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1950.
—
WESTERN AUSTRALIA.

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REPORT

of the

ROYAL COMMISSION

on

Local Government Bill.

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*Presented to both Houses of Parliament by His Excellency's Command.*  
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[SECOND SESSION OF THE TWENTIETH PARLIAMENT.]

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REPORT OF THE COMMISSIONERS ON THE LOCAL GOVERNMENT BILL.

To His Excellency the Honourable Sir James Mitchell, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor in and over the State of Western Australia and its dependencies in the Commonwealth of Australia.

May It Please Your Excellency.

Having been commissioned on the third day of February and the nineteenth day of May, one thousand nine hundred and fifty, to examine and consider the "Local Government Bill, 1949" and to report thereon with a view to the subsequent redrafting of the Bill, as more fully set out in the gazetted Terms of Reference (as shown in the appendices hereto which are marked "1" and "2" respectively), we now have the honour to report as follows:—

1. Action taken by your Commissioners.

- (a) On the 27th day of February, 1950, a circular letter was despatched to every local authority in the State, inviting the submission of evidence on the Bill.
- (b) On the 6th day of March and the 21st day of June, 1950, notices were inserted in the daily press inviting interested members of the general public to submit evidence.
- (c) Most of the Government departments were written, asking that they present evidence on any aspect of the Bill which affected them, an invitation which was accepted by a considerable number.
- (d) We held our first public sitting at Parliament House on the 3rd day of April, 1950, and continued until the 13th day of July, 1950, holding sixteen public sittings in all.
- (e) Sixty witnesses were examined, as listed in appendix marked "3".
- (f) We then sat in private to consider the evidence and also the suggestions forwarded to the Local Government Department last year when the Bill was before the House, the first sitting being held on the 25th of July and the last, the 14th, being held on the 24th of October, 1950, when this report was completed.

At some of the earlier public sittings we had the services of Mr. G. B. D'Arcy, Crown

Law Department, who attended in a watching capacity.

2. The Report.

Except where otherwise stated, the report is the unanimous opinion of the members of the Commission. In preparing our report we have had regard to the evidence presented to us and the recommendations are in general based upon this. The personal opinions and predilections of the members of the Commission have not been allowed to override the weight of evidence submitted, except where this is clearly shown.

3. The Evidence.

The evidence given was really an expression of opinion upon the Bill and for the greater part the evidence given was from representatives of local authorities, the exceptions being representatives of various departments, representatives of the Officers' Association, certain organisations such as the Henry George League, the Institute of Architects, Institute of Engineers, the Institute of Chartered Accountants, the Health Inspectors' Association, while one witness, Dr. Merab Harris (Lecturer in Public Administration in the University of W.A.), dealt with the broad aspects of the principles of Government and Local Government which should be considered in dealing with a Bill of this description, and four other persons appeared purely as ratepayers.

Most of the evidence was of a constructive and helpful nature but there was a little which was not intended to be helpful except in the negative sense of aiding in the defeat of the Bill. Evidence was in some cases ill-informed and in examination certain objections were withdrawn as the witness obtained a clearer picture of both the Bill and the existing law.

Some of the evidence was contradictory, some witnesses strongly supporting the direct opposite of that advocated by other witnesses. In this way the different viewpoint of road board members and municipal council members was often made manifest.

Of those giving evidence as ratepayers, each had in mind some particular abuse or

problem and the evidence, although not unhelpful, was not sufficiently comprehensive to represent the views of the ratepayers as distinct from their elected representatives.

No representative of the Committee which prepared the Bill appeared to give evidence concerning that work, although three of the persons concerned appeared in other capacities, while the Secretary for Local Government, Mr. George S. Lindsay, gave details concerning the origin of the proposal.

We therefore formed our views on the preparation of the Bill from such few references as these made and the facts already made public generally.

The City of Perth gave evidence through the medium of Messrs. John Hale (City Solicitor), W. A. McI. Green (Town Clerk), H. W. Taylor (City Treasurer), C. S. Paterson (City Engineer), S. Law (Chief Health Inspector), V. H. Dawe (City Valuer) and A. G. Sloane (City Building Surveyor).

Mr. Hale dealt chiefly with drafting defects and the rest of the witnesses dealt with policy matters.

On behalf of the City of Perth it was argued that there should be separate provisions made in the Bill for the city in certain cases.

After mature consideration, we are of the opinion that it is unnecessary for there to be a special Act for the City of Perth, apart from the various special Acts in operation at present. We agree, however, that in certain cases special provisions may be necessary for the city and in one or two instances our recommendations make such special provisions.

So far as the matter of the Bill is concerned, the City of Perth raised strenuous objection to the degree of Government control envisaged, and also objected strongly to the idea of triennial elections as well as to the audit provisions, but otherwise its objections were not fundamental, many of the alterations suggested being to clauses which have been copied unaltered from the existing Municipal Corporations Act. One helpful suggestion made was that instead of the Governor being able to supersede a council he should be empowered to compel an election, a suggestion which we have recommended for inclusion in the Bill.

The City of Fremantle and several other municipalities were a little doubtful of the practicability of successfully combining the two Acts but made suggestions for modification of the Bill to assist in achieving this end. The Country Municipal Councils' Association, on the other hand, favoured the amalgamation of the two statutes.

The eastern ward of the Road Board Association submitted evidence through Messrs. S. A. Lundy, A. W. Latham, W. P. Forrester and F. A. Law. This ward had been extremely critical of some aspects of the Bill at an early stage but had greatly modified its

opposition before giving evidence, although stoutly maintaining its objections to the degree of Ministerial control contemplated by the Bill.

The ward accepted the principle of triennial elections but rejected the presidential election method proposed, asking that the existing practice of the president being elected by and from his fellows should be continued, but that on election to the higher office he should vacate his seat as a ward representative, and the vacancy should be filled by extraordinary election.

The ward asked for the title of "shire" instead of "district" and while feeling that this is not a vital matter, we have accepted the view that it might tend to lessen the confusion with other organisations using the name "district council" in their title, and would also admit of the use of the word "district" as a generic term for all areas.

The ward also made several helpful suggestions for the right of veto of certain actions being specifically given to the ratepayers rather than being exercised by the Minister.

The Great Southern ward gave evidence through Messrs. J. M. Bartley and D. Muir.

This ward rejected the system of triennial elections and the method of electing the president and complained of the degree of Vice-regal or Ministerial control. Chiefly, however, the evidence submitted was designed to correct anomalies and was based on the lines of the report of a Committee of Road Board Secretaries which had reported in June, 1949.

The Country Municipal Councils' Association opposed triennial elections and complained of the degree of Ministerial control suggested but made a number of valuable suggestions to improve the Bill.

On behalf of the Local Governing Bodies Officers' Association evidence was given by Messrs L. R. Latham and H. L. McGuigan, and also by Mr. W. B. Chester as representing officers in the Eastern Ward, and dealt with the Bill chiefly from the viewpoint of the effect upon the officers.

The Institute of Engineers asked for express provision in the Bill that qualified engineers must be employed.

The West Australian Chapter of the Royal Australian Institute of Architects gave evidence in support of the view that either a separate building Act should be prepared to cover all building activities or provision made for uniform Building Regulations. The Chartered Institute of Accountants gave evidence in favour of the retention of the system of electing auditors to municipalities.

It was noteworthy that despite earlier statements that the Bill was inadequate in its content, there were comparatively few suggestions for additions to the Bill which would extend the powers of local authorities.

4. The Preparation of the Bill.

The evidence revealed that the Bill was prepared by a representative Committee, comprised as follows:—

The Town Planning Commissioner as Chairman.

A representative of the Metropolitan Local Government Association.

A representative of the Road Board Association.

A representative of the Country Municipal Councils Association.

A representative of the Local Governing Bodies Officers' Association—assisted by, an officer of the Local Government Department.

We appreciate that the Bill was not an attempt to draft a new and completely comprehensive Bill to cover all aspects of Local Government, and in fact in the time available to the part-time Committee concerned, the preparation of such a Bill would have been quite impossible. We recognise that the Bill was an attempt to combine the two principal Acts—the Municipal Corporations Act, 1906-1947, and the Road Districts Act, 1919-1948—and that the Committee had seized the opportunity, where there was need to choose between conflicting provisions, of making a number of alterations and innovations which had been calculated to improve the law in this State.

There can be no doubt that the Committee, knowing the Road Districts Act to be a more recent piece of legislation, and knowing also that the Road Districts Act expressly over-rode the Municipal Corporations Act, had often chosen the appropriate Section of the more recent Act when it was necessary to make a choice, although the form of the Municipal Corporations Act was followed in the preparation of the Bill.

That the Committee had not only had little time to examine the complete implications of certain of their alterations, but that only a limited amount of legal assistance had been received, was made evident when the Bill was carefully examined. It was also evident that the proof-reading had not been as efficient as it should have been, there being a large number of errors in this direction.

Mr. John Hale, City Solicitor, on behalf of the City of Perth, dealt very caustically with the drafting of the Bill, criticising not only errors of drafting and proof-reading, but also the failure to have corrected in the Bill certain things which had previously existed in the Municipal Corporations Act.

Much of the Mr. Hale's criticism was of a helpful and constructive nature, with a view to ensuring that any redrafted Bill would be more satisfactory. To this end he suggested that an advisory committee, con-

stituted somewhat on the lines of the Commission, would be helpful, but that the actual drafting should be the work of a single skilled draftsman, a view which we accept, and we recommend accordingly.

Nevertheless, the majority of those giving evidence had little fault to find with the general principles of the Bill, apart from a few special features. Those giving evidence appeared to realise that the Minister for Local Government had accepted the Bill as representing in general the desires of the Local Authorities and had, after deleting only a few items which were not acceptable to the Government, brought down the Bill as a genuine effort to improve the position of Local Government in this State.

5. The Main Grounds for Objection to the Bill.

Those giving evidence held conflicting opinions on many items but it soon became evident that certain provisions in the Bill were very strongly opposed, the chief of these being—

- (a) the degree of control by the Minister or the Governor in Council which the Bill sought to impose;
- (b) the system of a triennial election for all members of the council instead of an annual election of one-third of the members;
- (c) the system of the president of a district council being elected by the ratepayers rather than by and from the councillors (as is at present the rule in road Boards);
- (d) any alteration of the existing franchise of either type of local authority.

There were 301 clauses of the 728 to which no exception was taken, while objections to many of the other clauses were of no real consequence.

6. Objections to Ministerial Control.

Although a number of the requests made actually involved an increase in Ministerial control, and one or two giving evidence stated that they were not concerned over this aspect, practically all those representatives of local authorities who gave evidence objected very strongly to the degree of control which the Bill provides.

We are quite satisfied that there was no ulterior or sinister purpose behind the apparent increase in the powers to be possessed by the Minister or Governor. We are of the opinion that the trouble was due to the fact that the more modern Road Districts Act had been used instead of the older Municipal Corporations Act. This Act having been accepted as the more recent expression of the opinion of the legislature, the

local authorities, and the public, apparently the Committee did not eliminate from provisions culled from the legislation of other States those Ministerial controls which existed therein. Moreover, as some of the new powers to be exercised by local authorities are somewhat novel, and are capable of being very widely interpreted, the Committee apparently felt that, during the "experimental" stages at least, some control would be necessary. Possibly, if they had been drafting an entirely new Bill instead of merely amalgamating the two main statutes, the members of the Committee would have given more attention to the question of whether or no the controls included were all necessary or desirable.

It was quite obvious that the local authorities were not resentful of the controls exercised in the past, but felt that many of these were now unnecessary, and should be eliminated while the opportunity offered.

It was also evident that many local authorities were not previously aware of the number of controls which were already provided in the Acts concerned, and witnesses agreed that there were some cases in which the Bill lessened control. They held, however, that many of the existing controls should have been lifted long ago. It would appear that in many cases it was only the perusal of the Bill which had brought to the notice of the witnesses the fact that a control existed, as on many occasions witnesses were found branding as a new control one to which they had been subject since 1919 or from an even earlier date.

We feel that to some extent there has been some unjustifiable criticism of the controls envisaged by the Bill as there are certain things which should and must be subject to some form of central control. We feel, however, that the weight of opinion is so strongly in favour of a lessening of control that unless the Government is strongly convinced of the need for their retention a very great number of controls could safely be relaxed and that the onus might be better cast upon the ratepayers in this matter. The recommendations made accordingly advocate relaxations in many cases and these will be evident from a perusal of the recommendations contained in the schedule of proposed amendments annexed to this report.

7. Triennial Elections.

The weight of evidence was strongly opposed to triennial elections. Although some witnesses agreed that there would be some slight saving in administration expenses if the triennial system were used, the consensus of opinion is that the advantages are very greatly outweighed by the disadvantages.

The arguments adduced as a reason for the desirability of holding annual elections for one-third of the membership are chiefly that

the holding of a complete election at three-yearly intervals would tend to invite the attention of the political parties to municipal elections, which most witnesses considered undesirable, and that an annual election helps to keep municipal matters more prominently before the ratepayers.

Although recognising that the principle of a triennial election is quite common throughout the British Empire and was actually contemplated in the Greater Perth Bill of 1910 we have accepted the view of the great majority of those giving evidence and recommend that the Bill be amended to provide the rotational system of one-third of the councillors retiring each year.

8. Election of Mayor or President.

None of the present municipalities urged any alteration in the system of electing the Mayor.

Most of the road board evidence was strongly opposed to that system being used in shire councils and they urged the continuance of the present road board system of the chairman being elected by his fellow members.

It appears to the members of the Commission that there is an irreconcilable conflict of opinion on this point the only solution of which is to incorporate in the Bill both methods and to allow each council, with the authority of its ratepayers, to choose the system it wishes to use and we therefore recommend this.

9. Franchise.

(a) The existing law is as follows:—

- (i) Municipal Corporations Act.—All occupiers, and also the owners of unoccupied land, are entitled to vote and a property basis with plural voting is in use.

For Mayor a person may have up to four votes, while for councillors he may have up to two votes in each ward in which he holds land.

Representative voting permits one man to have a very large number of votes.

- (ii) Road Districts Act.—All owners may vote unless displaced from the electoral list by an application from the occupier who then replaces him.

The basis is property, and there is a plural vote with an absolute limit of four votes. By voting in a representative capacity, however, a large number of votes can be cast, and it has been reported that one person has been known to cast more than 60 votes.

(b) The provisions of the Bill are as follows:—

- (i) The owners and all occupiers who claim the right are entitled to vote.

The spouse of a resident owner is entitled to be registered as occupier. This, of course, is a natural enough corollary of the enrolment of both owner and occupier of land generally. The basis is property on a plural system the same as the present Municipal Corporations Act, but representative voting is forbidden, thus making the absolute limit four votes for Mayor and two in each ward for councillors.

(c) The opinion of the Local Authorities.

- (i) The Cities of Perth and Fremantle are in favour of both owner and occupier being enrolled and they consider that the occupier should be automatically enrolled without making application, while the first-mentioned objects to the abolition of representative voting.

- (ii) Some of the other Municipalities consider that the occupier should be enrolled and that this should be automatic. They object to the enrolment as occupier of the spouse of a resident owner. In general they wish to retain the present provisions of the Municipal Corporations Act.

- (iii) The Road Boards almost unanimously oppose the enrolment of both owners and occupiers together and consider that the occupier should not be enrolled unless he applies. They oppose the granting of the vote to the spouse of a resident owner. Almost all of them favour the restriction of the plural vote to four and they oppose representative voting.

- (iv) The Municipality of Albany advocates the abolition of plural voting.

(d) The Evidence.—In view of the fact that when the Bill was before the House notice was given of an amendment which was obviously aimed at the abolition of plural voting, the opportunity of questioning a number of witnesses was taken.

The Municipality of Albany, of its own initiative, advocated the abolition of the plural voting system. A witness for the Subiaco Municipal Council, when questioned, stated that his Council was opposed to plural voting, while one or two other witnesses expressed as their personal opinion, but not that of the Local Authority, the idea that plural voting might be better abolished.

Dr. Merab Harris commented that the restriction in plural voting envisaged by the Bill was a step in the right direction.

One interested person wrote to the Commission pointing out that as Australia was a subscriber to the Declaration of Human Rights adopted by the United Nations Organisation, adult franchise should be used because Article 21 of the Declaration of Human Rights includes the following:—

The will of the people shall be the basis of the authority of Government; this shall be expressed in periodic and genuine elections and shall be by universal and equal suffrage.

The great majority of those questioned, however, appeared to hold quite strongly to the view that plural voting should be retained, although many of them urged this point with much more force than logic.

From the evidence given it appears to us that the local authorities are in general opposed to any great alteration in the system of plural voting which applies to each of the two classes of authority at present.

(e) The recommendation.—In view of the conflicting opinions given, we recommend that separate provisions be made to cover the two differing viewpoints; that the present provisions in the Bill be continued so far as cities and towns are concerned, but, with automatic enrolment of occupiers in those districts which desire this; that provisions along the lines of the Road Districts Act be made for the election of councillors and president in the existing road boards; that power be given to the municipalities to change from one system to the other; that plural voting be limited, as in the present Road Districts Act to four votes and representative voting restricted also; that the owner as well as the occupier shall be entitled to be enrolled, but that apart from those councils which desire this to be automatic, the occupier should be required to make an application, which would then entitle him to be on the roll until displaced by the application of a successor or by an objection.

We realise that the suggestions for enrolment of both owners and occupiers will call forth some objections, but we would point out that in most country districts the owners are also the occupiers, while in cities and towns the owners who are not also occupiers are a relatively small proportion of the total owners, hence we consider that the principle laid down by the Bill might well be continued.

While the question of plural voting is one of political significance as well as an administrative matter, and we cannot disregard the evidence submitted to us, we nevertheless cannot forbear to state that the abolition of plural voting in favour of a principle of "one ratepayer," "one vote" would result in a very great simplification of the Bill, and of the electoral procedure.

10. Other Important Points.

(a) Rating of Government Property.

Apart from the foregoing, the question of the rating of Government properties received considerable attention and we are of the opinion that to comply with the wishes of the Local Authorities the Government should agree to accept liability for the rating of Government properties to a very large extent. A lessening of the areas exempted in respect of religious organisations, etc. is also recommended.

(b) Auditors.

The method of appointing auditors also caused considerable discussion. The municipalities in general are somewhat divided, some of them being prepared to accept the system set forth in the Bill; others wish to retain the method of electing auditors; while still others wish to have the right to appoint auditors for themselves.

We consider that, rather than have the possibility of even a desirable reform being forced upon unwilling local authorities, provision should be made for two separate types of audit, and that the right to change from one system to the other should be provided. We therefore recommend that provision should be made as follows:—

- (i) Cities to retain the right to elect two auditors, as at present;
- (ii) towns to retain the right to elect one auditor under conditions similar in other respects to the present provisions for municipalities;
- (iii) the existing road boards to continue with their system of departmental audit;
- (iv) Cities and towns to have the right to be changed to the system of Government audit if desired; Shires (existing road boards) to have the right to change to the elective system if desired.

In connection with this recommendation, the Chairman and Messrs Bierman and Bulter wish to add the comment that they are of the opinion that the system set forth in the Bill would have lead to a highly effective type of audit. They have agreed to the foregoing recommendation as representing a compromise rendered necessary by the conflict of opinion expressed by the various witnesses.

(c) Joint Authorities.

Three witnesses drew attention to the fact that there was a need for some form of regional organisation which could be set up to aid in the handling of matters which were beyond the scope of one district, the witnesses being Mr. Harold Boas, covering the Town Planning requirements and the

metropolitan area. Dr. Merab Harris, dealing with the needs of Local Government generally, and Mr. H. L. McGuigan.

The Bill provides in Clause 316 for the Council of two or more areas to unite in joint works and the Commission is of the opinion that the machinery for this co-operation should be provided by the inclusion in the Bill of power to create by delegation from the councils concerned, a county or regional form of local government to handle matters which are of common interest instead of allowing the separate local authorities to carry out sections of the work involved, e.g. Town Planning, Water Supply, Electricity Supply, Transport etc.

(d) Street Photography.

Another matter brought before our notice was that the Street Photographers Act was not satisfactory, with the result that there had been an increase in activities of this type, leading to much complaint on the part of people who had been alarmed by the taking of flashlight photographs at night as well as annoyed by the activities of certain of the operators in the daytime. We were asked to include in the Bill an express power to make by-laws to regulate and control this activity, and have therefore recommended that such a power be included.

(e) Roads and Streets.

In taking evidence on the part of the Bill which deals with roads and streets, and by subsequent discussion with departmental officers, we found that there are some anomalies in the Road Districts Act in connection with the dedication of streets and their closure and that, while the provisions of the Road Districts Act had been incorporated in the Bill with a view to adding to the powers of the councils and expediting certain actions in regard to opening and closing streets, these anomalies had been rendered more complicated by the juxtaposition therewith of the portions of the Municipal Corporations Act dealing with streets.

We therefore recommend that the whole of Division 1 of Part XII be reconsidered by the Lands Department (which is chiefly responsible for this Division) with a view to clarification and simplification, and that the Division be redrafted to achieve this, while enacting that the ownership of the roads and streets should be vested in the municipalities, if this is possible.

We also recommend that Division 2, dealing with private streets, should be redrafted to simplify the procedure, while preserving the essential ideas underlying the provisions of the Bill, and to this end we suggest that Sections 343 and 344a of the South Australian Local Government Act should be used as a guide.

To remove the doubts which at present often exist concerning the question of

whether or not a certain road has been dedicated as a public road, we recommend that consideration should be given to including in the Bill some express power, such as is contained in Sections 303 and 304 of the South Australian Local Government Act, enabling a council to declare as a public road any thoroughfare of which there has been uninterrupted public user for a period of at least 10 years. This could be taken in during the redrafting already suggested.

(f) *Soil Erosion.*

The Bill incorporates the provisions of the existing Sand Drift Act. Evidence was given by a considerable number of road boards to the effect that this was not sufficient, and requests were made for the inclusion of a wider power to prevent sand drift or soil erosion from commencing. We have therefore recommended an addition to Clause 502 to implement this, but we desire to point out that this will need examination to ensure that it merely supports but does not cause an undesirable restriction to the powers of the Soil Conservation Commissioner under the Soil Conservation Act.

11. Generally.

Apart from the foregoing important items, we have agreed to recommend the amendment of the Bill along the lines set out in the appendix. There may be other clauses in which consequential or drafting alterations may be necessary, but this is a matter beyond the province of laymen and is better left to the consideration of the draftsman who will be engaged in the redrafting of the Bill.

Briefly, the various Parts of the Bill have been dealt with as follows:—

- (i) Preliminary.—Minor alterations only.
- (ii) Constitution.—Minor alterations only.
- (iii) Alterations of Constitutions.—Minor alterations only.
- (iv) The Mayor and Councillors.—Major alterations regarding—
 - (a) The franchise.
 - (b) Election periods.
 - (c) Enrolment.
 - (d) Election of Mayor or President and also minor alterations.
- (v) Ouster from Office.—Major alteration re supersession of a council.
- (vi) Officers.—Major alteration to delete need of Ministerial approval of appointments and dismissals. Substitution of an Appeal Board. Provision of a specific Board to recommend regulations as to qualifications. Superannuation or gratuities to be made mandatory.

(vii) Proceedings of the Council.—Minor alterations only.

(viii) By-laws.—

- (a) Major alterations by deleting power of Governor to make general by-laws over-riding local by-laws.
- (b) Minor alterations in by-law-making powers.

(ix) Lands.—Minor alterations only.

(x) Contracts.—Minor alterations only.

(xi) Resumption.—Major alteration by deleting need for council to give notice of land resumption and to hear objections. Whole matter to be left to the Governor.

(xii) Streets, etc.—

- (a) Public streets. Major alterations re vesting of streets.
- (b) Private streets. Major alterations to simplify the procedure.
- (c) Joint Works. Provision for the implementation of the power by creation of a county form of local government to exercise authority delegated to it by the local authorities.

(xiii) Stormwater Drains.—Minor alterations to prevent confusion with sewerage.

