid to an account or fund specified, other than the general fund, or any sum at credit of such account or fund, has been paid to the general fund or some other fund of a municipality or an existing municipality or used for public purposes other than those for which such rate was levied, such payment or use shall be deemed to have been and to be valid:

Provided that nothing herein shall affect any security or charge Saving. on such special rate or the proceeds thereof to secure the repayment of a loan to the council.

(2) The council of the municipality of Lithgow shall Validation—Lithgow Council. be deemed to have been authorised to use money to the extent of one thousand two hundred pounds, at credit of the account of rates and charges under the Country Towns Water and Sewerage Acts, 1880–1905, for the purposes of the general fund, and any such use of such money is hereby validated:

Any moneys so used shall be repaid from the general fund within six years from the thirty-first day of December, one thousand nine hundred and eight.

(3)



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*Local Government (Amending).*

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Transfers from fund  
to fund regulated.

(3) Moneys shall not be transferred from one fund of a council to any other fund, except in accordance with this Act or with regulations which the Governor is hereby authorised to make with regard thereto. In such regulations provision may be made for the distribution of the administrative expenses of the council among the various funds, and for the definition of administrative expenses.

*Miscellaneous.*

Section 198,  
Principal Act.

**32.** (1) Section one hundred and ninety-eight of the Principal Act is amended by inserting after the word "Act" the words "or the Shires Act"; and by omitting the words "a like."

Section 206,  
Principal Act.

(2) Section two hundred and six of the Principal Act is amended by inserting the words "or notification" after the word "proclamation" each time they occur in the section.

**33.** The following section and short heading is added to the Principal Act:—

*Control of beaches and adjacent waters.*

Control of  
foreshores and tidal  
waters.

210. Where high-water mark of any tidal waters is the boundary of any area, and where the council of the area has acquired the powers of paragraph (xvi) of section one hundred and nine of this Act, the powers of the said paragraph and any ordinances relating thereto shall extend and apply to the foreshores below such high-water mark, and to the tidal waters adjacent to such foreshores, and to all persons thereon or therein.

*Indemnity.*

Indemnity for non-  
compliance with  
Audit Act.

**34.** All persons whosoever concerned or engaged, before or after the commencement of this Act, in paying any account for work which is situate within a shire or municipality and which was completed on or before the thirty-first day of July, one thousand nine hundred and eight, are hereby indemnified and held harmless for or in respect of any non-compliance with the provisions of section forty-one of the Audit Act, 1902.



*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.*

*Legislative Assembly Chamber,  
Sydney, 18 December, 1908.* }

*RICHD. A. ARNOLD,  
Clerk of the Legislative Assembly.*

## New South Wales.



ANNO OCTAVO

## EDWARDI VII REGIS.

\*\*\*\*\*

### Act No. 28, 1908.

An Act to amend the Local Government Act, 1906 ; to amend the law relating to local government, and for that purpose to amend Acts relating to public health, water and sewerage and drainage, public watering places, public roads and public parks and cemeteries ; to amend the Stage Carriages Act, 1899, and the Audit Act, 1902, and certain other Acts ; and for purposes consequent thereon or incidental thereto. [Assented to, 24th December, 1908.]

**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 :—

#### *Preliminary.*

1. This Act may be cited as the " Local Government (Amending) Short title. Act, 1908."

In

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

*JOHN J. COHEN,  
Chairman of Committees of the Legislative Assembly.*



*Local Government (Amending).*

In this Act "Principal Act" means Local Government Act, 1906.

In amendments inserted by this Act in the Principal Act, the expression "this Act" means the Principal Act, as amended by this or any other Act.

*Constitution of areas.*

Section 14,  
Principal Act.

Land on boundary  
of area.

2. Section fourteen of the Principal Act is repealed, and the following is substituted in its place :—

14. (1) Any land on the boundary of but not within an area as constituted shall be deemed, with any building or structure thereon, to be included in the area, if—

- (a) it has at any time been reclaimed from tidal waters ; or,
- (b) it is situate under tidal waters or on the shore, or on or below high water-mark, or below the margin of any tidal waters, and—
  - (i) is privately owned ; or
  - (ii) there is thereon any jetty, wharf, pier, or building ; or
  - (iii) the Governor by proclamation declares that the land shall form part of the area.

(2) For the purposes of this section "tidal waters" includes the waters of the sea or of any lake, estuary, river, bay, or lagoon in which the tide ebbs and flows.

*Reconstitution.*

Section 15,  
Principal Act.

3. (1) Subsection one of section fifteen of the Principal Act is amended—

- (a) by inserting after paragraph (e) new paragraphs, as follows :—
- (f) Add any land not within an area, except land in the Western Division, to a municipality or shire.

(b) by adding at the end of the subsection the following :—

But the Governor may exercise the powers of paragraph (c), (e), or (f) without reconstituting the area.

(2) Subsection two of the same section is repealed, and the following is substituted in its place :—

(2) Provided that before exercising the power in paragraph (a) or (e) of subsection one of this section a poll of ratepayers shall, at the request of one-third of the ratepayers of any such area, be taken in each area, and such power shall not be exercised unless at such polls a majority of the votes has, in each area, been cast in favour of the power being exercised.

(3) The following new subsection is added at the end of the section :—

(6) Where before the first day of January, one thousand nine hundred and nine, the reconstitution of an area or the alteration of



*Local Government (Amending).*

of its boundaries under subsection one of this section have been ordered or proclaimed, such order or proclamation shall be valid, although the provisions of this Act may have been contravened, or may not have been carried out.

4. Section sixteen of the Principal Act is amended by adding to subsection four the following paragraphs:— Section 16,  
Principal Act.

- (c) conferring and imposing on the council of the reconstituted area all or any of the powers and duties which had been, prior to such reconstitution, conferred or imposed upon or acquired by the council of any old area forming part of the reconstituted area;
- (d) appointing and constituting a provisional council, whose members shall hold office until a council is elected or appointed under section forty-six of this Act.

*Divisions of areas.*

5. (1) Subsection three of section nineteen of the Principal Act is amended by omitting the words "persons resident within" and substituting therefor the words "electors of." Section 19,  
Principal Act.

(2) Subsection two of section twenty-one of the Principal Act is amended— Section 21,  
Principal Act

- (a) by inserting after "such division" where first occurring in the subsection the words "made under this Act or any Act hereby repealed"; and
- (b) by omitting "persons resident within" and inserting "electors of."

6. Section twenty-five of the Principal Act is amended by adding thereto the words "or where such increase has been made may be decreased to six provided that before any such increase or decrease is made the council shall take a poll of electors on the question, and the decision of the majority of the votes cast at such poll shall determine the question." Section 25,  
Principal Act.

7. The following new sections are inserted next after section forty-seven of the Principal Act:— Section 47,  
Principal Act.

47A. If any member of a council is absent without leave granted by resolution of the council from the meetings of the council for three consecutive months, he shall thereupon cease to hold office, and his office shall be vacant. Vacancy by reason  
of absence of  
member of council  
from meetings.

47B. Notwithstanding anything to the contrary in this Part a council may, out of the general fund of its area, pay the reasonable expenses of one of its members elected by the council to represent it as delegate to any conference of councils of municipalities or of shires on matters relating to local government, or the business of the council. Conference expenses.

*Primary*



*Local Government (Amending).**Primary functions.*

Section 73,  
Principal Act.

8. Section seventy-three of the Principal Act is amended as follows:—

- (a) By adding to paragraph (ii) the words “including roads and bridges which are national works, provided that such control shall not interfere with the powers of the Minister for Public Works in carrying out necessary repairs or alterations to such national works, or in regulating the weight of loads or classes of traffic permitted to cross national bridges.”
- (b) By adding to paragraph (v) the words “Such power may be exercised with respect to offices outside the shire where the council so decides by the vote of an absolute majority of its members, passed at one meeting and confirmed by a similar majority at a subsequent meeting held within six weeks after the first meeting.”
- (c) In paragraph (ix), sub-paragraph (b), after “eleven” by inserting the words “and seventeen.”
- (d) By adding to paragraph (ix) the following sub-paragraph:—
  - (d) Notwithstanding anything in the said Act, a council may let any public watering place on lease for a term not exceeding ten years; and may grant an extension of any lease for a term not exceeding five years at the same or an increased rental without calling for public tenders where the council considers such extension is justified by the nature of the improvements made by the lessee.
- (e) In paragraph (xi), after “thereto” by inserting the word “constructed”
- (f) By inserting after paragraph (xi):—
  - (xii) The provision of drinking troughs for animals in public places and water therefor.
- (g) By adding the following subsections:—
  - (2) The fact that any offices leased, acquired, erected, or maintained by a shire council before the thirtieth day of September, one thousand nine hundred and eight, were situate outside the shire, or that the business of such council was transacted at any offices so situate, shall not be deemed to have affected and shall not affect the validity of such lease, acquisition, erection, or maintenance, or of anything done or to be done in pursuance thereof, or the validity of any act done or to be done by the council or its president.
  - (3) For the purposes of this Act “public road” shall include—
    - (a) any road proclaimed or dedicated under any Act dealing with public roads, or under the Crown Lands Acts, or classified as a main road in the Gazette of the thirty-first day



*Local Government (Amending).*

day of December, one thousand nine hundred and six, or approved by the council under section ninety-nine of this Act; or any road of which the council has the care, control, and management under subsection one, paragraphs i (e) and (x) of this section, or under sections seventy-four and seventy-eight of this Act;

- (b) any road left in division or subdivision of Crown lands, or used as a road over Crown lands, and with respect to which a council signifies its intention to take control, provided the approval of the Secretary for Lands be first obtained;
- (c) any road left in division or subdivision of private lands, and of which a council, by notice in the Gazette, signifies its intention to take control, provided that the council shall, before publishing such notice, serve on the owner of the land comprising the road notice of such intention; and such owner may, as prescribed, appeal within thirty days of such service to a district court judge having jurisdiction within the area against the carrying out of such intention. Such judge may hear and determine such appeal, and make such order as he thinks fit.

9. Section seventy-four of the Principal Act is amended by Section 74, Principal Act. inserting after "disposal" in paragraph (i) the words "within or outside the area (subject to the approval of the night-soil dépôt by the Board of Health)."

10. The following sections are inserted next after section New section. seventy-five of the Principal Act:—

75A. Where, by the operation of this Act, a public ferry which Public ferries. was in operation at any time during the year ended on the thirty-first day of December, one thousand nine hundred and six, passed to the care of a council, such council shall cause such ferry to be worked for the use of the public, unless the Minister grants permission to close such ferry. This provision may be enforced against the council at the suit of the Minister, or of any person interested.

75B. A council shall, in respect of any public road or part of a public road in its area, have the right to lodge a caveat against the bringing of such road or part of a road under the provisions of the Real Property Act, 1900.

11. Section seventy-eight of the Principal Act is amended by Section 78, Principal Act. omitting "subsection" in subsection two and substituting "section," and by inserting the following at the end of subsection three:—  
"Provided that nothing herein shall affect the power of the Secretary for Lands to make compensation or part compensation in land in pursuance of the said Act."

12. Section eighty-two of the Principal Act is amended by Section 82, Principal Act. inserting after the words "may cause notice" the words "to be served on the owner or on the person causing such encroachment or obstruction Encroachment on a road. and";



*Local Government (Amending).*

and"; and by adding at the end of subsection one the following words:—  
 "The above provisions shall apply also to any encroachment or obstruction, being a hedge, fence, wall in the nature of a fence, post, steps, awning or verandah, or post supporting any awning or verandah, drain, watercourse, or any structure of bark, ruberoid, canvas, or other like material, planted, erected, or made before or after the commencement of this Act. In this section, 'encroachment' includes any obstruction on the footway or carriage-way of a road."

Section 87,  
Principal Act.

13. Section eighty-seven of the Principal Act is amended by adding the following subsection:—

(2) A council may agree to pay for any purchase lawfully made, or for the performance of any work which it might lawfully undertake, by instalments extending over a period of years.

Section 103,  
Principal Act.

14. Section one hundred and three of the Principal Act is omitted, and the following is substituted therefor:—

103. (1) A council may fix, with the approval of the Governor, and may recover from the person to whom or on whose order any service is rendered by the council, in pursuance of its powers under this Act, fees and charges for such service. Proceedings for the recovery of such fees and charges may be taken at any time within twelve months after the making of a written demand for payment.

(2) After the thirty-first day of December, one thousand nine hundred and eight, a council shall, in cases where the service is rendered, make such charges as aforesaid, recoverable as aforesaid, for the removal of nightsoil or garbage, or both nightsoil and garbage, payable by the occupier of the premises served. At the request of the council such charges shall be paid in advance, subject to the right of the person making such payment to a refund, on the determination of his occupation, of any amount overpaid by him. Such charges shall be carried to a special fund. The cost of nightsoil and garbage removal shall not be paid out of the general fund, but out of the said special fund: Provided that the Governor may, from time to time by proclamation, exempt any council from the operation of this subsection.

Recovery of fees  
and charges.

(3) All fees and charges owing to any existing municipality on the first day of January, one thousand nine hundred and seven, may be recovered from the person liable to pay the same under the Acts repealed by the Principal Act: Provided a written demand be made for the payment thereof, and proceedings be taken for the recovery thereof within three months from the passing of this Act.

Section 106,  
Principal Act.

15. Section one hundred and six of the Principal Act is amended—

(a) in subsection one by inserting "or one side" after the word "centre";

(b) in subsection two by omitting the words "in the prescribed manner."



*Local Government (Amending).*

16. Section one hundred and seven of the Principal Act is amended— Section 107,  
Principal Act.

- (a) in paragraph (i), after “disposal” by inserting the words “within or outside the area (subject to the approval of the nightsoil depôt by the Board of Health)” ;
- (b) in paragraph (i), after “situation of privies” by inserting the words “the regulation of.”

*Additional functions.*

17. Section one hundred and nine of the Principal Act is amended by adding at the end thereof the following paragraph :— Section 109,  
Principal Act.

- (li) The regulation of the interment of the dead, with power, subject to the Governor’s approval, to prohibit burials in any cemetery or land in any case where such course appears to the council to be necessary for the prevention of the pollution of any water supply, or for the better protection of the health of residents in the neighbourhood of such cemetery or land.
- (lii) The advertising of the advantages of the area for purposes of settlement or touring.
- (liii) The supply and sale of stone or gravel from the council’s quarries or pits.

18. Section one hundred and thirteen of the Principal Act is amended— Section 113,  
Principal Act.

- (a) in subsection one, after the words “control within” by inserting the words “or outside” ; and
- (b) in subsection three, after “as aforesaid” by omitting words “in an area,” and inserting the words “or when any council has in conjunction with any other council jointly established an abattoir” ; and, after “exposure for sale within the area,” by inserting the words “of any such councils” ; and
- (c) in subsection five, by inserting after the word “sheep” the words “horses, mules, asses, camels, and goats.”

19. Section one hundred and fifteen of the Principal Act is amended :— Section 115,  
Principal Act.

- (a) By omitting subsection (a) and inserting the following :—  
“Regulate and control all hoardings in the area and prevent the erection or use of such hoardings as may affect injuriously the amenities of a public park or pleasure promenade, or disfigure the natural beauty of a landscape or harbour foreshore.”
- (b) By omitting subsection (b)
- (c) By omitting in subsection (c) “all hoardings now or hereafter  
“to be erected and ”

(d)



*Local Government (Amending).*

(d) By adding the following proviso at the end of subsection (d):—  
Provided that—

- (1) The charge for or for renewal of any license for a hoarding shall not exceed a sum calculated at the rate of one penny per annum per square yard of advertising space on such hoarding and where such license is issued or renewed after the first day of January in any year, the charge shall be calculated for the remainder of the year at the above rate, any fraction of a week being counted as a full week, the minimum charge to be ten shillings.
- (2) All hoardings in use for advertising purposes on thirty-first October, one thousand nine hundred and eight, shall be exempt from the provisions of this section for a period of five years from the thirty-first December, one thousand nine hundred and seven, if the charges before mentioned are regularly paid and the hoardings are not allowed to fall in a state of disrepair.
- (3) The maximum fee which may be charged for bill-posters' licenses shall be one shilling.

Section 115,  
Principal Act.

Public vehicles.

**20.** The following section is inserted next after section one hundred and fifteen of the Principal Act:—

115A. Where any council has, under this Act, the power to regulate and license public vehicles, and the drivers and conductors thereof, the Stage Carriages Act, 1899, shall not apply within the area of such council: Provided that sections thirteen and fourteen of the said Act shall apply within the area, and in so applying such sections the words "the Local Government Act, 1906, and any ordinances thereunder, so far as they relate to public vehicles," shall be read for the words "this Act"; and the words "the ordinances under the said Act" shall be read for the words "the last preceding section."

Section 131,  
Principal Act.

**21.** Section one hundred and thirty-one of the Principal Act is amended as follows:—

- (a) By omitting paragraph (d) of subsection one and substituting the following:—"Lands the property of the Crown which are not occupied or on which any public works are in course of construction by or for the Crown," and by inserting the following additional paragraph:—
- (f) lands held under lease or agreement for lease from the Crown for purposes of oyster culture.
- (b) In subsection three by omitting the words after "tenancy" to the end of the subsection and inserting the following: "shall be liable to the amount per pound of any rate struck; but where such rate is struck on the improved capital value, the Crown shall only be liable for the said rate per pound on the unimproved



*Local Government (Amending).*

unimproved capital value of its land. This subsection shall not apply to rates made after the first day of January, one thousand nine hundred and nine, under the Country Towns Water and Sewerage Acts, 1880-1905."

*Values and valuations.*

22. Section one hundred and thirty-two of the Principal Act Section 132, Principal Act. is amended—

- (a) in subsection two, paragraph (e), by adding the following:—  
“Where councils have not caused valuations to be made in accordance with this subsection for the years one thousand nine hundred and seven and one thousand nine hundred and eight in the case of shires and one thousand nine hundred and eight in the case of municipalities, such councils may cause such valuations to be made at any time, and such valuations shall for the purposes of any rates made or to be made be deemed to have come into force on the first day of January, one thousand nine hundred and seven, in the case of shires and on the first day of January, one thousand nine hundred and eight in the case of municipalities.”
- (b) In subsection three after the word “held” in line one insert the words “for pastoral or agricultural purposes.”
- (c) In subsection three, by adding the following words: “or, if such lease or license was not in force during such preceding year, twenty times the rent payable to the Crown thereunder for the year in which the valuation is made.”

23. Section one hundred and thirty-five of the Principal Act Section 135, Principal Act. is amended as follows:—

- (a) By omitting subsections one, two, three, and four, and inserting in place thereof the following subsections:—

(1) A council shall at least once in every three years cause valuation to be made of all ratable land in its area: Provided that the council may, without causing a fresh valuation to be made, adopt as the valuations for any period the whole or any part of the valuations in force at the close of the next preceding period when such valuations are considered by the council to be still just and equitable.

Valuation of preceding year may be adopted.

In a municipality such valuation shall be of the unimproved capital value, the improved capital value, and the assessed annual value.

In a shire the valuation of the unimproved capital value shall be compulsory, and of the improved capital value, and the assessed annual value, optional.

Provided that a council may adopt the valuations under the Land and Income Tax Assessment Act of 1895 as the first valuation of unimproved capital value under this Act.

(2)



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*Local Government (Amending).*

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(2) A council may, whenever it thinks necessary, cause valuations to be made of any or of all ratable land in its area.

(3) Where a valuation is made of land which was not ratable before the commencement of the then current year, the rate thereon shall be proportionate to the portion of such year during which such land was ratable.

Where a valuation is made of land which had not been rated, but which was ratable at the commencement of the then current year, the rate thereon shall be for the whole of such year, except where otherwise provided in this Act.

In any other case the valuation shall come into force on the first day of January next following the making of the valuation, except where otherwise provided in this Act.

(4) Where any court holds that a valuation is invalid for any reason except that the land valued is not ratable, the council may cause fresh valuation to be made, which shall take the place of the valuation so held to be invalid, and shall, for the purposes of any rates made or to be made, be deemed to have come into force at the time when the last-mentioned valuation came into force.