(xiv) Protection of Works.—Minor alterations only.

(xv) Buildings.—

- (a) Major alteration to provide for referees to handle building disputes.
- (b) Major alterations regarding encroachment on streets.
- (c) Minor alterations otherwise.

(xvi) Lighting.—Minor alterations only.

(xvii) Water Supply, etc.—Minor alterations only.

(xviii) Footpaths, etc.—Minor alterations only.

(xix) Places of Recreation.—Minor alterations only.

(xx) Cattle Trespass.—

- (a) One major alteration to make the owner of straying stock liable for damage caused by his stock.
- (b) Minor alterations incorporating several provisions of the Cattle Trespass Act so that that Act could be repealed so far as impounding is concerned.

(xxi) Markets, etc.—Minor alterations only.

(xxii) Trading Undertakings.—Minor alterations in most cases. Major alterations to give extended powers.

(xxiii) Other Powers.—Minor alterations but one major alteration to give greater power to control soil erosion. Clarification and simplification in regard to private works.

(xxiv) Funds.—Minor alterations in most cases. Special fund deleted. Insurance of members permitted. Conference expenses extended. Power to purchase vehicles for resale to officers included.

(xxv) Rates.—Major alteration to render Government property rateable and to reduce exemptions on religious organisations. Major alteration to allow qualified town clerk to be appointed valuer. Major alteration to eliminate preference of Rural and Industries Bank; otherwise minor alterations only.

(xxvi) Borrowing Powers.—Major alteration to permit sinking fund method of borrowing; otherwise minor alterations only.

(xxvii) Agreements with State Housing Commission.—Amend to bring into line with Bill at present before House.

(xxviii) Accounts and Audit.—

- (a) Accounts—minor adjustments only.
- (b) Appointment of auditors—major alteration to allow existing municipality to continue the elective system.

(xxix) Miscellaneous.—Minor alterations only.

(xxx) Advisory Boards.—Minor alterations. Membership to be partly from panel of names submitted by local authorities. Apart from Boundaries Board, boards to be set up at request of local authorities.

(xxxi) Temporary Provisions.—Minor alterations only.

12. We are of the opinion that, if the Bill is redrafted along the lines suggested, the full details of which are listed in the Appendix hereto marked "4," it will be found that the Bill will be acceptable to the great majority of the local authorities in the State. We recognise that no Bill can be perfect, and that some local authorities and some persons will still manifest opposition to certain of the suggested provisions, but we feel that the redrafted Bill would be a reasonably satisfactory piece of legislation with which to commence the new era in local government which is likely to result from the combining of the two Statutes which at present control and limit the activities of the local authorities.

We wish to express our appreciation of the assistance rendered by those giving evidence; by the "Hansard" staff, who so ably recorded the somewhat difficult evidence, and by the Perth City Council, which kindly made available a meeting room for the private sittings held.

We have the honour to be, Sir,
Your Excellency's obedient servants,

A. E. WHITE,
Chairman.
W. W. ABBETT,
A. C. BIERMAN,
A. M. BULLER,
W. H. D. BEADLE,
W. P. GRIFFITHS,
R. B. JAMES,
Members.

Dated at Perth, the 24th October, 1950.

Appendix 1.

Extract from "Government Gazette" dated 3rd
February, 1950, page 199.

ROYAL COMMISSION.

WESTERN AUSTRALIA, } By His Excellency The Honourable Sir James
TO WIT. } Mitchell, Knight Grand Cross of the Most Dis-
JAMES MITCHELL, } tinguished Order of Saint Michael and Saint
Governor. } George, Governor in and over the State of
[L.S.] } Western Australia and its Dependencies in the
Commonwealth of Australia.

To Messrs. A. E. White, of Local Government Department, Perth; A. M. Buller, of Bruce Rock; M. A. Manning, of Narrogin; A. Bierman, of Carnamah; and W. P. Griffiths, of Fremantle;

I, THE said Governor, acting with the advice and consent of the Executive Council, do hereby appoint you, Messrs. A. E. White, A. M. Buller, M. A. Manning, A. Bierman and W. P. Griffiths, to be a Royal Commission, to do in Perth and in such other places, if any, as the Minister for Local Government shall approve, the following acts and things, namely:—

(a) To examine, inquire into, consider and report upon the Bill bearing the short title of the "Local Government Bill, 1949," as introduced into the Legislative Assembly during the last session of the Parliament of Western Australia.

(b) To consider and inquire into suggestions for alteration or amendment to the Bill.

(c) To make recommendations for or in relation to the amendments to the Bill, deletions therefrom and insertions therein as the Commission may deem proper, with a view to the subsequent re-drafting of the Bill along the general lines of the first-mentioned Bill.

And I hereby appoint you, the said Mr. A. E. White, to be Chairman of the said Royal Commission.

And I declare that you shall, by virtue of this Commission, be a Royal Commission for the purposes of the Royal Commissioners' Powers Act, 1902, as reprinted in the Appendix to the Sessional Volume of the Statutes for the year 1928, and that you shall have the powers of a Royal Commission or the Chairman thereof under that Act.

And I hereby request you as soon as reasonably may be to report to me in writing the result of this your Commission.

Given under my hand and the Public Seal of the said State, at Perth, this 27th day of January, 1950.

By His Excellency's Command.

(Sgd.) ROSS McLARTY,
Premier.

GOD SAVE THE KING ! ! !

Appendix 2.

Extract from "Government Gazette" dated
19th May, 1950, page 1075.

ROYAL COMMISSION.

WESTERN AUSTRALIA, } By His Excellency The Honourable Sir James
TO WIT. } Mitchell, Knight Grand Cross of the Most Dis-
JAMES MITCHELL, } tinguished Order of Saint Michael and Saint
Governor. } George, Governor in and over the State of
[L.S.] } Western Australia and its Dependencies in the
Commonwealth of Australia.

L.G. 2279/49.

To Messrs. A. E. White, Assistant Secretary for Local Government (Chairman); A. M. Buller, of Bruce Rock; R. B. James, of Northam; W. P. Griffiths, of Fremantle; A. C. Bierman, of Carnamah; W. W. Abbett, of Scarborough; W. H. D. Beadle, of Perth City Council.

WHEREAS by Commission given under my hand and the Public Seal of the State on the 27th day of January, 1950, and published in the *Government Gazette* on the 3rd day of February, 1950, I, the said Governor, acting with the advice and consent of the Executive Council, appointed Messrs. A. E. White, A. M. Buller, M. A. Manning, A. Bierman and W. P. Griffiths to be a Royal Commission to do certain acts and things as in the said Commission mentioned; and whereas the said Mr. Manning later requested the cancellation of his appointment aforesaid and it is desired to accede to this request and in lieu of such appointment, to appoint Mr. R. B. James, the Mayor of the Municipality of Northam to the said Commission, and also to appoint, as additional members of the Commission, Messrs. W. W. Abbett, of 25 Francis Street, Scarborough, and Councillor W. H. D. Beadle of the Perth City Council.

Now, therefore, I, the said Governor, acting with the advice and consent of the Executive Council, do hereby (a) revoke the appointment aforesaid of Mr. Manning and, in lieu of such appointment, appoint Mr. R. B. James as a member of the Commission; (b) appoint as additional members of the Commission Messrs. W. W. Abbett and W. H. D. Beadle aforesaid; and (c) in all other respects confirm the said Commission.

Given under my hand and the Public Seal of the said State, at Perth, this 16th day of May, 1950.

By His Excellency's Command.

(Sgd.) ROSS McLARTY,
Premier.

GOD SAVE THE KING ! ! !

Appendix 3.

LIST OF WITNESSES.

1950.

April 3 1st Day of Sitting—

1. Lindsay, George S., Secretary for Local Government.
2. Hutchinson, John C., Under Secretary, Metropolitan Water Supply.
3. Letch, Thomas A., Chairman, Northam Road Board.
4. Martin, Clarence W., Member, Northam Road Board (also on behalf of Mundaring Road Board).
5. Henzell, Dr. Lindley, Commissioner of Public Health.
6. Coates, Douglas A., Department of Public Health

April 4 2nd Day of Sitting—

7. Hale, John, Solicitor, City of Perth.

April 17 3rd Day of Sitting—

7. Hale, John, Solicitor, City of Perth.
8. Jenkins, A. H., Secretary, Nedlands Road Board.

April 18 4th Day of Sitting—

8. Jenkins, A. H., Secretary, Nedlands Road Board.
9. Gibbons, Leonard, Town Clerk, Guildford Municipality.
10. Shepherdson, Kenneth S., Secretary, Augusta-Margaret River Road Board.

May 1 5th Day of Sitting—

11. Harper, Prescott H., Chairman, Gingin Road Board.
12. Williams, William C., Under Secretary for Works.
13. Piesse, Claude K., West Road, Bassendean.
14. Parker, Herbert, Quairading.

May 2 6th Day of Sitting—

14. Parker, Herbert, Quairading.
15. Bartley, John M., Representative, Great Southern Road Board Association.
16. Haley, Herbert W. N., Secretary, York Road Board.

May 3 7th Day of Sitting—

17. Muir, David J., Representative, Great Southern Road Board Association.
18. Standring, Wm. E., Secretary, Henry George League.
19. Hart, Stanley G., President, Henry George League.
20. Abrahams, Joseph, Mayor of Subiaco.
21. Williams, Herbert, Member, Subiaco Municipal Council.

May 22 7th Day of Sitting—

22. Buchanan, Robert C., Registrar of Titles.
23. Johnson, Albert S. D., Member, Collie Road Board.
24. Hough, Richard C. H., Secretary, Collie Road Board.
25. Chester, Wallace B., Secretary, Kellerberrin Road Board, representing—
 - (1) Eastern Ward W.A.L.G.B.O.A.
 - (2) Kellerberrin Road Board.
26. Boas, Harold, Architect, Mount Street, Perth.

May 23 9th Day of Sitting—

27. *Lundy, S., Chairman, Cunderdin Road Board.
28. *Latham, Arthur W., Member, Narembeen Road Board.
29. *Forrester, Wm. P., Member, Yilgarn Road Board.
30. Law, Frederick A., Secretary, Merredin Road Board.
31. Bracks, Alexander H., Chairman, Melville Road Board.
32. Carroll, Ronald F., Vice Chairman, Melville Road Board.
33. Peddie, Phillip T., Health Inspectors' Association.
34. Court, Charles W. M., State Registrar, Institute of Chartered Accountants, representing—
 - (1) Federal Institute of Accountants.
 - (2) Commonwealth Institute of Accountants.

May 24 10th Day of Sitting—

35. Brown, Thomas C., Town Clerk, Claremont.
36. Leighton, Wm. T., Vice President, W.A. Chapter of the R.A.I. Architects, representing also the Building Congress of W.A.
37. Daniel, John D. M., Town Clerk, Albany.
38. Andrew, Alan S., Secretary, Fremantle Road Board.
39. Smith, Edward J., Chairman, Fremantle Road Board.

* Representing Great Eastern Wards of Road Board Association.

Append 3. —continued.

LIST OF WITNESSES.—continued.

1950.

June 13 11th Day of Sitting—

- 40. Blockley, John, Acting Secretary, State Electricity Commission.
- 41. Smythe, Percy, c/c. Roads and Reserves Branch, Department of Lands and Surveys.
- 42. Blakey, Professor O. F., representing the Institution of Engineers, Australia.
- 43. McCombe, Noel J. F., Town Clerk, Fremantle.

June 14 12th Day of Sitting—

- 44. Payne, Percy Clarence, Mayor of Bunbury, and also represents the C.M.C.A.
- 45. Houghton, Rubin F. G., Secretary, Country Municipal Council Association.
- 46. Killerby, Benjamin, Mayor of Busselton, representing the C.M.C.A.
- 47. Harris, Dr. Merab, Lecturer, Public Administration, University of W.A.

July 10 13th Day of Sitting—

- 48. McKinlay, Edward J., Retired Farmer, Yarloop.
- 49. Latham, Lyndon, Town Clerk, East Fremantle, representing W.A. Local Governing Bodies Officers' Association.
- 50. McGuigan, Harry L., Secretary, Belmont Park Road Board, representing W.A.L.G.B.O.A.
- 51. Rooke, Francis, Wheat Section Secretary, W.A. Farmers' Union, Perth.

July 11 14th Day of Sitting—

- 52. Green, Wm. A. McI., Town Clerk, Perth.
- 53. Taylor, Harry W., City Treasurer, Perth.

July 12 15th Day of Sitting—

- 53. Taylor, Harry W., City Treasurer, Perth.
- 54. Paterson, Charles S., City Engineer, Perth.
- 55. Law, Sydney, Chief Health Inspector, City of Perth.
- 56. Dawe, Vernon H., City Valuer, Perth.
- 57. Sloane, Andrew G., City Building Surveyor, Perth.

July 13 16th Day of Sitting—

- 58. Nalder, Crawford Davis, M.L.A., for Wagin, for Katanning Road Board.
- 59. Baldock, Arthur H., Engineer, Yarloop.
- 60. Rushton, Richard, Secretary, Gosnells Road Board, Maddington.

Appendix 4.

AMENDMENTS TO THE LOCAL GOVERNMENT BILL RECOMMENDED BY THE COMMISSIONERS.

Clause, Recommended Amendment, and Reason.

Clause 6. DEFINITIONS.

Amendment.—"Building"—a better definition of a building should be incorporated.

Reason.—To remove certain doubts.

Amendment.—"Clerk." Delete the words "City Clerk" and replace the word "District" by "Shire."
"City Clerk." Delete this definition.

"District." To be replaced by the word "Shire" throughout the Bill, and "District Clerk" wherever appearing to be altered to read "Shire Clerk."

"Improvements." Insert the word "not" in line 15, after the word "has."

"Pave." Delete the word "wood" in line 23, the word "shall" in line 24, and the words "not being sand" in line 24.

Insert after the word "stones" in line 23, the words "cement concrete."

"Public Reserve." Amend specifically to include "beaches."

"Ratepayer." Amend to read "ratepayer" means both owner and occupier of any rateable land.

"Surveyor." This should be amended to expressly define licensed land surveyors and a separate definition should be included for Building Surveyor and also for Engineer. In the latter case, expanding the definition to include a Consulting Engineer.

"Street." Delete all the words from "or" to "Act" in lines 26 to 28.

"Way." Delete the words "from which" to "use" in lines 14 and 15.

Reason.—To preserve the title "Town Clerk" even for cities; to use the name "Shire Council" instead of "District Council"; to revert to the existing municipal practice in regard to ratepayers; and to modernise the provisions in regard to engineers.

Clause 10. CORPORATE BODIES.

Amendment.—Alter references to "Districts" to read "Shires."

Reason.—See above.

Clause 11. MEMBERSHIP.

Amendment.—Amend Sub-clause (1) to revert to existing provisions of Municipal Corporations Act. If necessary, (in view of the provisions of Clause 20) make an addendum to ensure that in the case of abolition of wards, the number of councillors is not reduced.

Reason.—To provide slightly greater membership in a Council of a small population.

Clause 13. CONSTITUTING MUNICIPALITIES.

Amendment.—Amend Sub-clause (1) paragraph (h) by increasing the petitioners to "fifty ratepayers," or 10 per cent. of those on the roll, whichever is the lesser.

Reason.—To prevent small minorities making frivolous requests.

Amendment.—Amend Sub-clause (2) to provide for the severance of a portion of a district therefrom, and its annexation to another district, to be made by the Governor upon presentation of a petition by either of the councils concerned.

Reason.—To permit of minor alteration of territory when this becomes necessary, but co-operation is not shown.

Clause 17. MEMBERSHIP OF UNITED COUNCILS.

Amendment.—Amend paragraph (a) to provide that in case of disputes concerning population, the latest available figures of the Government Statistician shall be used as a final basis.

Reason.—To cope with possible disputes.

Clause 18. EFFECT OF DISSOLUTION.

Amendment.—Substitute the expression "Municipal District" for "Municipality" throughout.

Reason.—Clarification.

Clause 29. DEPOSITS WITH PETITIONS.

Amendment.—Amend to provide a deposit of £20, for Councils with a revenue of less than £50,000 and of £50, if above that figure.

Reason.—To ensure that a reasonable deposit is made as a security for costs in the large cities.

Clause 32. APPLICATION OF DEPOSIT.

Amendment.—Delete the words " of £20 " in lines 28 and 29 and also in line 33.

Reason.—Consequential to the alteration to Clause 29.

Clause 41. RESTORATION OF LOCAL GOVERNMENT AFTER COMMISSIONERSHIP.

Amendment.—Substitute the words " within one year " for the words, " wherever he thinks fit," in line 23. Add a proviso to the clause to the effect that " provided that the Commissioner shall continue to exercise his duties until the commencement of the first meeting after the election.

Reason.—To ensure that permanent commissionerships are not permitted, and to facilitate handing over.

Clause 42. QUALIFICATION OF MEMBERS.

Amendment.—Add a proviso that an occupier must be enrolled on the electoral roll before he could be eligible.

Amend paragraph (d) of Sub-clause (1) by inserting the words " before nomination " after the word " has " in line 1. Delete Sub-clause (2).

Reason.—To ensure that only occupiers who have taken the trouble to become enrolled are eligible ; to clarify the provision for the payment of rates before nomination, and to remove the prohibition upon an election of Mayor or President who has not previously had two years' experience.

Clause 43. DISQUALIFICATION.

Amendment.—Delete sub-clause (1).

Reason.—To permit Ministers of Religion qualified to be members.

Amendment.—Amend sub-clause (2) to refer also to compositions and assignments and to make express reference to the Commonwealth Bankruptcy Act.

Amend sub-clause (6) by deleting from paragraph (a) the words " and not pursuant to any written contract," where appearing in lines 21 and 22.

Delete the word " one " from line 27 and substitute the word " five ". Add to the paragraph a proviso that the limitation of £500 may be exceeded in certain circumstances with the approval of the Minister.

Reason.—To make less restrictive the prohibition on members entering into contractual relations with a council but providing some protection against abuse.

Clause 45. SUPERVENING DISQUALIFICATIONS.

Amendment.—Delete all the words in paragraph (vi) from " and " in line 6, down to the word " pass " in line 11.

Reason.—To make automatic disqualification for non-attendance.

Amendment.—Delete from paragraph (vii) all the last sentence.

Reason.—To remove from the Clerk the liability to give a special notice to a member who has not paid his rates.

Clause 48. RETIREMENT OF MEMBERS:

Amendment.—To be redrafted entirely to reinstate the present municipal system of one-third of the councillors retiring each year, and the Mayor retiring each second year. All members remaining in office until successors are elected.

Also to provide for president of the Shire, to be elected by the same method as operates in road districts at the present time, and providing that a change in the method of electing President or Mayor may be made after a poll of ratepayers has approved.

Reason.—To permit the continuation of the existing system but to allow the change to be made if the ratepayers wish.

Clause 49. COUNCILLOR NOMINATING AS MAYOR.

Amendment.—Amend to apply only to the mayors and presidents elected by ratepayers.

Reasons.—Consequential to the alteration of Clause 48.

Clause 50. DURATION OF OFFICE ON EXTRAORDINARY ELECTION.

Amendment.—To apply only to mayor or president elected by ratepayers.

Reason.—Consequential to amendment of Clause 48.

Clause 51. POWER TO RESIGN.

Amendment.—Insert the words "in writing" after the word "received" in line 15.

Reason.—To ensure that resignations are written and therefore can not be disputed.

Clause 52. RETIREMENT IN NEW DISTRICTS.

Amendment.—Substitute the word "annual" for the word "triennial" in lines 25 and 27.

Reason.—Consequential to the alteration of Clause 48.

Clause 53. QUALIFICATIONS OF ELECTORS.

Amendment.—To be redrafted to make two separate provisions :—

(1) Applying to the cities of Perth and Fremantle and such other municipalities as the Governor may at the request of the council order that it shall apply incorporating the right of both the owner and occupier to be automatically enrolled on the electoral list, and

(2) Providing that in the case of all other municipalities the owner shall be enrolled automatically while the occupier may on application be enrolled as well as the owner. The occupier to apply not later than 15th January in any year, and to be retained on the roll until displaced by an application from a successor or an objection from some other interested party.

(3) Providing, also, for a Council to be changed from one system to the other, on request.

(4) Delete the third proviso dealing with the enrolment of a spouse.

Reason.—To allow of a choice of methods because of the conflict of opinion, but to prohibit the exercising of a vote by the spouse of a registered owner.

Clause 54. JOINT OWNERS OR OCCUPIERS.

Amendment.—Clarify the expression "portions and pieces of land" in sub-clause (1). In the first proviso insert the words "as joint owners or joint occupiers" after the word "lease" in line 29. Amend sub-clause (3) to provide that a choice should not be necessary every year, but should stand until altered by a further written application.

The word "surnames" in line 3 on page 37, should be amended to read "names."

Reason.—To clarify the provisions.

Clause 55. ENROLMENT OF CORPORATIONS.

Amendment.—Add to sub-clause (2) the words "by the Clerk and included in the Electoral List."

Reason.—To remove doubts as to the method of registration.

Clause 56. ELECTORAL LIST.

Amendment.—Re-draft entirely to cover :—

(1) Automatic enrolment of both owner and occupier in the cities of Perth and Fremantle, etc., as covered by Clause 53.

(2) In the case of other districts application to the clerk by 15th January, and giving him power to include in the list. Provide a new form in the fifth schedule to permit of an application being made to the clerk.

(3) To provide for a complete list every year, instead of the method of supplementary lists as contemplated.

Reason.—To permit of the adoption of two systems in order to provide for the conflict of opinion.

Clause 57. CLAIMS FOR ENROLMENT.

Amendment.—Insert in line 19, after the word "application," the words "and whose name has been omitted, or whose application has been rejected by the Clerk."

Reason.—To clarify and also partly consequential to the alteration of Clause 56.

Amendment.—In paragraph (b) of sub-clause (1) insert the words, "or as not specifying the correct number of votes to which he is entitled under the provisions of this Act" after the word "him," in line 28, and insert after the word "value" in line 28, the words "or number of votes."

Reason.—To clarify.

Amendment.—Delete sub-clause (2).

Reason.—To remove from the Clerk the obligation to object to the enrolment of persons believed to be deceased or aliens.

Clause 58. LISTS OF CLAIMS AND OBJECTIONS.

Amendment.—Substitute the word “eighteenth” for the word “sixteenth” in line 34.

Reason.—To allow a little more time.

Clause 59. REVISION COURT.

Amendment.—Substitute the words “twenty-fifth” and “fourteenth” for the words “twenty-third” and “ninth” in lines 3 and 4.

Reason.—To allow a little more time.

Clause 66. CERTIFICATE OF REVISION.

Amendment.—Substitute the word “same” for the word “name” in line 34.

Reason.—Typographical error.

Clause 69. ALTERATIONS TO ROLL.

Amendment.—Delete the whole of the proviso or alternatively provide that no alterations may be made in the roll within 14 days preceding the election.

Reason.—To ensure that the roll when completed shall remain unaltered until the following year, or by the alternative, which is regarded as not as satisfactory as the first proposal, to ensure that alterations are not made on the eve of any election.

Clause 70. APPLICATION OF WARDS.

Amendment.—Insert the words “List or” after the word “combined” in line 12 on page 45.

Reason.—To resolve doubt as to the validity of a combined ward list.

Clause 75. RATIFICATION OF INVALID ROLLS.

Amendment.—Sub-clauses (2) and (3) to be brought down as one separate clause.

Reason.—To obviate any possibility of confusion when read in conjunction with sub-clause (1).

Clause 82. TRIENNIAL ELECTIONS.

Amendment.—To be redrafted to provide for the annual retirement of one-third of the councillors, with the Mayor or President retiring each year or two years as the case may require.

Reason.—Consequential to the alteration of Clause 48.

Clause 86. ACTING MAYOR.

Amendment.—Redraft sub-clause (1) to provide for the annual election of a Deputy Mayor or Deputy President. Also specifically provide for the annual election, by the members, of the Mayor or President, in those cases where that system of election is used. Method—secret ballot.

Redraft sub-clause (2) to permit the Deputy Mayor or Deputy President to act in the absence of the Mayor or President.

Reason.—Consequential to alteration of Clause 48.

Clause 88. ELECTION OF ADDITIONAL COUNCILLORS.

Amendment.—Alter to provide for an Annual Election.

Reason.—Consequential to the alteration of Clause 48.

Clause 89. METHOD OF ELECTING.

Amendment.—Re-draft to allow a dual system of voting, that of the municipalities to be as set down in the Bill, while the existing road boards should be covered by incorporating a provision similar to that at present in the Road Districts Act. Power to be given, however, for a council to change from one system to the other after a poll of ratepayers has authorised the change.

Provision to be inserted to link the two voting scales, where both systems are in use.

Re-draft sub-clause (4) to clarify, but holding to the principle that representative voting should not permit any person to have more than four votes for Mayor, or two votes for Councillor.

Reason.—Because of the impossibility of reconciling the differences of opinion a dual system is unavoidable.

Clause 90. ELECTION WHERE THERE IS NO ROLL.

Amendment.—Delete the clause.

Reason.—There will now be no election without a roll.

Clause 93. APPOINTMENT OF RETURNING OFFICER.

Amendment.—Re-draft to provide that the Returning Officer shall be the Mayor or President or another councillor appointed by the council, or the clerk. Make an express provision that no member shall be disqualified from holding office because he accepts a fee for acting as a returning officer or deputy, presiding officer or poll clerk. Amend Clause 43 if necessary.

Sub-clause (5) to be deleted. Delete the words "or deposits" in line 32. Alternatively, re-draft to coincide with the alterations specified above.

Reason.—With triennial elections abandoned, there is no reason why the Mayor should not act as Returning Officer.

Clause 94. APPOINTMENT OF DEPUTY.

Amendment.—Substitute the word "shall" for the word "may" in line 36.

Reason.—To ensure that the necessary Deputy Returning Officers are appointed.

Amendment.—Delete the words "may, and" from lines 38 and 39. Substitute the word "shall" for the word "may" in line 38. From sub-clause (2) delete the words "or the Returning Officer" from line 1.

Reason.—To clarify.

Clause 96. NOMINATIONS.

Amendment.—Alter sub-clause (2) to permit a person to nominate himself or to be nominated by any one person. Add to this the provisions of Section 69 (2) of the Road Districts Act dealing with nomination by an agent.

Reason.—It is considered that it should not be necessary for a person to be nominated by two other persons, as the Bill requires.

Clause 97. DEPOSITS.

Amendment.—Delete the word "Bank" in line 9. Add to the sub-clause a provision that the Returning Officer shall pay the deposit to the Council, to be held in trust pending the result of the election.

Reason.—It is now difficult to have cheques marked by a bank and it is considered that a person's own cheque should be sufficient.

Clause 98. POSTING UP NOMINATIONS.

Amendment.—Delete the words "outside or at" in line 19 and insert in their place the words "on the Council's Official Notice Board."

Reason.—To clarify.

Clause 99. NOMINATIONS.

Amendment.—Amplify sub-clause (4) to make it clear that a person may withdraw within 72 hours, thereby losing his deposit, but after that time cannot withdraw at all.

Reason.—To clarify.

Clause 100. VOTING.

Amendment.—At the end of the clause make a provision that so long as adequate facilities for the preserving of secrecy are provided this shall be substantial compliance with obligation of providing separate compartments.

Reason.—In some centres the provision of separate compartments appears unnecessary.

Clause 101. BALLOT PAPERS.

Amendment.—Make provision that the names of the candidates shall be shown on the ballot paper in the order decided by a ballot carried out by the Returning Officer at the time the nominations close. Provision to be made that for the purpose of identification ballot papers may at the option of the Council have the initials of the Returning Officer either written or stamped on the back.

Reason.—To prevent disputes as to the order in which candidates should be shown on the ballot paper.

Clause 102. PRESIDING OFFICERS.

Amendment.—Delete sub-clause (3)

Reason.—This will now permit a Returning Officer to exercise a vote if he is qualified.

Clause 103. SCRUTINEERS.

Amendment.—Amend to provide that more than one scrutineer may be appointed for each polling place but only one may be permitted to act for each candidate at the one time. That is, allow for relieving one another.

Reason.—To accord with a practice which operates without legal authority at present.

Clause 104. DECLARATION OF OFFICE.

Amendment.—Amend to provide that the Deputy Returning Officer, Presiding Officer, Poll Clerk or Scrutineer may make their declaration before any ratepayer.

Reason.—To simplify procedure in country areas.

Clause 106. BALLOT BOXES.

Amendment.—Insert in line 24 after the word "box" words "or boxes." Delete the words after the word "councillors" in lines 27 and 30.

Reason.—To simplify proceedings.

Clause 110. CHOICE OF VOTING SYSTEMS.

Amendment.—Redraft to eliminate reference to triennial elections and to clarify. Amend sub-clause (3) to provide that under the ordinary system of voting, figures shall be used instead of a cross.

Reason.—So that a uniform method of marking ballot papers may be used.

Clause 114. VOTING IN ABSENCE.

Amendment.—In line 27 insert after the word "day" the words "to the returning officer."

Sub-clause (2). Insert after the word "which" in line 37 the words "at its request." In line 4 of page 63, delete the word "Clerk" and substitute the words "Returning Officer."

Sub-clause (3). Amend paragraph (d) to refer only to applications received by post. Make a provision for personal application to be made up to the close of the poll.

Reason.—To permit personal applications for absent votes to be made at a later date than that contemplated in the Bill.

Clause 120. SCRUTINY OF ABSENT VOTES.

Amendment.—After the word "them" in line 2 on page 69, substitute the words "in the ballot box."

Reason.—To make it unnecessary for a separate ballot box for absent votes.

Clause 123. PREFERENTIAL VOTING.

Amendment.—Redraft in accordance with the following:—

Clause 123, page 69, line 23—delete all words in the clause after the word "In" where first appearing in line 23. Substitute the following:—

Application of this Section. Cf. s. 110 ante. **123. (1) (a)** every case in which a council decides to apply to elections, the system of preferential voting, the following provisions of this section shall apply in respect of elections held under that system.

Interpretation. **(b)** In this section—

"absolute majority of votes" means in relation to the counting of votes, the number of votes—which is obtained by one of the candidates at the conclusion of any progressive count; and which is greater than the aggregate number of votes obtained by all the other continuing candidates added together; "continuing candidate" means a candidate not already elected or excluded from the count.

Ascertainment of the poll. **(2)** Upon the closing of the poll the returning officer shall, in the presence of such candidates and scrutineers as are in attendance, open the ballot boxes and examine the ballot-papers and thereby ascertain the result of the election.

No. 49 of 1938 s. 18 (a). **(3)** The returning officer may reject as informal, any ballot paper which is not marked in compliance with the provisions of section one hundred and ten of this Act which relate to the marking thereof, or on which is written any matter or thing which is not authorised by this Act to be written thereon; but, save and except as aforesaid, no ballot paper shall be rejected for mere want of form, if in other respects it clearly indicates the vote and order of preference in the voting by the elector.

Cf. Pt. IV Div. 4, sub-div. F, s. 136. **(4)** The returning officer shall indorse on any ballot-paper which he rejects, the word "rejected" and he shall be the sole judge as to whether any ballot paper shall be rejected or not; Provided always that his decision shall be subject to reversal by a Court of Disputed Returns.

Ascertaining result of poll where only one office to be filled and only two candidates.

(5) At an election where only one office is to be filled and there are only two candidates, the result of the poll shall be ascertained as follows :—

(a) The candidate who has received the greater number of first preference votes shall be declared duly elected as hereinafter provided by the returning officer ;

Provision for equality of votes.

(b) if the two candidates have received an equal number of votes the provisions of sub-section (8) of this section shall apply.

Ascertaining result of poll where only one office to be filled and more than two candidates where result ascertained on first count.

(6) At an election where only one office is to be filled, and there are more than two candidates, the result of the poll shall be ascertained as follows :—

(a) The candidate who has received the greatest number of first preference votes, if that number constitutes an absolute majority of votes, shall be declared duly elected as hereinafter provided by the returning officer ;

Declaration as to defeated candidate and first distribution of preferences.

(b) if no candidate has an absolute majority of votes, the returning officer shall—

(i) arrange the ballot papers by placing in a separate parcel all those on which a first preference is indicated for the same candidate and preference votes are also duly given for all the remaining candidates, omitting ballot papers which are rejected ;

(ii) declare the candidate who has received the fewest first preference votes a defeated candidate ;

(iii) distribute the ballot papers counted to that defeated candidate amongst the non-defeated candidates next in order of the voters' preference ; and

(iv) after that distribution again ascertain the total number of votes given to each non-defeated candidate ;

Candidate successful on second count to be declared elected.

(c) the candidate who has then received the greatest number of votes, if that number constitutes an absolute majority of votes, shall be declared duly elected as hereinafter provided by the returning officer ;

Further declarations and distributions of preferences.

(d) if no candidate then has an absolute majority of votes, the process of declaring the candidate who has the fewest votes a defeated candidate and distributing the ballot papers counted to that defeated candidate amongst the non-defeated candidates next in order of the voters' preference shall be repeated and the votes shall be recounted after each of these redistributions until one candidate shall be declared duly elected as hereinafter provided by the returning officer ;

Provision for equality of votes.

(e) if on any count, two or more candidates have an equal number of votes and one of them has to be declared a defeated candidate the provisions of sub-section (8) of this section shall apply.

Ascertaining result of poll where two or more offices to be filled.

(7) At an election where two or more offices are to be filled, the result of the poll shall be ascertained as follows :—

First vacancy.

(a) The first vacancy shall be filled in the manner provided in the last preceding sub-section for ascertaining the result of the poll where only one office is to be filled and there are more than two candidates ;

Provided that, for the purposes of this paragraph, any reference in the last preceding sub-section to a defeated candidate or a non-defeated candidate shall be read and construed as if that reference were a reference to an excluded candidate or a continuing candidate respectively ;

Second vacancy.

(b) the second vacancy shall be filled in the following manner :—

(i) The returning officer shall rearrange all the ballot papers other than the ballot papers which are rejected, under the names of the respective candidates in accordance with the first preference indicated thereon, except that each ballot paper on which a first preference for the elected candidate is indicated shall be placed in the parcel of the candidate next in order of the voters' preference ; and ascertain the total number of votes given to each continuing candidate ;

Where result ascertained on first count.

(ii) the candidate who has received the greatest number of votes, if that number of votes constitutes an absolute majority of votes, shall be declared duly elected as hereinafter provided by the returning officer ;

Further declarations and distributions of preferences.

(iii) if no candidate has an absolute majority of votes, the returning officer shall—
declare the candidate who has received fewest votes an excluded candidate ; distribute the ballot papers counted to that excluded candidate amongst the continuing candidates next in order of the voters' preference ; and after that distribution again ascertain the number of votes given to each continuing candidate ;

Candidate successful on second count to be declared elected.

(iv) the candidate who has then received the greatest number of votes, if that number constitutes an absolute majority of votes, shall be declared duly elected as hereinafter provided by the returning officer ;

Further
declarations and
distributions of
preference.

(v) if no candidate then has an absolute majority of votes, the process of declaring the candidate who has the fewest votes an excluded candidate and distributing the ballot papers counted to that excluded candidate amongst the continuing candidates next in order of the voters' preference shall be repeated, and the votes shall be recounted after each of these redistributions until one candidate has received an absolute majority of votes and that candidate shall be declared duly elected as hereinafter provided by the returning officer ;

Third and
subsequent
vacancies.

(c) The third and every subsequent vacancy shall be filled in the manner provided in the last preceding paragraph for filling the second vacancy ; Provided that every ballot paper on which the first preference for any elected candidate is marked shall be placed in the parcel of the continuing candidate next in order of the voters' preference ;

Provision for
equality of
votes.

(d) If on any count two or more candidates have an equal number of votes and one of them has to be declared an excluded candidate, the provisions of the next succeeding sub-section shall apply.

Provision for
equality of
votes.

(8) If at the completion of any progressive count in the counting of votes, two or more candidates have an equal number of votes and one of them has to be declared defeated or excluded, as the case may be, the following procedure shall be followed :—

(a) If one but not the other of the candidates is a retiring member, the returning officer shall declare the other candidate defeated ;

(b) if neither or both or all of the candidates are retiring members, the returning officer shall, by the drawing of lots, decide which one of the candidates shall be declared defeated.

(9) At any time before the declaration of the result of the election, the returning officer may, if he thinks fit, at the request of a scrutineer, or of his own motion, recount the ballot papers contained in any parcel ; and when conducting any recount the returning officer shall have the same powers as if the recount were a scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance or admission or disallowance or rejection of any ballot papers.

Declaration of
result of poll.

(10) The returning officer shall, as soon as conveniently may be on or after the day of the poll, publicly declare the number of first preference votes given for each candidate and, if the case so requires, the details of the distribution of preference votes and the name or names of the candidate or candidates elected, and if more than one candidate is elected, the order in which those candidates were elected, and the candidate or candidates so named shall, subject to the provisions of this Act, be deemed to be then duly elected accordingly.

Reason.—To clarify some anomalies which exist in the present procedure, which has been incorporated in the Bill without alteration.

Clause 133. APPLICATION OF DEPOSITS.

Amendment.—In line 1 delete the words " Returning Officer " and substitute the word " Council."

Reason.—Consequential to the alteration of Clause 97.

Clause 134. EXPENSES OF RETURNING OFFICER.

Amendment.—Delete the words " on the following scale " in lines 28 and 29, and substitute the words " and the minimum fee payable shall be as follows."

Paragraph (b). Separate " Deputy Returning Officer " from the others specified in the paragraph, and show the fee of £3 3s.

Delete the expression 5s. in line 8, and substitute 7s. 6d.

Reason.—To permit a higher fee than that included in the Bill.

Clause 137. ELECTORAL OFFENCES.

Amendment.—Insert before this clause a provision that the division shall apply to all elections and polls held by Councils.

Reason.—To cover also polls on loans and valuations, etc.

Clause 157. OUSTER FROM OFFICE.

Amendment.—Redraft the clause to eliminate reference to officers of the Council.

Reason.—It is considered that the clause should deal only with members.

Clause 158. SUPERSESSION OF A COUNCIL.

Amendment.—Redraft to provide that the Governor shall not supersede the Council but may dismiss the members from office and shall thereupon order an election to be held within 40 days for the filling of vacancies. In sub-clause 5 substitute the word " may " for the word " shall " in line 3.

Reason.—To permit of a Council being displaced if it is failing to act properly but casting upon the ratepayers the onus of replacing the members themselves.

Clause 159. OFFICERS.

Amendment.—After the word “ clerk ” in line 7 insert the words “ who shall be the Chief Administrative Officer of the Municipality and the Council may appoint.”

In line 8 delete the word “ overseer ”.

In paragraph (c) delete the words “ with the consent of the Minister ” in line 16.

In paragraph (e) substitute the word “ appropriate ” for the word “ Municipal ” in line 24.

Delete paragraphs (f) and (g).

Make a new provision for officers to have the right to appeal against dismissals or demotions to a Board consisting of a Magistrate and representatives of the employers and employees, such Board to have the right to order reinstatement and also at the request of the Council or the officer to make an award in damages in lieu of reinstatement.

Reasons.—The power of the Minister to remove from office has been deleted as also has the requirement that appointments and dismissals should require his approval.

The Appeal Board has been substituted for this requirement.

The right to appoint an Honorary Treasurer has also been deleted. The effect of the alterations is to cast the onus upon the Council of choosing proper servants, the qualifications of whom will be dealt with in the next clause.

Clause 160. QUALIFICATIONS OF OFFICERS.

Amendment.—Delete the word “ overseers ” where appearing in line 4, and substitute the word “ treasurers.” The word “ revenue ” in line 6 is misspelt and should be corrected. Provide for the setting up of a board consisting of a chairman nominated by the Minister and one representative each nominated by the Officers' Association, and the Councils to recommend to the Governor the Regulations considered necessary.

Amend the Proviso by deleting the words from “ exempt ” in line 30 down to “ latitude ” in line 33, and substitute therefore the words “ at the request of a Council exempt it from the operation of this Section.”

Add a proviso that an officer appointed by an exempted authority should be approved by the above-mentioned board.

Reason.—It is felt that it is unnecessary to provide for qualified overseers. So that the regulations may have the approval of the parties interested, the Advisory Board has been suggested ; that as at present it is likely to be found difficult to obtain qualified men for a number of local authorities in the outback areas, the exemption should not be restricted to the North-West. In view of the elimination of the requirement of Ministerial approval to appointments, it is felt that appointees to exempted positions should have the approval of the board abovementioned.

Clause 160. After this clause, take in a provision to protect the long service leave rights of officers (such as the health inspectors) who are employed jointly by two or more local authorities and who may, before their long service leave becomes due, be transferred wholly to the employ of one local authority.

Clause 161. FIDELITY GUARANTEE.

Amendment.—For sub-clause (1), substitute the provisions of section 148 of the Municipal Corporations Act.

In sub-clause (2), substitute the word “ shall ” for the word “ may ” in line 1, and the word “ appropriate ” for the word, “ Municipal ”.

Reason.—To delete the requirement that the Minister shall approve of fidelity guarantees and to cast the onus for payment upon the Council.

Clause 163. DUTIES OF COLLECTORS.

Amendment.—Substitute for the word “ treasurer ” where appearing in line 12 the words “ Clerk or other person appointed for the purpose by the Council.”

Reason.—To cover cases where there is no Treasurer.

Clause 167. GRATUITY.

Amendment.—To be transposed in position with Clause 168, and the provision to be made mandatory.

Delete the necessity for reference to the Minister and provide that superannuation payments made by the council shall be deducted from the amount of gratuity involved.

Reason.—It is felt that superannuation should be compulsory or a payment along the lines of the old gratuity should be mandatory.

Clause 168. SUPERANNUATION.

Amendment.—To be transposed in position with Clause 167, and made mandatory. Amend if necessary to accord with the recent amendments to the Superannuation, Sick, Death, Insurance Guarantee and Endowment (Local Governing Bodies' Employees) Funds Act, 1947, and also if necessary delete from the First Schedule the provision for repeal.

Add to the clause a specific validation of the City of Perth's Superannuation Act.

Reason.—The Superannuation, Sick, Death, Insurance Guarantee and Endowment (Local Governing Bodies' Employees) Funds Act, 1947, now applying to bodies other than councils and road boards, it appears likely that it cannot be repealed ; hence the provision made here should be brought into line, but made mandatory.

Clause 169. MEETINGS OF RATEPAYERS.

Amendment.—Substitute for the provision in sub-clause (3) for posting up outside the building, an obligation to exhibit a notice on the official notice board.

Amend sub-clause (5) by inserting after the word "President" in line 18 the words "the Deputy Mayor or Deputy President, as the case may be, shall preside but in the case of his absence or retirement".

Reason.—To facilitate control of meetings.

Amendment.—Amend sub-clause (7) by inserting the words "or receiving" after the word "reading" in paragraphs (c) and (d), lines 32 and 34.

Reason.—To expedite business.

Clause 170. COUNCIL MEETINGS.

Amendment.—Delete from sub-clause (2) the requirement of seven days' notice and substitute "24 hours" for the words "seven days" in line 19 of sub-clause (3).

Reason.—To permit meetings to be called with less notice.

Clause 171. PROCEEDINGS AT COUNCIL MEETINGS.

Amendment.—Amend sub-paragraph (e) to provide for the Deputy Mayor or Deputy President to act, if he is present, in the absence of the Mayor or President.

Amend sub-paragraph (f) to provide that where the Mayor or President is elected by the Council members he shall have a deliberative vote but no casting vote.

Reason.—To provide for the fact that the President would still represent a ward and should therefore have a deliberative vote.

Amendment.—After sub-paragraph (g) or elsewhere, provide that an election of Mayor or President by the members shall be on the basis of a secret ballot.

Reason.—To prevent any intimidation or bad feeling.

Amendment.—Add to the clause a provision that voting shall be by the voices, but that any Councillor may require that a division be taken by a show of hands and such division shall thereupon be taken.

Reason.—To clarify the present doubt as to what constitutes a division.

Clause 172. INTERESTED COUNCILLORS.

Amendment.—Clarify the expression "living together" in line 1 on page 99 if deemed necessary by the draftsman.

Reason.—To resolve doubts expressed by Mr. Hale.

Clause 173. BUSINESS AT MEETINGS.

Amendment.—Amend sub-clause (3) by specifying the "absolute majority" in lieu of the present wording and amend sub-clause (4) by substituting the word "by" for the word "be" in line 25.

Reason.—To clarify.

Clause 177. COMMITTEES.

Amendment.—Amend sub-clause (2) by inserting the words "community centre" after the word "room" in line 39. Bring down the proviso as a separate clause, but delete the reference to the Minister and provide for an "absolute majority" of the Council to be necessary.

Reason.—The proviso is not well placed as it stands, and it is considered that provided there is an "absolute majority" in favour, the consent of the Minister should not be necessary.

Clause 179. MEETINGS OF COMMITTEES.

Amendment.—Amend sub-clause (5) to provide that the Chairman should have both a deliberative and casting vote.

Reason.—As the matter is not finalised, but must be reviewed by the Council, a dual vote would not be wrong.

Clause 180. SUB-COMMITTEES.

Amendment.—Insert the word “proposed” before the word “acts” in line 9 and add to the clause the words “and shall be approved by the Committee before being executed and discharged by the sub-committee”.

Reason.—To clarify.

Clause 182. VACANCY IN COUNCIL.

Amendment.—Add a proviso as follows:—“Provided that the number of members remaining in office is at least a quorum of the Council.”

Reason.—To eliminate conflict with Clause 40.

Clause 183. DEATH, ETC., OF MAYOR.

Amendment.—After the word “perform” in line 29, insert the words “the Deputy Mayor or President, or if he is prevented for similar reasons.”

Reason.—To ensure that the business of the Council may be carried on without delays.

Clause 187. COUNCIL'S BOND STORES.

Amendment.—The clause to be deleted.

Reason.—The necessity for the old provision does not now appear to exist.

Clause 188. BY-LAWS.

Amendment.—In sub-clause (6), insert the words “or drain” after the word “footway” in line 42.

Reason.—To clarify.

Amendment.—In sub-clause (13), include ordinary timber mills, timber yards and junk yards.

Reason.—To further extend the right to control certain types of industry.

Amendment.—In sub-clause (14), paragraph (c), substitute the word “paragraph” for the word “sub-section” in lines 7 and 8.

Reason.—To clarify.

Amendment.—In sub-clause (20), paragraph (g) insert the words “regulating or” at the commencement of line 5.

Reason.—To extend power of control.

Amendment.—Amend sub-clause (20), by linking (h) with paragraph (g) above mentioned.

Reason.—Clarification.

Amendment.—Insert the words “prohibiting or” at the commencement to paragraph (i) of sub-clause (20).

Reason.—Extending powers.

Amendment.—In paragraph (j) of sub-clause (20), insert the words “or quantity” after the word “quality” in line 15.

Reason.—Clarification.

Amendment.—In paragraph (k) of sub-clause (20), substitute the words “prohibiting or regulating” for the word “preventing” in line 19, and delete the words “in the open air” in line 22.

Reason.—Clarification and extension of control.

Amendment.—Add an express provision to paragraph (l) of sub-clause (20), for control of petrol supplies, etc., as follows:—

“Regulating or controlling the storage of petroleum, kerosene, fuel oils or other inflammable liquids.”

Reason.—Clarification.

Amendment.—In the proviso to sub-clause (20), substitute the word “paragraph” for the word “sub-section”.

Reason.—Clarification.

Amendment.—In sub-clause (21), insert the words “prohibiting or” after the word “for” in line 27.

Reason.—Extending powers.