(4A) All valuations made in a municipality during the year one thousand nine hundred and eight shall be and be deemed to have been as valid as if they were made within the first year after the constitution of the council of the municipality. This provision shall apply to every municipality without exception, notwithstanding the decision of any court. Every valuation of land made after the first day of January, one thousand nine hundred and seven, in a shire, or one thousand nine hundred and eight in a municipality, with amendments (if any) on appeal, shall remain in force until a fresh valuation of such land comes into force; but the valuation in force shall be subject to appeal each year as prescribed.

(b) By adding the following subsection:—

(7) Any valuation or entry of valuation made under this Act may be altered at any time in any case where it is found that an error has been made as to the area, ownership, or occupation of land, or any mistake of calculation of values has been made, or where there is a change of ownership or occupation. Where any land has been subdivided, and a portion sold or let, the valuation of such land may be altered, and such valuation and any unpaid rates due on such land may be apportioned by the council. Such alteration or alteration and apportionment shall be initialled by the president or mayor and clerk after resolution of the council making such alteration or apportionment: Provided that in every such case of alteration or apportionment notice thereof shall be served, and an appeal therefrom shall lie, as provided in section one hundred and thirty-eight with respect to valuations, and such alteration or apportionment shall take effect from the date fixed by the resolution of the council. Other



*Local Government (Amending).*

Other minor errors in the valuation book not affecting the amount at which land is valued may be altered as prescribed by ordinance.

24. (1) The following words are added to section one hundred and thirty-six of the Principal Act:—"Where any portion of a mine as defined in this Act is separately let or sublet to and occupied by any person for residential, business, grazing, or agricultural purposes, such portion shall be valued and rated separately." Section 136,  
Principal Act.

(2) Subsection one of section one hundred and thirty-seven of the Principal Act is amended by adding the words "and, where a mine is situated in two or more areas, the council of any one of such areas may at any time require the councils of the other areas to appoint valuers for the purpose of making a joint valuation of the mine." Section 137,  
Principal Act.

25. (1) Section one hundred and thirty-eight of the Principal Act is amended— Section 138,  
Principal Act.

- (a) in subsection one, paragraph (a), by omitting "such valuation," and inserting the words "the valuation of the unimproved capital value of the land";
- (b) in subsection one by adding the following at the end of the subsection:—"In such appeal the question may be raised whether the land is ratable";
- (c) in subsection two by inserting, after "amend," the words "or strike out";
- (d) in subsection four by inserting at the end of the subsection the following: "any appellant may appear at an appeal court by his counsel, solicitor, or agent, provided such agent is authorised by the appellant in writing."
- (e) in subsection five by omitting the words "as to the amount of such assessment."

(2) Section one hundred and forty of the Principal Act is amended— Section 140,  
Principal Act.

- (a) in subsection one by inserting after "made" the words "or in relation to the question whether the land is ratable";
- (b) in subsection one by adding at the end of the subsection the following—"or to the question whether the land is ratable";
- (c) in subsection two by inserting after "principle" the words "or the said question."
- (d) by adding a new subsection six as follows:—

Notwithstanding anything in section one hundred and forty-six, in any action for the recovery of rates made before the first day of January, one thousand nine hundred and nine, the defence that the land was not ratable may be raised.

*Rates.*



*Local Government (Amending).**Rates.*

Section 144,  
Principal Act.

Lessors and lessees—  
Land Tax (Leases)  
Act.  
Extension s. 72.

**26.** (1) Section one hundred and forty-four of the Principal Act is amended by omitting subsection six and substituting the following therefor :—

(6) Provided that where a lessee of ratable land in an area has agreed with the owner, or with the mesne lessee from whom he immediately holds, to pay municipal or local government taxes, whether under those designations or under any words of description which would include municipal or local government taxes, and, in the case of land within a municipality, such agreement was made before the commencement of this Act, and, in the case of land within a shire, was made before the commencement of the Shires Act, the owner and all the lessees, including mesne lessees, shall, notwithstanding such agreement and during the currency of such agreement, be respectively liable, as between themselves, for so much of the local government rate under this Act as is equal to the amount of the land tax, or tax in lieu of land tax, on the land which they respectively would have been liable to pay under the Acts mentioned in Schedule Three if the operation of the said Acts had not been suspended, based on the valuation of the unimproved capital value under this Act. The adjustment of the Commissioners of Taxation under the fourth section of the Land Tax (Leases) Act, 1902, shall be made on the application of any person interested in such agreement, and shall be on the basis of such valuation, and of a land tax or tax in lieu of land tax, without exemptions, and after the first adjustment, there shall be a readjustment by the commissioners at every subsequent period of valuation. Such adjustment shall be final and shall not be subject to appeal in any court.

Any person interested in any such agreement as aforesaid may notify the council of the terms of such agreement. Where such notification has been received by the council, such council shall (notwithstanding the provisions of subsection one of this section) first proceed for the recovery of the whole of any rates due under this Act from the lessee who is the last lessee within the knowledge of the council bound by any such agreement. In the case of rates made after the commencement of this Act unless the council be notified as aforesaid before the making of any rates, the council may recover the whole of such rates from the lessor.

Failing in any legal proceedings against any person as aforesaid, the council shall next so proceed against the lessor from whom such person immediately holds; and, failing in any such proceedings against a lessor who is a mesne lessee, the council shall next so proceed against the lessor from whom he immediately holds; and so on.

Any



*Local Government (Amending).*

Any lessee who has paid, or any mesne lessee who has paid or suffered the deduction as hereinafter provided of any such rates may recover as a debt from, or deduct from any moneys due to, the lessor from whom he immediately holds, the proportionate amount of rates determined as aforesaid by the said commissioners to be the portion payable in respect of the land rated by all the persons under whom he derives title; and any lessor who has made any payment to the council or to his immediate lessor in respect of such rates may recover as a debt from any lessee under him such portion thereof as such lessee is liable for under his agreement and the terms of this subsection.

The council, the commissioners aforesaid, and any authorised servant of either of them, may, under the prescribed penalty, demand the production within a reasonable time of any agreement as aforesaid from any owner, lessee, or person having the custody of such agreement, or require any person in occupation of land, or in receipt of the rent of land, to answer any question for the purposes of this subsection. A certificate of such adjustment aforesaid purporting to be signed by the said commissioners, or their secretary, or registrar, shall be prima facie evidence of such adjustment.

This subsection shall apply and shall be deemed to have applied to all rates made under this Act after the first day of January, one thousand nine hundred and eight.

In this subsection the word "lessor" includes his successors in title.

(2) Subsection seven of section one hundred and forty-four of the Principal Act is amended by inserting at the end of the subsection the following words:—"All amounts due as rates by the same person may be recovered in one proceeding. Where proceedings are taken by a council in a district court or court of petty sessions to recover any rates, such proceedings may be so taken in any such court for the district in which the land in respect of which the rates are claimed to be due is situate."

27. Subsection five of section one hundred and fifty-one of the Principal Act is amended by omitting the words "which has levied a" and inserting in their place the words "over and above the said," and by inserting after "may" where it first occurs in the said subsection the words "on the same or subsequent estimate," and by inserting after "roll of ratepayers" the words "or if the number on the roll be less than six hundred, then one-sixth of the ratepayers on such roll."

28. Subsection six of section one hundred and fifty-three, and subsection four of section one hundred and fifty-four of the Principal Act are respectively amended by omitting the words "after the first constitution or" and inserting in their place "before the thirty-first day of December, one thousand nine hundred and eight, or within six months after."

*Loans.*



*Local Government (Amending).**Loans.*

Section 176,  
Principal Act.

Temporary  
borrowing.

Validation of certain  
shire borrowings.

Repayment of tem-  
porary borrowings  
validated.

Temporary loan  
fund.

Saving.

Validation of  
previous loans and  
securities in  
municipalities.

**29.** Section one hundred and seventy-six of the Principal Act is repealed, and the following sections are read in its place:—

**176.** (1) Notwithstanding the provisions of this Act, a council may temporarily borrow in any year on the credit of the area and on the security of its revenues an amount not exceeding one-third of the estimated revenue to be received from rates if the consent of the Minister has been first obtained. For securing the repayment of any moneys borrowed or to be borrowed temporarily by a council under this Act, together with interest, if any, thereon, the council of a shire shall have the same powers to give security as the council of a municipality.

(2) All temporary loans made to and securities for the same given by any council of a shire after the commencement of this Act and before the commencement of the Local Government (Amending) Act, 1908, to secure the repayment of moneys borrowed with the consent of the Minister, or of which the Minister has at any time approved, together with interest, if any, thereon, shall be deemed to have been and to be good and valid loans and securities, and to have been lawfully made and given, notwithstanding that the amount of such loan may have been greater than that authorised by the statute law.

(3) Where a council has temporarily borrowed to an amount greater than that authorised as aforesaid, and such borrowings are validated hereunder, such council shall, before the thirtieth day of June, one thousand nine hundred and nine, repay such temporary borrowings to the extent necessary to reduce the amount owing to the amount so authorised.

(4) A council borrowing temporarily under this section shall keep a temporary loan fund as prescribed, and shall pay moneys to and out of such fund as prescribed.

(5) Nothing in section one hundred and fifty-six of this Act shall apply to any temporary borrowing under this section.

**176A.** Where before the first day of June, one thousand nine hundred and eight, a loan has been made to the council of a municipality or of an existing municipality, such loan shall be deemed to have been a good valid and legal loan, and to have been lawfully contracted by such council, and the securities given for such loan shall be deemed to have been and to be good and valid securities, and to have been lawfully given to secure the repayment of such loan.

**176B.** A council of a shire or municipality shall not borrow money in any way except as provided by this or some other Act; nor obtain any loan in anticipation of the Governor's approval or Minister's consent, as the case may be, when such approval or consent is required by any Act to be given in order to authorise the loan.



*Local Government (Amending).*

30. Section one hundred and seventy-nine of the Principal Act Section 179,  
Principal Act. is amended in subsection two—

(a) by inserting the following paragraph next after paragraph (xii):—

(xiii) The payment of a yearly subscription to the Local Government Association of New South Wales or the Shires Association of New South Wales.

(b) by adding the following at the end of the subsection:—

Provided also that, except for the lighting of dangerous points on roads or bridges, the cost of lighting roads and streets shall not be paid from the general fund, but nevertheless a council of a municipality whose area is wholly situate within twenty miles from the Sydney Post Office, and of any municipality the whole area of which derives any benefit or advantage from the expenditure on lighting streets, may in its discretion pay such cost out of its general fund.

Where a local rate is made for lighting roads or streets a poll may not be demanded as to whether such rate shall be made.

*Transfers from fund to fund.*

31. The following new section is inserted in the Principal Act Transfers from fund  
to fund validated. next after section one hundred and eighty-one:—

181A. (1) Where, before the first day of July, one thousand nine hundred and eight, the proceeds of any rate, other than a general rate, and other than a rate under the Country Towns Water and Sewerage Acts, 1880–1905, which was directed by any Act to be paid to an account or fund specified, other than the general fund, or any sum at credit of such account or fund, has been paid to the general fund or some other fund of a municipality or an existing municipality or used for public purposes other than those for which such rate was levied, such payment or use shall be deemed to have been and to be valid:

Provided that nothing herein shall affect any security or charge Saving. on such special rate or the proceeds thereof to secure the repayment of a loan to the council.

(2) The council of the municipality of Lithgow shall Validation—  
Lithgow Council. be deemed to have been authorised to use money to the extent of one thousand two hundred pounds, at credit of the account of rates and charges under the Country Towns Water and Sewerage Acts, 1880–1905, for the purposes of the general fund, and any such use of such money is hereby validated:

Any moneys so used shall be repaid from the general fund within six years from the thirty-first day of December, one thousand nine hundred and eight.



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*Local Government (Amending).*

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Transfers from fund  
to fund regulated.

(3) Moneys shall not be transferred from one fund of a council to any other fund, except in accordance with this Act or with regulations which the Governor is hereby authorised to make with regard thereto. In such regulations provision may be made for the distribution of the administrative expenses of the council among the various funds, and for the definition of administrative expenses.

*Miscellaneous.*

Section 198,  
Principal Act.

**32.** (1) Section one hundred and ninety-eight of the Principal Act is amended by inserting after the word "Act" the words "or the Shires Act"; and by omitting the words "a like."

Section 206,  
Principal Act.

(2) Section two hundred and six of the Principal Act is amended by inserting the words "or notification" after the word "proclamation" each time they occur in the section.

**33.** The following section and short heading is added to the Principal Act:—

*Control of beaches and adjacent waters.*

Control of  
foreshores and tidal  
waters.

210. Where high-water mark of any tidal waters is the boundary of any area, and where the council of the area has acquired the powers of paragraph (xvi) of section one hundred and nine of this Act, the powers of the said paragraph and any ordinances relating thereto shall extend and apply to the foreshores below such high-water mark, and to the tidal waters adjacent to such foreshores, and to all persons thereon or therein.

*Indemnity.*

Indemnity for non-  
compliance with  
Audit Act.

**34.** All persons whosoever concerned or engaged, before or after the commencement of this Act, in paying any account for work which is situate within a shire or municipality and which was completed on or before the thirty-first day of July, one thousand nine hundred and eight, are hereby indemnified and held harmless for or in respect of any non-compliance with the provisions of section forty-one of the Audit Act, 1902.

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

*State Government House,  
Sydney, 24th December, 1908.*

HARRY H. RAWSON,  
Governor.



LOCAL GOVERNMENT (AMENDING) BILL.

*SCHEDULE of the Amendments referred to in Message of 10th December, 1903.*

- Page 1, Title. *Omit* "the Hawkers and Pedlers Act, 1901"
- Page 2, clause 3, line 27. *After* "area" *insert* "except land in the Western Division"
- Page 4, clause 8, line 31. *After* "subsection" *add* "s"
- Page 4, clause 8. *After* subsection (2) *insert* new subsection (3)
- Page 5, clause 10, line 25. *Omit* "section is"; *insert* "sections are"
- Page 5, clause 10. At end of clause *add* new subsection 75b.
- Page 5, clause 11, line 38. *After* "by" *insert* "omitting 'subsection' in subsection two, and substituting 'section,' and by"
- Page 6, clause 12, line 1. *After* "amended" *insert* "by inserting after the words 'may cause notice' the words 'to be served on the owner or on the person causing such encroachment or obstruction and'; and"
- Page 6, clause 12, line 6. *After* "post" *insert* "steps, awning, or verandah or post supporting any awning or verandah"
- Page 6, line 38. *Omit* "15" *insert* "(3)"
- Page 7, clause 19, 18, lines 29 and 30. *Omit* "in subsection five, by inserting after the word 'sheep' the words 'horses, mules, asses, camels, and goats'; *insert* new paragraphs (a), (b), and (c)"
- Page 8, clause 21, 20, line 27. *Omit* "sections are"; *insert* "section is"
- Page 8, clause 21, 20. *Omit* subsection 115 (a).
- Page 8, clause 21, 20, line 36. *After* "council" *add* new proviso.
- Page 9, clause 23, 22. *After* paragraph (a) *insert* new paragraph (b).
- Page 12, clause 26, 25. *After* paragraph (c) *insert* new paragraph (d)
- Page 12, clause 27, 26, line 20. *After* "taxes" *insert* "whether under those designations or under any words of description which would include municipal or local government taxes"
- Page 12, clause 27, 26, line 35. *After* "made" *insert* "on the application of any person interested in such agreement and shall be"
- Page 12, clause 27, 26, line 42. *Omit* "The lessor who has made"; *insert* "Any person interested in"
- Page 12, clause 27, 26, line 43. *Omit* "shall"; *insert* "may"
- Page 12, clause 27, 26, line 44. *Omit* "lease"; *insert* "agreement"
- Page 13, clause 27, 26, lines 3 and 4. *Omit* "in possession of the land rated as"
- Page 13, clause 27, 26, line 5. *After* "agreement" *insert* "in the case of rates made after the commencement of this Act"
- Page 13, clause 27, 26, line 6. *Omit* "such lessor notifies"
- Page 13, clause 27, 26, line 7. *After* "council" *insert* "be notified"
- Page 13, clause 27, 26, line 8. *Omit* "such"; *insert* "the"
- Page 13, clause 27, 26, line 21. *After* "council" *insert* "or to his immediate lessor"
- Page 13, clause 27, 26. At end of clause *add* "In this subsection the word 'lessor' includes his successors in title"
- Page 13, clause 27, 26. At end of clause *add* new subsection (2).
- Page 14, clause 28, 27, lines 5 and 6. *Omit* "substituting the word 'made' for the word 'levied'; *insert* "omitting the words 'which has levied a' and inserting in their place the words "over and above the said"
- Page 14, clause 28, 27, line 9. At end of clause *add* "and by inserting after 'roll of ratepayers' the words 'or, if the number on the roll be less than six hundred, then one-sixth of the 'ratepayers on such roll.'"



THE STATE OF TEXAS, COUNTY OF DALLAS, ss. I, the undersigned, Clerk of the County Court, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County Court of the County of Dallas, State of Texas.

Witness my hand and the seal of the County Court at Dallas, Texas, this 1st day of January, 1901.

CLERK OF THE COUNTY COURT.

THE STATE OF TEXAS, COUNTY OF DALLAS, ss. I, the undersigned, Clerk of the County Court, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County Court of the County of Dallas, State of Texas.

Witness my hand and the seal of the County Court at Dallas, Texas, this 1st day of January, 1901.

CLERK OF THE COUNTY COURT.

THE STATE OF TEXAS, COUNTY OF DALLAS, ss. I, the undersigned, Clerk of the County Court, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County Court of the County of Dallas, State of Texas.

Witness my hand and the seal of the County Court at Dallas, Texas, this 1st day of January, 1901.

CLERK OF THE COUNTY COURT.



*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.*

*Legislative Assembly Chamber,  
Sydney, 27 November, 1908, A.M. }*

*RICHD. A. ARNOLD,  
Clerk of the Legislative Assembly.*

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

*Legislative Council Chamber,  
Sydney, 10th December, 1908. }*

*JOHN J. CALVERT,  
Clerk of the Parliaments.*

## New South Wales.



ANNO OCTAVO

EDWARDI VII REGIS.

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Act No. , 1908.

An Act to amend the Local Government Act, 1906 ; to amend the law relating to local government, and for that purpose to amend Acts relating to public health, water and sewerage and drainage, public watering places, public roads and public parks and cemeteries ; to amend the ~~Hawkers and Pedlers Act, 1901~~, the Stage Carriages Act, 1899, and the Audit Act, 1902, and certain other Acts ; and for purposes consequent thereon or incidental thereto.

**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 :—

5

*Preliminary.*

1. This Act may be cited as the "Local Government (Amending) Act, 1908." Short title.

15603

7—A

In

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



*Local Government (Amending).*

In this Act "Principal Act" means Local Government Act, 1906.

In amendments inserted by this Act in the Principal Act, the expression "this Act" means the Principal Act, as amended by this 5 or any other Act.

*Constitution of areas.*

2. Section fourteen of the Principal Act is repealed, and the following is substituted in its place :— Section 14,  
Principal Act.

14. (1) Any land on the boundary of but not within an area as constituted shall be deemed, with any building or structure thereon, to be included in the area, if— Land on boundary  
of area.

(a) it has at any time been reclaimed from tidal waters ; or,  
(b) it is situate under tidal waters or on the shore, or on or below high water-mark, or below the margin of any tidal waters, and—

15 (i) is privately owned ; or  
(ii) there is thereon any jetty, wharf, pier, or building ; or  
(iii) the Governor by proclamation declares that the land shall form part of the area.

20 (2) For the purposes of this section "tidal waters" includes the waters of the sea or of any lake, estuary, river, bay, or lagoon in which the tide ebbs and flows.

*Reconstitution.*

3. (1) Subsection one of section fifteen of the Principal Act is 25 amended— Section 15,  
Principal Act.

(a) by inserting after paragraph (e) new paragraphs, as follows :—

(f) Add any land not within an area, except land in the **Western Division**, to a municipality or shire.