Amendment.—In paragraph (f) of sub-clause (24), substitute the word “paragraph” for the word “sub-section” in line 26, and delete all the words after “Person” in line 36.

Reason.—To clarify doubts as to the meaning of the word “hawker” and to permit greater control.

Amendment.—In paragraphs (b) and (c) of sub-clause (25), insert the words “prohibition or” after the word “the” in lines 6 and 11.

Reason.—Extension of powers.

Amendment.—In paragraph (b) of sub-clause (28) preface with the words “subject to the Electricity and Gas Acts.”

Reason.—To overcome objections raised by the State Electricity Commission.

Amendment.—Amend sub-clause (29), to refer to all polls taken by councils.

Reason.—Clarification.

Amendment.—In sub-clause (33), amend the word “West” in line 24, to read “Western.”

Reason.—Clarification.

Amendment.—Amend paragraph (c) of sub-clause (36), by substituting the word “Municipality” for the word “Corporation” in lines 24 and 25.

Reason.—Clarification.

Amendment.—Amend sub-clause (38), by adding to it the words “other than nuisances within the meaning of the Health Act.”

Reason.—To overcome objections raised by the Department of Public Health.

Amendment.—Amend sub-clause (39), by deleting the reference to “park lands” throughout.

Reason.—Included in “Reserve” by definition.

Amendment.—In paragraph (f), sub-clause (39), add the words “or beaches” in line 10.

Reason.—Clarification.

Amendment.—Amend paragraphs (g) and (h) of sub-clause (39), by prefacing with the words “prohibiting or.”

Reason.—Extending powers.

Amendment.—Amend paragraph (j) of sub-clause (39), by inserting the word “public” before the word “places” in line 26.

Reason.—Clarification.

Amendment.—Delete the words “and Public Health” from lines 14 and 15, sub-clause (42).

Reason.—To meet objections from the Public Health Department.

Amendment.—Amend sub-clause (54), by substituting the words “within the district” for the words from “any” to “district” in lines 25 and 26, and preface the paragraph with the words “prohibiting or.”

Reason.—To give more control over stalls.

Amendment.—Amend sub-clause (55), by inserting the words “prohibiting or” at the commencement.

Reason.—Extending powers.

Amendment.—Amend sub-clause (56) to make this subject to the Electricity and Gas Acts.

Reason.—To meet objections from the State Electricity Commission.

Amendment.—In sub-clause (57) clarify the meaning of “footway” and “footpath” and use one rather than the two expressions.

Reason.—To prevent confusion.

Amendment.—In paragraph (c) of sub-clause (57), clarify the word “way” in line 19 and add to the paragraph the words “or roadway.”

Reason.—Clarification.

Amendment.—Paragraph (f) of sub-clause (57) should be redrafted in conjunction with sub-clause (64).

Reason.—To remove any possibility of conflict.

Amendment.—Amend paragraph (h) of sub-clause 57 to cover also “obnoxious odours.”
Delete the words after “property” in the second line on page 119.

Reason.—To give some control over noisy entertainments, etc.

Amendment.—In sub-clause (58) the word “footway” should be made consistent with the expression chosen in sub-clause (57).

Reason.—Consistency.

Amendment.—Amend sub-clause (60) by deleting entirely if superannuation is made compulsory.

Reason.—Then unnecessary.

Amendment.—In sub-clause (61) preface with the words “prohibiting or.” Add to the paragraph “water chutes and other similar amusements, also dancing rooms, skating rinks and amusement parks.”

Reason.—To give control over newer types of amusements.

Amendment.—Amend sub-clause (64) by inserting the words “or balconies” after the word “verandah.” Also consider this in conjunction with sub-clause (57) so that there will be no conflict.

Reason.—Clarification.

Amendment.—Take in a new sub-clause (65A) as follows:—

“For requiring and compelling the owners of any land upon which a dwelling or other inhabited building has been erected, to provide for a sufficient supply of water for domestic purposes by either—

- (a) connecting the building to any public water main which passes the land on which the building is erected; or
- (b) providing for the building of rainwater tanks, properly connected to a catchment satisfactory to the council of a capacity specified in the by-law but being not less than 3,000 gallons; or
- (c) providing for the building of a supply of water from wells or other sources to the satisfaction of the Council.”

Reason.—To give control over water supplies.

Amendment.—Amend sub-clause (71) by substituting the word “prohibiting” for the word “preventing” in line 27.

Reason.—Clarification.

Amendment.—Amend sub-clause (74) by coalescing with sub-clauses (1) and (44).

Reason.—Clarification.

Amendment.—Amend sub-clause (75), to cast the onus upon the person concerned.

Reason.—Clarification.

Amendment.—Amend sub-clause (78), by combining with sub-clause (19).

Reason.—Clarification.

Amendment.—Amend sub-clauses (79) and (80) by inserting the words “prohibiting or” after the word “for” at the commencement of each sub-clause.

Reason.—Clarification.

Amendment.—Amend sub-clause (82) to specifically mention the personal obligation.

Reason.—Clarification.

Amendment.—Amend sub-clause (83) by inserting the word “of” after the word “illumination” in line 17, and substitute the word “on” for the word “of” where appearing a second time. Insert after the word “courts” in line 17 the words “bowling greens, croquet lawns, basketball courts and grounds used for other similar sports or entertainments.”

Reason.—To clarify and extend control to other courts, etc.

Amendment.—Amend sub-clause (84) by considering in conjunction with Clause 411 and if desirable deleting from this position.

Reason.—Clarification.

Amendment.—Amend sub-clause (85) to give powers similar to those included in the City of Perth Act.

Reason.—To provide more definite control over building lines.

Amendment.—Add to sub-clause (87) the words “or rubbish or refuse.”

Reason.—To extend powers.

Amendment.—Amend sub-clause (88) by inserting the words “noxious weeds” after the word “plants” in lines three and four. Add to the paragraph the words “the words plants or weeds shall for the purposes of this paragraph include any bulbs or seeds from such plants or weeds.”

Reason.—Clarification.

Amendment.—Amend sub-clause (90) by deleting the words “on other than Crown Land” in line 12. Add the provision that a court may upon a prosecution by a Council make an order to restrain the offender from carrying on quarrying, and imposing a penalty for breach of the order. Insert where deemed desirable by the Parliamentary Draftsman.

Reason.—Extension of powers and clarification. It is not considered desirable that the Crown Lands should be exempt from quarrying restrictions.

Amendment.—Insert a new sub-clause after sub-clause (91) to give the Council power to prohibit or regulate Street Photography.

Reason.—To provide power of control.

Clause 190. LICENSE.

Amendment.—To be redrafted if possible to provide that wherever power to regulate is conferred by Clause 188, it shall include the power to issue licenses and to prescribe the fees therefor.

Reason.—Clarification.

Clause 191. DEMAND FOR PRODUCTION OF LICENSE.

Amendment.—Add to the clause a proviso that any member so acting shall have been issued with a certificate of authority.

Reason.—To safeguard the rights of the public.

Clause 192. BY-LAWS EXHIBITED ON BRIDGES.

Amendment.—Amend sub-clause (2) by inserting after the word “price” in line 31, the words “to be prescribed and until prescribed.”

Reason.—Clarification.

Clause 194. BY-LAWS TO BE CERTAIN.

Amendment.—Substitute the word “enactment” for the word “incidence” in line 2, and delete sub-clause (2).

Reason.—To remove the restriction, which is rendered unnecessary by rights of appeal.

Clause 197. MODEL BY-LAWS.

Amendment.—Delete sub-clause (4).

Reason.—To ensure that Model By-laws made can be tested in courts.

Clause 198. GENERAL BY-LAWS.

Amendment.—To be redrafted eliminating the right of the Governor to make over-riding general by-laws, but to allow him to repeal municipal by-laws, by deleting the words contained in lines 5 to 14.

Reason.—To remove the power of the Governor to make General By-laws, but reserving the power to repeal By-laws made by Councils, so that these may be forced to modernise any obsolete by-laws.

Clause 207. BY-LAW PENALTIES.

Amendment.—Insert after the word "penalty" and "Penalties" in lines 10 and 13 the words "irreducible in mitigation, notwithstanding the provisions of Section 166 in the Justices Act, 1902–1948 and of Sections 19 and 699 of the Criminal Code, 1913." Insert similar words after the word "penalties" in line 3.

Reason.—To ensure that a penalty is actually a minimum.

Clause 209. BY-LAWS.

Amendment.—Insert after the clause the provisions of Section 204 of the Municipal Corporations Act.

Reason.—To bring to the notice of people studying the By-law part the fact that the "Gazette" is evidence of a By-law.

Clause 212. TESTING BY-LAWS.

Amendment.—Amend to provide that this shall not be the exclusive method of testing validity.

Reason.—To ensure that a by-law could be challenged during the action taken on it.

Clause 216. POWER TO LEASE.

Amendment.—Amend sub-clause (1) to refer also to land held under trust.

Substitute the word "five" for the word "three" in line 24, and amend sub-clause (3) to provide that a Council shall obtain the approval either of its ratepayers at a special meeting called for that purpose or of the Governor.

Reason.—To allow slightly more elasticity in regard to leases but ensuring some control.

Clauses 210 and 220. SALE OF HALLS, PLANT, TRADING CONCERNS, ETC.

Amendment.—Delete the two clauses and substitute the following :—

Clause 219. A Council may—

- (a) purchase, acquire, construct or hire any plant, equipment, machinery or materials ;
- (b) erect any Plant Depots or Storage Sheds ;
- (c) engage such workmen and employees, as may be necessary or convenient for carrying this Act into effect, and pay them such remuneration and allowances as may be reasonable.

Clause 220.—Subject to this Act, a Council may sell any halls, buildings, plant, machinery or materials for which it has no further use, and may sell as a going concern, any electricity supply or other trading undertaking which it may be conducting, subject to compliance with the following procedure :—

- (a) Where the value of the particular thing to be sold is entered in the Council's Inventory at a value less than one hundred pounds (£100) it may be sold by private treaty.
- (b) Where the value of the particular thing to be sold is entered in the Council's Inventory at one hundred pounds (£100) or more, the sale shall be by Public Auction or by Public Tender and—
 - (i) shall not take place unless a Notice of Intention to sell has been inserted twice in a newspaper circulating the area ;
 - (ii) the sale is authorised by an absolute majority of the Council ; and
 - (iii) in the case of a hall, electricity supply, or other trading undertaking the intention to sell has been approved by the ratepayers by a show of hands at a meeting called for that purpose.

Reason.—To clarify. To remove the objections to Ministerial control but to preserve some control by the ratepayers.

Clause 221. CONTRACTS.

Amendment.—Add to this a proviso to make the clause a complete code for the making of contracts.

Reason.—To remove the doubts which have been raised from the Maffra Case of 1948.

Clause 225. Statements of Contracts.

Amendment.—Delete the clause.

Reason.—Dealt with in Clause 655.

Clause 227. POWER TO CONTRACT WITH PUBLIC BODIES.

Amendment.—Substitute for existing line 30 the following :—" subject to the consent of the ratepayers being obtained at a special meeting called for that purpose, it".

Reason.—To make the ratepayers a source of authority for these contracts.

Amendment.—Substitute the word "sixty-nine" for the word "fifty-nine" in line 7.

Reason.—To correct an error.

Amendment.—Delete the proviso to sub-clause (2).

Reason.—It is not considered that approval of the Governor is now necessary.

Clause 229. POWER TO PURCHASE LAND.

Amendment.—Include specific power to purchase easements.

Reason.—Clarification.

Clause 232. QUARRIES.

Amendment.—To be considered in conjunction with Clause 501 (5) and (6) and, if necessary, deleted.

Reason.—Simplification.

Clause 233. TAKING MATERIALS.

Amendment.—Delete lines 11 to 14 and lines 23 and 24.

Reason.—To give some power to take materials and enter lands for this purpose.

Amendment.—After the word "Council" in lines 31, 36 and 41, and sub-clause, insert the words "or other person so authorised."

Reason.—Clarification.

Amendment.—In line 20 to sub-section (5), after the word "shall" insert the words "if requested by the owner."

Reason.—Clarification.

Amendment.—After this clause take in a new sub-clause or a new clause giving the Council authority to occupy before resumption in anticipation thereof and to enter for the purpose of carrying out surveys and also to occupy for the purpose of carrying out Works.

Reason.—To give greater powers and simplify procedure.

Clause 235. PLANS BEFORE RESUMPTION.

Amendment.—Delete the clause and insert the provisions of Section 210 of the Road Districts Act.

Reason.—To make it unnecessary for the Council to hear objections against resumption, these being left entirely to the Governor.

Clause 237. PROPERTY IN ROADS.

Amendment.—Substitute the word "municipality" for the word "Crown" in line 15.

Reason.—To make the Municipalities the owners of the roads and to remove the possibility of conflicting provisions.

Part XII—Division 1. ROADS AND STREETS.

Amendment.—The whole of this division needs to be reconsidered by the Minister in consultation with the officers of the Department of Lands and Surveys, Registrar of Titles and the Parliamentary Draftsman to eliminate certain features and resolving the actual meaning of most of the clauses. In doing this the contention is that if it be possible the absolute property in the roads should be vested in the Municipality.

Reason.—Clarification.

Clause 238. GOVERNOR MAY PROCLAIM HIGHWAYS.

Amendment.—If necessary to preserve two different systems, qualify this to apply only to cities and towns.

Reason.—Clarification.

Clause 240. WIDTH OF STREETS.

Amendment.—Substitute the word "width" for the word "midth" in line 37.

Reason.—Typographical error.

Clause 241. PRIVATE STREETS.

Amendment.—Add to sub-clause (1) the words “if the street has already been constructed to the satisfaction of the Council and is in a fit state of repair.”

Reason.—To ensure consistence with later provisions.

Clause 243. ROADS IN RURAL AREAS.

Amendment.—Amend to read “unless either the consent of the owner is obtained or the Minister so orders no Council shall set out or construct a road at a lesser distance than sixty-six feet from any permanently constructed building”, instead of the words commencing at “no” in line one finishing at “Minister” in line four.

Reason.—Clarification.

Clause 244. NEW ROADS.

Amendment.—If necessary to continue two systems qualify to apply only to Shires.

Reason.—Clarification.

Clause 245. FENCING LAND TAKEN.

Amendment.—Substitute for the words “on or bounding the land” in line 18 to the end of the sub-clause the words “removed by or cut through by the council.”

Reason.—Clarification.

Clause 251. CORNER POSITIONS.

Amendment.—Delete the words “corner posts” at the end of sub-clause (1) and substitute the words “survey peg or pegs.”

Reason.—Clarification.

Amendment.—Similar amendment is required in line 1 of sub-clause (2). Substitute the words “Surveyor General” for the words “Registrar of Titles” in lines 3, 6 and 7.

Reason.—Clarification.

Clause 252. COUNCIL MAY ORDER NEW STREETS TO BE PUBLIC HIGHWAYS.

Amendment.—Consider it should apply only to cities and towns.

Reason.—Clarification.

Clause 253. OLD ROAD—HOW DISPOSED OF.

Amendment.—The words “any way” in line 24 should read “and may.”

Reason.—Typographical error.

Clause 254. PERMANENT CLOSURE OF ROAD.

Amendment.—To be redrafted if possible to work on a Single system.

Reason.—Clarification.

Amendment.—Substitute the word “Council” for the word “Board” in line 32 on page 150.

Reason.—Drafting error.

Amendment.—Insert after the word “then” in line 29 of sub-clause (6), the words “subject to the approval of the Minister.”

Reason.—To cope with situations where the land is not required.

Amendment.—Amend sub-clause (8), specifically to state that it does not apply to cities or towns.

Reason.—Clarification.

Clause 255.

Amendment.—After this clause take in the provision similar to Sections 303 and 304 of the South Australian Local Government Act to enable the Council to declare as a Public Road any thoroughfare which has been the subject of uninterrupted Public user for at least 10 years.

Reason.—To resolve doubts which exist at present.

PRIVATE STREETS.

Amendment.—The whole of this division to be recast to simplify the procedure, using Sections 343 and 344a of the South Australian Local Government Act as a basis as follows :—

343. (1) The Council may give public notice of its intention—

- (a) to remove any erection or obstruction which contracts the proper width of any private street or road, court, alley, lane, or thoroughfare or any part thereof within the area ;
- (b) (if the forming, levelling, paving, kerbing or draining of or the forming or constructing water-tables in the roadway or footway of any private street or road, court, alley, lane or thoroughfare, or any part thereof, within the area shall not have been previously carried out) to carry out in or on any such private street or road, court, alley, lane, or thoroughfare, or any part thereof, all or any of such works as shall not have been previously carried out ;
- (c) to carry out the work mentioned in sub-paragraph (a) in conjunction with any of the work mentioned in sub-paragraph (b),

at the expense of the abutting owners.

(2) After the expiration of one month from the giving of the notice and after consideration by the council of any representations in writing which may be made to the council by any person interested within the period of fourteen days from the publication of the notice the council may carry out the work referred to in the notice.

(3) After the completion of the work referred to in the notice the council may recover from the owners of rateable properties abutting on the private street or road, court, alley, lane or thoroughfare, or part thereof, the whole of the expenses incurred by the council in carrying out the work (including the cost, if any, of supervision incurred by the council but not exceeding five per centum of the total expenses) rateably according to the frontages of the rateable properties abutting on the private street or road, court, alley, lane, or thoroughfare, or part thereof.

(4) In any case where property abutting on any such private street or road, court, alley, lane, or thoroughfare, or part thereof, is not rateable property, the said property shall for the purposes of this section be deemed to be rateable property and the proportion of the said expenses payable in respect of the said property shall be paid by the council out of moneys of the council.

(5) The respective proportions of the expenses incurred by the council as aforesaid together with interest thereon at the rate of six pounds per centum per annum calculated from three months after the date of the completion of the work may be recovered by the council and until fully paid or recovered shall from the said date of completion be a charge upon the land in respect whereof the same is due and payable under this section.

(6) A document purporting to be a certificate under the hand of the mayor or chairman and the clerk shall be prima facie evidence in all courts—

- (a) that any work carried out under this section or any portion thereof has not been previously carried out ;
- (b) that the work has been carried out ;
- (c) of the expenses incurred by the council in carrying out such work ;
- (d) of the proportion thereof payable by each owner ;
- (e) of the date of the completion of the work ;
- (f) that the land whereon the work was carried on was a private street or road, court, alley, lane, or thoroughfare, or part thereof, as the case may be.

(7) For the purpose of this section " owner " means the person whose name appears as such in the assessment-book on the date of the completion of the work.

344a. (1) If a request in writing is presented to the council signed by not less than three-fourths of the owners of rateable property abutting on a private street or road, or any part thereof, requesting the council to form, level, pave, kerb, drain, or repair the private street or road, or part thereof, the council may carry out the work and recover from all the persons who, at the time of the completion of the work, are owners of rateable property abutting on the private street or road or part thereof the whole of the expenses incurred by the council in carrying out the work (including the cost, if any, of supervision incurred by the council but not exceeding five per centum of the total expenses) rateably according to the frontages of the rateable property abutting on the private street or road or part thereof.

(2) In any case where property abutting on any such private street or road, or part thereof, is not rateable property, the proportion of the said expenses payable in respect of the said property shall be paid by the council out of moneys of the council.

(3) The respective proportions of the expenses incurred by the council as aforesaid together with interest thereon at the rate of six pounds per centum per annum, calculated from three months after the date of the completion of the work may be recovered by the council from the owners of the said rateable property at the time of the completion of the work and until fully paid or recovered shall from the said date of completion be a charge upon the land in respect whereof the same is due and payable under this section.

(4) A document purporting to be a certificate under the hand of the mayor or chairman and the clerk shall be prima facie evidence in all courts—

- (a) that the work has been carried out ;
- (b) of the expenses incurred by the council in carrying out such work ;
- (c) of the proportion thereof payable by each owner ;
- (d) of the date of the completion of the work ;
- (e) that the land whereon the work was carried out was a private street or road, or part thereof, as the case may be.

(5) In this section "private street or road" includes court, alley, lane, and thoroughfare but does not include any street, road, court, alley, lane or thoroughfare which is more than twenty feet in width.

Reason.—To simplify the procedure while still preserving the essential requirements.

Clause 276. DEPOSIT OF MATERIALS.

Amendment.—Add a sub-clause to provide that if a council deposits debris along a land owner's fence while carrying out clearing or other similar operations such debris must be removed within a reasonable time and pending removal steps must be taken to prevent it becoming a fire hazard or harbour for vermin.

Reason.—To prevent fire hazards and harbourage for vermin.

Clause 278.

Amendment.—Delete the words from "for" in line 37 to the word "same" in line 38 and substitute "doing or carrying out all or any of those things specified in Sections 276 and 277."

Reason.—To simplify and modernise.

Clause 280. MAIN ROADS.

Amendment.—The clause to be deleted.

Reason.—It appears to be now unnecessary.

Clause 282. MUNICIPALITIES RELIEVED.

Amendment.—Insert the word "other" after the word "any" in line 13.

Reason.—Clarification.

Clause 284. DRAINS.

Amendment.—The proviso of sub-clause (2) to be clarified if possible to give a clearer meaning, yet preserving the rights of the local authorities, while not overlooking the effect of Clause 510.

Reason.—Simplification.

Clause 287. POWER TO MAKE TREE RESERVES.

Amendment.—Substitute the word "ten" for the word "five" in line 19.

Reason.—To allow longer Reserves.

Clause 286.

Amendment.—Delete the words "drivers of vehicles" in line 40 of sub-clause (1) (d) and insert in lieu thereof the words "passengers using public transport."

Delete the comma after the word "street" in line 5, sub-clause (2).

Reason.—Simplification.

Clause 292. LEASING RESERVE.

Amendment.—To be reprinted to coincide with the altered leasing powers conferred in the amended Lands Act and also to provide for power to lease for up to five years without Vice-regal approval.

Reason.—Simplification and extension of powers.

Clause 294. STANDS FOR VEHICLES.

Amendment.—Add a provision to enable the council to prevent the mis-use of stands by private vehicles and to prevent these from parking thereon.

Reason.—Extension of powers.

Clause 296. STREET NAMES, ETC.

Amendment.—Amend to provide that it shall apply only to cities, town and townsites and only to constructed roads therein. Add express power to erect traffic signs.

Reason.—Clarification, simplification and extension of powers.

Clause 307. BOUNDARY WORKS.

Amendment.—Insert here the provisions of Section 262 of the Municipal Corporations Act, as follows :—

307A. “ Either of such local authorities may serve on the other a notice requiring such works as are mentioned in Sections three hundred and two, three hundred and three, three hundred and five, three hundred and six and three hundred and seven, and are specified in the notice to be done, and shall accompany such notice with a proposal for carrying out the work, and an offer to treat and agree with a proposal for carrying out the work, and an offer to treat and agree with respect to the performance and future maintenance and repair by either party of the whole or part thereof, and such agreement may be made accordingly. Every such local authority shall have power to perform, maintain and repair any works in accordance with such agreement, or to bear the cost of such performance, maintenance and repair.”

Reason.—To permit agreements without Ministerial oversight.

Clause 308. BOUNDARY WORKS.

Amendment.—Delete the words “ either of the last four preceding ” ; after the word “ sections ” insert the words “ three hundred and two, three hundred and three, three hundred and five, three hundred and six, and three hundred and seven.”

Reason.—Consequential to 307A.

Clause 310.

Amendment.—Insert after the word “ notice ” in line five the words “ as is specified in Section three hundred and seven A or three hundred and nine.”

Reason.—Consequential to above.

Clause 316. JOINT WORKS.

Amendment.—After the word “ control ” in line seven insert the words “ either a Committee composed of representatives of the Councils concerned or of ”.

Reason.—To provide more flexibility in control.

Amendment.—Recommended that provision be made here for the setting up of a Regional or County form of Local Government along the lines of the N.S.W. County System to enable local authorities to join in works which are beyond the scope of the one authority but are too large for control under the previous clause. The proposed system is indicated hereunder.

COUNTIES OR REGIONAL GROUPS.

Adapted from N.S.W. 560/565.

1. The Governor at the request of the councils of two or more municipalities may, by proclamation, constitute as a county district or regional district for Local Government purposes the whole or any portion of the combined area of those municipalities and may by proclamation alter boundaries of any such county or regional district.

2. The proclamation constituting a county or regional district shall assign a name to such district and shall specify the number of members to be allotted to such district and shall specify the number of members to be nominated by each constituent council. The name and the numbers may be altered by proclamation.

3. The Governor may dissolve any county or regional district and settle and adjust all accounts thereof. Such dissolution shall be by proclamation in the “Government Gazette” which shall specify the date of dissolution.

4. Each county or regional district shall be administered by a council, consisting of the allotted number of persons appointed by each of the constituent councils. Such appointments shall be made yearly, not later than the fifteenth day of May.

5. Each such county or regional council shall elect a chairman from among its members annually, such election to be made annually, at a meeting to be held in the month of May.

6. All the provisions of this Act in regard to powers and duties of members of a council shall apply to the members of the county or regional council, and the conduct of meetings shall be as far as possible in accordance with the condition and provisions of this Act.

7. A county or regional council shall be a body corporate, under the provisions of Section 10 of this

8. The Chairman may resign his office, by writing under his hand.
9. Any extraordinary vacancy in the membership of the Council shall be filled up at the next meeting of the constituent council concerned by appointing a successor.
10. Any extraordinary vacancy in the office of Chairman shall be filled at a meeting to be held for that purpose within fourteen days from the occurrence of any such vacancy.
11. The county or regional council shall exercise only such functions as are delegated to it by the constituent councils.
12. For the purpose of carrying out its functions the county or regional council may delegate to any constituent council the right to carry out any duty or act on its behalf.
13. The county or regional council shall furnish to each constituent council a full statement of its transactions during each financial year, together with a copy of its annual financial statements.
14. The county council or regional council shall have and exercise within its district all the powers of the constituent councils in respect of the functions which have been delegated to it, except the powers to levy any rate.
15. The county or regional council not later than the seventh day of July in each year shall prepare and adopt estimates for the year then next following, showing on the one side the total estimated expenditure for the year, and on the other side the estimated receipts other than from rates.
16. If it is necessary that a rate should be levied to make good any deficiency revealed by the estimates, the county or regional council shall calculate the amount required from each constituent council in the form of rates, and serve on each such council not later than the fourteenth day of July in each year a precept calling upon the constituent council to pay to the county or regional council the sum therein specified.
17. The constituent councils, on receipt of any precept from the county or regional council, shall include in their estimates of expenditure a sum equal to the amount of the precept, and shall include in their general rate levied under this Act a sum sufficient to raise the amount of the requirement of the precept.
18. Each constituent council shall pay to the county or regional council the amount of the precept in four quarterly instalments the first of which shall be payable not later than the first day of September in each year.
19. The county or regional council shall have the power of borrowing money for the purposes of carrying out its functions only if the power to borrow is specifically conferred in the delegation of functions. In this case any decision to borrow money shall be subject to the prior approval of the constituent councils and to the approval of the Minister, but shall not otherwise be limited in any way.
20. Where the terms of the delegation of functions do not specifically confer the right to borrow money, the method of borrowing shall be by the issue of a precept for the required sum upon each constituent council which shall then proceed to raise a loan to the amount and on terms required by the county or regional council. If a poll is demanded in any of the constituent areas and on being taken results in the council of that area being forbidden to borrow the necessary money, but in a majority of the constituent areas no poll is demanded or, if demanded, when taken has resulted in a majority of the constituent councils being authorised to proceed to raise a loan, the question shall be referred to the Minister who, notwithstanding the decision of any poll to forbid the raising of the loan, may authorise the loan to be raised on such terms as he deems desirable.
21. All of the provisions of this Act in respect of accounts and audit shall apply to county and regional councils.
22. Where a county or regional council is formed to exercise any functions which have previously been exercised in their areas by any of the constituent councils, the Governor in Council may settle all accounts between them in respect of any assets and liabilities taken over by the county or regional district, and may take any action necessary to preserve the rights of any officers affected.
23. The Governor in Council may make regulations or general by-laws to control the formation of county or regional districts, the functions of the Councils thereof.
24. The Governor in Council may settle and finally adjust accounts and resolve all disputes arising between the county or regional council and the constituent councils thereof.

Clause 317. DISPLACEMENT OF MATERIALS.

Amendment.—Insert at the beginning of the clause the words “subject to Electricity and Gas Acts.”

Reason.—To overcome objections by the State Electricity Commission.

Clause 318. DUTY TO KEEP STREETS OPEN.

Amendment.—Amend to provide that it shall apply only to cities, towns and town sites.

Reason.—It would not be practicable in outback areas.

Clause 322. ROADS FOR ACCESS TO ONE PARCEL OF LAND MAY BE CLOSED.

Amendment.—Add a proviso that the approval of the local authority shall be obtained.

Reason.—There may be circumstances which would render a road closure undesirable.

Clause 324. GATES ACROSS ROADS.

Amendment.—The words “the gate” in lines 18 and 19 on page 188 should be deleted.

Reason.—The words do not now appear necessary.

Amendment.—Delete the sub-clause (11).

Reason.—This appears to be covered by sub-clause (8). If this is not so, “the approval of the Governor” should be deleted from the sub-clause as it stands.

Clause 327. OBSTRUCTION OF WATER COURSES.

Amendment.—After this clause incorporate the sense of Section 616 in “Victorian Local Government Act” which reads as follows:—

“No person shall alter obstruct or in any manner interfere with the natural flow of surface water on through or across any land street or road in such manner as to cause any street or road to be injuriously affected by water.

Any person who commits any contravention of any of the foregoing provisions of this section shall be guilty of an offence and be liable for every such offence to a penalty of not more than ten pounds and shall also be liable to reimburse all costs charges and expenses which may be occasioned by reinstating repairing or making good such street or road and by the removal of anything causing any such alteration to, obstruction of or interference with the natural flow of surface water as aforesaid, to be recovered in default of payment before a court of petty sessions.

The council of any municipality may by its officers employees or agents enter into and remain on any such land for the purpose of removing and may remove anything causing any such alteration to, obstruction of or interference with the natural flow of surface water as aforesaid, and any person who obstructs or hinders any such officer, employee or agent in the execution of his duty hereunder shall be guilty of an offence and for every such offence be liable to a penalty of not more than five pounds.”

Reason.—To increase the power of the local authorities to control water courses likely to damage roads.

Clause 332. FOOTWAYS.

Amendment.—The word “footway” is being used in this clause whereas in some clauses the word used is “footpath.” It is recommended that a consistent use of the one term be made.

Reason.—Clarification.

Clause 333. WEEDS SPREADING OVER ROADS.

Amendment.—Delete the word “separate” from line five.

Reason.—Drafting error.

Clause 335. DESTRUCTION OF NOXIOUS WEEDS.

Amendment.—Delete the words “and if required by the Minister so to do shall” from lines 26 and 27. Alternatively delete the clause if the new legislation before Parliament covers the question sufficiently.

Reason.—Clarification and to ensure that a Council may not be compelled to carry out extensive weed destruction at short notice by the Minister.

Clause 337. TREES OBSTRUCTING ROADS.

Amendment.—Add to sub-clause (1) a provision that “if the land is unoccupied and the owner cannot be located the Council may enter upon the land and remove the tree or any part thereof.”

Reason.—Enabling the enforcement of an order.

Clause 338. NOTICE ON LAYING OUT NEW STREETS.

Amendment.—Insert in line 22 after the word “intention” the words “to the owners of any abutting land and”. Insert after the word “and” the word “shall.” In line 23 substitute the words “with the Council” for the word “therewith.”

Reason.—Clarification and to ensure that interested persons are informed.

Clause 341. PERSONS AGGRIEVED MAY APPEAL.

Amendment.—Insert after the word “recognisance” in line 9 the words “of an amount of £20.”

Reason.—To specify a definite sum.

Clause 345. STATUTORY AUTHORITIES AND LEVELS.

Amendment.—The words “statutory authority” should be defined. The section numbers in lines 36 and 37 require alteration to read “three hundred and thirty-nine and three hundred and forty-two.”

Reason.—Clarification and drafting error.

Clause 347. ALTERATION TO WATER PIPES.

Amendment.—This clause should be deleted.

Reason.—It appears to be covered by Clause 343.

Clause 349. COUNCIL MAY PAVE FOOTWAYS.

Amendment.—In line 7 insert commas after the words “pave” and “kerbed.” Alter the word “and” to read “or.”

Reason.—Clarification.

Clause 350. STREETS TO BE DEFINED.

Amendment.—Insert in line 21 after the word “furnish” the words “for his inspection.”

Reason.—Clarification

Clause 353. CROSSING OVER STREETS.

Amendment.—Delete the words “one half of” from line 1 and delete the proviso.

Reason.—It is considered that the right to recover the full cost should be provided as is the present municipal provision.

Clause 354. CROSSINGS OVER FOOTPATHS.

Amendment.—Delete the words “one half of” from lines 22 and 23 ; and 39. Delete the whole of paragraph (c).

Reason.—To allow for the full cost to be borne by the owner.

Clause 355. NOTICE OF SUB-DIVISION.

Amendment.—Delete the word “rateable” from line 14 on page 201.

Reason.—To make the provision apply to all land sub-divided for sale.

Amendment.—Substitute the word “drawings” for the word “plans” in lines 22 and 29. Amend the proviso to read “this sub-section shall apply only to land situated within a city, town or townsite.”

Reason.—Clarification.

Amendment.—Insert the words “by the owner” in line 3 page 202 after the word “drained.”

Reason.—Clarification.

Amendment.—Subclause (4) should be entirely reconsidered by the Crown Law Department in conjunction with the Department of Lands as to implications when considered in conjunction with Clause 237 et seq.

Reason.—There is considerable doubt as to the effect.

PART 13. STORM WATER SEWERS.

Amendment.—Amend the title to read “Storm Water and Other Drains.”

Reason.—To prevent confusion with ordinary sewers.

Clause 356. CONSTRUCTION OF MAIN SEWERS.

Amendment.—Delete the words “with the consent of the Governor” from line 11. Substitute the word “effluent” for the word “refuse” in line 13. Delete all the words after the word “collection” in line 15 and substitute the words “and disposal.” Alter the word “sewer” to read “drains” in lines 3, 12 and 14.

Reason.—To remove confusion with sewers.

Clause 357. UNLAWFULLY MAKING BRANCH DRAINS.

Amendment.—Delete the word “sewer or ” from lines 19 and 22 and insert the words “drain or other.”

Reason.—To remove confusion with sewers.

Clause 358. LAYING DRAINS FROM PRIVATE TENEMENTS.

Amendment.—Delete the word “sewer ” in line 30 and substitute the word “drain.”

Reason.—To remove confusion with sewers.

Clause 359. COUNCIL MAY DRAIN OR FILL UP LAND.

Amendment.—Delete the words “sewers or ” from line 1 and insert the words “drains or other.” Delete the word “sewer ” and the “comma ” from line 6. Substitute the word “an ” for the word “and ” in line 7.

Reason.—To remove confusion with sewers.

Clause 360. MANAGEMENT OF SEWERS.

Amendment.—Delete the clause.

Reason.—To remove confusion as apparently it applies to ordinary sewers, which are covered under the Health Act.

Clause 361. RECOVERY OF COST OF DRAINAGE.

Amendment.—Delete the words “with the approval of the Governor ” from lines 15 and 16.

Reason.—It is not considered necessary to have this work subject to Vice-regal control.

Clause 363. PROTECTION WORKS.

Amendment.—Add to sub-clause (3) the words “and shall be liable for any damage caused to any persons or property which occurs as a result of his action.”

Reason.—Clarification.

Clause 364. BREAKING UP STREETS FOR ELECTRICITY.

Amendment.—Delete the clause.

Reason.—It has been objected that it is adequately provided for by the State Electricity Act.

Clause 365. WATER SUPPLIES.

Amendment.—Amend paragraph (a) to refer to the Hon. Minister for Water Supply instead of the Under Secretary.

Reason.—Clarification.

Clause 367. APPLICATION OF PART.

Amendment.—It is recommended that the part should apply to the whole of the State. Alternatively if this is unacceptable a Schedule should be included in the Bill specifying the districts to which this applies.

Reason.—It is felt that building control is necessary throughout the whole of the State but the local authorities would still have the right to apply their by-laws either to the whole of their districts or such portions as are deemed desirable.

Amendment.—Sub-clause (2) to be deleted if the part is made to apply to the whole of the State.

Reason.—Consequential.

Amendment.—Sub-clauses (4) and (5) to be deleted.

Reason.—Partly consequential but sub-clause (5) is considered undesirable in view of the fact that qualified surveyors will be required when Clause 160 is implemented.

CLAUSE 368. PUBLIC BUILDINGS.

Amendment.—Clause to be deleted.

Reason.—This appears to be adequately covered by the Health Act and the suggestion made has come from the Commissioner for Public Health. Alternatively, if the clause is not deleted a specific reference to community and civic centres should be included.

Clause 371. STATEMENT OF PURPOSE FOR BUILDING.

Amendment.—Add to this, the provisions of sub-sections (2) and (3) of Section 299 of the Municipal Corporations Act which read as follows :—

(2) After such statement has been deposited with the council as aforesaid, neither the building nor any part thereof shall be used for any purpose other than the purpose set forth in the said statement in relation to such building or such part thereof, except by the written authority of the council.

(3) Any person who uses or permits or suffers to be used any building or any part of a building for any purpose set forth in relation to such building or part of a building in the statement deposited with the council, as aforesaid and relative thereto, without first obtaining the written authority of the council so to do, shall be guilty of an offence.

Penalty : Fifty pounds.

Provided that there shall be an appeal to the Minister against any refusal of the Council to grant any such consent as in this section mentioned, and if such appeal is allowed the Minister may grant the requisite consent in the name of the council.

Reason.—This has apparently been omitted by accident.

Clause 372. NOTICE TO BE GIVEN.

Amendment.—The meaning of the word “passengers” having been queried, it is suggested that the Parliamentary Draftsman might select some better term.

Reason.—Clarification.

Clause 379. FOOTWAY TO BE COVERED.

Amendment.—Substitute the words “ground floor” for the words “first storey” in lines 26 and 29. Delete the words “and kept covered” in line 31. Insert a comma after the word “painter” in line 30.

Reason.—Clarification.

Clause 380. MATERIALS FOR ROOFS.

Amendment.—Insert the words “fire resisting” in lieu of the word “or” in line 41.

Reason.—Modernisation of the clause.

Clause 381. VENTILATION.

Amendment.—After the word “it” in line 13, insert the words “or he.”

Reason.—Clarification.

Clauses 382 and 383. PARTY WALLS AND UNDERPINNING.

Amendment.—The two clauses should be deleted and replaced by provisions similar to the South Australian Building Act, Sections which follow :—

Extract from South Australian Building Act, 1923-1946, Rights of Building and Adjoining Owners.

33. Where lands of different owners adjoin and are unbuilt on at the line of junction, and either owner is about to build on any part of the line of junction, the following provisions shall have effect :—

- (1) If the building owner desires to build a party wall on the line of junction, he may serve notice thereof on the adjoining owner, describing the intended wall :
- (2) If the adjoining owner consents to the building of a party wall, the wall shall be built half on the land of each of the two owners, or in such other position as is agreed between the two owners :
- (3) The expense of the building of the party wall shall be from time to time defrayed by the two owners in due proportion, regard being had to the use made and which may be made of the wall by the two owners respectively :
- (4) If the adjoining owner does not consent to the building of a party wall, the building owner shall not build the wall, otherwise than as an external wall placed wholly on his own land :
- (5) In any case where a party wall is built in pursuance of the provisions of this Part of this Act, the owner of any land so built upon shall grant an easement of support in respect of such wall over the last-mentioned land and appurtenant to the other land upon which the party wall is built, and shall cause such easement to be registered upon the folium of the register book relating to his said land, if the land is under the provisions of the Real Property Act, 1886, or shall cause such easement to be registered in the General Registry Office, if the land is not under such provision, and the building owner shall bear the expenses of and incidental thereto.

33a. When lands of different owners adjoin and a party wall was at the time of the commencement of this Act on any part of the line of junction and either owner is about to build and use the said wall, the owner of the land upon which the party wall is erected, shall grant an easement of support in respect of the said wall over the said land and appurtenant to the other land upon which the party wall is built, and shall cause the said easement to be registered upon the folium of the register book relating to the said land, if the land is under the provisions of the Real Property Act, 1886, or shall cause the easement to be registered in the General Registry Office, if the land is not under the said provisions. The building owner shall bear the expenses of registering the said easement and any other expenses incidental thereto.

34. The building owner shall have the following rights, in addition to and without prejudice to any rights he may have under any other Act or at common law, that is to say :—

- (1) A right to make good, underpin, or repair any party wall which is defective or out of repair :
- (2) A right to pull down and rebuild any party wall which is so far defective or out of repair as to make it necessary or desirable to pull it down :
- (3) A right to pull down any timber or other partition which divides any buildings and is not conformable with the provisions of this Act, and to build instead a party wall conformable thereto :
- (4) A right to raise and underpin any party wall permitted by this Act to be raised or underpinned, upon condition of making good all damage occasioned thereby to the adjoining premises or to the finishings and decorations thereof, and of carrying up to the requisite height all flues and chimney stacks belonging to the adjoining owner on or against such party wall :
- (5) A right to pull down any party wall which is of insufficient strength for any building intended to be built and to rebuild the same of sufficient strength for that purpose, upon condition of making good all damage occasioned thereby to the adjoining premises or to the finishings and decorations thereof :
- (6) A right to cut into any party wall upon condition of making good all damage occasioned to the adjoining premises by such operation :
- (7) A right to cut away any footing or any chimney breasts, jambs, or flues projecting, or other projections, from any party wall in order to erect an external wall against such party wall or for any other purpose, upon condition of making good all damage occasioned to the adjoining premises by such operation.

-
- (9) A right to perform any other necessary works incident to the connection of a party wall with the premises adjoining thereto :

But the above rights, numbered (1) to (9) inclusive, shall be subject to this qualification, that any building which has been erected previously to the date of the commencement of this Act shall be deemed to be conformable to the provisions of this Act, if it is conformable with the provisions of the Acts of Parliament regulating buildings in the said State at the time such building was erected :

- (10) A right to raise a party fence wall or to pull the same down and rebuild it as a party wall.

35. (1) Where a building owner proposes to exercise any of the foregoing rights with respect to party walls, the adjoining owner may by notice require the building owner to build on any such party wall such chimney copings, jambs, or breasts or flues, or such piers or recesses, or any other like works, as may fairly be required for the convenience of such adjoining owner, and are specified in the notice, and it shall be the duty of the building owner to comply with such requisition in all cases where the execution of the required works will not be injurious to the building owner, or cause to him unnecessary inconvenience or unnecessary delay in the exercise of his right.

(2) Any difference that arises between a building owner and an adjoining owner in respect of the execution of any such works shall be determined in the manner in which differences between building owners and adjoining owners are hereinafter directed to be determined.

36. (1) A building owner shall not, except with the consent in writing of the adjoining owner and of the adjoining occupiers, or, in cases where any party wall is dangerous (in which case the provisions of Part VI of this Act shall apply), exercise any of his rights under the Part of this Act in relation to any party wall, or party fence wall, unless at least six weeks before doing so he has served on the adjoining owner a party wall notice stating the nature and particulars of the proposed work, and the time at which the work is proposed to commence.

(2) When a building owner in the exercise of any of his rights under this Part of this Act lays open any part of the adjoining land or building, he shall, at his own expense, make and maintain for a proper time a proper hoarding and shoring of temporary construction for the protection of the adjoining land or building and the security of the adjoining occupier.

(3) A building owner shall not exercise any right by this Act given to him in such manner or at such a time as to cause unnecessary inconvenience to the adjoining owner or to the adjoining occupier.

(4) A party wall notice shall not be available for the exercise of any right unless the work to which the notice relates is begun within six months after the service thereof and is prosecuted with due diligence.

(5) Within fourteen days after the receipt of such notice or at any time before building operations are commenced, the adjoining owner may serve on the building owner a notice requiring him to build on such party structure any works to the construction of which he is entitled under Section 35.

(6) The last-mentioned notice shall specify the works required by the adjoining owner for his convenience, and shall, if necessary, be accompanied by explanatory plans and drawings.

(7) If either owner does not within fourteen days after the service on him of any notice express his consent thereto, he shall be considered as having dissented therefrom, and thereupon a difference shall be deemed to have arisen between the building owner and the adjoining owner.

36a. The building owner, in addition to and without prejudice to any right he may have under any other Act or at common law, shall have a right to cut away or take down such parts of any wall or building of an adjoining owner as may be necessary in consequence of that wall or building overhanging or encroaching upon the ground of the building owner, in order to erect an upright wall against the same, on condition of making good any damage sustained by the wall or building by reason of such cutting away or taking down.

37. In all cases not specially provided for by this Act, where a difference arises between a building owner and an adjoining owner in respect of any matter arising with reference to any work to which any notice given under this Part of this Act relates, such difference shall be referred for decision to the referees referred to in Part VIII of this Act, with power, by their award, to determine the right to do and the time and manner of doing any work, and generally any other matter arising out of or incidental to such difference; but any time appointed for doing any work shall not, unless otherwise agreed, commence until after the expiration of the period by this Part of this Act prescribed for the notice in the particular case.

38. A building owner, his servants, agents and workmen, at all usual times of working, may enter and remain on any premises for the purpose of executing, and may execute any work which he has become entitled to or is required in pursuance of this Act to execute, removing any furniture or doing any other thing which may be necessary; and if the premises are closed, he and they may, accompanied by a constable or other peace officer, break open any fences or doors in order to effect such entry: Provided that before entering on any premises for the purposes of this section the building owner shall except in the case of emergency give fourteen days notice of his intention so to do to the occupier and owner, and in case of emergency shall give such (if any) notice as may be practicable.

39. Where a building owner intends to erect within ten feet of a building belonging to an adjoining owner a building or structure any part of which within such ten feet extends to a lower level than the foundations of the building belonging to the adjoining owner, he may, and, if required by the adjoining owner, shall (subject as hereinafter provided) underpin or otherwise strengthen the foundations of the last-mentioned building so far as may be necessary, and the following provisions shall have effect:—

- (1) At least one month's notice in writing shall be given by the building owner to the adjoining owner, stating his intention to build and whether he proposes to underpin or otherwise strengthen the foundations of the said last-mentioned building and such notice shall be accompanied by a plan and sections showing the site of the proposed building and the depth to which he proposes to excavate;
- (2) If the adjoining owner within fourteen days after being served with such notice gives a counter notice in writing that he disputes the necessity of or that he requires such underpinning or strengthening a difference shall be deemed to have arisen between the building owner and the adjoining owner.
- (3) The building owner shall be liable to compensate the adjoining owner and occupier for any inconvenience, loss or damage which may result to them by reason of the exercise of the powers conferred by the section.
- (4) Nothing in this section contained shall relieve the building owner from any liability to which he would otherwise be subject in case of injury caused by his building operations to the adjoining owner.

40. (1) An adjoining owner may if he thinks fit by notice in writing require the building owner (before commencing any work to which he may be authorised by this part of this Act to execute) to give such security as is agreed upon, or in case of difference, is settled by the local court of full jurisdiction nearest to the site of the proposed work, for the payment of all such expenses, costs and compensation in respect of the work as may be payable by the building owner.

(2) The building owner may, if he thinks fit at any time, after service on him of a party wall requisition by the adjoining owner and before beginning a work to which the requisition relates but not afterwards serve a counter requisition on the adjoining owner requiring him to give such security for payment of the expenses, costs and compensation for which he is or will be liable as may be agreed upon or in the case of difference may be settled as mentioned in Sub-section (1) hereof.