(b) by adding at the end of the subsection the following :—

30 But the Governor may exercise the powers of paragraph (c), (e), or (f) without reconstituting the area.

(2) Subsection two of the same section is repealed, and the following is substituted in its place :—

25 (2) Provided that before exercising the power in paragraph (a) or (e) of subsection one of this section a poll of ratepayers shall, at the request of one-third of the ratepayers of any such area, be taken in each area, and such power shall not be exercised unless at such polls a majority of the votes has, in each area, been cast in favour of the power being exercised.

40 (3) The following new subsection is added at the end of the section :—

(6) Where before the first day of January, one thousand nine hundred and nine, the reconstitution of an area or the alteration of



*Local Government (Amending).*

of its boundaries under subsection one of this section have been ordered or proclaimed, such order or proclamation shall be valid, although the provisions of this Act may have been contravened, or may not have been carried out.

5 4. Section sixteen of the Principal Act is amended by adding to subsection four the following paragraphs:— Section 16,  
Principal Act.

10 (c) conferring and imposing on the council of the reconstituted area all or any of the powers and duties which had been, prior to such reconstitution, conferred or imposed upon or acquired by the council of any old area forming part of the reconstituted area;

(d) appointing and constituting a provisional council, whose members shall hold office until a council is elected or appointed under section forty-six of this Act.

15 *Divisions of areas.*

5. (1) Subsection three of section nineteen of the Principal Act is amended by omitting the words "persons resident within" and substituting therefor the words "electors of." Section 19,  
Principal Act.

20 (2) Subsection two of section twenty-one of the Principal Act is amended— Section 21,  
Principal Act.

(a) by inserting after "such division" where first occurring in the subsection the words "made under this Act or any Act hereby repealed"; and

25 (b) by omitting "persons resident within" and inserting "electors of."

6. Section twenty-five of the Principal Act is amended by adding thereto the words "or where such increase has been made may be decreased to six provided that before any such increase or decrease is made the council shall take a poll of electors on the question, and the decision of the majority of the votes cast at such poll shall determine the question." Section 25,  
Principal Act.

7. The following new sections are inserted next after section forty-seven of the Principal Act:— Section 47,  
Principal Act.

35 47A. If any member of a council is absent without leave granted by resolution of the council from the meetings of the council for three consecutive months, he shall thereupon cease to hold office, and his office shall be vacant. Vacancy by reason  
of absence of  
member of council  
from meetings.

40 47B. Notwithstanding anything to the contrary in this Part a council may, out of the general fund of its area, pay the reasonable expenses of one of its members elected by the council to represent it as delegate to any conference of councils of municipalities or of shires on matters relating to local government, or the business of the council. Conference expenses.

*Primary*



*Local Government (Amending).*

*Primary functions.*

8. Section seventy-three of the Principal Act is amended as follows :— Section 73,  
Principal Act.

- 5 (a) By adding to paragraph (ii) the words "including roads and bridges which are national works, provided that such control shall not interfere with the powers of the Minister for Public Works in carrying out necessary repairs or alterations to such national works, or in regulating the weight of loads or classes of traffic permitted to cross national bridges."
- 10 (b) By adding to paragraph (v) the words "Such power may be exercised with respect to offices outside the shire where the council so decides by the vote of an absolute majority of its members, passed at one meeting and confirmed by a similar majority at a subsequent meeting held within six weeks after the first meeting."
- 15 (c) In paragraph (ix), sub-paragraph (b), after "eleven" by inserting the words "and seventeen."
- (d) By adding to paragraph (ix) the following sub-paragraph :—
  - 20 (d) Notwithstanding anything in the said Act, a council may let any public watering place on lease for a term not exceeding ten years; and may grant an extension of any lease for a term not exceeding five years at the same or an increased rental without calling for public tenders where the council considers such extension is justified by the nature of the improvements made by the lessee.
  - 25 (e) In paragraph (xi), after "thereto" by inserting the word "constructed"
  - (f) By inserting after paragraph (xi) :—
    - 30 (xii) The provision of drinking troughs for animals in public places and water therefor.
  - (g) By adding the following subsections :—
    - (2) The fact that any offices leased, acquired, erected, or maintained by a shire council before the thirtieth day of September, one thousand nine hundred and eight, were situate outside the shire,
     - 35 or that the business of such council was transacted at any offices so situate, shall not be deemed to have affected and shall not affect the validity of such lease, acquisition, erection, or maintenance, or of anything done or to be done in pursuance thereof, or the validity of any act done or to be done by the council or its president.
- 40 (3) For the purposes of this Act "public road" shall include—
  - (a) any road proclaimed or dedicated under any Act dealing with public roads, or under the Crown Lands Acts, or classified as a main road in the Gazette of the thirty-first day



*Local Government (Amending).*

5 day of December, one thousand nine hundred and six, or approved by the council under section ninety-nine of this Act; or any road of which the council has the care, control, and management under subsection one, paragraphs i (e) and (x) of this section, or under sections seventy-four and seventy-eight of this Act;

10 (b) any road left in division or subdivision of Crown lands, or used as a road over Crown lands, and with respect to which a council signifies its intention to take control, provided the approval of the Secretary for Lands be first obtained;

15 (c) any road left in division or subdivision of private lands, and of which a council, by notice in the Gazette, signifies its intention to take control, provided that the council shall, before publishing such notice, serve on the owner of the land comprising the road notice of such intention; and such owner may, as prescribed, appeal within thirty days of such service to a district court judge having jurisdiction within the area against the carrying out of such intention. Such judge may hear and determine such appeal, and make such order as he thinks fit.

20 9. Section seventy-four of the Principal Act is amended by Section 74, inserting after "disposal" in paragraph (i) the words "within or Principal Act. outside the area (subject to the approval of the night-soil depôt by the Board of Health)."

25 10. The following section—is sections are inserted next after New section. section seventy-five of the Principal Act:—

30 75A. Where, by the operation of this Act, a public ferry which Public ferries. was in operation at any time during the year ended on the thirty-first day of December, one thousand nine hundred and six, passed to the care of a council, such council shall cause such ferry to be worked for the use of the public, unless the Minister grants permission to close such ferry. This provision may be enforced against the council at the suit of the Minister, or of any person interested.

35 75b. A council shall, in respect of any public road or part of a public road in its area, have the right to lodge a caveat against the bringing of such road or part of a road under the provisions of the Real Property Act, 1900.

40 11. Section seventy-eight of the Principal Act is amended by Section 78, omitting "subsection" in subsection two and substituting "section," Principal Act. and by inserting the following at the end of subsection three:—  
"Provided that nothing herein shall affect the power of the Secretary for Lands to make compensation or part compensation in land in pursuance of the said Act."



*Local Government (Amending).*

12. Section eighty-two of the Principal Act is amended by inserting after the words "may cause notice" the words "to be served on the owner or on the person causing such encroachment or obstruction and"; and by adding at the end of subsection one the following words:—  
 5 "The above provisions shall apply also to any encroachment or obstruction, being a hedge, fence, wall in the nature of a fence, post, steps, awning or verandah, or post supporting any awning or verandah, drain, watercourse, or any structure of bark, ruberoid, canvas, or other like material, planted, erected, or made before or after the commence-  
 10 ment of this Act. In this section, 'encroachment' includes any obstruction on the footway or carriage-way of a road."

Section 82,  
Principal Act.  
Encroachment on a  
road.

13. Section eighty-seven of the Principal Act is amended by adding the following subsection:—

Section 87,  
Principal Act.

(2) A council may agree to pay for any purchase lawfully  
 15 made, or for the performance of any work which it might lawfully undertake, by instalments extending over a period of years.

14. Section one hundred and three of the Principal Act is omitted, and the following is substituted therefor:—

Section 103,  
Principal Act.

103. (1) A council may fix, with the approval of the Governor,  
 20 and may recover from the person to whom or on whose order any service is rendered by the council, in pursuance of its powers under this Act, fees and charges for such service. Proceedings for the recovery of such fees and charges may be taken at any time within twelve months after the making of a written demand for payment.

(2) After the thirty-first day of December, one thousand  
 25 nine hundred and eight, a council shall, in cases where the service is rendered, make such charges as aforesaid, recoverable as aforesaid, for the removal of nightsoil or garbage, or both nightsoil and garbage, payable by the occupier of the premises served. At the request  
 30 of the council such charges shall be paid in advance, subject to the right of the person making such payment to a refund, on the determination of his occupation, of any amount overpaid by him. Such charges shall be carried to a special fund. The cost of nightsoil and garbage removal shall not be paid out of the general fund, but  
 35 out of the said special fund: Provided that the Governor may, from time to time by proclamation, exempt any council from the operation of this subsection.

15. (3) All fees and charges owing to any existing municipality  
 on the first day of January, one thousand nine hundred and seven, may  
 40 be recovered from the person liable to pay the same under the Acts repealed by the Principal Act: Provided a written demand be made for the payment thereof, and proceedings be taken for the recovery thereof within three months from the passing of this Act.

Recovery of fees  
and charges.



*Local Government (Amending).*

16. 15. Section one hundred and six of the Principal Act is Section 106,  
Principal Act. amended—

- (a) in subsection one by inserting “or one side” after the word “centre”;
- 5 (b) in subsection two by omitting the words “in the prescribed manner.”

17. 16. Section one hundred and seven of the Principal Act is Section 107,  
Principal Act. amended—

- 10 (a) in paragraph (i), after “disposal” by inserting the words “within or outside the area (subject to the approval of the nightsoil depôt by the Board of Health)”;
- (b) in paragraph (i), after “situation of privies” by inserting the words “the regulation of.”

*Additional functions.*

15 18. 17. Section one hundred and nine of the Principal Act is Section 109,  
Principal Act. amended by adding at the end thereof the following paragraph:—

- (li) The regulation of the interment of the dead, with power, subject to the Governor's approval, to prohibit burials in any cemetery or land in any case where such course appears to the council to be necessary for the prevention of the pollution of any water supply, or for the better protection of the health of residents in the neighbourhood of such cemetery or land.
- 20 (lii) The advertising of the advantages of the area for purposes of settlement or touring.
- 25 (liii) The supply and sale of stone or gravel from the council's quarries or pits.

19. 18. Section one hundred and thirteen of the Principal Act is Section 113,  
Principal Act. amended:—~~in subsection five by inserting after the word “sheep,” the words “horses, mules, asses, camels, and goats.”~~

- 30 (a) in subsection one, after the words “control within” by inserting the words “or outside”; and
- (b) in subsection three, after “as aforesaid” by omitting words “in an area,” and inserting the words “or when any council has in conjunction with any other council jointly established an abattoir”; and, after “exposure for sale within the area,” by inserting the words “of any such councils”; and
- 35 (c) in subsection five, by inserting after the word “sheep” the words “horses, mules, asses, camels, and goats.”
- 40

20. 19. Section one hundred and fifteen of the Principal Act is Section 115,  
Principal Act. amended:—

- (a) By omitting subsection (a) and inserting the following:—  
“Regulate and control all hoardings in the area and prevent the



*Local Government (Amending).*

the erection or use of such hoardings as may affect injuriously the amenities of a public park or pleasure promenade, or disfigure the natural beauty of a landscape or harbour foreshore."

- 5 (b) By omitting subsection (b)  
 (c) By omitting in subsection (c) "all hoardings now or hereafter  
 "to be erected and"  
 (d) By adding the following proviso at the end of subsection (d):—  
 Provided that—

- 10 (1) The charge for or for renewal of any license for a hoarding  
 shall not exceed a sum calculated at the rate of one  
 penny per annum per square yard of advertising space  
 on such hoarding and where such license is issued or  
 renewed after the first day of January in any year, the  
 15 charge shall be calculated for the remainder of the year  
 at the above rate, any fraction of a week being counted  
 as a full week, the minimum charge to be ten shillings.  
 (2) All hoardings in use for advertising purposes on thirty-  
 first October, one thousand nine hundred and eight,  
 20 shall be exempt from the provisions of this section for  
 a period of five years from the thirty-first December,  
 one thousand nine hundred and seven, if the charges  
 before mentioned are regularly paid and the hoardings  
 are not allowed to fall in a state of disrepair.  
 25 (3) The maximum fee which may be charged for bill-posters'  
 licenses shall be one shilling.

~~21.~~ 20. The following sections are section is inserted next after Section 115,  
 section one hundred and fifteen of the Principal Act:— Principal Act.

115A. Where any council has, under this Act, the power to Hawking of goods  
 30 regulate and license the hawking of goods, the Hawkers and Pedlers  
 Act, 1901, shall not apply to the hawking of goods within the area of  
 such council.

115B. Where any council has, under this Act, the power to Public vehicles.  
 regulate and license public vehicles, and the drivers and conductors  
 35 thereof, the Stage Carriages Act, 1899, shall not apply within the area  
 of such council: **Provided that sections thirteen and fourteen of the**  
**said Act shall apply within the area, and in so applying such sections**  
**the words "the Local Government Act, 1906, and any ordinances**  
**thereunder, so far as they relate to public vehicles," shall be read for**  
 40 **the words "this Act"; and the words "the ordinances under the said**  
**Act" shall be read for the words "the last preceding section."**

~~22.~~ 21. Section one hundred and thirty-one of the Principal Act is Section 131,  
 amended as follows:— Principal Act.

- 45 (a) By omitting paragraph (d) of subsection one and substituting  
 the following:—"Lands the property of the Crown which  
 are



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are not occupied or on which any public works are in course of construction by or for the Crown," and by inserting the following additional paragraph :—

- 5 (f) lands held under lease or agreement for lease from the Crown for purposes of oyster culture.
- (b) In subsection three by omitting the words after "tenancy" to the end of the subsection and inserting the following : "shall be liable to the amount per pound of any rate struck ; but where such rate is struck on the improved capital value, the
- 10 Crown shall only be liable for the said rate per pound on the unimproved capital value of its land. This subsection shall not apply to rates made after the first day of January, one thousand nine hundred and nine, under the Country Towns Water and Sewerage Acts, 1880-1905."

15 *Values and valuations.*

~~23.~~ **22.** Section one hundred and thirty-two of the Principal Act Section 132, Principal Act. is amended—

- (a) in subsection two, paragraph (e), by adding the following :—
- 20 "Where councils have not caused valuations to be made in accordance with this subsection for the years one thousand nine hundred and seven and one thousand nine hundred and eight in the case of shires and one thousand nine hundred and eight in the case of municipalities, such councils may cause such valuations to be made at any time, and such
- 25 valuations shall for the purposes of any rates made or to be made be deemed to have come into force on the first day of January, one thousand nine hundred and seven, in the case of shires and on the first day of January, one thousand nine hundred and eight in the case of municipalities."
- 30 (b) In subsection three after the word "held" in line one insert the words "for pastoral or agricultural purposes."
- (b c) In subsection three, by adding the following words : "or, if such lease or license was not in force during such preceding year, twenty times the rent payable to the Crown thereunder
- 35 for the year in which the valuation is made."

~~24.~~ **23.** Section one hundred and thirty-five of the Principal Act is Section 135, Principal Act. amended as follows :—

- (a) By omitting subsections one, two, three, and four, and inserting in place thereof the following subsections :—
- 40 (1) A council shall at least once in every three years cause valuation to be made of all ratable land in its area : Provided that the council may, without causing a fresh valuation to be made, adopt
- as
- Valuation of preceding year may be adopted.



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as the valuations for any period the whole or any part of the valuations in force at the close of the next preceding period when such valuations are considered by the council to be still just and equitable.

In a municipality such valuation shall be of the unimproved capital value, the improved capital value, and the assessed annual value.

In a shire the valuation of the unimproved capital value shall be compulsory, and of the improved capital value, and the assessed annual value, optional.

10 Provided that a council may adopt the valuations under the Land and Income Tax Assessment Act of 1895 as the first valuation of unimproved capital value under this Act.

(2) A council may, whenever it thinks necessary, cause valuations to be made of any or of all ratable land in its area.

15 (3) Where a valuation is made of land which was not ratable before the commencement of the then current year, the rate thereon shall be proportionate to the portion of such year during which such land was ratable.

20 Where a valuation is made of land which had not been rated, but which was ratable at the commencement of the then current year, the rate thereon shall be for the whole of such year, except where otherwise provided in this Act.

In any other case the valuation shall come into force on the first day of January next following the making of the valuation, except where otherwise provided in this Act.

25 (4) Where any court holds that a valuation is invalid for any reason except that the land valued is not ratable, the council may cause fresh valuation to be made, which shall take the place of the valuation so held to be invalid, and shall, for the purposes of any rates made or to be made, be deemed to have come into force at the time when the last-mentioned valuation came into force.

30 (4A) All valuations made in a municipality during the year one thousand nine hundred and eight shall be and be deemed to have been as valid as if they were made within the first year after the constitution of the council of the municipality. This provision shall apply to every municipality without exception, notwithstanding the decision of any court. Every valuation of land made after the first day of January, one thousand nine hundred and seven, in a shire, or one thousand nine hundred and eight in a municipality, with amendments 40 (if any) on appeal, shall remain in force until a fresh valuation of such land comes into force; but the valuation in force shall be subject to appeal each year as prescribed.

(b) By adding the following subsection:—

45 (7) Any valuation or entry of valuation made under this Act may be altered at any time in any case where it is found that an error



*Local Government (Amending).*

error has been made as to the area, ownership, or occupation of land, or any mistake of calculation of values has been made, or where there is a change of ownership or occupation. Where any land has been subdivided, and a portion sold or let, the valuation of such land may be altered, and such valuation and any unpaid rates due on such land may be apportioned by the council. Such alteration or alteration and apportionment shall be initialled by the president or mayor and clerk after resolution of the council making such alteration or apportionment: Provided that in every such case of alteration or apportionment notice thereof shall be served, and an appeal therefrom shall lie, as provided in section one hundred and thirty-eight with respect to valuations, and such alteration or apportionment shall take effect from the date fixed by the resolution of the council.

Other minor errors in the valuation book not affecting the amount at which land is valued may be altered as prescribed by ordinance.

25. 24. (1) The following words are added to section one hundred and thirty-six of the Principal Act:—"Where any portion of a mine as defined in this Act is separately let or sublet to and occupied by any person for residential, business, grazing, or agricultural purposes, such portion shall be valued and rated separately."

(2) Subsection one of section one hundred and thirty-seven of the Principal Act is amended by adding the words "and, where a mine is situated in two or more areas, the council of any one of such areas may at any time require the councils of the other areas to appoint valuers for the purpose of making a joint valuation of the mine."

26. 25. (1) Section one hundred and thirty-eight of the Principal Act is amended—

- (a) in subsection one, paragraph (a), by omitting "such valuation," and inserting the words "the valuation of the unimproved capital value of the land";
- (b) in subsection one by adding the following at the end of the subsection:—"In such appeal the question may be raised whether the land is ratable";
- (c) in subsection two by inserting, after "amend," the words "or strike out";
- (d) in subsection four by inserting at the end of the subsection the following: "any appellant may appear at an appeal court by his counsel, solicitor, or agent, provided such agent is authorised by the appellant in writing."
- (e) in subsection five by omitting the words "as to the amount of such assessment."



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(2) Section one hundred and forty of the Principal Act is amended— Section 140,  
Principal Act.

- (a) in subsection one by inserting after "made" the words "or in relation to the question whether the land is ratable";
- 5 (b) in subsection one by adding at the end of the subsection the following—"or to the question whether the land is ratable";
- (c) in subsection two by inserting after "principle" the words "or the said question."
- (d) by adding a new subsection six as follows :—
- 10 **Notwithstanding anything in section one hundred and forty-six, in any action for the recovery of rates made before the first day of January, one thousand nine hundred and nine, the defence that the land was not ratable may be raised.**

*Rates.*

15 27. 26. (1) Section one hundred and forty-four of the Principal Act is amended by omitting subsection six and substituting the following therefor :— Section 144,  
Principal Act.