(3) If the adjoining owner does not within one month after service of such counter requisition give security accordingly he shall at the end of that month be deemed to have ceased to be entitled to compliance with his party wall requisition and the building owner may proceed as if no party wall requisition had been served on him by the adjoining owner.

41. (1) As to expenses to be borne jointly by the building owner and the adjoining owner:—
- (a) if any party wall is defective or out of repair the expense of making good, underpinning or repairing the same shall be borne by the building owner and the adjoining owner in due proportion, regard being had to the use that each owner may make of the structure ;
 - (b) if any party wall is pulled down and rebuilt by reason of its being so far defective or out of repair as to make it necessary or desirable to pull it down the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner may make of the structure ;
 - (c) if any timber or other party wall dividing a building is pulled down in the exercise of the right by this Part of this Act vested in a building owner and a party wall is built instead thereof the expense of such pulling down and of building such party wall and also of building any additional party walls that may be required by reason of the partition having been pulled down shall be borne by the building owner and the adjoining owner in due proportion, regard being had to the use that each owner may make of the party wall and to the thickness required for support of the respective buildings parted thereby.
- (2) As to expenses to be borne by the building owner—
- (a) if any party wall or any external wall built against another external wall is raised or underpinned in pursuance of the power by this Part of this Act vested in a building owner, the expense of raising or underpinning the same, and of making good all damage occasioned thereby, and of carrying up to the requisite height all such flues and chimney stacks belonging to the adjoining owner on or against any such party wall or external wall as are by this Part of this Act required to be made good and carried up, shall be borne by the building owner ;
 - (b) if any party wall which is of proper materials and sound, or not so far defective or out of repair as to make it necessary or desirable to pull it down is pulled down and rebuilt by the building owner the expense of pulling down and rebuilding the same, and of making good any damage by this Part of this Act required to be made good, and a fair allowance in respect of the disturbance and inconvenience caused to the adjoining owner shall be borne by the building owner ;
 - (c) if any party wall is cut into by the building owner, the expense of cutting into the same and of making good any damage by this Part of this Act required to be made good shall be borne by such building owner ;
 - (d) if any footing, chimney breast, jamb, or floor or any projection is cut away in pursuance of the powers by this Part of this Act vested in any building owner, the expense of such cutting away and of making good any damage by this Part of this Act required to be made good shall be borne by the building owner ;
 - (e) if any party fence wall is raised for a building, the expense of raising such wall shall be borne by the building owner ;
 - (f) if any party fence wall is pulled down and built as a party wall the expense of pulling down such party fence wall and building the same as a party wall shall be borne by the building owner ;

Provided that if at any time the adjoining owner makes use of any party wall (or any part thereof) raised or underpinned as aforesaid, or of any party fence wall pulled down and built as a party wall (or any part thereof) beyond the use thereof made by him before the alteration, there shall be borne by the adjoining owner from time to time a due proportion of the expense (having regard to the use that the adjoining owner may make thereof)—

- (i) of raising or underpinning such party wall or external wall, and of making good all damage occasioned thereby to the adjoining owner, and of carrying up to the requisite height all such flues and chimney stacks belonging to the adjoining owner on or against any such party wall or external wall as are by this Part of this Act required to be made good and carried up ;
- (ii) of pulling down and building such party fence wall as a party wall.

42. Within one month after the completion of any work which a building owner is by this Part of this Act authorised or required to execute, and the expense of which is in whole or in part to be borne by an adjoining owner, the building owner shall deliver to the adjoining owner an account in writing of the particulars and expense of the work, specifying any deduction to which such adjoining owner or other person may be entitled in respect of old materials, or in other respects ; and every such work shall be estimated and valued at fair average rates and prices, according to the nature of the work and the locality and the market price of materials and labour at the time.

43. (1) At any time within one month after the delivery of the said account the adjoining owner, if dissatisfied therewith, may declare his dissatisfaction to the building owner by notice in writing, specifying his objection thereto, and thereupon a difference shall be deemed to have arisen between the parties, and such difference shall be determined in manner hereinbefore in this Part of this Act provided for the settlement of differences between building and adjoining owners.

(2) If within the said period of one month the adjoining owner does not declare in the said manner his dissatisfaction with the account, he shall be deemed to have accepted the same, and shall pay the same on demand to the party delivering the account, and if he fails to do so, the amount so due may be recovered as a debt.

44. Where the adjoining owner is liable to contribute to the expenses of building any party wall, then, until such contribution is paid, the building owner at whose expense the same was built shall stand possessed of the sole property in the structure.

45. The adjoining owner shall be liable for all expenses incurred on his requisition by the building owner, and in default of payment thereof the same may be recovered from him as a debt.

46. Nothing in this Act shall authorise any interference with an easement of light or other easement in or relation to a party wall, or take away, abridge, or prejudicially affect any right of any person to preserve or restore any light or other thing in or connected with a party wall in case of the party wall being pulled down or rebuilt.

Reason.—To make more adequate provision for this important point.

Clause 384. INFLAMMABLE BUILDINGS.

Amendment.—Delete the words "intended to be used as a dwelling house" in lines 19 and 20. Delete the words "dwelling house" in line 25 and substitute the word "buildings".

Reason.—The provision of more facilities for the erection of good class wooden houses.

Clause 385. PROJECTIONS ON FOOTWAYS.

Amendment.—Subclause 1 should be redrafted after consultation between the Parliamentary Draftsman, the Principal Architect and the City of Perth Building Surveyor so that encroachment below the surface of the street may be permitted for the purpose of ensuring stability and assisting building operations but subject to adequate protection of utilities in the street.

Reason.—To make provision for large buildings in cities.

Amendment.—Substitute the word "nine" for the word "eight" in line 37.

Reason.—To make verandahs at least nine feet high.

Amendment.—Amend subclause 3 as follows:—

Substitute the word "nine" for the word "eight" in line 8. Delete all the words after "building" in line 9, and insert the words "and is of the cantilever type". Add a further provision that no balcony shall encroach upon a street for a greater distance than:—

(a) in the case of the Cities of Perth and Fremantle 2 ft. 6 in., and

(b) in the case of other Municipal Districts such distance as may be prescribed in the by-laws from time to time, but in no case extending beyond the level of the kerb-stone, or outer edge of the footway.

Reason.—To ensure that balconies are permitted only in the form of architectural projections in the cities and of such width as the other municipalities desire.

Clause 387. NOTICE OF BUILDING ALTERATIONS.

Amendment.—Add to this clause sub-section (5) of Section 314 of the Municipal Corporations Act and also add a provision that when an order has been served by the Council the building owner may be entitled to demand and receive a certificate that the order has been complied with.

Reason.—To restrict the obligation of the Council to issue a complete certificate which might be used to prevent the correction of defects found later but ensuring that a builder who has complied with the demand shall be protected.

Clause 394. RENOVATION OF DELAPIDATED DWELLINGS.

Amendment.—Amend to apply to all buildings of any type of material and delete the reference to "neighbouring dwelling houses."

Reason.—It is felt that the provision should apply to all buildings and not only wooden dwellings.

Clause 399. PUBLIC BUILDINGS.

Amendment.—Delete the clause.

Reason.—It is considered that this is sufficiently covered by the Health Act.

Clause 400. PUBLIC BUILDINGS.

Amendment.—Delete all the words after the word "aforesaid" in line 14. Insert a new clause numbered 400A as follows:—

400A. (1) If a Council is of the opinion that any building whether erected before or after the commencement of this Act is so constructed that there would be in case of fire a danger to the inmates because of the lack of adequate provision for fire escapes, it may serve upon the owner of the building an order to instal or erect in or on the building fire escapes to the number and specification set out in the Order.

(2) Any person served with an Order to instal or erect fire escapes in pursuance with the provisions of the last preceding sub-section may within one month after the service upon him of the Order, appeal to the Minister, who may confirm or disallow the order of the Council.

(3) If the person served with an order to instal or erect escapes pursuant to the provisions of sub-section (1) of this section does not appeal to the Minister as provided in sub-section (2) of this Section, or if the Minister confirms the Order of the Council, he shall, within twelve months after the service upon him of the Order, instal or erect in or on the building fire escapes to the number and specification set out in the order.

(4) Before commencing the installation or erection of fire escapes under this section, the owner of the building shall submit to the Council plans and specifications in accordance with the provisions of this part of this Act.

Reason.—To provide power for a local authority to compel the installation of fire escapes in existing buildings, while preserving the rights of the owner by giving him opportunity to appeal to the Minister.

Clause 403. INFLAMMATORY BUILDINGS.

Amendment.—Delete the words “liable to immediate ignition” in line 21 and substitute the words “readily ignitable.”

Reason.—Clarification.

Clause 406. INSPECTION OF BUILDINGS.

Amendment.—In sub-paragraph (1) insert the words “or by the Council” after the word “them” in line 24.

Reason.—Clarification.

Clause 409. APPEAL.

Amendment.—Delete the clause and substitute provisions along the lines of the 16th Schedule of the Victorian Local Government Act for setting up a Board of Referees to hear appeals, such board to consist of three persons of whom at least one shall be nominated by the council concerned.

Reason.—As appeals on policy are dealt with by the Minister under Clause 369, appeals under this clause would be of a technical nature and are therefore better dealt with by a tribunal of qualified architects or engineers.

Clause 411. BY-LAW MAKING POWERS.

Amendment.—Add to paragraph (c) a specific power to prescribe brick areas and also special value areas. Consider deleting the clause 188 (84), as this would be covered by the above.

Reason.—To enable councils better to control building.

Amendment.—Include after the word “ventilation” in paragraph (m) the words “including mechanical means of ventilation and air conditioning.” Also include a provision concerning lifts. Insert the word “habitable” before the word “rooms” in line 33. Define “habitable room.”

Reason.—To give the Council more control over the fittings included in certain types of buildings.

Amendment.—Delete paragraph (p).

Reason.—Covered by the setting up of a Board of Appeal under Clause 409.

Amendment.—Amend paragraph (r) by inserting after the word “specifications” the words “and calculations or computations of structural elements and details.”

Reason.—Clarification.

Amendment.—Amend paragraph (t) by substituting the word “limiting” for the word “itemising” in line 18. Delete the words “or families” in line 18.

Reason.—Drafting error and simplification respectively.

Amendment.—After paragraph (v) insert a new paragraph as follows :—

For requiring and compelling the owners of any land upon which a dwelling or other inhabited building is to be erected, to provide for a sufficient supply of water for domestic purposes by either—

- (a) connecting the building to any public water main which passes the land on which the building is erected ; or
- (b) providing for the building of rainwater tanks, properly connected to a catchment, satisfactory to the Council, of a capacity specified in the by-law but not less than 3,000 gallons ; or
- (c) providing for the building of a supply of water from wells or other sources to the satisfaction of the Council.

Reason.—To ensure that no building is constructed without provision for a sufficient water supply.

Amendment.—Amend paragraph (y) by including a specific power to classify the different types of buildings.

Reason.—To facilitate the control and the application of by-law making powers.

Amendment.—Add a new provision empowering the Council to specify in any by-laws for the use of particular standards in regard to materials, etc.

Reason.—Simplification.

Clause 412. GENERAL BY-LAWS.

Amendment.—Delete the clause and substitute a power to make model by-laws for adoption by local authorities.

Reason.—To obviate objections to the Governor making general by-laws which over-ride those of the local authorities.

Clause 414. LIGHTING OF STREETS.

Amendment.—The clause to be made subject to the Electricity and Gas Acts.

Reason.—To meet objections raised by the State Electricity Commission.

Clause 415. RESERVE FOR WATER SUPPLY.

Amendment.—To be made subject to the various water supply and rights in Water Acts, which affect water supply.

Reason.—To overcome the possibility of conflicting provisions.

Clause 417. CONTRACTS FOR WATER SUPPLY.

Amendment.—The word "from" in line 15 to be replaced by the word "by." Sub-clause (2), etc., to be made subject to the Water Supply Acts if necessary.

Reason.—Clarification and prevention of conflicting provisions.

Clause 418. PREVENTION OF FIRES.

Amendment.—Delete the words "with the consent of the Minister" in line 7. Amend sub-clause (5) to provide that in the case of a district wholly or partly within a fire district the consent of the W.A. Fire Brigades Board shall be obtained or alternatively that notice shall be given to that Board, and unless an objection is received, it shall be deemed to be approved.

Reason.—To meet objections raised to Ministerial control while ensuring that there is no clash with the activities of the W.A. Fire Brigades Board.

Clause 419. BATHS, ETC.

Amendment.—Amend sub-clause (1) by inserting the words "Rest Centres for Women and Children" after the word "for" in line 11.

In line 23 of sub-clause (2) insert the words "Spectators Galleries and other" after the word "all."

The word "shall" in line 28 to be altered to read "may".

Reason.—Extension of power to improve reserves, etc.

Clause 420. PUBLIC FOUNTAINS, ETC.

Amendment.—The clause to be coalesced with Clause 286 and delete from this position.

Reason.—These are apparently duplications.

Clause 422. RECREATION GROUNDS, ETC.

Amendment.—Insert the words "Lifesaving Club Rooms, Youth Club Rooms and Rooms for Educational and Cultural Activities" after the word "rooms" in line 11. Insert the words "Public halls or" after the word "Museums" in line 10.

Amend sub-clause (b) by inserting the words "including ablutionary and dressing rooms, etc." after the word "Council" in line 15.

Add to sub-clause (c) after the word "camps" in line 18 the words "Caravan parking areas." Sub-clauses (b) and (c) might be better transposed in position.

Reason.—Extension of powers and simplification.

Clauses 424 to 426. DANCING ROOMS.

Amendment.—It is suggested that dancing rooms, skating rinks, and also amusement parks whether in open air or enclosed should be included in the by-law making powers in Clause 188 (61) and these clauses deleted.

Reason.—It is thought that these provisions would be better dealt with under the "By-law making powers" of the local authority.

Clause 427. IMPOUNDING—OWNERSHIP OF STREETS.

Amendment.—Insert the word "Reserves" after the word "ways" in line 9. Substitute the word "Unenclosed" for the word "Unfenced" in line 9.

Reason.—Clarification.

Clause 429. ESTABLISHMENT OF POUNDS.

Amendment.—Add a further provision that a Council may establish a public pound in the area of another Council providing the approval of that Council is obtained.

Reason.—Increasing the power of the local authorities.

Clause 432. POUND TO BE FENCED, ETC.

Amendment.—Delete the words “ and in the same way ” from line 10.

Reason.—Apparently a drafting error.

Clause 436. POUND BOOK.

Amendment.—Amend sub-clause (1) by deleting all the words after “ book ” in lines 7 and 8.

Substitute the word “ Clerk ” for the word “ Treasurer ” in line 18 of sub-clause (2).

Amend sub-clause (4) by inserting the words “ the relevant sections of ” after the word “ of ” in line 24 and insert the word “ and ” after the word “ Act.”

Delete the comma after the word “ book ” in line 24. Substitute the word “ Clerk ” for the word “ Poundkeeper ” in line 28. Substitute the words “ two shillings ” for the word “ sixpence ” in line 30.

Reason.—Simplification.

Amendment.—Take in here a copy of Section 43 of the Brands Act as a new section, and recommend that Section 42 of the Brands Act should be deleted.

Distinguishing brand to be used by each public pound. 43. (1) The registrar shall allot to each public pound throughout the State a brand for such public pound and shall register the same accordingly.

Poundkeeper to brand with pound brand. See s. 41 of 61 of 1904. (2) The keeper of a public pound shall, on the sale of any horses or cattle impounded therein, brand them with such brands on the portions and in the order prescribed by this Act in such manner as to show that the brand is the last brand at the time imprinted on such horses or cattle.

Penalty. (3) Any poundkeeper who fails to comply with the provisions of this Section shall be guilty of an offence against this Act.

Reason.—As this is a requirement under the Brands Act of which few local authorities have any knowledge, the insertion of an identical provision is recommended while a repeal of Section 42 of the Brands Act appears desirable.

Clause 437. NOTICES AT POUNDS.

Amendment.—Add a provision that the notice exhibited may specify the holding capacity of the pound and that if the pound will not hold the number of cattle desired to be impounded, the person impounding shall convey them to another pound.

Reason.—To meet with possible impounding of large herds.

Clause 438. POUNDKEEPER TO ACCOUNT.

Amendment.—Amend sub-clause (2) by deleting the words “ Treasurer and such ” from line 32. Insert the word “ by ” after the word “ be ” in line 33.

Reason.—Simplification.

Clause 439. POWERS OF IMPOUNDING.

Amendment.—Amend sub-clause (1) by inserting the word “ suitable ” after the word “ nearest ” in line 40. Insert the words “ the Council or ” after the word “ by ” in line 3 of sub-clause (2).

Take in a new provision based on Section 10 (1) of the Cattle Trespass Act, as follows :—

“ In all cases when cattle trespassing shall not be impounded, and it shall be proved to the satisfaction of a Justice of the Peace that it is not possible to impound such cattle except at an undue expense, and also that the owner thereof is unknown or cannot be found ; It shall be lawful for such Justice to order the destruction of such cattle in such manner as he shall think fit, and for the production and delivery to a police constable of the hide of such cattle (being “ great cattle ” as referred to in the Trespass Scale attached hereto) so destroyed.”

Reason.—To deal with cases of animals proving difficult to impound.

Clause 440. OWNER IMPOUNDING ON OWN LAND.

Amendment.—Amend sub-clause (1) by substituting the word “ three ” in line 35, page 242, for the word “ five.” Insert the word “ suitable ” after the word “ nearest ” in line 25, on page 243, of sub-clause (3).

Reason.—Simplification and provision for impounding in the nearest suitable pound.

Clause 443. DAMAGES FOR TRESPASS.

Amendment.—Amend subclause (2) by inserting at the end of para. B. the words “ or Newspaper circulating in the District.” Delete the words “ one fourth ” from line 29 and insert after the word “ the ” the word “ full.”

Reason.—To permit advertisement in a newspaper instead of “ The Government Gazette.”

Clause 444. COUNCIL MAY VARY FEES.

Amendment.—Substitute the word “thirteenth” for the word “fifteenth” in line 33.

Reason.—Drafting error.

Clause 445. CATTLE TO BE RESTORED.

Amendment.—Delete the words “to the Ranger” from line 8. Add a proviso that the cattle may not be released until the fees have been paid to the poundkeeper.

Reason.—So that the person concerned may release the cattle before impounding, if the fees are paid including poundage fees, and to prevent release unless the full fees are paid.

Clause 449. NOTICE OF IMPOUNDING.

Amendment.—Amend subclause (2), by adding the words “or posted to him” after the word “State” in line 17. Delete the balance of the subclause.

Reason.—To permit postal or personal notice of impounding.

Amendment.—Delete subclause (6), and amend subclause (7) to apply only if the offence is a wilful one.

Reason.—Clarification.

Clause 450. POUNDKEEPER CHARGING FOR NOTICE.

Amendment.—Amend subclauses (2) and (3) by inserting words “and 6d.” after the words “1s.” in lines 33 and 40.

Reason.—To permit a slightly higher charge to be made.

Clause 451. CATTLE TO BE RELEASED.

Amendment.—Add to this provision that the cattle must not be released until the fees have been paid, or the cattle disposed of.

Reason.—It is considered that no animals should be released unless the fees are paid.

Clause 452. AMOUNT PAYABLE MAY BE SECURED.

Amendment.—Delete this Clause.

Reason.—Consequential to above.

Clause 454. DELIVERY ON RECOGNIZANCE.

Amendment.—Delete this Clause.

Reason.—Consequential to above.

Clause 455. POUNDKEEPER TO PAY MONEYS DUE.

Amendment.—Delete the words “or secured” from line 25.

Reason.—Consequential to above.

Clause 456. PROCEEDINGS PRIOR TO SALE.

Amendment.—Amend subclause (1), by inserting the words “or Newspaper circulating in the District” after the word “Gazette” in line 2, on page 250.

Reason.—To permit advertisements to be in the paper instead of the Gazette.

Amendment.—Incorporate here a new clause based on Section 34 of the Cattle Trespass Act reading as follows :—

“(4). In case it shall appear to the Justice of the Peace to whom complaint of any trespass by cattle shall be made that delay in advertising the sale of cattle impounded by any person under the provisions of this Act will involve greater expense than the value of the cattle impounded, or that by reason of the condition or health of such cattle a speedy sale is requisite, such Justice of the Peace may, on proof thereof, order the sale of such cattle at such time and in such manner and under such conditions as he shall think fit :

Provided that nothing in this section contained shall be a bar to the enforcement of liability against the owner of such cattle in respect of any penalty and of all lawful fees, charges, and damages under this Act, and the same may be recovered by the person aggrieved in a summary way on complaint before any two Justices of the Peace.

(4a) Where it appears to any two Justices of the Peace, after inspection of any impounded cattle that—

(i) if such cattle were held for the period and notice of sale advertised in manner hereinbefore prescribed they would not be likely to realise on sale sufficient to pay the poundage fees, expenses of sale, and other lawful charges payable under this Act in connection with such impounding ; and

(ii) that an immediate sale under subsection four of this section would not be likely to realise such fees and charges.

and the owner does not appear and pay such fees and charges incurred in respect of such impounded cattle, and give security to the satisfaction of the Justices for the payment of all such further fees, charges, and expenses as may be awarded in any subsequent proceedings under this Act, the Justices may make an order authorising the immediate destruction or disposal of such cattle and the disposal of the carcase thereof in such manner as the Justices may think fit ; provided that any one Justice may exercise the jurisdiction of two Justices under this Act whenever no other Justice usually residing in the district can be found at the time within a distance of ten miles, provided that the Justice certifies, in writing, that no other Justice can be found within ten miles :

Provided that such destruction shall not be a bar to the enforcement of liability against the owner of such cattle in respect of all lawful fees, charges, and damages under this Act, and the same may be recovered in a summary way on complaint before any two Justices of the Peace."

Reason.—To permit of a speedy sale in certain cases.

Clause 460. POUNDKEEPER MAY RECOVER FEES.

Amendment.—Amend subclause (1), by deleting all the words after the word "owner" in line 17, and inserting in lieu thereof the words "he shall be entitled to recover any deficiency from the Council."

Reason.—To ensure that the Poundkeeper receives his payment.

Clause 461. DESTRUCTION OF INJURED CATTLE.

Amendment.—Insert the words "the Mayor, President, Clerk or" after the word "if" in line 26, and after the word "such" in line 29. Insert the words "or found on any road" after the word "pound" in line 27.

Reason.—To permit destruction on the certificate of a person other than the Justice.

Clause 463. GOATS, ETC., MAY BE DESTROYED.

Amendment.—Add a new sub-section or proviso to prevent the section applying to goats of any breed specified by proclamation to be exempt therefrom.

Reason.—To provide for valuable animals.

Clause 465. POUND RESCUE.

Amendment.—Add a provision imposing most stringent penalties on any person assaulting a pound-keeper or ranger engaged in carrying out his lawful duties.

Reason.—To ensure that poundkeepers are not intimidated.

Clause 467. PENALTY FOR ALLOWING TO STRAY.

Amendment.—Delete this Clause.

Reason.—It is apparently sufficiently covered by Clause 468.

Clause 468. STRAYING CATTLE.

Amendment.—Amend sub-clause (1) by inserting word "having" after word "or" where appearing a second time in line 13.

Reason.—Clarification.

Amendment.—Add a new sub-clause to provide that if any damage to life, limb or property is caused by straying cattle, the owner shall have the right to be awarded damages by any competent court against the owner of the animal concerned.

Reason.—To deal with serious damage to the person caused by straying stock, as recommended by a Coroner as a result of an accident near Bunbury early in the year (1950).

Amendment.—Amend sub-clause (3) to apply only outside the cities, towns and townsites.

Reason.—The provision would not be practicable in rural areas.

Clause 469. AMOUNTS FOR COMPENSATION.

Amendment.—The word “ of ” to be substituted for the word “ or ” in line 32.

Reason.—Typographical error.

Amendment.—It is recommended that all the provisions of the Cattle Trespass Act, apart from those dealing with fencing, should be repealed.

Reason.—The additions made above will permit of the repeal of the Act concerned.

Clause 471. MARKETS.

Amendment.—Amend sub-paragraph (c) by deleting the words “ of the Governor ” and substitute the words “ of the ratepayers of the district, obtained at a meeting called for that purpose.”

Reason.—To make the ratepayers the source of authority.

Clause 476. WEIGH-BRIDGES.

Amendment.—Delete sub-clause (2).

Reason.—The sub-clause provides for the painting of the tare on each vehicle. This has been found extremely difficult and a similar regulation under the Traffic Act was disallowed by Parliament.

Clause 491. TRADE UNDERTAKINGS.

Amendment.—Amend paragraph (a) to be made subject to the Electricity Act and paragraph (b) made subject to the Gas Act.

Reason.—To meet objections raised by the State Electricity Commission.

Amendment.—Amend paragraph (e) by inserting the words “ or bricks from the Council’s Brickworks.”

Reason.—To allow for the fact that councils are empowered to operate brickworks.

Amendment.—Amend paragraph (f), inserting the words “ cement concrete slabs, blocks, bricks or pre-cast concrete sections and drainage structures, street seats, and the supply of bituminous concrete.”

Reason.—To allow for the fact that councils carry on the supply of the materials mentioned.

Amendment.—Add to paragraph (g) the words “ or cool storage.”

Reason.—This is already carried on.

Amendment.—Insert new paragraph (i) “ Water Boring ” and new paragraph (j) “ Sheep Dips.”

Reason.—Several boards already carry on this work.

Amendment.—Insert new paragraph (k) “ Any other undertaking approved by the Minister.”

Reason.—To permit flexibility in meeting new requirements.

Clause 492. EXTENSION OF TRADING UNDERTAKINGS TO OTHER AREAS.

Amendment.—To be made subject to both the Electricity and Gas Acts.

Reason.—To meet objections raised by the State Electricity Commission.

Amendment.—Insert the words “ (e) or (f) ” in line 10.

Reason.—Consequent to the extended powers recommended under Clause 491.

Clause 493. UNDERTAKING TO BE CONDUCTED WITHOUT LOSS.

Amendment.—Insert the words “ but subject to the next following section ” at the end of the clause.

Reason.—Clarification.

Clause 494. APPLICATION OF REVENUE, ETC.

Amendment.—Amend sub-clause (2) as follows :—By deleting the words “ the Minister ” from line 23 and substituting the word “ it ”. Inserting the words “ in any investments in which Trustees are authorised to invest or ” after the word “ investing ” in line 24.

Delete the words “ the same ” from line 24.

Reason.—To make it unnecessary for the amount of the Reserve Fund to be approved by the Minister while permitting his approval of any investment other than authorised Trustee investments.

Amendment.—Amend sub-clause (5), deleting all words after the word “ made ” in line 7, and substituting the words “ to the Municipal Fund.”

Delete the words “ with the written consent of the Minister ” from lines 4 and 5.

Reason.—To reduce the Ministerial controls in the clause, to which objections had been made.

Clause 495. SINKING FUNDS WHERE LOAN RATES.

Amendment.—Substitute the words “ the last preceding section ” for the words “ Section 495 ” in lines 10 and 11, and correct lines 18 and 21 to coincide.

Reason.—Drafting error.

Clause 496. RESERVE FUND.

Amendment.—Delete the words “ with the consent of the Minister ” from lines 27 and 28 and substitute the words “ with the consent of the ratepayers obtained at a meeting called for that purpose.”

Delete the words “ the Minister ” from line 29 and substitute the words “ the Council.”

Reason.—To make the ratepayers the source of authority rather than the Minister.

Clause 498. FRANCHISES FOR ELECTRICITY.

Amendment.—Delete the clause.

Reason.—It is considered that the provisions are adequately covered by the Electricity and Gas Acts and the State Electricity Commission has suggested the deletion.

Clause 499. COUNCIL MAY PERMIT CERTAIN WORKS.

Amendment.—Amend sub-clause (1) by deleting the words from the word “ for ” in line 1 down to the word “ and ” in line 4.

Reason.—Consequential to above.

Clause 501. OTHER POWERS.

Amendment.—Amend sub-clause (7), to be subject to the Electricity Act.

Reason.—To meet objections raised by the State Electricity Commission.

Amendment.—Amend sub-clause (8) by deleting the words “ subject in every case to the approval of the Minister ” from lines 33 and 34.

Reason.—Ministerial control considered unnecessary.

Amendment.—Amend sub-clause (9). To be clarified so that it will stand as a completed sub-section, without confusing cross references ; that is, e.g., In ‘ b ’ the word “ sub-section ” should read “ the last preceding sub-paragraph.”

Delete sub-paragraph (f).

Reason.—Clarification and to give power to meet the loan commitments from ordinary revenue, instead of charging the proceeds, rents, etc., specifically for the purpose. That would enable a council to use moneys received from cash sales of houses to build further houses instead of automatically applying these sums to loan repayments.

Clause 502. SAND-DRIFT.

Amendment.—Add to the sub-clause a provision permitting the council to serve an order forbidding cultivation of land likely to drift.

Add a new section (3) as follows :—

(1) Whenever the council shall be of the opinion that for the purpose of preventing wind erosion or sand-drift which would be liable or likely to obstruct or injuriously affect any road the vegetation growing on any land within three chains of such road should not be cut down or otherwise destroyed, or injured ; it may serve notice upon the owner of that land or if the owner is not the occupier, upon the occupier also :—

(a) Setting out the opinion of the council, and

(b) inviting the person upon whom the notice is served to show cause not later than a day specified in such notice, why an order should not be made forbidding the cutting down or other destruction or injury of vegetation on the land specified in the notice without the consent of the council.

(2) A person on whom a notice is served under sub-section (1) of this section, shall not, during the period between the service of the notice and the service upon him of an order or notice under sub-section (4) of this section, cut down, destroy or injure any vegetation on the land specified in the first mentioned notice, and if he does so he shall be guilty of an offence.

Penalty—One Hundred Pounds.

(3) After service of a notice or notices as mentioned in sub-section (1) of this section in relation to any land and after hearing and considering any representations made pursuant to the notice or notices the council may make an order that vegetation upon the said land shall not be cut down or otherwise destroyed or injured, during the period specified in the order, except in circumstances or with the consents (if any) as may be specified in the order.

(4) The order shall be served upon the owner of the land to which it relates, and, if the owner is not the occupier, upon the occupier also. If the council desires not to make an order it shall forthwith after making that decision serve notice thereof on the owner of the land to which the decision relates, and if the owner is not the occupier, upon the occupier also.

(5) If any person upon whom an order is served under this section contravenes the order in any way, he shall be guilty of an offence.

Penalty—One Hundred Pounds.

(6) (a) The council may give its consent to the cutting down or other destruction of, or injury to, any vegetation upon the condition that the person to whom the consent is given will, within the time specified by the council, plant other vegetation of the kind required by the council in replacement of any vegetation cut, destroyed or injured pursuant to the consent. (b) If any person who has cut down or injured any vegetation pursuant to a consent given upon condition as mentioned in this sub-section, fails to comply with that condition, he shall be guilty of an offence.

Penalty—One Hundred Pounds.

(7) The term "vegetation" in this section shall mean and include all trees, shrubs, plants and grasses growing on the land at the time of the service of any notice or an order under this section in relation to shrubs, plants or grasses or any class of them in substitution for or in addition to trees, and in any such case this section shall apply to such shrubs, plants and grasses, and the term "vegetation" as used in this section shall be deemed to include such shrubs, plants and grasses and provided also that the term "vegetation" shall not mean or include any shrub or plant which is at the time declared under the Noxious Weeds Act, 1924, or any amendments thereof to be a noxious weed within the district.

(8) Any person upon whom an order has been served under sub-section (4) of this section may appeal against such an order to the Minister of Agriculture who may by notice to the Council and the appellant, vary, amend, confirm or quash any such order.

Reason.—To give councils power to control soil erosion.

Clause 503. IN DEFAULT.

Amendment.—The word "three" in line 36 should read "two."

Reason.—Drafting error.

Clause 509. PRIVATE WORKS.

Amendment.—Sub-clause (2) to be amended into two separate sub-sections, firstly, to permit the council to carry out for its ratepayers work which falls within the normal activity of the council, i.e., making of crossings, footpaths, private streets, drainage, etc., without the approval of the Minister being obtained:

Secondly: Provide for the power to do other works which are not within the normal scope of the council's activity, provided the consent of the Minister is obtained.

Reason.—To remove objections to Ministerial control, this now being reserved for things beyond the normal scope of the Act.

Clause 511. FUNDS.

Amendment.—Delete sub-clause (1) (b).

Reason.—A special fund is considered unnecessary.

Amendment.—Delete sub-clause (3) and substitute that one banking account may be kept in respect of the municipal and any trading funds but separate accounts must be kept for trust funds, loan capital funds, and reserve funds.

Reason.—To simplify the banking of moneys.

Clause 512. ORDINARY REVENUE.

Amendment.—Transpose the position of sub-clauses (2) and (3) and add to the present sub-clause (2) the words "but may be carried to any of the council's funds as shall be ordered by the council."

Reason.—Clarification.

Clause 513. GOVERNMENT GRANTS.

Amendment.—Substitute the word "revenue" for the word "income" in line 25.

Reason.—Clarification.

Clause 514. SPECIAL FUND.

Amendment.—Delete this clause.

Reason.—A special fund is considered unnecessary.

Clause 515. TRADING FUND.

Amendment.—In sub-clause (2) amend the expression " 91 to 98 " in lines 30 and 31 to read " 90 to 97."

Reason.—Drafting errors.

Clause 518. RESERVE FUND.

Amendment.—Amend sub-clause (1) (a) by inserting the word " nineteen " for the word " twenty " in line 13. Insert the word " replacement " after the word " plant." Insert the words " or general reserve fund " at the end of line 13.

Reason.—Drafting errors and clarification.

Amendment.—Amend sub-clause 2 (a) by inserting the words " or replacement " in line 17, after the word " purchase."

Amend sub-clause 2 (b) by substituting the word " on " for the word " or " in line 18. Delete the word " Minister " from line 20, and insert the words " ratepayers, obtained at a meeting called for that purpose."

Amend sub-clause 2 (c) by inserting the words " as Trustees are authorised to use as investments or " after the word " investment " in line 21.

Amend sub-clause 2 (d) by deleting the word " Minister " from line 25, and substituting the words " Ratepayers, obtained at a meeting called for that purpose."

Reason.—To provide for the final controls being vested in the ratepayers rather than the Minister. Alternatively after the Reserve Fund Act at present under discussion is passed this clause should be brought into line with that.

Clause 519. APPLICATION OF MUNICIPAL FUND.

Amendment.—Amend sub-clause (5) by including a specific power for " public risk insurance " and any other class of insurance deemed necessary. Make specific provision for insurance of members of the Council amending all qualification and disqualification clauses to cover this.

Reason.—To enable members of Councils to be covered against the risk of injury and to allow for public risk insurance.

Amendment.—Amend sub-clause (6) by inserting the word " general " before the word " reserve " in line 42. Sub-divide paragraph (a) into three parts authorising :—

- (i) the appropriating to the General Reserve Fund for specific or general purposes, sums arising from the sale of capital assets.
- (ii) Appropriating to the General Reserve Fund not more than 5 per cent. of the annual revenue.
- (iii) Appropriating amounts in excess of 5 per cent. if the approval of the ratepayers has been obtained.

Paragraph (B) to be amended to read " The Fund may be invested in securities in which trustees are authorised to invest moneys, or any other securities approved by the Minister."

Paragraph (C) : Expenditure from funds, if withdrawn from moneys set aside for general purposes, shall be approved by a meeting of the ratepayers.

Reason.—To extend the Reserve Fund powers but to ensure control by either the ratepayers or the Minister.

Amendment.—Amend sub-clause (7) by deleting the word " investment " from line 7. Add a provision for investment in trustee securities or other securities approved by the Minister. Delete the word " annual " from line 4.

Reason.—Lessened Ministerial control. Greater flexibility.

Amendment.—Amend sub-clause (8) by inserting the words " or for any purpose connected with a Royal Visit " after the word " purposes " in line 13. Delete the words dealing with the approval of the Minister, from lines 15 to 17.

Reason.—Extending powers of expenditure and reducing Ministerial control.

Amendment.—Amend sub-clause (11) by deleting " the approval of the Minister," from lines 25 to 30.

Reason. Reducing Ministerial control.

Amendment.—Amend sub-clause (12) by sub-dividing it into two, as follows :—

In paying (a) reasonable expenses (including any loss necessarily incurred, with a limit of £10 for each person) incurred by not more than two delegates in attending any Municipal Conference.

(b) of reasonable expenses incurred by any member of a Council in carrying out any duty or performing any act under express authority of the Council.

Insert the words "or any committee thereof" in line 43.

Reason.—Increasing the amount claimable for loss of time in attending conferences and reducing Ministerial control.

Amendment.—Amend sub-clause (13) by substituting the word "five" for the word "two" where appearing in the second line on page 281.

Reason.—Increasing the amount payable for travelling expenses to meetings.

Amendment.—Amend sub-clause (14) by adding a power to pay proportionate long service leave, in respect of joint employees, who have transferred to an authority, with which a joint appointment had been held.

Reason.—To provide for joint employees.

Amendment.—Amend sub-clause (16) by deleting the words "within the State" from line 10.

Reason.—To permit subscription to Local Government Associations beyond the State.

Amendment.—Amend sub-clause (18) by adding to this "or any Court of Appeal or Valuation Court." Insert a new sub-clause, authorising the Council to purchase motor vehicles for resale to officers using them in the discharge of their duties.

Reason.—To cover expenses of witnesses and attending Appeal Courts and permitting the Council to purchase motor vehicles for resale to officers.

Clause 520. OTHER EXPENDITURE POWERS.

Amendment.—Amend sub-clause (2) by deleting the words "with the approval of the Governor" from line 11. Delete the words "or sums not exceeding in the aggregate 10 per cent. of such ordinary revenue" from lines 13 to 15.

Delete the proviso of Paragraph (iii). Add to paragraph (iv): Life Saving Clubs, Youth Centres and Women's Rest and Refreshment Centres.

Reason.—To extend power slightly and to eliminate Vice Regal and financial restrictions.

Clause 521. WARD ACCOUNTS AND DIFFERENTIATION.

Amendment.—Insert the words "of any Shire" after the word "Council" in line 41.

Reason.—To restrict differentiation in rating to shires.

Clause 522. RATEABLE PROPERTY.

Amendment.—To be redrafted to restrict the Crown exemption to an absolute minimum which is acceptable to the Government and authorising that residences and trading concerns at the very least are made rateable.

Reason.—The Local Authorities complain bitterly of the gradual increase in the amount of unrateable property, hence the recommendation that this should be restricted as much as possible.

Amendment.—Amend sub-clause (2) by deleting the words "or held" from line 13. Insert the words "used as a place of residence" before the word "by" in line 16. Add a proviso that the exemption shall apply to the buildings themselves and to an area of land used in conjunction therewith, but not exceeding 10 times the area covered by the buildings used.

Reason.—To reduce the exemption in respect of Church properties by restricting the area and requiring residence as a basis of exemption for land belonging to religious brotherhoods.

Amendment.—Amend sub-clause (3) by deleting the words "at which no fees are charged" from line 21. Add a proviso that in respect of hospitals, asylums, orphanages, public and private schools, the exemption shall apply only to the buildings and to an area of land used in conjunction therewith, which shall not exceed 10 times the area covered by the buildings.

Reason.—Correcting a drafting error and then reducing the area which may be exempted in respect of schools, orphanages, etc.

Amendment.—Amend sub-clause (4) by deleting the words "or held" from line 24. Add a limitation restricting the exemption to 50 acres of land as in the Queensland Local Government Act.

Reason.—To prevent land being exempted for charitable purposes unless it is used as such, and limiting the area.

Amendment.—Amend sub-clause (6) by deleting the words “or held” from line 31.

Reason.—To ensure that exemption only applies when the land is used as a cemetery.

Amendment.—Amend sub-clause (7) by deleting the words “by the Governor, or” from line 32. Add a proviso to ensure the land exempted by declaration of the Governor in the past, shall no longer be exempt by virtue of the declaration. Paragraph (c) of the proviso to stand if the recommendations in respect of Clause 522 (1) are not accepted, and in this case the proviso should also extend to remove exemption of land used for trading purposes. If the recommendation for 522 (1) is accepted, the proviso could be deleted.

Reason.—It is felt that exemption should not be given other than by Statute.

Amendment.—Amend the last proviso in lines 13 to 18 by fixing a limit of two years.

Reason.—It is felt that this exemption should be restricted to a short period.

Clause 523. ANNUAL VALUATION.

Amendment.—Amend as follows :—

Insert the word “such” after the word “every” in line 24. Add to the clause the words “or varied, subject to the provisions of this Act for variation.”

Delete sub-clause (2).

Substitute the word “seven” for the word “three” in line 35. Incorporate in the clause the provisions of the proviso of Section 219 of the Road Districts Act, i.e., “Provided also that the Council may in its discretion, instead of causing fresh valuations to be prepared in any year, use the valuations of the last or any previous year, with such alterations and additions as appear necessary, and that no valuation need be made which is not requisite for the purpose of assessing rates.”

Reason.—To prevent partial re-valuations and to extend the period during which a valuation may be permitted to endure.

After this clause insert a definition of unimproved land which shall be deemed to be land upon which there has not been effected improvements to either one-third of the capital value of the vacant land or £50 per lineal foot of frontage, whichever is the lesser. Use the word “unimproved” instead of “vacant” in the other clauses of this part.

Reason.—To clarify the present doubt as to what constitutes vacant land.

Clause 524. CHANGE OF ASSESSMENTS.

Amendment.—Amend sub-clause (2) by deleting the necessity for the consent of the Governor, from lines 3 and 4. Delete the words after “townsite” in line 6, and substitute the words “or in any other portion of the district which the Governor at the request of the Council has prescribed.”

Substitute the word “unimproved” for the word “vacant” in line 5.

Reason.—To remove the necessity for Vice Regal approval in view of the fact that the ratepayers must approve by a poll.

Amendment.—Amend subclause (6) by deleting “the consent of the Governor” in lines 24 and 25.

Reason.—To obviate disputes as to what constitutes unimproved land.

Clause 525. POLL.

Amendment.—Delete the word “statutory” from line 28.

Reason.—Consequential upon reversion to annual elections.

Clause 526. COUNCIL TO TAKE POLL ON DEMAND.

Amendment.—Amend subclause (1) by deleting the word “statutory” from line 36. Substitute the word “six” for the word “four” in line 37.

Amend subclause (2) to provide that a petition must be signed by 10% of the persons whose names are inscribed on the Municipal Roll, for the area or the particular portion.

Amend subclause (3) to make the deposit £25 in districts, but £50 in towns and cities.

Reason.—To provide for annual elections; to allow for a period of six months to elapse between the presentation of petition and the holding of a poll; to require a larger number of ratepayers to petition; and to increase the amount of the deposit particularly in towns and cities.

Clause 527. CONDITIONS OF POLL.

Amendment.—Amend by deleting the word “statutory” from line 14. Add a new clause to provide that no new petition for a poll on the question of valuation, may be presented earlier than 3 years from the taking of a poll on the subject.

Reason.—To provide for annual elections and to prevent polls being demanded too often.

Clause 528. PROCEDURE AT POLL.

Amendment.—Amend subclause 1 by deleting the word “statutory” from paragraph (d) and substituting the word “annual.”

Reason.—To provide for annual elections.

Amendment.—Amend paragraph (e) to refer to both owners and occupiers.

Reason.—As the occupiers contribute to meet the rates they should have the right to vote at such poll.

Amendment.—Amend subclause (3) by striking out the definition of ratepayer and permitting both owners and occupiers to vote.

Reason.—See above.

Clauses 529 and 530. ACTION WHEN POLL CARRIED.

Amendment.—To be coalesced into one section to read as follows:—

“on the carrying of poll in favour of the proposed change, a council shall duly make the change in the system of valuation to have effect as and from the first day of July next following.”

Reason.—Simplification.

Clause 533. ANNUAL VALUE.

Amendment.—Amplify paragraph (a) to provide that the term “land” shall not include any furniture, plant, fixtures and fittings, with the exception of air-conditioning machinery, lifts and escalators.

Reason.—To specifically exclude certain types of plant, etc., but to include air-conditioning machinery, etc., as part of a building for valuation purposes.

Amendment.—Amend sub-paragraph (b) as follows:—

Provide that the annual value shall be 60% instead of 2/3.

Add a definition of rent as follows:—

“the word rent when used in this section shall mean the payment made for the use of land and also the cost of compliance with any onerous covenants, such as painting, etc., if these are the responsibility of the lessee, and rates and taxes levied against the proprietor during the preceding year, if rates and taxes are the responsibility of the lessee; and also a proportion of any amount paid for ingoing or any premium, such proportion being related to the term of the lease.”

Reason.—To accord with the present common practice at arriving at the valuation and to clarify the position in regard to rentals.

Amendment.—Amend sub-paragraph (c) by substituting the word “ten” for the word “five” in line 32.

Reason.—To be consistent with paragraph (f).

Amendment.—Amend paragraph (e) by deleting the words “in the same neighbourhood” from line 10.

Reason.—Clarification.

Amendment.—Amend paragraph (g) by substituting the word “five” for the word “ten” in line 24.

Reason.—To reduce the minimum annual value contemplated.

Clause 534. EACH LOT TO BE VALUED SEPARATELY.

Amendment.—Add to the clause “if it is unimproved land.”

Reason.—To cope with the fact that certain city properties are built on more than one lot.

Clause 537. RULES FOR VALUATIONS.

Amendment.—Amend by prefacing paragraph (ii) of subclause (1) with the words “except in respect of land being used as a stone quarry.”

Reason.—In order that the value of the stone in quarries may be calculated as part of the value for rating purposes.

Clause 539. VALUATION OF TRAMWAYS.

Amendment.—Amend subclause (11) also to exempt the Eastern Goldfields Board.

Reason.—Requested by the Kalgoorlie local authority.

Clause 540. VALUATION OF ELECTRIC LINES.

Amendment.—Amend subclause (3) by substituting the word "council" for the word "board" in line 6.

Reason.—Drafting error.

Amendment.—Amend subclause (8) to provide that this shall not over-ride any provision of the State Electricity Commission Act.

Reason.—To meet objections raised by the State Electricity Commission.

Clause 541. APPOINTMENT OF VALUERS.

Amendment.—Amend as follows :—Delete the words "or the Municipal Clerk" from line 25. Define a "qualified valuer" as a person holding a Certificate of Qualification as a valuer, issued in accordance with regulations made under this Act, but until certificates of qualification have been so issued the term shall include a member of the Commonwealth Institute of Valuers, or a sworn valuator.

Reason.—To enable the Municipal Clerk to make values if he is qualified. To clarify the meaning of the words "qualified valuer."

Clause 542. MAKING OF VALUATION.

Amendment.—Delete subclause (4).

Reason.—The notice mentioned in the subclause appears unnecessary.

Amendment.—Amend subclause (5) as follows :—Substitute the word "June" for the word "July" in line 39. After the word "shall" in line 40, insert the words "subject to the provisions of this Act."

Reason.—To permit valuation to be adopted prior to the opening of the year.

Amendment.—Amend subclause (8) by deleting the proviso.

Reason.—The proviso contemplates the appointment of a valuer general and it is felt that it would be preferable for this to be dealt with when the time arises. Moreover, the City Council, at least, wishes to be exempted from any provision for the appointment of a valuer general.

Clause 543. VALUER MAY ENTER PREMISES.

Amendment.—Insert the words "appointed under this Act" after the word "valuer" in line 39.

Reason.—Clarification.

Clause 545. REDUCTION ON TAXATION VALUES.

Amendment.—Insert the words "increased or" in line 28. Insert the words "increase or" after the word "similarly" in line 30.

Reason.—To provide that both increases or reductions by the Taxation Department should be automatically followed by the council.