- (6) Provided that where a lessee of ratable land in an area has agreed with the owner, or with the mesne lessee from whom
- 20 he immediately holds, to pay municipal or local government taxes, whether under those designations or under any words of description which would include municipal or local government taxes, and, in the case of land within a municipality, such agreement was made before the commencement of this Act, and, in the case of land within
- 25 a shire, was made before the commencement of the Shires Act, the owner and all the lessees, including mesne lessees, shall, notwithstanding such agreement and during the currency of such agreement, be respectively liable, as between themselves, for so much of the local government rate under this Act as is equal to the amount of the land
- 30 tax, or tax in lieu of land tax, on the land which they respectively would have been liable to pay under the Acts mentioned in Schedule Three if the operation of the said Acts had not been suspended, based on the valuation of the unimproved capital value under this Act. The
- 35 adjustment of the Commissioners of Taxation under the fourth section of the Land Tax (Leases) Act, 1902, shall be made on the application of any person interested in such agreement, and shall be on the basis of such valuation, and of a land tax or tax in lieu of land tax, without exemptions, and after the first adjustment, there shall be a readjustment by the commissioners at every subsequent period of valuation.
- 40 Such adjustment shall be final and shall not be subject to appeal in any court.

~~The lessor who has made~~ Any person interested in any such agreement as aforesaid shall may notify the council of the terms of such lease agreement. Where such notification has been received by the



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*Local Government (Amending).*

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the council, such council shall (notwithstanding the provisions of subsection one of this section) first proceed for the recovery of the whole of any rates due under this Act from the lessee who is in possession of the land rated as the last lessee within the knowledge of the council bound by any such agreement. **In the case of rates made after the commencement of this Act** unless such lessor notifies the council be notified as aforesaid before the making of any rates, the council may recover the whole of such rates from such the lessor.

Failing in any legal proceedings against any person as aforesaid, the council shall next so proceed against the lessor from whom such person immediately holds; and, failing in any such proceedings against a lessor who is a mesne lessee, the council shall next so proceed against the lessor from whom he immediately holds; and so on.

Any lessee who has paid, or any mesne lessee who has paid or suffered the deduction as hereinafter provided of any such rates may recover as a debt from, or deduct from any moneys due to, the lessor from whom he immediately holds, the proportionate amount of rates determined as aforesaid by the said commissioners to be the portion payable in respect of the land rated by all the persons under whom he derives title; and any lessor who has made any payment to the council or to his immediate lessor in respect of such rates may recover as a debt from any lessee under him such portion thereof as such lessee is liable for under his agreement and the terms of this subsection.

The council, the commissioners aforesaid, and any authorised servant of either of them, may, under the prescribed penalty, demand the production within a reasonable time of any agreement as aforesaid from any owner, lessee, or person having the custody of such agreement, or require any person in occupation of land, or in receipt of the rent of land, to answer any question for the purposes of this subsection. A certificate of such adjustment aforesaid purporting to be signed by the said commissioners, or their secretary, or registrar, shall be prima facie evidence of such adjustment.

This subsection shall apply and shall be deemed to have applied to all rates made under this Act after the first day of January, one thousand nine hundred and eight.

In this subsection the word "lessor" includes his successors in title.

(2) Subsection seven of section one hundred and forty-four of the Principal Act is amended by inserting at the end of the subsection the following words:—"All amounts due as rates by the same person may be recovered in one proceeding. Where proceedings are taken by a council in a district court or court of petty sessions

to



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to recover any rates, such proceedings may be so taken in any such court for the district in which the land in respect of which the rates are claimed to be due is situate."

28. 27. Subsection five of section one hundred and fifty-one of the Principal Act is amended by substituting the word "made" for the word "levied," omitting the words "which has levied a" and inserting in their place the words "over and above the said," and by inserting after "may" where it first occurs in the said subsection the words "on the same or subsequent estimate," and by inserting after "roll of ratepayers" the words "or if the number on the roll be less than six hundred, then one-sixth of the ratepayers on such roll."

Section 151 (5),  
Principal Act.

29. 28. Subsection six of section one hundred and fifty-three, and subsection four of section one hundred and fifty-four of the Principal Act are respectively amended by omitting the words "after the first constitution or" and inserting in their place "before the thirty-first day of December, one thousand nine hundred and eight, or within six months after."

Sections 153 and 154,  
Principal Act.

*Loans.*

30. 29. Section one hundred and seventy-six of the Principal Act is repealed, and the following sections are read in its place:—

Section 176,  
Principal Act.

176. (1) Notwithstanding the provisions of this Act, a council may temporarily borrow in any year on the credit of the area and on the security of its revenues an amount not exceeding one-third of the estimated revenue to be received from rates if the consent of the Minister has been first obtained. For securing the repayment of any moneys borrowed or to be borrowed temporarily by a council under this Act, together with interest, if any, thereon, the council of a shire shall have the same powers to give security as the council of a municipality.

Temporary  
borrowing.

(2) All temporary loans made to and securities for the same given by any council of a shire after the commencement of this Act and before the commencement of the Local Government (Amending) Act, 1908, to secure the repayment of moneys borrowed with the consent of the Minister, or of which the Minister has at any time approved, together with interest, if any, thereon, shall be deemed to have been and to be good and valid loans and securities, and to have been lawfully made and given, notwithstanding that the amount of such loan may have been greater than that authorised by the statute law.

Validation of certain  
shire borrowings.

(3) Where a council has temporarily borrowed to an amount greater than that authorised as aforesaid, and such borrowings are validated hereunder, such council shall, before the thirtieth day of June, one thousand nine hundred and nine, repay such temporary borrowings to the extent necessary to reduce the amount owing to the amount so authorised.

Repayment of tem-  
porary borrowings  
validated.

(4) A council borrowing temporarily under this section shall keep a temporary loan fund as prescribed, and shall pay moneys to and out of such fund as prescribed.

(5)



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(5) Nothing in section one hundred and fifty-six of this Act shall apply to any temporary borrowing under this section.

176A. Where before the first day of June, one thousand nine hundred and eight, a loan has been made to the council of a <sup>Temporary loan fund.</sup> municipality or of an existing municipality, such loan shall be deemed to have been a good valid and legal loan, and to have been lawfully <sup>Saving.</sup> contracted by such council, and the securities given for such loan shall be deemed to have been and to be good and valid securities, and to have been lawfully given to secure the repayment of such loan.

176B. A council of a shire or municipality shall not borrow money in any way except as provided by this or some other Act; nor obtain any loan in anticipation of the Governor's approval or Minister's consent, as the case may be, when such approval or consent is required by any Act to be given in order to authorise the loan. <sup>Validation of previous loans and securities in municipalities.</sup>

~~31.~~ 30. Section one hundred and seventy-nine of the Principal Act is amended in subsection two— <sup>Section 179, Principal Act.</sup>

(a) by inserting the following paragraph next after paragraph (xii):—

(xiii) The payment of a yearly subscription to the Local Government Association of New South Wales or the Shires Association of New South Wales.

(b) by adding the following at the end of the subsection:—

Provided also that, except for the lighting of dangerous points on roads or bridges, the cost of lighting roads and streets shall not be paid from the general fund, but nevertheless a council of a municipality whose area is wholly situate within twenty miles from the Sydney Post Office, and of any municipality the whole area of which derives any benefit or advantage from the expenditure on lighting streets, may in its discretion pay such cost out of its general fund.

Where a local rate is made for lighting roads or streets a poll may not be demanded as to whether such rate shall be made.

*Transfers from fund to fund.*

~~32.~~ 31. The following new section is inserted in the Principal Act next after section one hundred and eighty-one:— <sup>Transfers from fund to fund validated.</sup>

181A. (1) Where, before the first day of July, one thousand nine hundred and eight, the proceeds of any rate, other than a general rate, and other than a rate under the Country Towns Water and Sewerage Acts, 1880-1905, which was directed by any Act to be paid to an account or fund specified, other than the general fund, or any sum at credit of such account or fund, has been paid to the general fund or some other fund of a municipality or an existing municipality or used for public purposes other than those for which such rate was levied, such payment or use shall be deemed to have been and to be valid:

Provided



*Local Government (Amending).*

Provided that nothing herein shall affect any security or charge Saving.  
on such special rate or the proceeds thereof to secure the repayment of  
a loan to the council.

(2) The council of the municipality of Lithgow shall Validation—  
5 be deemed to have been authorised to use money to the extent of one Lithgow Council.  
thousand two hundred pounds, at credit of the account of rates and  
charges under the Country Towns Water and Sewerage Acts, 1880–  
1905, for the purposes of the general fund, and any such use of  
such money is hereby validated:

10 Any moneys so used shall be repaid from the general fund  
within six years from the thirty-first day of December, one thousand  
nine hundred and eight.

(3) Moneys shall not be transferred from one fund of a Transfers from fund  
council to any other fund, except in accordance with this Act or with to fund regulated.  
15 regulations which the Governor is hereby authorised to make with  
regard thereto. In such regulations provision may be made for the  
distribution of the administrative expenses of the council among the  
various funds, and for the definition of administrative expenses.

*Miscellaneous.*

20 32. (1) Section one hundred and ninety-eight of the Principal Section 198,  
Act is amended by inserting after the word "Act" the words "or the Principal Act.  
Shires Act"; and by omitting the words "a like."

(2) Section two hundred and six of the Principal Act is Section 206,  
amended by inserting the words "or notification" after the word Principal Act.  
25 "proclamation" each time they occur in the section.

34. 33. The following section and short heading is added to the  
Principal Act:—

*Control of beaches and adjacent waters.*

210. Where high-water mark of any tidal waters is the boundary Control of  
30 of any area, and where the council of the area has acquired the foreshores and tidal  
powers of paragraph (xvi) of section one hundred and nine of this waters.  
Act, the powers of the said paragraph and any ordinances relating  
thereto shall extend and apply to the foreshores below such high-water  
mark, and to the tidal waters adjacent to such foreshores, and to all  
35 persons thereon or therein.

*Indemnity.*

35. 34. All persons whosoever concerned or engaged, before or after Indemnity for non-  
the commencement of this Act, in paying any account for work which compliance with  
is situate within a shire or municipality and which was completed on Audit Act.  
40 or before the thirty-first day of July, one thousand nine hundred and  
eight, are hereby indemnified and held harmless for or in respect of  
any non-compliance with the provisions of section forty-one of the  
Audit Act, 1902.



*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.*

*Legislative Assembly Chamber,  
Sydney, 27 November, 1908, A.M. }*

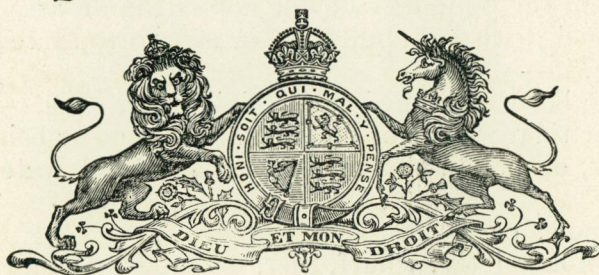
*RICHD. A. ARNOLD,  
Clerk of the Legislative Assembly.*

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

*Legislative Council Chamber,  
Sydney, December, 1908. }*

*Clerk of the Parliaments.*

## **New South Wales.**



ANNO OCTAVO

EDWARDI VII REGIS.

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Act No. , 1908.

An Act to amend the Local Government Act, 1906; to amend the law relating to local government, and for that purpose to amend Acts relating to public health, water and sewerage and drainage, public watering places, public roads and public parks and cemeteries; to amend the ~~Hawkers and Pedlers Act, 1901~~, the Stage Carriages Act, 1899, and the Audit Act, 1902, and certain other Acts; and for purposes consequent thereon or incidental thereto.

**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:—

5 *Preliminary.*

1. This Act may be cited as the "Local Government (Amending) Act, 1908." Short title.

15603 7—A In

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



*Local Government (Amending).*

In this Act "Principal Act" means Local Government Act, 1906.

In amendments inserted by this Act in the Principal Act, the expression "this Act" means the Principal Act, as amended by this 5 or any other Act.

*Constitution of areas.*

2. Section fourteen of the Principal Act is repealed, and the following is substituted in its place :—

Section 14,  
Principal Act.

14. (1) Any land on the boundary of but not within an area as constituted shall be deemed, with any building or structure thereon, to be included in the area, if—

Land on boundary  
of area.

- (a) it has at any time been reclaimed from tidal waters ; or,
- (b) it is situate under tidal waters or on the shore, or on or below high water-mark, or below the margin of any tidal waters, and—

- (i) is privately owned ; or
- (ii) there is thereon any jetty, wharf, pier, or building ; or
- (iii) the Governor by proclamation declares that the land shall form part of the area.

(2) For the purposes of this section "tidal waters" includes the waters of the sea or of any lake, estuary, river, bay, or lagoon in which the tide ebbs and flows.

*Reconstitution.*

3. (1) Subsection one of section fifteen of the Principal Act is amended—

Section 15,  
Principal Act.

(a) by inserting after paragraph (e) new paragraphs, as follows :—

(f) Add any land not within an area, except land in the **Western Division**, to a municipality or shire.

(b) by adding at the end of the subsection the following :—  
But the Governor may exercise the powers of paragraph (c), (e), or (f) without reconstituting the area.

(2) Subsection two of the same section is repealed, and the following is substituted in its place :—

(2) Provided that before exercising the power in paragraph (a) or (e) of subsection one of this section a poll of ratepayers shall, at the request of one-third of the ratepayers of any such area, be taken in each area, and such power shall not be exercised unless at such polls a majority of the votes has, in each area, been cast in favour of the power being exercised.

(3) The following new subsection is added at the end of the section :—

(6) Where before the first day of January, one thousand nine hundred and nine, the reconstitution of an area or the alteration of



*Local Government (Amending).*

of its boundaries under subsection one of this section have been ordered or proclaimed, such order or proclamation shall be valid, although the provisions of this Act may have been contravened, or may not have been carried out.

5       4. Section sixteen of the Principal Act is amended by adding to subsection four the following paragraphs:— Section 16,  
Principal Act.

- 10       (c) conferring and imposing on the council of the reconstituted area all or any of the powers and duties which had been, prior to such reconstitution, conferred or imposed upon or acquired by the council of any old area forming part of the reconstituted area;
- (d) appointing and constituting a provisional council, whose members shall hold office until a council is elected or appointed under section forty-six of this Act.

15                               *Divisions of areas.*

5. (1) Subsection three of section nineteen of the Principal Act Section 19,  
Principal Act. is amended by omitting the words "persons resident within" and substituting therefor the words "electors of."

20       (2) Subsection two of section twenty-one of the Principal Act is amended— Section 21,  
Principal Act.

- (a) by inserting after "such division" where first occurring in the subsection the words "made under this Act or any Act hereby repealed"; and
- 25       (b) by omitting "persons resident within" and inserting "electors of."

6. Section twenty-five of the Principal Act is amended by adding thereto the words "or where such increase has been made may be decreased to six provided that before any such increase or decrease is made the council shall take a poll of electors on the question, and   
30 the decision of the majority of the votes cast at such poll shall determine the question." Section 25,  
Principal Act.

7. The following new sections are inserted next after section forty-seven of the Principal Act:— Section 47,  
Principal Act.

35       47A. If any member of a council is absent without leave granted by resolution of the council from the meetings of the council for three consecutive months, he shall thereupon cease to hold office, and his office shall be vacant. Vacancy by reason  
of absence of  
member of council  
from meetings.

40       47B. Notwithstanding anything to the contrary in this Part a council may, out of the general fund of its area, pay the reasonable expenses of one of its members elected by the council to represent it as delegate to any conference of councils of municipalities or of shires on matters relating to local government, or the business of the council. Conference expenses.

*Primary*



*Local Government (Amending).*

*Primary functions.*

8. Section seventy-three of the Principal Act is amended as follows :— Section 73,  
Principal Act

- 5 (a) By adding to paragraph (ii) the words "including roads and bridges which are national works, provided that such control shall not interfere with the powers of the Minister for Public Works in carrying out necessary repairs or alterations to such national works, or in regulating the weight of loads or classes of traffic permitted to cross national bridges."
- 10 (b) By adding to paragraph (v) the words "Such power may be exercised with respect to offices outside the shire where the council so decides by the vote of an absolute majority of its members, passed at one meeting and confirmed by a similar majority at a subsequent meeting held within six weeks after the first meeting."
- 15 (c) In paragraph (ix), sub-paragraph (b), after "eleven" by inserting the words "and seventeen."
- (d) By adding to paragraph (ix) the following sub-paragraph :—
  - 20 (d) Notwithstanding anything in the said Act, a council may let any public watering place on lease for a term not exceeding ten years; and may grant an extension of any lease for a term not exceeding five years at the same or an increased rental without calling for public tenders where the council considers such extension is justified by the nature of the improvements made by the lessee.
  - 25 (e) In paragraph (xi), after "thereto" by inserting the word "constructed"
  - (f) By inserting after paragraph (xi) :—
    - 30 (xii) The provision of drinking troughs for animals in public places and water therefor.
  - (g) By adding the following subsections :—
    - (2) The fact that any offices leased, acquired, erected, or maintained by a shire council before the thirtieth day of September, one thousand nine hundred and eight, were situate outside the shire, or that the business of such council was transacted at any offices so situate, shall not be deemed to have affected and shall not affect the validity of such lease, acquisition, erection, or maintenance, or of anything done or to be done in pursuance thereof, or the validity of any act done or to be done by the council or its president.
    - 40 (3) For the purposes of this Act "public road" shall include—
      - (a) any road proclaimed or dedicated under any Act dealing with public roads, or under the Crown Lands Acts, or classified as a main road in the Gazette of the thirty-first day



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5 day of December, one thousand nine hundred and six, or approved by the council under section ninety-nine of this Act; or any road of which the council has the care, control, and management under subsection one, paragraphs (e) and (x) of this section, or under sections seventy-four and seventy-eight of this Act;

10 (b) any road left in division or subdivision of Crown lands, or used as a road over Crown lands, and with respect to which a council signifies its intention to take control, provided the approval of the Secretary for Lands be first obtained;

15 (c) any road left in division or subdivision of private lands, and of which a council, by notice in the Gazette, signifies its intention to take control, provided that the council shall, before publishing such notice, serve on the owner of the land comprising the road notice of such intention; and such owner may, as prescribed, appeal within thirty days of such service to a district court judge having jurisdiction within the area against the carrying out of such intention. Such judge may hear and determine such  
20 appeal, and make such order as he thinks fit.

9. Section seventy-four of the Principal Act is amended by <sup>Section 74, Principal Act.</sup> inserting after "disposal" in paragraph (i) the words "within or outside the area (subject to the approval of the night-soil depôt by the Board of Health)."

25 10. The following ~~section~~ <sup>sections</sup> are inserted next after <sup>New section.</sup> section seventy-five of the Principal Act:—

75A. Where, by the operation of this Act, a public ferry which <sup>Public ferries.</sup> was in operation at any time during the year ended on the thirty-first day of December, one thousand nine hundred and six, passed to the  
30 care of a council, such council shall cause such ferry to be worked for the use of the public, unless the Minister grants permission to close such ferry. This provision may be enforced against the council at the suit of the Minister, or of any person interested.

35 75b. A council shall, in respect of any public road or part of a public road in its area, have the right to lodge a caveat against the bringing of such road or part of a road under the provisions of the Real Property Act, 1900.

40 11. Section seventy-eight of the Principal Act is amended by <sup>Section 78, Principal Act.</sup> omitting "subsection" in subsection two and substituting "section," and by inserting the following at the end of subsection three:—  
"Provided that nothing herein shall affect the power of the Secretary for Lands to make compensation or part compensation in land in pursuance of the said Act."



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12. Section eighty-two of the Principal Act is amended by inserting after the words "may cause notice" the words "to be served on the owner or on the person causing such encroachment or obstruction and"; and by adding at the end of subsection one the following words:—

Section 82,  
Principal Act.  
Encroachment on a  
road.

5 "The above provisions shall apply also to any encroachment or obstruction, being a hedge, fence, wall in the nature of a fence, post, steps, awning or verandah, or post supporting any awning or verandah, drain, watercourse, or any structure of bark, ruberoid, canvas, or other like material, planted, erected, or made before or after the commence-  
10 ment of this Act. In this section, 'encroachment' includes any obstruction on the footway or carriage-way of a road."

13. Section eighty-seven of the Principal Act is amended by adding the following subsection:—

Section 87,  
Principal Act.

(2) A council may agree to pay for any purchase lawfully  
15 made, or for the performance of any work which it might lawfully undertake, by instalments extending over a period of years.

14. Section one hundred and three of the Principal Act is omitted, and the following is substituted therefor:—

Section 103,  
Principal Act.

103. (1) A council may fix, with the approval of the Governor,  
20 and may recover from the person to whom or on whose order any service is rendered by the council, in pursuance of its powers under this Act, fees and charges for such service. Proceedings for the recovery of such fees and charges may be taken at any time within twelve months after the making of a written demand for payment.

25 (2) After the thirty-first day of December, one thousand nine hundred and eight, a council shall, in cases where the service is rendered, make such charges as aforesaid, recoverable as aforesaid, for the removal of nightsoil or garbage, or both nightsoil and garbage, payable by the occupier of the premises served. At the request  
30 of the council such charges shall be paid in advance, subject to the right of the person making such payment to a refund, on the determination of his occupation, of any amount overpaid by him. Such charges shall be carried to a special fund. The cost of nightsoil and garbage removal shall not be paid out of the general fund, but  
35 out of the said special fund: Provided that the Governor may, from time to time by proclamation, exempt any council from the operation of this subsection.

15. (3) All fees and charges owing to any existing municipality  
on the first day of January, one thousand nine hundred and seven, may  
40 be recovered from the person liable to pay the same under the Acts repealed by the Principal Act: Provided a written demand be made for the payment thereof, and proceedings be taken for the recovery thereof within three months from the passing of this Act.

Recovery of fees  
and charges.



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16. 15. Section one hundred and six of the Principal Act is amended— Section 106,  
Principal Act.

- (a) in subsection one by inserting "or one side" after the word "centre";
- 5 (b) in subsection two by omitting the words "in the prescribed manner."

17. 16. Section one hundred and seven of the Principal Act is amended— Section 107,  
Principal Act.

- 10 (a) in paragraph (i), after "disposal" by inserting the words "within or outside the area (subject to the approval of the nightsoil depôt by the Board of Health)";
- (b) in paragraph (i), after "situation of privies" by inserting the words "the regulation of."

*Additional functions.*

15 18. 17. Section one hundred and nine of the Principal Act is amended by adding at the end thereof the following paragraph :— Section 109,  
Principal Act.

- 20 (li) The regulation of the interment of the dead, with power, subject to the Governor's approval, to prohibit burials in any cemetery or land in any case where such course appears to the council to be necessary for the prevention of the pollution of any water supply, or for the better protection of the health of residents in the neighbourhood of such cemetery or land.
- 25 (lii) The advertising of the advantages of the area for purposes of settlement or touring.
- (liii) The supply and sale of stone or gravel from the council's quarries or pits.

19. 18. Section one hundred and thirteen of the Principal Act is amended :— Section 113,  
Principal Act.  
30 ~~in subsection five by inserting after the word "sheep," the words "horses, mules, asses, camels, and goats."~~

- (a) in subsection one, after the words "control within" by inserting the words "or outside"; and
- 35 (b) in subsection three, after "as aforesaid" by omitting words "in an area," and inserting the words "or when any council has in conjunction with any other council jointly established an abattoir"; and, after "exposure for sale within the area," by inserting the words "of any such councils"; and
- 40 (c) in subsection five, by inserting after the word "sheep" the words "horses, mules, asses, camels, and goats."

20. 19. Section one hundred and fifteen of the Principal Act is amended :— Section 115,  
Principal Act.

- (a) By omitting subsection (a) and inserting the following :—  
"Regulate and control all hoardings in the area and prevent the



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the erection or use of such hoardings as may affect injuriously the amenities of a public park or pleasure promenade, or disfigure the natural beauty of a landscape or harbour foreshore."

- 5 (b) By omitting subsection (b)  
 (c) By omitting in subsection (c) "all hoardings now or hereafter  
 "to be erected and"  
 (d) By adding the following proviso at the end of subsection (d):—  
 Provided that—

- 10 (1) The charge for or for renewal of any license for a hoarding  
 shall not exceed a sum calculated at the rate of one  
 penny per annum per square yard of advertising space  
 on such hoarding and where such license is issued or  
 renewed after the first day of January in any year, the  
 15 charge shall be calculated for the remainder of the year  
 at the above rate, any fraction of a week being counted  
 as a full week, the minimum charge to be ten shillings.  
 (2) All hoardings in use for advertising purposes on thirty-  
 first October, one thousand nine hundred and eight,  
 20 shall be exempt from the provisions of this section for  
 a period of five years from the thirty-first December,  
 one thousand nine hundred and seven, if the charges  
 before mentioned are regularly paid and the hoardings  
 are not allowed to fall in a state of disrepair.  
 25 (3) The maximum fee which may be charged for bill-posters'  
 licenses shall be one shilling.

~~21.~~ 20. The following sections are section is inserted next after Section 115,  
 section one hundred and fifteen of the Principal Act:— Principal Act.

115A. Where any council has, under this Act, the power to Hawking of goods.  
 30 regulate and license the hawking of goods, the Hawkers and Pedlers  
 Act, 1901, shall not apply to the hawking of goods within the area of  
 such council.

115B. Where any council has, under this Act, the power to Public vehicles.  
 regulate and license public vehicles, and the drivers and conductors  
 35 thereof, the Stage Carriages Act, 1899, shall not apply within the area  
 of such council: Provided that sections thirteen and fourteen of the  
 said Act shall apply within the area, and in so applying such sections  
 the words "the Local Government Act, 1906, and any ordinances  
 thereunder, so far as they relate to public vehicles," shall be read for  
 40 the words "this Act"; and the words "the ordinances under the said  
 Act" shall be read for the words "the last preceding section."

~~22.~~ 21. Section one hundred and thirty-one of the Principal Act is Section 131,  
 amended as follows:— Principal Act.

- 45 (a) By omitting paragraph (d) of subsection one and substituting  
 the following:—"Lands the property of the Crown which  
 are



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are not occupied or on which any public works are in course of construction by or for the Crown," and by inserting the following additional paragraph :—

5 (f) lands held under lease or agreement for lease from the Crown for purposes of oyster culture.

(b) In subsection three by omitting the words after "tenancy" to the end of the subsection and inserting the following : "shall be liable to the amount per pound of any rate struck ; but where such rate is struck on the improved capital value, the Crown shall only be liable for the said rate per pound on the unimproved capital value of its land. This subsection shall not apply to rates made after the first day of January, one thousand nine hundred and nine, under the Country Towns Water and Sewerage Acts, 1880-1905."

15 *Values and valuations.*

~~23.~~ 22. Section one hundred and thirty-two of the Principal Act Section 132, Principal Act. is amended—

(a) in subsection two, paragraph (e), by adding the following :—  
" Where councils have not caused valuations to be made in accordance with this subsection for the years one thousand nine hundred and seven and one thousand nine hundred and eight in the case of shires and one thousand nine hundred and eight in the case of municipalities, such councils may cause such valuations to be made at any time, and such valuations shall for the purposes of any rates made or to be made be deemed to have come into force on the first day of January, one thousand nine hundred and seven, in the case of shires and on the first day of January, one thousand nine hundred and eight in the case of municipalities."

30 (b) In subsection three after the word " held " in line one insert the words " for pastoral or agricultural purposes."

(b c) In subsection three, by adding the following words : " or, if such lease or license was not in force during such preceding year, twenty times the rent payable to the Crown thereunder for the year in which the valuation is made."

~~24.~~ 23. Section one hundred and thirty-five of the Principal Act Section 135, Principal Act. is amended as follows :—

(a) By omitting subsections one, two, three, and four, and inserting in place thereof the following subsections :—

40 (1) A council shall at least once in every three years cause valuation to be made of all ratable land in its area : Provided that the council may, without causing a fresh valuation to be made, adopt as Valuation of preceding year may be adopted.



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as the valuations for any period the whole or any part of the valuations in force at the close of the next preceding period when such valuations are considered by the council to be still just and equitable.

In a municipality such valuation shall be of the unimproved capital value, the improved capital value, and the assessed annual value.

In a shire the valuation of the unimproved capital value shall be compulsory, and of the improved capital value, and the assessed annual value, optional.

10 Provided that a council may adopt the valuations under the Land and Income Tax Assessment Act of 1895 as the first valuation of unimproved capital value under this Act.

(2) A council may, whenever it thinks necessary, cause valuations to be made of any or of all ratable land in its area.

15 (3) Where a valuation is made of land which was not ratable before the commencement of the then current year, the rate thereon shall be proportionate to the portion of such year during which such land was ratable.

20 Where a valuation is made of land which had not been rated, but which was ratable at the commencement of the then current year, the rate thereon shall be for the whole of such year, except where otherwise provided in this Act.

In any other case the valuation shall come into force on the first day of January next following the making of the valuation, 25 except where otherwise provided in this Act.

(4) Where any court holds that a valuation is invalid for any reason except that the land valued is not ratable, the council may cause fresh valuation to be made, which shall take the place of the valuation so held to be invalid, and shall, for the purposes of any 30 rates made or to be made, be deemed to have come into force at the time when the last-mentioned valuation came into force.

(4A) All valuations made in a municipality during the year one thousand nine hundred and eight shall be and be deemed to have been as valid as if they were made within the first year after the constitu- 35 tion of the council of the municipality. This provision shall apply to every municipality without exception, notwithstanding the decision of any court. Every valuation of land made after the first day of January, one thousand nine hundred and seven, in a shire, or one thousand nine hundred and eight in a municipality, with amendments 40 (if any) on appeal, shall remain in force until a fresh valuation of such land comes into force; but the valuation in force shall be subject to appeal each year as prescribed.

(b) By adding the following subsection:—

(7) Any valuation or entry of valuation made under this 45 Act may be altered at any time in any case where it is found that an error



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error has been made as to the area, ownership, or occupation of land, or any mistake of calculation of values has been made, or where there is a change of ownership or occupation. Where any land has been subdivided, and a portion sold or let, the valuation of such land may  
 5 be altered, and such valuation and any unpaid rates due on such land may be apportioned by the council. Such alteration or alteration and apportionment shall be initialled by the president or mayor and clerk after resolution of the council making such alteration or apportionment: Provided that in every such case of alteration or apportionment  
 10 notice thereof shall be served, and an appeal therefrom shall lie, as provided in section one hundred and thirty-eight with respect to valuations, and such alteration or apportionment shall take effect from the date fixed by the resolution of the council.

Other minor errors in the valuation book not affecting the  
 15 amount at which land is valued may be altered as prescribed by ordinance.

25- 24. (1) The following words are added to section one hundred and thirty-six of the Principal Act :—"Where any portion of a mine as defined in this Act is separately let or sublet to and occupied by  
 20 any person for residential, business, grazing, or agricultural purposes, such portion shall be valued and rated separately."

(2) Subsection one of section one hundred and thirty-seven of the Principal Act is amended by adding the words "and, where a  
 25 mine is situated in two or more areas, the council of any one of such areas may at any time require the councils of the other areas to appoint valuers for the purpose of making [a joint valuation of the mine."

26- 25. (1) Section one hundred and thirty-eight of the Principal Act is amended—

- 30 (a) in subsection one, paragraph (a), by omitting "such valuation," and inserting the words "the valuation of the unimproved capital value of the land";
- (b) in subsection one by adding the following at the end of the  
 35 subsection :—"In such appeal the question may be raised whether the land is ratable";
- (c) in subsection two by inserting, after "amend," the words "or strike out";
- (d) in subsection four by inserting at the end of the subsection  
 40 the following: "any appellant may appear at an appeal court by his counsel, solicitor, or agent, provided such agent is authorised by the appellant in writing."
- (e) in subsection five by omitting the words "as to the amount of such assessment."



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(2) Section one hundred and forty of the Principal Act is amended— Section 140,  
Principal Act.

- (a) in subsection one by inserting after "made" the words "or in relation to the question whether the land is ratable";
- 5 (b) in subsection one by adding at the end of the subsection the following—"or to the question whether the land is ratable";
- (c) in subsection two by inserting after "principle" the words "or the said question."
- (d) by adding a new subsection six as follows:—
- 10 **Notwithstanding anything in section one hundred and forty-six, in any action for the recovery of rates made before the first day of January, one thousand nine hundred and nine, the defence that the land was not ratable may be raised.**

*Rates.*

15 27. 26. (1) Section one hundred and forty-four of the Principal Act is amended by omitting subsection six and substituting the following therefor:— Section 144,  
Principal Act.

- (6) Provided that where a lessee of ratable land in an area has agreed with the owner, or with the mesne lessee from whom
- 20 he immediately holds, to pay municipal or local government taxes, whether under those designations or under any words of description which would include municipal or local government taxes, and, in the case of land within a municipality, such agreement was made before the commencement of this Act, and, in the case of land within
- 25 a shire, was made before the commencement of the Shires Act, the owner and all the lessees, including mesne lessees, shall, notwithstanding such agreement and during the currency of such agreement, be respectively liable, as between themselves, for so much of the local government rate under this Act as is equal to the amount of the land
- 30 tax, or tax in lieu of land tax, on the land which they respectively would have been liable to pay under the Acts mentioned in Schedule Three if the operation of the said Acts had not been suspended, based on the valuation of the unimproved capital value under this Act. The adjustment of the Commissioners of Taxation under the fourth section
- 35 of the Land Tax (Leases) Act, 1902, shall be made on the application of any person interested in such agreement, and shall be on the basis of such valuation, and of a land tax or tax in lieu of land tax, without exemptions, and after the first adjustment, there shall be a readjustment by the commissioners at every subsequent period of valuation.
- 40 Such adjustment shall be final and shall not be subject to appeal in any court.

~~The lessor who has made~~ Any person interested in any such agreement as aforesaid shall may notify the council of the terms of such lease agreement. Where such notification has been received by the



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the council, such council shall (notwithstanding the provisions of subsection one of this section) first proceed for the recovery of the whole of any rates due under this Act from the lessee who is in possession of the land rated as the last lessee within the knowledge of  
5 the council bound by any such agreement. **In the case of rates made after the commencement of this Act** unless such lessor notifies the council be notified as aforesaid before the making of any rates, the council may recover the whole of such rates from such the lessor.

Failing in any legal proceedings against any person as aforesaid,  
10 the council shall next so proceed against the lessor from whom such person immediately holds; and, failing in any such proceedings against a lessor who is a mesne lessee, the council shall next so proceed against the lessor from whom he immediately holds; and so on.

Any lessee who has paid, or any mesne lessee who has paid or  
15 suffered the deduction as hereinafter provided of any such rates may recover as a debt from, or deduct from any moneys due to, the lessor from whom he immediately holds, the proportionate amount of rates determined as aforesaid by the said commissioners to be the portion payable in respect of the land rated by all the persons under whom he  
20 derives title; and any lessor who has made any payment to the council or to his immediate lessor in respect of such rates may recover as a debt from any lessee under him such portion thereof as such lessee is liable for under his agreement and the terms of this subsection.

25 The council, the commissioners aforesaid, and any authorised servant of either of them, may, under the prescribed penalty, demand the production within a reasonable time of any agreement as aforesaid from any owner, lessee, or person having the custody of such agreement, or require any person in occupation of land, or in receipt  
30 of the rent of land, to answer any question for the purposes of this subsection. A certificate of such adjustment aforesaid purporting to be signed by the said commissioners, or their secretary, or registrar, shall be prima facie evidence of such adjustment.

This subsection shall apply and shall be deemed to have applied  
35 to all rates made under this Act after the first day of January, one thousand nine hundred and eight.

In this subsection the word "lessor" includes his successors in title.

(2) Subsection seven of section one hundred and forty-four  
40 of the Principal Act is amended by inserting at the end of the subsection the following words:—"All amounts due as rates by the same person may be recovered in one proceeding. Where proceedings are taken by a council in a district court or court of petty sessions

to



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to recover any rates, such proceedings may be so taken in any such court for the district in which the land in respect of which the rates are claimed to be due is situate."

28. 27. Subsection five of section one hundred and fifty-one of the Principal Act is amended by substituting the word "~~made~~" for the word "~~levied~~," omitting the words "which has levied a" and inserting in their place the words "over and above the said," and by inserting after "may" where it first occurs in the said subsection the words "on the same or subsequent estimate," and by inserting after "roll of ratepayers" the words "or if the number on the roll be less than six hundred, then one-sixth of the ratepayers on such roll."

29. 28. Subsection six of section one hundred and fifty-three, and subsection four of section one hundred and fifty-four of the Principal Act are respectively amended by omitting the words "after the first constitution or" and inserting in their place "before the thirty-first day of December, one thousand nine hundred and eight, or within six months after."

*Loans.*

30. 29. Section one hundred and seventy-six of the Principal Act is repealed, and the following sections are read in its place:—

176. (1) Notwithstanding the provisions of this Act, a council may temporarily borrow in any year on the credit of the area and on the security of its revenues an amount not exceeding one-third of the estimated revenue to be received from rates if the consent of the Minister has been first obtained. For securing the repayment of any moneys borrowed or to be borrowed temporarily by a council under this Act, together with interest, if any, thereon, the council of a shire shall have the same powers to give security as the council of a municipality.

(2) All temporary loans made to and securities for the same given by any council of a shire after the commencement of this Act and before the commencement of the Local Government (Amending) Act, 1908, to secure the repayment of moneys borrowed with the consent of the Minister, or of which the Minister has at any time approved, together with interest, if any, thereon, shall be deemed to have been and to be good and valid loans and securities, and to have been lawfully made and given, notwithstanding that the amount of such loan may have been greater than that authorised by the statute law.

(3) Where a council has temporarily borrowed to an amount greater than that authorised as aforesaid, and such borrowings are validated hereunder, such council shall, before the thirtieth day of June, one thousand nine hundred and nine, repay such temporary borrowings to the extent necessary to reduce the amount owing to the amount so authorised.

(4) A council borrowing temporarily under this section shall keep a temporary loan fund as prescribed, and shall pay moneys to and out of such fund as prescribed.

(5)



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(5) Nothing in section one hundred and fifty-six of this Act shall apply to any temporary borrowing under this section.

176A. Where before the first day of June, one thousand nine hundred and eight, a loan has been made to the council of a municipality or of an existing municipality, such loan shall be deemed to have been a good valid and legal loan, and to have been lawfully contracted by such council, and the securities given for such loan shall be deemed to have been and to be good and valid securities, and to have been lawfully given to secure the repayment of such loan.

176B. A council of a shire or municipality shall not borrow money in any way except as provided by this or some other Act; nor obtain any loan in anticipation of the Governor's approval or Minister's consent, as the case may be, when such approval or consent is required by any Act to be given in order to authorise the loan.

~~31.~~ 30. Section one hundred and seventy-nine of the Principal Act is amended in subsection two—

(a) by inserting the following paragraph next after paragraph (xii):—

(xiii) The payment of a yearly subscription to the Local Government Association of New South Wales or the Shires Association of New South Wales.

(b) by adding the following at the end of the subsection:—

Provided also that, except for the lighting of dangerous points on roads or bridges, the cost of lighting roads and streets shall not be paid from the general fund, but nevertheless a council of a municipality whose area is wholly situate within twenty miles from the Sydney Post Office, and of any municipality the whole area of which derives any benefit or advantage from the expenditure on lighting streets, may in its discretion pay such cost out of its general fund.

Where a local rate is made for lighting roads or streets a poll may not be demanded as to whether such rate shall be made.

*Transfers from fund to fund.*

~~32.~~ 31. The following new section is inserted in the Principal Act next after section one hundred and eighty-one:—

181A. (1) Where, before the first day of July, one thousand nine hundred and eight, the proceeds of any rate, other than a general rate, and other than a rate under the Country Towns Water and Sewerage Acts, 1880-1905, which was directed by any Act to be paid to an account or fund specified, other than the general fund, or any sum at credit of such account or fund, has been paid to the general fund or some other fund of a municipality or an existing municipality or used for public purposes other than those for which such rate was levied, such payment or use shall be deemed to have been and to be valid:

Provided



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Provided that nothing herein shall affect any security or charge Saving.  
on such special rate or the proceeds thereof to secure the repayment of  
a loan to the council.

(2) The council of the municipality of Lithgow shall Validation—  
5 be deemed to have been authorised to use money to the extent of one Lithgow Council.  
thousand two hundred pounds, at credit of the account of rates and  
charges under the Country Towns Water and Sewerage Acts, 1880–  
1905, for the purposes of the general fund, and any such use of  
such money is hereby validated:

10 Any moneys so used shall be repaid from the general fund  
within six years from the thirty-first day of December, one thousand  
nine hundred and eight.

(3) Moneys shall not be transferred from one fund of a Transfers from fund  
council to any other fund, except in accordance with this Act or with to fund regulated.  
15 regulations which the Governor is hereby authorised to make with  
regard thereto. In such regulations provision may be made for the  
distribution of the administrative expenses of the council among the  
various funds, and for the definition of administrative expenses.

*Miscellaneous.*

20 32. (1) Section one hundred and ninety-eight of the Principal Section 198,  
Act is amended by inserting after the word "Act" the words "or the Principal Act.  
Shires Act"; and by omitting the words "a like."

(2) Section two hundred and six of the Principal Act is Section 206,  
amended by inserting the words "or notification" after the word Principal Act.  
25 "proclamation" each time they occur in the section.

34. 33. The following section and short heading is added to the  
Principal Act:—

*Control of beaches and adjacent waters.*

210. Where high-water mark of any tidal waters is the boundary Control of  
30 of any area, and where the council of the area has acquired the foreshores and tidal  
powers of paragraph (xvi) of section one hundred and nine of this waters.  
Act, the powers of the said paragraph and any ordinances relating  
thereto shall extend and apply to the foreshores below such high-water  
mark, and to the tidal waters adjacent to such foreshores, and to all  
35 persons thereon or therein.

*Indemnity.*

35. 34. All persons whosoever concerned or engaged, before or after Indemnity for non-  
the commencement of this Act, in paying any account for work which compliance with  
is situate within a shire or municipality and which was completed on Audit Act.  
40 or before the thirty-first day of July, one thousand nine hundred and  
eight, are hereby indemnified and held harmless for or in respect of  
any non-compliance with the provisions of section forty-one of the  
Audit Act, 1902.

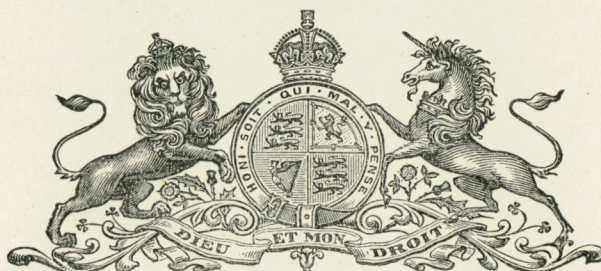


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 27 November, 1908, A.M. }*

*RICH'D. A. ARNOLD,  
Clerk of the Legislative Assembly.*

## New South Wales.



ANNO OCTAVO

## EDWARDI VII REGIS.

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Act No. , 1908.

An Act to amend the Local Government Act, 1906 ; to amend the law relating to local government, and for that purpose to amend Acts relating to public health, water and sewerage and drainage, public watering places, public roads and public parks and cemeteries ; to amend the Hawkers and Pedlers Act, 1901, the Stage Carriages Act, 1899, and the Audit Act, 1902, and certain other Acts ; and for purposes consequent thereon or incidental thereto.

**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 :—

5

### *Preliminary.*

1. This Act may be cited as the "Local Government (Amending) Short title, Act, 1908."

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7—A

In



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In this Act "Principal Act" means Local Government Act, 1906.

In amendments inserted by this Act in the Principal Act, the expression "this Act" means the Principal Act, as amended by this 5 or any other Act.

*Constitution of areas.*

2. Section fourteen of the Principal Act is repealed, and the following is substituted in its place :— Section 14,  
Principal Act.

14. (1) Any land on the boundary of but not within an area as constituted shall be deemed, with any building or structure thereon, 10 to be included in the area, if— Land on boundary  
of area.

- (a) it has at any time been reclaimed from tidal waters; or,
- (b) it is situate under tidal waters or on the shore, or on or below high water-mark, or below the margin of any tidal waters, 15 and—
  - (i) is privately owned; or
  - (ii) there is thereon any jetty, wharf, pier, or building; or
  - (iii) the Governor by proclamation declares that the land shall form part of the area.

20 (2) For the purposes of this section "tidal waters" includes the waters of the sea or of any lake, estuary, river, bay, or lagoon in which the tide ebbs and flows.

*Reconstitution.*

25 3. (1) Subsection one of section fifteen of the Principal Act is amended— Section 15,  
Principal Act.

- (a) by inserting after paragraph (e) new paragraphs, as follows :—
  - (f) Add any land not within an area, to a municipality or shire.
- (b) by adding at the end of the subsection the following :—
 

But the Governor may exercise the powers of paragraph (c), (e), 30 or (f) without reconstituting the area.

(2) Subsection two of the same section is repealed, and the following is substituted in its place :—

(2) Provided that before exercising the power in paragraph (a) or (e) of subsection one of this section a poll of ratepayers shall, at 35 the request of one-third of the ratepayers of any such area, be taken in each area, and such power shall not be exercised unless at such polls a majority of the votes has, in each area, been cast in favour of the power being exercised.

(3) The following new subsection is added at the end of 40 the section :—

(6) Where before the first day of January, one thousand nine hundred and nine, the reconstitution of an area or the alteration of



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of its boundaries under subsection one of this section have been ordered or proclaimed, such order or proclamation shall be valid, although the provisions of this Act may have been contravened, or may not have been carried out.

5      4. Section sixteen of the Principal Act is amended by adding to subsection four the following paragraphs:— Section 16,  
Principal Act.

10      (c) conferring and imposing on the council of the reconstituted area all or any of the powers and duties which had been, prior to such reconstitution, conferred or imposed upon or acquired by the council of any old area forming part of the reconstituted area;

(d) appointing and constituting a provisional council, whose members shall hold office until a council is elected or appointed under section forty-six of this Act.

15      *Divisions of areas.*

5. (1) Subsection three of section nineteen of the Principal Act is amended by omitting the words "persons resident within" and substituting therefor the words "electors of." Section 19,  
Principal Act.

20 Act is amended— (2) Subsection two of section twenty-one of the Principal Act is amended— Section 21,  
Principal Act.

(a) by inserting after "such division" where first occurring in the subsection the words "made under this Act or any Act hereby repealed"; and

25 (b) by omitting "persons resident within" and inserting "electors of."

6. Section twenty-five of the Principal Act is amended by adding thereto the words "or where such increase has been made may be decreased to six provided that before any such increase or decrease is made the council shall take a poll of electors on the question, and the decision of the majority of the votes cast at such poll shall determine the question." Section 25,  
Principal Act.

7. The following new sections are inserted next after section forty-seven of the Principal Act:— Section 47,  
Principal Act.

25 47A. If any member of a council is absent without leave granted by resolution of the council from the meetings of the council for three consecutive months, he shall thereupon cease to hold office, and his office shall be vacant. Vacancy by reason  
of absence of  
member of council  
from meetings.

40 47B. Notwithstanding anything to the contrary in this Part a council may, out of the general fund of its area, pay the reasonable expenses of one of its members elected by the council to represent it as delegate to any conference of councils of municipalities or of shires on matters relating to local government, or the business of the council. Conference expenses.

*Primary*



*Local Government (Amending).*

*Primary functions.*

8. Section seventy-three of the Principal Act is amended as follows :— Section 73,  
Principal Act.

- 5 (a) By adding to paragraph (ii) the words "including roads and bridges which are national works, provided that such control shall not interfere with the powers of the Minister for Public Works in carrying out necessary repairs or alterations to such national works, or in regulating the weight of loads or classes of traffic permitted to cross national bridges."
- 10 (b) By adding to paragraph (v) the words "Such power may be exercised with respect to offices outside the shire where the council so decides by the vote of an absolute majority of its members, passed at one meeting and confirmed by a similar majority at a subsequent meeting held within six weeks after the first meeting."
- 15 (c) In paragraph (ix), sub-paragraph (b), after "eleven" by inserting the words "and seventeen."
- (d) By adding to paragraph (ix) the following sub-paragraph :—
- 20 (d) Notwithstanding anything in the said Act, a council may let any public watering place on lease for a term not exceeding ten years; and may grant an extension of any lease for a term not exceeding five years at the same or an increased rental without calling for public tenders where the council considers such extension is justified by the nature of the improvements made by the lessee.
- 25 (e) In paragraph (xi), after "thereto" by inserting the word "constructed"
- (f) By inserting after paragraph (xi) :—
- 30 (xii) The provision of drinking troughs for animals in public places and water therefor.
- (g) By adding the following subsection :—
- (2) The fact that any offices leased, acquired, erected, or maintained by a shire council before the thirtieth day of September, one thousand nine hundred and eight, were situate outside the shire,
- 35 or that the business of such council was transacted at any offices so situate, shall not be deemed to have affected and shall not affect the validity of such lease, acquisition, erection, or maintenance, or of anything done or to be done in pursuance thereof, or the validity of any act done or to be done by the council or its president.
- 40 9. Section seventy-four of the Principal Act is amended by inserting after "disposal" in paragraph (i) the words "within or outside the area (subject to the approval of the night-soil depôt by the Board of Health)."
- Section 74,  
Principal Act.



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10. The following section is inserted next after section seventy-five of the Principal Act:— New section,

75A. Where, by the operation of this Act, a public ferry which Public ferries.  
was in operation at any time during the year ended on the thirty-first day of December, one thousand nine hundred and six, passed to the care of a council, such council shall cause such ferry to be worked for the use of the public, unless the Minister grants permission to close such ferry. This provision may be enforced against the council at the suit of the Minister, or of any person interested.

10 11. Section seventy-eight of the Principal Act is amended by inserting the following at the end of subsection three:—"Provided that nothing herein shall affect the power of the Secretary for Lands to make compensation or part compensation in land in pursuance of the said Act." Section 78,  
Principal Act.

15 12. Section eighty-two of the Principal Act is amended by adding at the end of subsection one the following words:—"The above provisions shall apply also to any encroachment or obstruction, being a hedge, fence, wall in the nature of a fence, post, drain, watercourse, or any structure of bark, ruberoid, canvas, or other like material, Section 82,  
Principal Act.  
Encroachment on a  
road.  
20 planted, erected, or made before or after the commencement of this Act. In this section, 'encroachment' includes any obstruction on the footway or carriage-way of a road."

13. Section eighty-seven of the Principal Act is amended by adding the following subsection:— Section 87,  
Principal Act.

25 (2) A council may agree to pay for any purchase lawfully made, or for the performance of any work which it might lawfully undertake, by instalments extending over a period of years.

14. Section one hundred and three of the Principal Act is omitted, and the following is substituted therefor:— Section 103,  
Principal Act.

30 103. (1) A council may fix, with the approval of the Governor, and may recover from the person to whom or on whose order any service is rendered by the council, in pursuance of its powers under this Act, fees and charges for such service. Proceedings for the recovery of such fees and charges may be taken at any time within   
35 twelve months after the making of a written demand for payment.

(2) After the thirty-first day of December, one thousand nine hundred and eight, a council shall, in cases where the service is rendered, make such charges as aforesaid, recoverable as aforesaid, for the removal of nightsoil or garbage, or both nightsoil and garbage,   
40 payable by the occupier of the premises served. At the request of the council such charges shall be paid in advance, subject to the right of the person making such payment to a refund, on the determination of his occupation, of any amount overpaid by him. Such charges shall be carried to a special fund. The cost of nightsoil   
45 and garbage removal shall not be paid out of the general fund, but  
out



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out of the said special fund: Provided that the Governor may, from time to time by proclamation, exempt any council from the operation of this subsection.

15      15. All fees and charges owing to any existing municipality on the first day of January, one thousand nine hundred and seven, may be recovered from the person liable to pay the same under the Acts repealed by the Principal Act: Provided a written demand be made for the payment thereof, and proceedings be taken for the recovery thereof within three months from the passing of this Act. Recovery of fees and charges.

10      16. Section one hundred and six of the Principal Act is amended— Section 106, Principal Act.

(a) in subsection one by inserting "or one side" after the word "centre";

15      (b) in subsection two by omitting the words "in the prescribed manner."

17. Section one hundred and seven of the Principal Act is amended— Section 107, Principal Act.

20      (a) in paragraph (i), after "disposal" by inserting the words "within or outside the area (subject to the approval of the nightsoil depôt by the Board of Health)";

(b) in paragraph (i), after "situation of privies" by inserting the words "the regulation of."

*Additional functions.*

25      18. Section one hundred and nine of the Principal Act is amended by adding at the end thereof the following paragraph:— Section 109, Principal Act.

30      (li) The regulation of the interment of the dead, with power, subject to the Governor's approval, to prohibit burials in any cemetery or land in any case where such course appears to the council to be necessary for the prevention of the pollution of any water supply, or for the better protection of the health of residents in the neighbourhood of such cemetery or land.

(lii) The advertising of the advantages of the area for purposes of settlement or touring.

35      (liii) The supply and sale of stone or gravel from the council's quarries or pits.

19. Section one hundred and thirteen of the Principal Act is amended in subsection five by inserting after the word "sheep," the words "horses, mules, asses, camels, and goats." Section 113, Principal Act.

40      20. Section one hundred and fifteen of the Principal Act is amended:— Section 115, Principal Act.

(a) By omitting subsection (a) and inserting the following:—  
"Regulate and control all hoardings in the area and prevent the erection or use of such hoardings as may affect injuriously the



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the amenities of a public park or pleasure promenade, or disfigure the natural beauty of a landscape or harbour foreshore."

- 5 (b) By omitting subsection (b)  
(c) By omitting in subsection (c) "all hoardings now or hereafter  
"to be erected and"  
(d) By adding the following proviso at the end of subsection (d):—  
Provided that—

- 10 (1) The charge for or for renewal of any license for a hoarding  
shall not exceed a sum calculated at the rate of one  
penny per annum per square yard of advertising space  
on such hoarding and where such license is issued or  
15 renewed after the first day of January in any year, the  
charge shall be calculated for the remainder of the year  
at the above rate, any fraction of a week being counted  
as a full week, the minimum charge to be ten shillings.  
(2) All hoardings in use for advertising purposes on thirty-  
first October, one thousand nine hundred and eight,  
20 shall be exempt from the provisions of this section for  
a period of five years from the thirty-first December,  
one thousand nine hundred and seven, if the charges  
before mentioned are regularly paid and the hoardings  
are not allowed to fall in a state of disrepair.  
(3) The maximum fee which may be charged for bill-posters'  
25 licenses shall be one shilling.

21. The following sections are inserted next after section one hundred and fifteen of the Principal Act:— Section 115,  
Principal Act.

115A. Where any council has, under this Act, the power to regulate and license the hawking of goods, the Hawkers and Pedlers Hawking of goods.  
30 Act, 1901, shall not apply to the hawking of goods within the area of such council.

115B. Where any council has, under this Act, the power to regulate and license public vehicles, and the drivers and conductors Public vehicles.  
thereof, the Stage Carriages Act, 1899, shall not apply within the area  
35 of such council.

22. Section one hundred and thirty-one of the Principal Act is amended as follows:— Section 131,  
Principal Act.

- 40 (a) By omitting paragraph (d) of subsection one and substituting the following:—"Lands the property of the Crown which are not occupied or on which any public works are in course of construction by or for the Crown," and by inserting the following additional paragraph:—  
(f) lands held under lease or agreement for lease from the Crown for purposes of oyster culture.

(b)



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- 5 (b) In subsection three by omitting the words after "tenancy" to the end of the subsection and inserting the following : "shall be liable to the amount per pound of any rate struck ; but where such rate is struck on the improved capital value, the Crown shall only be liable for the said rate per pound on the unimproved capital value of its land. This subsection shall not apply to rates made after the first day of January, one thousand nine hundred and nine, under the Country Towns Water and Sewerage Acts, 1880-1905."

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*Values and valuations.*

23. Section one hundred and thirty-two of the Principal Act is amended— Section 132,  
Principal Act.

- 15 (a) in subsection two, paragraph (e), by adding the following :—  
"Where councils have not caused valuations to be made in accordance with this subsection for the years one thousand nine hundred and seven and one thousand nine hundred and eight in the case of shires and one thousand nine hundred and eight in the case of municipalities, such councils may cause such valuations to be made at any time, and such valuations shall for the purposes of any rates made or to be made be deemed to have come into force on the first day of January, one thousand nine hundred and seven, in the case of shires and on the first day of January, one thousand nine hundred and eight in the case of municipalities."
- 25 (b) In subsection three, by adding the following words : "or, if such lease or license was not in force during such preceding year, twenty times the rent payable to the Crown thereunder for the year in which the valuation is made."

24. Section one hundred and thirty-five of the Principal Act is amended as follows :— Section 135,  
Principal Act.

- (a) By omitting subsections one, two, three, and four, and inserting in place thereof the following subsections :—

(1) A council shall at least once in every three years cause valuation to be made of all ratable land in its area : Provided that the council may, without causing a fresh valuation to be made, adopt as the valuations for any period the whole or any part of the valuations in force at the close of the next preceding period when such valuations are considered by the council to be still just and equitable.

In a municipality such valuation shall be of the unimproved capital value, the improved capital value, and the assessed annual value.

In a shire the valuation of the unimproved capital value shall be compulsory, and of the improved capital value, and the assessed annual value, optional.

Provided



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Provided that a council may adopt the valuations under the Land and Income Tax Assessment Act of 1895 as the first valuation of unimproved capital value under this Act.

(2) A council may, whenever it thinks necessary, cause 5 valuations to be made of any or of all ratable land in its area.

(3) Where a valuation is made of land which was not ratable before the commencement of the then current year, the rate thereon shall be proportionate to the portion of such year during which such land was ratable.

10 Where a valuation is made of land which had not been rated, but which was ratable at the commencement of the then current year, the rate thereon shall be for the whole of such year, except where otherwise provided in this Act.

In any other case the valuation shall come into force on the 15 first day of January next following the making of the valuation, except where otherwise provided in this Act.

(4) Where any court holds that a valuation is invalid for any reason except that the land valued is not ratable, the council may cause fresh valuation to be made, which shall take the place of the 20 valuation so held to be invalid, and shall, for the purposes of any rates made or to be made, be deemed to have come into force at the time when the last-mentioned valuation came into force.

(4A) All valuations made in a municipality during the year one thousand nine hundred and eight shall be and be deemed to have 25 been as valid as if they were made within the first year after the constitution of the council of the municipality. This provision shall apply to every municipality without exception, notwithstanding the decision of any court. Every valuation of land made after the first day of January, one thousand nine hundred and seven, in a shire, or one 30 thousand nine hundred and eight in a municipality, with amendments (if any) on appeal, shall remain in force until a fresh valuation of such land comes into force; but the valuation in force shall be subject to appeal each year as prescribed.

(b) By adding the following subsection :—

35 (7) Any valuation or entry of valuation made under this Act may be altered at any time in any case where it is found that an error has been made as to the area, ownership, or occupation of land, or any mistake of calculation of values has been made, or where there is a change of ownership or occupation. Where any land has been 40 subdivided, and a portion sold or let, the valuation of such land may be altered, and such valuation and any unpaid rates due on such land may be apportioned by the council. Such alteration or alteration and apportionment shall be initialled by the president or mayor and clerk after resolution of the council making such alteration or apportion- 45 ment: Provided that in every such case of alteration or apportionment notice



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notice thereof shall be served, and an appeal therefrom shall lie, as provided in section one hundred and thirty-eight with respect to valuations, and such alteration or apportionment shall take effect from the date fixed by the resolution of the council.

5 Other minor errors in the valuation book not affecting the amount at which land is valued may be altered as prescribed by ordinance.

25. (1) The following words are added to section one hundred and thirty-six of the Principal Act :—" Where any portion of a mine  
10 as defined in this Act is separately let or sublet to and occupied by any person for residential, business, grazing, or agricultural purposes, such portion shall be valued and rated separately." Section 136,  
Principal Act.

(2) Subsection one of section one hundred and thirty-seven  
15 of the Principal Act is amended by adding the words " and, where a mine is situated in two or more areas, the council of any one of such areas may at any time require the councils of the other areas to appoint valuers for the purpose of making a joint valuation of the mine." Section 137,  
Principal Act.

26. (1) Section one hundred and thirty-eight of the Principal  
20 Act is amended— Section 138,  
Principal Act.

- (a) in subsection one, paragraph (a), by omitting "such valuation," and inserting the words "the valuation of the unimproved capital value of the land";
- 25 (b) in subsection one by adding the following at the end of the subsection :—" In such appeal the question may be raised whether the land is ratable";
- (c) in subsection two by inserting, after "amend," the words "or strike out";
- 30 (d) in subsection four by inserting at the end of the subsection the following: "any appellant may appear at an appeal court by his counsel, solicitor, or agent, provided such agent is authorised by the appellant in writing."
- (e) in subsection five by omitting the words "as to the amount of such assessment."

35 (2) Section one hundred and forty of the Principal Act is amended— Section 140,  
Principal Act.

- (a) in subsection one by inserting after "made" the words "or in relation to the question whether the land is ratable";
- 40 (b) in subsection one by adding at the end of the subsection the following—"or to the question whether the land is ratable";
- (c) in subsection two by inserting after "principle" the words "or the said question."

*Rates.*



*Local Government (Amending).**Rates.*

27. Section one hundred and forty-four of the Principal Act is amended by omitting subsection six and substituting the following therefor :—

- 5 (6) Provided that where a lessee of ratable land in an area has agreed with the owner, or with the mesne lessee from whom he immediately holds, to pay municipal or local government taxes, and, in the case of land within a municipality, such agreement was made before the commencement of this Act, and, in the case of land  
10 within a shire, was made before the commencement of the Shires Act, the owner and all the lessees, including mesne lessees, shall, notwithstanding such agreement and during the currency of such agreement, be respectively liable, as between themselves, for so much of the local  
15 government rate under this Act as is equal to the amount of the land tax, or tax in lieu of land tax, on the land which they respectively would have been liable to pay under the Acts mentioned in Schedule Three if the operation of the said Acts had not been suspended, based on the valuation of the unimproved capital value under this Act. The  
20 adjustment of the Commissioners of Taxation under the fourth section of the Land Tax (Leases) Act, 1902, shall be made on the basis of such valuation, and of a land tax or tax in lieu of land tax, without exemptions, and after the first adjustment, there shall be a readjustment by the Commissioners at every subsequent period of valuation. Such adjustment shall be final and shall not be subject to appeal in  
25 any court.

The lessor who has made any such agreement as aforesaid shall notify the council of the terms of such lease. Where such notification has been received by the council, such council shall (notwithstanding the provisions of subsection one of this section) first proceed for the  
30 recovery of the whole of any rates due under this Act from the lessee who is in possession of the land rated as the last lessee within the knowledge of the council bound by any such agreement. Unless such lessor notifies the council as aforesaid before the making of any rates, the council may recover the whole of such rates from such lessor.

35 Failing in any legal proceedings against any person as aforesaid the council shall next so proceed against the lessor from whom such person immediately holds; and, failing in any such proceedings against a lessor who is a mesne lessee, the council shall next so proceed against the lessor from whom he immediately holds; and so on.

40 Any lessee who has paid, or any mesne lessee who has paid or suffered the deduction as hereinafter provided of any such rates may recover as a debt from, or deduct from any moneys due to, the lessor from whom he immediately holds, the proportionate amount of rates determined as aforesaid by the said commissioners to be the portion payable



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payable in respect of the land rated by all the persons under whom he derives title; and any lessor who has made any payment to the council in respect of such rates may recover as a debt from any lessee under him such portion thereof as such lessee is liable for under his agreement and the terms of this subsection.

The council, the commissioners aforesaid, and any authorised servant of either of them, may, under the prescribed penalty, demand the production within a reasonable time of any agreement as aforesaid from any owner, lessee, or person having the custody of such agreement, or require any person in occupation of land, or in receipt of the rent of land, to answer any question for the purposes of this subsection. A certificate of such adjustment aforesaid purporting to be signed by the said commissioners, or their secretary, or registrar, shall be prima facie evidence of such adjustment.

This subsection shall apply and shall be deemed to have applied to all rates made under this Act after the first day of January, one thousand nine hundred and eight.

28. Subsection five of section one hundred and fifty-one of the Principal Act is amended by substituting the word "made" for the word "levied," and by inserting after "may" where it first occurs in the said subsection the words "on the same or subsequent estimate."

29. Subsection six of section one hundred and fifty-three, and subsection four of section one hundred and fifty-four of the Principal Act are respectively amended by omitting the words "after the first constitution or" and inserting in their place "before the thirty-first day of December, one thousand nine hundred and eight, or within six months after."

*Loans.*

30. Section one hundred and seventy-six of the Principal Act is repealed, and the following sections are read in its place:—

176. (1) Notwithstanding the provisions of this Act, a council may temporarily borrow in any year on the credit of the area and on the security of its revenues an amount not exceeding one-third of the estimated revenue to be received from rates if the consent of the Minister has been first obtained. For securing the repayment of any moneys borrowed or to be borrowed temporarily by a council under this Act, together with interest, if any, thereon, the council of a shire shall have the same powers to give security as the council of a municipality.

(2) All temporary loans made to and securities for the same given by any council of a shire after the commencement of this Act and before the commencement of the Local Government (Amending) Act, 1908, to secure the repayment of moneys borrowed with the consent of the Minister, or of which the Minister has at any time

Section 151 (5),  
Principal Act.

Sections 153 and 154,  
Principal Act.

Section 176,  
Principal Act.

Temporary  
borrowing.

Validation of certain  
shire borrowings.



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time approved, together with interest, if any, thereon, shall be deemed to have been and to be good and valid loans and securities, and to have been lawfully made and given, notwithstanding that the amount of such loan may have been greater than that authorised by the  
5 statute law.

(3) Where a council has temporarily borrowed to an amount greater than that authorised as aforesaid, and such borrowings are validated hereunder, such council shall, before the thirtieth day of June, one thousand nine hundred and nine, repay such temporary  
10 borrowings to the extent necessary to reduce the amount owing to the amount so authorised.

(4) A council borrowing temporarily under this section shall keep a temporary loan fund as prescribed, and shall pay moneys  
to and out of such fund as prescribed.

(5) Nothing in section one hundred and fifty-six of this  
15 Act shall apply to any temporary borrowing under this section.

176A. Where before the first day of June, one thousand nine hundred and eight, a loan has been made to the council of a municipality or of an existing municipality, such loan shall be deemed  
20 to have been a good valid and legal loan, and to have been lawfully contracted by such council, and the securities given for such loan shall be deemed to have been and to be good and valid securities, and to have been lawfully given to secure the repayment of such loan.

176B. A council of a shire or municipality shall not borrow  
25 money in any way except as provided by this or some other Act; nor obtain any loan in anticipation of the Governor's approval or Minister's consent, as the case may be, when such approval or consent is required by any Act to be given in order to authorise the loan.

31. Section one hundred and seventy-nine of the Principal Act  
30 is amended in subsection two—

(a) by inserting the following paragraph next after paragraph (xii):—

(xiii) The payment of a yearly subscription to the Local Government Association of New South Wales or the  
35 Shires Association of New South Wales.

(b) by adding the following at the end of the subsection:—

Provided also that, except for the lighting of dangerous points on roads or bridges, the cost of lighting roads and streets shall not be paid from the general fund, but nevertheless a council of a municipality whose area is wholly situate within twenty miles from the Sydney Post Office, and of any municipality the whole area of which derives any benefit or advantage from the expenditure on lighting streets, may in its discretion pay such cost out of its general fund.

Where a local rate is made for lighting roads or streets a poll  
45 may not be demanded as to whether such rate shall be made.

*Transfers*



*Local Government (Amending).*

*Transfers from fund to fund.*

32. The following new section is inserted in the Principal Act next after section one hundred and eighty-one :— Transfers from fund to fund validated.

181A. (1) Where, before the first day of July, one thousand five hundred and eight, the proceeds of any rate, other than a general rate, and other than a rate under the Country Towns Water and Sewerage Acts, 1880-1905, which was directed by any Act to be paid to an account or fund specified, other than the general fund, or any sum at credit of such account or fund, has been paid to the general fund or some other fund of a municipality or an existing municipality or used for public purposes other than those for which such rate was levied, such payment or use shall be deemed to have been and to be valid :

Provided that nothing herein shall affect any security or charge on such special rate or the proceeds thereof to secure the repayment of a loan to the council. Saving.

(2) The council of the municipality of Lithgow shall be deemed to have been authorised to use money to the extent of one thousand two hundred pounds, at credit of the account of rates and charges under the Country Towns Water and Sewerage Acts, 1880-1905, for the purposes of the general fund, and any such use of such money is hereby validated : Validation—  
Lithgow Council.

Any moneys so used shall be repaid from the general fund within six years from the thirty-first day of December, one thousand five hundred and eight.

(3) Moneys shall not be transferred from one fund of a council to any other fund, except in accordance with this Act or with regulations which the Governor is hereby authorised to make with regard thereto. In such regulations provision may be made for the distribution of the administrative expenses of the council among the various funds, and for the definition of administrative expenses. Transfers from fund to fund regulated.

*Miscellaneous.*

33. (1) Section one hundred and ninety-eight of the Principal Act is amended by inserting after the word "Act" the words "or the Shires Act"; and by omitting the words "a like." Section 198,  
Principal Act.

(2) Section two hundred and six of the Principal Act is amended by inserting the words "or notification" after the word "proclamation" each time they occur in the section. Section 206,  
Principal Act.

34. The following section and short heading is added to the Principal Act :—

*Control of beaches and adjacent waters.*

210. Where high-water mark of any tidal waters is the boundary of any area, and where the council of the area has acquired the powers Control of  
foreshores and tidal  
waters.



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*Local Government (Amending).*

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powers of paragraph (xvi) of section one hundred and nine of this Act, the powers of the said paragraph and any ordinances relating thereto shall extend and apply to the foreshores below such high-water mark, and to the tidal waters adjacent to such foreshores, and to all 5 persons thereon or therein.

*Indemnity.*

35. All persons whosoever concerned or engaged, before or after the commencement of this Act, in paying any account for work which is situate within a shire or municipality and which was completed on 10 or before the thirty-first day of July, one thousand nine hundred and eight, are hereby indemnified and held harmless for or in respect of any non-compliance with the provisions of section forty-one of the Audit Act, 1902.

Indemnity for non-compliance with Audit Act.







## LOCAL GOVERNMENT (AMENDING) BILL.

27. Section one hundred and forty-four of the Principal Act is amended by omitting subsection six and substituting the following therefor :—

(3) Provided that where a lessee of ratable land in an area has agreed with the owner, or with the mesne lessee from whom he immediately holds, to pay municipal or local government taxes, **whether under those designations or under any words or description which would include municipal or local government taxes**, and, in the case of land within a municipality, such agreement was made before the commencement of this Act, and, in the case of land within a shire, was made before the commencement of the Shires Act, the owner and all the lessees, including mesne lessees, shall, notwithstanding such agreement and during the currency of such agreement, be respectively liable, as between themselves, for so much of the local government rate under this Act as is equal to the amount of the land tax, or tax in lieu of land tax, on the land which they respectively would have been liable to pay under the Acts mentioned in Schedule Three if the operation of the said Acts had not been suspended, based on the valuation of the unimproved capital value under this Act. The adjustment of the Commissioners of Taxation under the fourth section of the Land Tax (Leases) Act, 1902, shall be made **on the application of any person interested in such agreement**, and shall be on the basis of such valuation, and of a land tax or tax in lieu of land tax, without exemptions, and after the first adjustment, there shall be a readjustment by the commissioners at every subsequent period of valuation. Such adjustment shall be final and shall not be subject to appeal in any court.

~~The lessor who has made~~ **Any person interested in any such agreement as aforesaid shall may** notify the council of the terms of such lease. Where such notification has been received by the council, such council shall (notwithstanding the provisions of subsection one of this section) first proceed for the recovery of the whole of any rates due under this Act from the lessee who is in possession of the land rated as the last lessee within the knowledge of the council bound by any such agreement. **In the case of rates made after the commencement of this Act** unless ~~such lessor notifies~~ the council **be notified** as aforesaid before the making of any rates, the council may recover the whole of such rates from ~~such~~ the lessor.

Failing in any legal proceedings against any person as aforesaid, the council shall next so proceed against the lessor from whom such person immediately holds; and, failing in any such proceedings against a lessor who is a mesne lessee, the council shall next so proceed against the lessor from whom he immediately holds; and so on.

Any lessee who has paid, or any mesne lessee who has paid or suffered the deduction as hereinafter provided of any such rates may recover as a debt from, or deduct from any moneys due to, the lessor from whom he immediately holds, the proportionate amount of rates determined as aforesaid by the said commissioners to be the portion payable in respect of the land rated by all the persons under whom he derives title; and any lessor who has made any payment to the council **or to his immediate lessor** in respect of such rates may recover as a debt from any lessee under him such portion thereof as such lessee is liable for under his agreement and the terms of this subsection.

The council, the commissioners aforesaid, and any authorised servant of either of them, may, under the prescribed penalty, demand the production within a reasonable time of any agreement as aforesaid from any owner, lessee, or person having the custody of such agreement, or require any person in occupation of land, or in receipt of the rent of land, to answer any question for the purposes of this subsection. A certificate of such adjustment aforesaid purporting to be signed by the said commissioners, or their secretary, or registrar, shall be prima facie evidence of such adjustment.

This subsection shall apply and shall be deemed to have applied to all rates made under this Act after the first day of January, one thousand nine hundred and eight. **In this subsection the word "lessor" includes his successors in title.**



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No. , 1908.

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## A BILL

To amend the Local Government Act, 1906 ; to amend the law relating to local government, and for that purpose to amend Acts relating to public health, water and sewerage and drainage, public watering places, public roads and public parks and cemeteries ; to amend the Hawkers and Pedlers Act, 1901, the Stage Carriages Act, 1899, and the Audit Act, 1902, and certain other Acts ; and for purposes consequent thereon or incidental thereto.

[MR. LEE ;—5 November, 1908.]

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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

*Preliminary.*

1. This Act may be cited as the " Local Government (Amending) Act, 1908." Short title.

15603

7—A

In



In this Act "Principal Act" means Local Government Act, 1906.

In amendments inserted by this Act in the Principal Act, the expression "this Act" means the Principal Act, as amended by this or any other Act.

5

*Constitution of areas.*

Section 14,  
Principal Act.

Land on boundary  
of area.

2. Section fourteen of the Principal Act is repealed, and the following is substituted in its place :—

14. (1) Any land on the boundary of but not within an area as constituted shall be deemed, with any building or structure thereon, 10 to be included in the area, if—

- (a) it has at any time been reclaimed from tidal waters ; or,
- (b) it is situate under tidal waters or on the shore, or on or below high water-mark, or below the margin of any tidal waters, and—

15

- (i) is privately owned ; or
- (ii) there is thereon any jetty, wharf, pier, or building ; or
- (iii) the Governor by proclamation declares that the land shall form part of the area.

(2) For the purposes of this section "tidal waters" includes 20 the waters of the sea or of any lake, estuary, river, bay, or lagoon in which the tide ebbs and flows.

*Reconstitution.*

Section 15,  
Principal Act.

3. (1) Subsection one of section fifteen of the Principal Act is amended—

25

- (a) by inserting after paragraph (e) new paragraphs, as follows :—
- (f) Add any part of the Western Division to a municipality.
- (g) Add any land outside the Western Division, and not within an area, to a municipality or shire.

(b) by adding at the end of the subsection the following :— 30

But the Governor may exercise the powers of paragraph (c), (e), (f) or (g) without reconstituting the area.

(2) Subsection two of the same section is repealed, and the following is substituted in its place :—

(2) Provided that before exercising the power in paragraph 35 (a) or (e) of subsection one of this section a poll of ratepayers shall, at the request of one-third of the ratepayers of any such area, be taken in each area, and such power shall not be exercised unless at such polls a majority of the votes has, in each area, been cast in favour of the power being exercised.

40

(3) The following new subsection is added at the end of the section :—

(6) Where before the first day of January, one thousand nine hundred and nine, the reconstitution of an area or the alteration of



of its boundaries under subsection one of this section have been ordered or proclaimed, such order or proclamation shall be valid, although the provisions of this Act may have been contravened, or may not have been carried out.

5     4. Section sixteen of the Principal Act is amended by adding to subsection four the following paragraphs:— Section 16,  
Principal Act.

10         (c) conferring and imposing on the council of the reconstituted area all or any of the powers and duties which had been, prior to such reconstitution, conferred or imposed upon or acquired by the council of any old area forming part of the reconstituted area;

       (d) appointing and constituting a provisional council, whose members shall hold office until a council is elected or appointed under section forty-six of this Act.

15                                 *Divisions of areas.*

       5. (1) Subsection three of section nineteen of the Principal Act is amended by omitting the words "persons resident within" and substituting therefor the words "electors of." Section 19,  
Principal Act.

20         (2) Subsection two of section twenty-one of the Principal Act is amended— Section 21,  
Principal Act

       (a) by inserting after "such division" where first occurring in the subsection the words "made under this Act or any Act hereby repealed"; and

25         (b) by omitting "persons resident within" and inserting "electors of."

       6. The following new sections are inserted next [after section forty-seven of the Principal Act:— Section 47,  
Principal Act.

30         47A. If any member of a council is absent without leave granted by resolution of the council from the meetings of the council for three consecutive months, he shall thereupon cease to hold office, and his office shall be vacant. Vacancy by reason  
of absence of  
member of council  
from meetings.

35         47B. Notwithstanding anything to the contrary in this Part a council may, out of the general fund of its area, pay the reasonable expenses of one of its members elected by the council to represent it as delegate to any conference of councils of municipalities or of shires on matters relating to local government. Conference expenses.

*Primary functions.*

       7. Section seventy-three of the Principal Act is amended as follows:— Section 73,  
Principal Act.

40         (a) By adding to paragraph (ii) the words "including roads and bridges which are national works, provided that such control shall



shall not interfere with the powers of the Minister for Public Works in carrying out necessary repairs or alterations to such national works, or in regulating the weight of loads or classes of traffic permitted to cross national bridges."

- (b) By adding to paragraph (v) the words "Such power may be exercised with respect to offices outside the shire where the council so decides by the vote of an absolute majority of its members, passed at one meeting and confirmed by a similar majority at a subsequent meeting held within six weeks after the first meeting." 5
- (c) In paragraph (ix), sub-paragraph (b), after "eleven" by inserting the words "and seventeen." 10
- (d) By adding to paragraph (ix) the following sub-paragraph:—
  - (d) Notwithstanding anything in the said Act, a council may let any public watering place on lease for a term not exceeding ten years; and may grant an extension of any lease for a term not exceeding five years at the same or an increased rental without calling for public tenders where the council considers such extension is justified by the nature of the improvements made by the lessee. 15
- (e) In paragraph (xi), after "thereto" by inserting the word "constructed" 20
- (f) By inserting after paragraph (xi):—
  - (xii) The provision of drinking troughs for animals in public places and water therefor. 25
- (g) By adding the following subsection:—

(2) The fact that any offices leased, acquired, erected, or maintained by a shire council before the thirtieth day of September, one thousand nine hundred and eight, were situate outside the shire, or that the business of such council was transacted at any offices so situate, shall not be deemed to have affected and shall not affect the validity of such lease, acquisition, erection, or maintenance, or of anything done or to be done in pursuance thereof, or the validity of any act done or to be done by the council or its president. 30

Section 74,  
Principal Act.

8. Section seventy-four of the Principal Act is amended by inserting after "disposal" in paragraph (i) the words "within or outside the area (subject to the approval of the night-soil depôt by the Board of Health)." 35

New section.

9. The following section is inserted next after section seventy-five of the Principal Act:— 40

Public ferries.

75A. Where, by the operation of this Act, a public ferry which was in operation at any time during the year ended on the thirty-first day of December, one thousand nine hundred and six, passed to the care of a council, such council shall cause such ferry to be worked for the use of the public, unless the Minister grants permission to close such ferry. This provision may be enforced against the council at the suit of the Minister, or of any person interested. 45



10. Section seventy-eight of the Principal Act is amended by inserting the following at the end of subsection three :—" Provided that nothing herein shall affect the power of the Secretary for Lands to make compensation or part compensation in land in pursuance of the said Act."

Section 78,  
Principal Act.

11. Section eighty-two of the Principal Act is amended by adding at the end of subsection one the following words :—" The above provisions shall apply also to any encroachment or obstruction, being a hedge, fence, wall in the nature of a fence, post, drain, watercourse, verandah, or any structure of bark, ruberoid, canvas, wood, iron, or other like material, planted, erected, or made before or after the commencement of this Act. In this section, ' encroachment ' includes any obstruction on the footway or carriage-way of a road."

Section 82,  
Principal Act.  
Encroachment on a  
road.

12. Section eighty-seven of the Principal Act is amended by adding the following subsection :—

Section 87,  
Principal Act.

(2) A council may agree to pay for any purchase lawfully made, or for the performance of any work which it might lawfully undertake, by instalments extending over a period of years.

13. The following section is inserted next after section eighty-eight of the Principal Act :—

Liability of council  
for damages.

88A. Where an action is brought against a council for damages arising out of an alleged omission by the council to carry out the provisions of this Act in relation to any work on a public place, the council shall be liable only where it is proved that the damages arose from the neglect of the council to repair a work constructed or performed by the council, or a work constructed or performed by any other person or by the Crown, and of which the care, control, and management has been vested in the council in pursuance of this Act.

Where any other action of tort is brought against a council in relation to any work on a public place which a council is by this Act authorised or directed to carry out, the council shall be liable only where it is proved that the work had been carried out by the council, or by its direction, and that the work had been negligently so carried out, and that such negligence had caused the injury in respect of which the action was brought.

14. Section one hundred and three of the Principal Act is omitted, and the following is substituted therefor :—

Section 103,  
Principal Act.

103. (1) A council may fix, with the approval of the Governor, and may recover from the person to whom or on whose order any service is rendered by the council, in pursuance of its powers under this Act, fees and charges for such service. Proceedings for the recovery of such fees and charges may be taken at any time within twelve months after the making of a written demand for payment.

(2)



(2) After the thirty-first day of December, one thousand nine hundred and eight, a council shall make charges as aforesaid for the removal of nightsoil or garbage, or both nightsoil and garbage, payable by the occupier of the premises served. At the request of the council such charges shall be paid monthly in advance, subject to the right of the person making such payment to a refund, on the determination of his occupation, of any amount overpaid by him. Such charges shall be carried to a special fund. The cost of nightsoil and garbage removal shall not be paid out of the general fund, but out of the said special fund. 5 10

Section 106,  
Principal Act.

15. Section one hundred and six of the Principal Act is amended—

- (a) in subsection one by inserting "or one side" after the word "centre";
- (b) in subsection two by omitting the words "in the prescribed manner." 15

Section 107,  
Principal Act.

16. Section one hundred and seven of the Principal Act is amended—

- (a) in paragraph (i), after "disposal" by inserting the words "within or outside the area (subject to the approval of the nightsoil depôt by the Board of Health)"; 20
- (b) in paragraph (i), after "situation of privies" by inserting the words "the regulation of." 25

*Additional functions.*

Section 109,  
Principal Act.

17. Section one hundred and nine of the Principal Act is amended by adding at the end thereof the following paragraph :— 25

- (li) The regulation of the interment of the dead, with power, subject to the Governor's approval, to prohibit burials in any cemetery or land in any case where such course appears to the council to be necessary for the prevention of the pollution of any water supply, or for the better protection of the health of residents in the neighbourhood of such cemetery or land. 30

Section 113,  
Principal Act.

18. Section one hundred and thirteen of the Principal Act is amended in subsection five by inserting after the word "sheep," the words "horses, mules, asses, camels, and goats." 35

Section 115,  
Principal Act.

19. Section one hundred and fifteen of the Principal Act is amended by the addition of the following proviso :—

Provided that with respect to a hoarding then in existence, and as to which a contract relating to the use of the hoarding or to the use of land as a site for the hoarding, and made before the thirty-first day of December, nineteen hundred and seven, is in force— 40

- (a) the council may, by resolution, refuse to issue a license, refuse to renew a license, or recall or cancel a license only on the ground



5 ground that in its opinion such hoarding is dangerous, unsightly, or objectionable; and, where such resolution is passed only on the ground that the hoarding is unsightly or objectionable, such resolution shall be suspended for three months, and in the meantime no prosecution shall be maintained against the person named in the resolution for the use of the hoarding without being licensed; and

10 (b) the charge for or for renewal of any such license for such existing hoarding shall not exceed a sum calculated at the rate of one penny per annum per square yard of advertising space on such hoarding, and where such license is issued or renewed after the first day of January in any year, the charge shall be calculated for the remainder of the year at the above rate, any fraction of a week being counted as a full week.

20 20. The following sections are inserted next after section one hundred and fifteen of the Principal Act:—

Section 115,  
Principal Act.

115A. Where any council has, under this Act, the power to regulate and license the hawking of goods, the Hawkers and Pedlers Act, 1901, shall not apply to the hawking of goods within the area of such council.

Hawking of goods.

25 115B. Where any council has, under this Act, the power to regulate and license public vehicles, and the drivers and conductors thereof, the Stage Carriages Act, 1899, shall not apply within the area of such council.

Public vehicles.

21. Section one hundred and thirty-one of the Principal Act is amended as follows:—

Section 131,  
Principal Act.

30 (a) By omitting paragraph (d) of subsection one and substituting the following:—"Lands the property of the Crown which are not occupied or on which any public works are in course of construction by or for the Crown," and by inserting the following additional paragraph:—

(f) lands held under lease or agreement for lease from the Crown for purposes of oyster culture.

35 (b) In subsection three by omitting the words after "tenancy" to the end of the subsection and inserting the following: "shall be liable to the amount per pound of any rate struck; but where such rate is struck on the improved capital value, the Crown shall only be liable for the said rate per pound on the unimproved capital value of its land. This subsection shall not apply to rates made after the first day of January, one thousand nine hundred and nine, under the Country Towns Water and Sewerage Acts, 1880-1905."

40

Values



*Values and valuations.*

Section 132,  
Principal Act.

22. Section one hundred and thirty-two of the Principal Act is amended—

- (a) in subsection two, paragraph (e), by adding the following:—  
 “Where councils have not caused valuations to be made in accordance with this subsection for the years one thousand nine hundred and seven and one thousand nine hundred and eight in the case of shires and one thousand nine hundred and eight in the case of municipalities, such councils may cause such valuations to be made at any time, and such valuations shall for the purposes of any rates made or to be made be deemed to have come into force on the first day of January, one thousand nine hundred and seven, in the case of shires and on the first day of January, one thousand nine hundred and eight in the case of municipalities.”
- (b) In subsection three, by adding the following words: “or, if such lease or license was not in force during such preceding year, twenty times the rent payable to the Crown thereunder for the year in which the valuation is made.”

Section 135,  
Principal Act.

23. Section one hundred and thirty-five of the Principal Act is amended as follows:—

- (a) By omitting subsections one, two, three, and four, and inserting in place thereof the following subsections:—

Valuation of  
preceding year may  
be adopted.

(1) A council shall at least once in every three years cause valuation to be made of all ratable land in its area: Provided that the council may, without causing a fresh valuation to be made, adopt as the valuations for any period the whole or any part of the valuations in force at the close of the next preceding period when such valuations are considered by the council to be still just and equitable.

In a municipality such valuation shall be of the unimproved capital value, the improved capital value, and the assessed annual value.

In a shire the valuation of the unimproved capital value shall be compulsory, and of the improved capital value, and the assessed annual value, optional.

Provided that a council may adopt the valuations under the Land and Income Tax Assessment Act of 1895 as the first valuation of unimproved capital value under this Act.

(2) A council may, whenever it thinks necessary, cause valuations to be made of any or of all ratable land in its area.

(3) Where a valuation is made of land which was not ratable before the commencement of the then current year, the rate thereon shall be proportionate to the portion of such year during which such land was ratable.

Where



Where a valuation is made of land which had not been rated, but which was ratable at the commencement of the then current year, the rate thereon shall be for the whole of such year, except where otherwise provided in this Act.

5 In any other case the valuation shall come into force on the first day of January next following the making of the valuation, except where otherwise provided in this Act.

(4) Where any court holds that a valuation is invalid for any reason except that the land valued is not ratable, the council may  
10 cause fresh valuation to be made, which shall take the place of the valuation so held to be invalid, and shall, for the purposes of any rates made or to be made, be deemed to have come into force at the time when the last-mentioned valuation came into force.

(4A) All valuations made in a municipality during the year  
15 one thousand nine hundred and eight shall be and be deemed to have been as valid as if they were made within the first year after the constitution of the council of the municipality. This provision shall apply to every municipality without exception, notwithstanding the decision of any court. Every valuation of land made after the first day of  
20 January, one thousand nine hundred and seven, in a shire, or one thousand nine hundred and eight in a municipality, with amendments (if any) on appeal, shall remain in force until a fresh valuation of such land comes into force; but the valuation in force shall be subject to appeal each year as prescribed.

25 (b) By adding the following subsection:—

(7) Any valuation or entry of valuation made under this Act may be altered at any time in any case where it is found that an error has been made as to the area, ownership, or occupation of land, or any mistake of calculation of values has been made, or where there  
30 is a change of ownership or occupation. Where any land has been subdivided, and a portion sold or let, the valuation of such land may be altered, and such valuation and any unpaid rates due on such land may be apportioned by the council. Such alteration or alteration and apportionment shall be initialled by the president or mayor and clerk  
35 after resolution of the council making such alteration or apportionment: Provided that in every such case of alteration or apportionment notice thereof shall be served, and an appeal therefrom shall lie, as provided in section one hundred and thirty-eight with respect to valuations, and such alteration or apportionment shall take effect  
40 from the date fixed by the resolution of the council.

Other minor errors in the valuation book not affecting the amount at which land is valued may be altered as prescribed by ordinance.

24. (1) The following words are added to section one hundred  
45 and thirty-six of the Principal Act:—"Where any portion of a mine

Section 136,  
Principal Act.

as



as defined in this Act is separately let or sublet to and occupied by any person for residential, business, grazing, or agricultural purposes, such portion shall be valued and rated separately."

Section 137,  
Principal Act.

(2) Subsection one of section one hundred and thirty-seven of the Principal Act is amended by adding the words "and, where a mine is situated in two or more areas, the council of any one of such areas may at any time require the councils of the other areas to appoint valuers for the purpose of making a joint valuation of the mine."

Section 138,  
Principal Act.

25. (1) Section one hundred and thirty-eight of the Principal Act is amended—

- (a) in subsection one, paragraph (a), by omitting "such valuation," and inserting the words "the valuation of the unimproved capital value of the land";
- (b) in subsection one by adding the following at the end of the subsection:—"In such appeal the question may be raised whether the land is ratable";
- (c) in subsection two by inserting, after "amend," the words "or strike out";
- (d) in subsection four by inserting at the end of the subsection the following: "any appellant may appear at an appeal court by his counsel, solicitor, or agent, provided such agent is authorised by the appellant in writing."
- (e) in subsection five by omitting the words "as to the amount of such assessment."

Section 140,  
Principal Act.

(2) Section one hundred and forty of the Principal Act is amended—

- (a) in subsection one by inserting after "made" the words "or in relation to the question whether the land is ratable";
- (b) in subsection one by adding at the end of the subsection the following—"or to the question whether the land is ratable";
- (c) in subsection two by inserting after "principle" the words "or the said question."

### *Rates.*

Section 144,  
Principal Act.

26. Section one hundred and forty-four of the Principal Act is amended by omitting subsection six and substituting the following therefor:—

Lessors and lessees—  
Land Tax (Leases)  
Act.

Extension s. 72.

(6) Provided that where a lessee of ratable land in an area has agreed with the owner, or with the mesne lessee from whom he immediately holds, to pay municipal or local government taxes, and, in the case of land within a municipality, such agreement was made before the commencement of this Act, and, in the case of land within a shire, was made before the commencement of the Shires Act, the



the owner and all the lessees, including mesne lessees, shall, notwithstanding such agreement and during the currency of such agreement, be respectively liable, as between themselves, for so much of the local government rate under this Act as is equal to the amount of the land  
 5 tax, or tax in lieu of land tax, on the land which they respectively would have been liable to pay under the Acts mentioned in Schedule Three if the operation of the said Acts had not been suspended, based on the valuation of the unimproved capital value under this Act. The adjustment of the Commissioners of Taxation under the fourth section  
 10 of the Land Tax (Leases) Act, 1902, shall be made on the basis of such valuation, and of a land tax or tax in lieu of land tax, without exemptions, and after the first adjustment, there shall be a readjustment by the Commissioners at every subsequent period of valuation. Such adjustment shall be final and shall not be subject to appeal in  
 15 any court.

The amount which a lessee is liable to pay under this subsection and the terms of such agreement as aforesaid shall be notified to him by the owner, or in the case of a sub-lessee by the mesne lessee from whom he immediately holds, and the payment of such amount shall  
 20 for the purpose of any such agreement as aforesaid be deemed to be a payment by such lessee or sub-lessee of the municipal or shire rates in respect of the land. This provision shall apply and shall be deemed to have applied to all rates made under this Act after the first day of January, one thousand nine hundred and eight.

25       27. Subsection five of section one hundred and fifty-one of the Principal Act is amended by substituting the word "made" for the word "levied." Section 151 (5),  
Principal Act.

28. Subsection six of section one hundred and fifty-three, and subsection four of section one hundred and fifty-four of the Principal  
 30 Act are respectively amended by omitting the words "after the first constitution or" and inserting in their place "before the thirty-first day of December, one thousand nine hundred and eight, or within six months after."

#### *Loans.*

35       29. Section one hundred and seventy-six of the Principal Act is repealed, and the following sections are read in its place:— Section 176,  
Principal Act.

176. (1) Notwithstanding the provisions of this Act, a council  
 may temporarily borrow in any year on the credit of the area  
 and on the security of its revenues an amount not exceeding one-  
 40 third of the estimated revenue to be received from rates if the consent of the Minister has been first obtained. For securing the repayment of any moneys borrowed or to be borrowed temporarily by a council under this Act, together with interest, if any, thereon, the council of a shire shall have the same powers to give security as the council of  
 45 a municipality. Temporary  
borrowing.

(2)



Validation of certain  
shire borrowings.

(2) All temporary loans made to and securities for the same given by any council of a shire after the commencement of this Act and before the commencement of the Local Government (Amending) Act, 1908, to secure the repayment of moneys borrowed with the consent of the Minister, or of which the Minister has at any time approved, together with interest, if any, thereon, shall be deemed to have been and to be good and valid loans and securities, and to have been lawfully made and given, notwithstanding that the amount of such loan may have been greater than that authorised by the statute law.

10

Repayment of temporary borrowings validated.

(3) Where a council has temporarily borrowed to an amount greater than that authorised as aforesaid, and such borrowings are validated hereunder, such council shall, before the thirtieth day of June, one thousand nine hundred and nine, repay such temporary borrowings to the extent necessary to reduce the amount owing to the amount so authorised.

15

Temporary loan fund.

(4) A council borrowing temporarily under this section shall keep a temporary loan fund as prescribed, and shall pay moneys to and out of such fund as prescribed.

Saving.

(5) Nothing in section one hundred and fifty-six of this Act shall apply to any temporary borrowing under this section.

20

Validation of previous loans and securities in municipalities.

176A. Where before the first day of June, one thousand nine hundred and eight, a loan has been made to the council of a municipality or of an existing municipality, such loan shall be deemed to have been a good valid and legal loan, and to have been lawfully contracted by such council, and the securities given for such loan shall be deemed to have been and to be good and valid securities, and to have been lawfully given to secure the repayment of such loan.

25

176B. A council of a shire or municipality shall not borrow money in any way except as provided by this or some other Act; nor obtain any loan in anticipation of the Governor's approval or Minister's consent, as the case may be, when such approval or consent is required by any Act to be given in order to authorise the loan.

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Section 179,  
Principal Act.

30. Section one hundred and seventy-nine of the Principal Act is amended in subsection two—

35

(a) by inserting the following paragraph next after paragraph (xii):—

(xiii) The payment of a yearly subscription to the Local Government Association of New South Wales or the Shires Association of New South Wales.

40

(b) by adding the following at the end of the subsection:—

Provided also that, except for the lighting of dangerous points on roads, the cost of lighting roads and streets shall not be paid from the

the



the general fund, but nevertheless a council of a municipality whose area is wholly situate within twenty miles from the Sydney Post Office may in its discretion pay such cost out of its general fund.

Where a local rate is made for lighting roads or streets a poll 5 may not be demanded as to whether such rate shall be made.

*Transfers from fund to fund.*

31. The following new section is inserted in the Principal Act next after section one hundred and eighty-one:— Transfers from fund to fund validated.

181A. (1) Where, before the first day of July, one thousand  
10 nine hundred and eight, the proceeds of any rate, other than a general rate, and other than a rate under the Country Towns Water and Sewerage Acts, 1880-1905, which was directed by any Act to be paid to an account or fund specified, other than the general fund, or any sum at credit of such account or fund, has been paid to the  
15 general fund or some other fund of a municipality or an existing municipality or used for public purposes other than those for which such rate was levied, such payment or use shall be deemed to have been and to be valid:

20 Provided that nothing herein shall affect any security or charge on such special rate or the proceeds thereof to secure the repayment of a loan to the council. Saving.

(2) The council of the municipality of Lithgow shall be deemed to have been authorised to use money to the extent of one thousand two hundred pounds, at credit of the account of rates and  
25 charges under the Country Towns Water and Sewerage Acts, 1880-1905, for the purposes of the general fund, and any such use of such money is hereby validated: Validation—  
Lithgow Council.

Any moneys so used shall be repaid from the general fund within six years from the thirty-first day of December, one thousand  
30 nine hundred and eight.

(3) Moneys shall not be transferred from one fund of a council to any other fund, except in accordance with this Act or with regulations which the Governor is hereby authorised to make with regard thereto. In such regulations provision may be made for the  
35 distribution of the administrative expenses of the council among the various funds, and for the definition of administrative expenses. Transfers from fund to fund regulated.

*Miscellaneous.*

32. (1) Section one hundred and ninety-eight of the Principal Act is amended by inserting after the word "Act" the words "or the  
40 Shires Act"; and by omitting the words "a like." Section 198,  
Principal Act.

(2) Section two hundred and six of the Principal Act is amended by inserting the words "or notification" after the word  
"proclamation" each time they occur in the section. Section 206,  
Principal Act.

33.



**33.** The following section and short heading is added to the Principal Act:—

*Control of beaches and adjacent waters.*

Control of  
foreshores and tidal  
waters.

**210.** Where high-water mark of any tidal waters is the boundary of any area, and where the council of the area has acquired the powers of paragraph (xvi) of section one hundred and nine of this Act, the powers of the said paragraph and any ordinances relating thereto shall extend and apply to the foreshores below such high-water mark, and to the tidal waters adjacent to such foreshores, and to all persons thereon or therein.

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*Indemnity.*

Indemnity for non-  
compliance with  
Audit Act.

**34.** All persons whosoever concerned or engaged, before or after the commencement of this Act, in paying any account for work which is situate within a shire or municipality and which was completed on or before the thirty-first day of July, one thousand nine hundred and eight, are hereby indemnified and held harmless for or in respect of any non-compliance with the provisions of section forty-one of the Audit Act, 1902.

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