Clause 546. RATE BOOK.

Amendment.—Amend subclause (2) by deleting the necessity for the Mayor or President to initial the rate book.

Reason.—If this is done properly it may impose a heavy burden, while if it is not done properly it is useless.

Clause 548. NOTICE FOR VALUATION.

Amendment.—Amend paragraph (a) by inserting the words "the valuation and" after the word "particulars" in line 38.

Reason.—Consequential upon the deletion of subclause (4) of Clause 542, and to clarify.

Clause 550. ALTERATIONS TO RATE BOOK.

Amendment.—Amend paragraph (e) of sub-clause (1) as follows:—

“ Add to this a proviso that the Council may include in its rate book for the actual tenure only in respect of property the subject of a short term lease from the Crown (e.g., mining leases) ”.

Reason.—To provide for short term leases.

Amendment.—Amend paragraph (f) by correcting error in sections numbers mentioned.

Reason.—Drafting error.

Amendment.—Amend sub-clause (2) by adding the words “ or the City of Perth Rating Appeal Board.”

Reason.—Clarification.

Amendment.—Amend sub-clause (4) by deleting the words “ Mayor or President ” in line 19 and substituting the words “ officer responsible.”

Reason.—To make it unnecessary for the Mayor or President to initial alterations.

Clause 552. REFUNDING OVER-PAYMENTS.

Amendment.—Correct section number in line 18.

Reason.—Drafting error.

Clause 553. EXTENSION OF TIME FOR MAKING RATE BOOK, ETC.

Amendment.—Substitute the word “ council ” for the word “ board ” in line 37.

Reason.—Drafting error.

Clause 554. BUDGET.

Amendment.—Amend sub-clause (1) by deleting from the word “ on ” to the word “ July ” in line 1, and substitute the words “ not later than the 31st day of August.”

Reason.—To allow a little more time.

Amendment.—Amend sub-clause (3) by substituting the word “ August ” for the word “ July ” in line 10.

Reason.—Providing more time.

Amendment.—Amend sub-clause (5) by deleting the words after the word “ function ” in line 29.

Reason.—Simplification.

Amendment.—Amend sub-clause (6) by deleting the words “ the area ” from line 35 and substituting the words “ any shire.”

Reason.—To confine rate differentiation to shires.

Amendment.—Amend sub-clause (8) by deleting paragraph (b) and substituting the word “ payments ” for the word “ disbursements ” in lines 11 and 13.

Reason.—Simplification.

Amendment.—Amend sub-clause (11) by deleting the words “ month of July ” and substituting the words “ months of July and August ” and also substitute the word “ payments ” for the word “ disbursements ” in line 24.

Reason.—Extending of time and simplification.

Amendment.—Amend sub-clause (12) by substituting the word “ payments ” for the word “ disbursements ” in line 27.

Also add to the clause the words “ unless authorised by an absolute majority of the council.”

Reason.—To prevent the budget being subsequently altered by a minority.

Clause 555. LEVYING RATES.

Amendment.—Amend sub-clause (1) by deleting the words “ in the month of July ” and substituting the words “ not later than the 31st day of August.”

Reason.—To allow more time.

Amendment.—Amend sub-clause (2) by prefacing with the words “ in the case of cities and towns such rate shall be at a uniform rate in the pound upon all rateable land within the area, and in the case of shires.”

Reason.—To permit differentiation only in shires.

Clause 556. RATES TO BE FOR FULL YEAR.

Amendment.—Amend second proviso by deleting the words “in case of emergent need” from line 22 and substituting the words “any extraordinary circumstances which are by an absolute majority of the council declared to be an emergency.”

Reason.—To ensure that supplemental rates will be levied only in extraordinary circumstances.

Clause 557. MANNER OF MAKING RATE.

Amendment.—Add a proviso that rates not paid before 31st October shall thenceforth be deemed for all purposes to be arrears.

Reason.—Clarification.

Amendment.—Take in after this clause the express power for the council to allow discount upon rates in terms similar to the present Road Districts Act.

Reason.—To meet the request of a number of councils for the right to continue to allow discount.

Clause 558. NEWLY CONSTITUTED AREAS.

Amendment.—Amend section numbers mentioned in sub-clause (2).

Reason.—Drafting error.

Clause 559. MINIMUM RATE.

Amendment.—Delete the words “ten shillings” from line 20 and substitute the words “not more than one pound.”

Reason.—To permit a higher minimum to be levied if the council so desires.

Clause 561. APPEALS.

Amendment.—Amend this clause by inserting after the word “appeal” in line 38 of sub-clause (1) the words “to a valuation appeal court or to the City of Perth Appeal Board as provided in Section five hundred and sixty-two.”

Reason.—Clarification.

Amendment.—Delete sub-clause (3).

Reason.—This sub-clause deals with appeals against any valuation of a valuer general and it is considered that it should be deleted and dealt with when the occasion arises.

Clause 562. VALUATION COURTS.

Amendment.—Amend sub-clause (1) by inserting the word “appeal” after the word “valuation” in lines 25 and 26.

Reason.—Clarification.

Amendment.—Amend sub-clause (2) by adding a specific provision for the City of Perth Rating Appeal Board.

Reason.—Clarification.

Amendment.—Amend sub-clause (3) by substituting the expression (2) for the expression (1) in line 32.

Reason.—Drafting error.

Amendment.—Amend paragraph (c) of sub-clause (3) by inserting the word “fit” after the word “think” in line 40.

Reason.—Drafting error.

Amendment.—Amend sub-clause (3) by inserting a new paragraph (g) providing a power for the Governor to fix the remunerations or fees payable to members of a Valuation Appeal Court.

Reason.—To supply an omission.

Clause 563. NOTICE OF APPEAL.

Amendment.—Add to paragraph (a) the words “specified in Section Five hundred and forty-eight.”

Reason.—Clarification.

Clause 567. LIABILITY FOR RATES.

Amendment.—Amend sub-clause (1) by deleting all the words “and any mortgage to the Rural and Industries Bank of W.A.”

Reason.—It is considered that the Rural and Industries Bank should not have greater protection than any other trading concern.

Amendment.—Amend sub-clause (2) to distinguish between an offence due to ignorance and a wilful offence.

Reason.—To provide for cases of a breach due to ignorance.

Clause 573. DEFENCE IN SPECIAL CASES.

Amendment.—Correct section number mentioned.

Reason.—Drafting error.

Clause 583. TRANSFERS.

Amendment.—Delete sub-clause (1).

Reason.—The sub-clause prevents the transfer of land being registered until a certificate of payment of rates has been issued.

It has been claimed that this will unduly impede the work of the Land Titles Office and react adversely upon persons who sell or purchase land.

Clause 588. VESTING LAND IN THE COUNCIL AFTER LEASING.

Amendment.—Delete the words “and to any mortgage in favour of the Rural and Industries Bank of W.A.”

Reason.—It is considered that the Rural and Industries Bank should protect its own interests.

Clause 590. CONDITIONS FOR SELLING FOR RATES.

Amendment.—Amend sub-clause (1) by substituting the word “seised” for the word “seized” in line 17.

Reason.—Typographical error.

Clause 591. CONTENTS OF NOTICE.

Amendment.—Amend sub-clause (2) by correcting section number mentioned.

Reason.—Drafting error.

Clause 592. FIXING OF TIME.

Amendment.—Correct section number mentioned.

Reason.—Drafting error.

Clause 593. ADVERTISEMENT OF SALE.

Amendment.—Delete paragraph (b) of sub-clause (1).

Reason.—It is not considered necessary that the sale should be advertised in the “Gazette.”

Amendment.—Amend paragraph (c) of sub-clause (1) by substituting the words “on the official notice board of the Council” for the words “in a conspicuous place at the office of the Council.”

Reason.—Ensuring that notice will be properly displayed.

Amendment.—Amend paragraph (c) by deleting line 2 and substituting the words “the opinion of the Council are necessary.”

Reason.—Simplification.

Clause 595. POWER OF COUNCIL TO TRANSFER.

Amendment.—Amend by deleting the words “and to any Mortgage in favour of the Rural and Industries Bank of W.A.”

Reason.—The Rural and Industries Bank should protect its own interests.

Clause 597. DUTIES OF COUNCIL.

Amendment.—Delete line 5 on page 326.

Reason.—Typographical error duplication.

Clause 599. APPLICATION OF PURCHASE MONEY.

Amendment.—Delete the paragraph headed "thirdly."

Reason.—It is not considered that a special privilege should be accorded the Rural and Industries Bank.

Clause 602. PROCEEDINGS LAPSE AFTER ONE YEAR.

Amendment.—Add a proviso requiring the purchasers to register within 12 months and protecting the Council in the case of their default.

Reason.—Placing the onus upon the purchaser to register within a specified period.

Clause 603. POWER TO TRANSFER TO THE CROWN.

Amendment.—Amend sub-clause (1) by inserting the words "or no transfer is registered" after the word "unsold" in line 40.

Reason.—To deal with cases where the land has been sold but the purchaser has failed to register the transfer.

Clause 604. POWER TO TRANSFER TO COUNCIL.

Amendment.—Amend sub-clause (1) by inserting the words "or no transfer is registered" after the word "unsold" in line 27. Add to the sub-clause the words "except the Rural and Industries Bank."

Reason.—Consequential, see above.

Clause 606. REVESTING IN CROWN.

Amendment.—Correct section number mentioned in sub-clause (4).

Reason.—Drafting error.

Clause 607. SAVING PROVISIONS.

Amendment.—Correct section number mentioned.

Reason.—Drafting error.

Clause 608. OVERDRAFT.

Amendment.—Amend sub-clause (1) as follows:—

Insert the words "or carry on any other activities of the Council" after the word "works" in line 28. The word "fo" in line 3 should read "of". Alter line 35 to read "in sub-section 1 of section Five hundred and twelve of this Act".

Reason.—Clarification and typographical error.

Amendment.—Amend sub-clause (2) as follows:—

Amend line 1 to read "sub-section one of section five hundred and twelve of this Act".

Reason.—Clarification.

Clause 611. LIMITATION OF BORROWING.

Amendment.—Amend sub-clause (1) paragraph (a) to provide a definition of ordinary revenue in accordance with sub-section one of section five hundred and twelve, but having deducted therefrom the sum necessary to meet the interest and repayment commitments on any existing loans.

Reason.—In view of the fact that there may be no loan rates levied, it is necessary that the loan payment be deducted from the ordinary revenue for the purpose of ascertaining borrowing powers.

Clause 613. WORKS OR UNDERTAKINGS.

Amendment.—Amend sub-clause (8) by deleting the words after "tramcars" in line 10.

Reason.—The vehicles mentioned are incorporated under sub-clause (25).

Amendment.—Amend sub-clause (9) as follows :—

Delete the comma after the word “welfare” in line 14. Delete the words “hostels for school children” in lines 14 and 15.

Reason.—Portion already covered and also typographical error.

Amendment.—Delete sub-clause (21).

Reason.—It is not now considered to be required, as it deals with Customs Bond Warehouses.

Amendment.—Amend sub-clause (25) as follows :—

Preface this with the words “the construction or purchase of aeroplanes and motor vehicles including omnibuses and school buses and”.

Reason.—Transferring from sub-clause (8) above.

Amendment.—Amend sub-clause (27) as follows :—In the proviso substitute the expression “(8)” for the expression “(7).”

Reason.—Correcting drafting error.

Clause 615. FORM OF DEBENTURES.

Amendment.—Amend sub-clause (1) by inserting the word “appropriate” before the word “form” in line 10.

Reason.—Clarification.

Amendment.—Amend sub-clause (2) by deleting the words “the face or back of” from line 14. After the word “debenture” insert the words “which is repayable on the instalment principle.”

Reason.—Clarification.

Clause 618. REGISTER OF DEBENTURES.

Amendment.—Correct section number mentioned in last line.

Reason.—Drafting error.

Clause 619. LIMITATION PERIOD OF LOANS.

Amendment.—Substitute the word “thirty-six” for the word “thirty” in last line.

Reason.—To permit of loans of slightly longer terms.

Clause 620. PLANS TO BE PREPARED.

Amendment.—Delete sub-clause (2).

Reason.—Objection has been taken to this sub-clause which requires Ministerial approval of Plans of Constructional Works. It is understood that the idea was an Engineering Certification hence this clause could be deleted.

Clause 622. POLLS OF OWNERS.

Amendment.—Amend the clause to provide that voting rights shall be held by both owners and occupiers who are on the ordinary roll.

Reason.—As the occupiers have to provide the money to meet the rate payments, it is considered that they should be consulted in regard to Loans proposed.

Amendment.—Correct section number mentioned in second proviso.

Reason.—Drafting error.

Clause 623. VOTE OF OWNERS.

Amendment.—Amend sub-clause (2) as follows :—

Substitute the word “twenty-one” for the word “fourteen” in line 18 of paragraph (a). Substitute the word “twenty-second” for the word “fifteenth” in line 23 of paragraph (b), and amend paragraph (e) by substituting the word “twelve” for the word “fourteen” in line 41 and also in line 2 on page 342. Amend paragraph (j) by substituting the word “five” for the word “ten” in line 36.

Reason.—To provide for more time for the various stages of the preparation of the Special Roll.

If the principle outlined above for both owners and occupiers to be permitted to vote is accepted, the provision for a Special Roll might well be deleted.

Clause 626. LOAN COMMITMENTS INCLUDED IN BUDGET.

Amendment.—Amend sub-clause (1) by correcting section numbers.

Reason.—Drafting error.

Amendment.—Amend sub-clause (2) by deleting the words “ with the consent of the Minister ” from lines 22 and 23.

Reason.—It is considered that the control of the Minister is unnecessary.

Clause 627. SINKING FUND.

Amendment.—Recast this clause.

Reason.—Both types of repayment should be provided for in respect of future loans.

Clause 629. POWER TO PURCHASE DEBENTURES.

Amendment.—Substitute the words “ Mayor or President and the Clerk ” for the word “ Council ” in line 6.

Reason.—To make it a specific obligation upon the Mayor and Clerk to arrange for the Cancellation of Debentures.

Clause 642. SEPARATE ACCOUNT OF EACH LOAN.

Amendment.—Delete the clause.

Reason.—The provision is covered in Clause 517.

Clause 646. AGREEMENTS WITH STATE HOUSING COMMISSION.

Amendment.—Amend to bring into line with the Bill at present before Parliament.

Reason.—Consistency.

Clause 647. BORROWING POWER NOT INVOLVED.

Amendment.—Correct section numbers mentioned in the clause.

Reason.—Drafting error.

Clause 648. RATIFICATION OF AGREEMENTS.

Amendment.—Correct section numbers mentioned in the clause.

Reason.—Drafting error.

Clause 649. BOOKS OF ACCOUNT.

Amendment.—Amend sub-clause (6) by inserting the words “ received on behalf ” after the word “ money ” in line 31.

Reason.—Clarification.

Amendment.—Amend sub-clause (6) by deleting the word “ not ” from line 36.

Reason.—Drafting error.

Amendment.—Amend sub-clause (7) by inserting the words “ or Deputy Mayor or Deputy President ” after the word “ President ” in line 38. Insert after the word “ or ” in line 39 the words “ (in any case where there is no Treasurer) by.”

Reason.—To provide for Deputy Mayor, etc.

Amendment.—Amend sub-clause (9) by deleting the word “ Minister ” from line 12 and substituting the word “ Council.”

Reason.—It is not considered that the Minister should have the power to remove an officer for failure to carry out his duties.

Amendment.—Add to the clause a provision that a Register of Charges on land in respect of works carried out by a Council and also a Register of Deeds and Contracts shall be kept and shall be open to the inspection of any ratepayer or creditor.

Reason.—To ensure the keeping of records and for the guidance of people concerned.

Clause 650. BOOKS TO BE ENTERED UP REGULARLY.

Amendment.—Amend sub-clause (2) by adding the words “ and the Council.”

Reason.—To ensure that no such report is suppressed.

Amendment.—Delete sub-clause (3).

Reason.—It is considered that this gives to the Mayor a power which should be exercised only by a Court.

Clause 651. MONTHLY STATEMENTS.

Amendment.—Delete all words after the word “ minutes ” in line 40.

Reason.—Simplification.

Clause 652. ANNUAL BALANCING OF ACCOUNTS.

Amendment.—Amend sub-clause (1) by substituting the words “ two months ” for the words “ twenty-eight days ” in line 1.

Reason.—To allow a little more time.

Amendment.—Delete sub-clause (4).

Reason.—Unnecessary, as covered in other clauses.

Clause 653. MONEY ON HAND AT END OF YEAR TO BE BANKED.

Amendment.—Delete the clause.

Reason.—Considered unnecessary.

Clause 654. PERSON INTERESTED MAY BE PRESENT AT AUDIT.

Amendment.—Delete the clause.

Reason.—Considered to be an anachronism.

Clause 655. ANNUAL STATEMENT.

Amendment.—Delete paragraph (b) from sub-clause (2).

Reason.—The paragraph requires a statement of contracts to be given with the annual statement. An earlier recommendation requires the keeping of a register of contracts which will be open to inspection. It is therefore considered unnecessary to have this provision in.

Amendment.—Amend sub-clause (4) to provide that copies of the statement shall be made available one week before the annual meeting.

Reason.—To permit ratepayers time to study the annual statement.

Clause 657. DUTIES OF AUDITOR, AS TO UNAUTHORISED EXPENDITURE.

Amendment.—Amend this clause to take in an express power for the auditor to surcharge for shortages and deficiencies, as well as unauthorised expenditure, along the lines of the English or New South Wales provisions, which may be summarised as follows:—

“ It is the duty of the district auditor—

- (a) To disallow every item of account which is contrary to law;
- (b) To surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorising the expenditure (and the persons concerned may be the members of the Council who passed the appropriate resolution);
- (c) To surcharge any sum which has not been duly brought into account upon the person by whom that sum ought to have been brought into account (e.g., where a rate-collector has failed to pay in all the sums paid to him);
- (d) To surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred (e.g., where a rate-collector has been able to retain money collected by him because the office clerk has neglected to go through the accounts properly);
- (e) To certify the amount due from any person upon whom he has made a surcharge: and
- (f) to certify at the conclusion of the audit his allowance of the accounts, subject to any disallowance or surcharges which he may have made.”

Further provide that instead of taking action himself the auditor shall report to the Minister who, in the case of unauthorised expenditure, shall direct whether or not the auditor shall proceed, and in the case of deficiencies shall direct the council to collect the money, and in default shall authorise the auditor to take action.

Reason.—To make it unnecessary for action to be taken automatically in respect of unauthorised expenditure and to ensure that councils will take steps to recover deficiencies due to misbehaviour or neglect.

Clause 659. POWER TO DESTROY OLD BOOKS.

Amendment.—Delete the word “rate” from line 38. Amend the expression “bank books” in line 39 to read “bank pass books or statements.”

Substitute the word “five” for the word “seven” in line 41.

Reason.—Clarification and shortening of the period during which it is necessary to retain old receipt books.

Clause 660. MUNICIPAL AUDITORS BOARD.

Amendment.—Take in a new sub-clause (5), as follows:—

“(5) Any person who holds a certificate of competency from a recognised institute of accountants and satisfies the Municipal Auditors Board that he has obtained sufficient knowledge of municipal law and accounting may be issued with a certificate of competency under the provisions of this Act, without being required to submit to an examination.”

Reason.—To make it unnecessary for qualified accountants to take a special examination to secure an auditor’s certificate.

Amendment.—Provide that at least one member of the Municipal Auditors Board shall be a member of the Institute of Chartered Accountants.

Reason.—As this body is the main one representing practising accountants, it is felt that they should have a representative on the proposed board.

Clause 661. APPOINTMENT OF AUDITOR TO CERTAIN COUNCILS.

Amendment.—Redraft the clause to provide that in the case of all cities the old system of the ratepayers electing two auditors shall be continued. Provide that in respect of all other towns the ratepayers shall elect one auditor. Add a further proviso that the council shall fix the remuneration prior to the election of the auditor on each occasion on which there is an election. Provide that if the certificate of any auditor is cancelled he shall cease to hold office as an auditor. Provide for each city or town to have the right to be transferred from the operation of this section to the operation of Section 662 upon request.

Reason.—As the municipalities are divided on the question, some wishing to retain the right to elect, others wishing to appoint their own, and others accepting the provisions in the Bill, the proposal above is for a compromise.

Clause 662. APPOINTMENT OF AUDITORS TO OTHER COUNCILS.

Amendment.—Delete all the words after “administration” in line 12.

Reason.—It is not considered desirable to require an auditor to inspect roads.

Clause 663. COST OF AUDIT BY INSPECTOR.

Amendment.—In line 15 after the word “audit” insert the words “of a Shire council.” Add to the clause a further provision that in the case of a town or city brought under the operation of Section 662 the council shall pay to the Minister, on demand, such portion of the cost of any audit as the Minister shall determine.

Reason.—Consequential to foregoing alterations.

Clause 664. INSPECTORS OF ACCOUNTS.

Amendment.—Alter the section numbers in sub-clause (2).

Reason.—Drafting error.

Clause 670. COUNCIL TO CAUSE ACCOUNTS TO BE BALANCED.

Amendment.—Substitute the word “more” for the word “less” in line 38.

Reason.—Drafting error.

Clause 672. PROCEEDINGS ON CONFIRMATION OF SPECIAL REPORT.

Amendment.—Substitute the words “prima facie” for the word “conclusive” in line 12.

Reason.—It is not felt that the report of a special auditor should be other than “prima facie” evidence.

Clause 673. SPECIAL AUDITORS TO HEAR EXPLANATION.

Amendment.—Substitute the word “shall” for the word “may” in line 27.

Reason.—A special auditor should be compelled to appoint a time to hear explanations.

Clause 679. COUNCIL NOT PROVING IN BANKRUPTCY.

Amendment.—Alter date of Bankruptcy Act.

Reason.—Subsequent amendment.

Clause 680. COUNCIL MAY DIRECT PROSECUTIONS.

Amendment.—Amend by taking in a new subclause as follows :—

“The institution of any proceedings or the conviction of any person for an offence against this Act shall not affect any remedy which the council or any person aggrieved may be entitled to in any civil proceedings.”

Reason.—Omission.

Clause 681. PROCEEDINGS IN LOCAL COURT.

Amendment.—Substitute the word “represent” for the word “present” in line 21.

Reason.—Drafting error.

Clause 687. PROOF IN LEGAL PROCEEDINGS.

Amendment.—Delete the words from “or” to “district” in lines 28 and 29.

Delete the words from “clerk” to “others” in lines 31 and 32.

Delete the words from “clerk” to “other” in lines 33 and 34.

Delete the word “surveyor” and substitute the words “other officer” in line 37.

Reason.—Simplification.

Clause 689. PROOF OF SERVICE OF NOTICES.

Amendment.—Amalgamate with Clause 695 (7) and delete this clause.

Reason.—Simplification.

Clause 693. PROOF OF OWNERSHIP.

Amendment.—Add the following words to subclause (2) :—

“and on the written application of any council signed by the clerk a certificate giving the name and address of such owner, lessee or occupier, the occupation or description of such land and date of registration of title shall be furnished on payment of 2s. for each certificate.”

Reason.—Apparently an accidental omission.

Clause 694. PROOF OF EXISTENCE OF A ROAD.

Amendment.—To be redrafted to clarify, as doubts have been expressed as to its efficacy.

Reason.—Clarification.

Clause 695. NOTICES.

Amendment.—Amend subclause (7) to incorporate Clause 689.

Reason.—Clarification.

Clause 698. VENDORS OF LAND TO NOTIFY COUNCIL.

Amendment.—Amend subclause (2) by deleting the words from “owner” where first appearing in line 23 to the word “owner” where appearing a second time and substitute the word “person.”

Add a penalty for any person failing to obey the order of the council in this connection.

Reason.—Clarification. This clause should also be considered in conjunction with Clause 567 (2) and consideration given as to whether it would not be better incorporated among the building provisions Part XV.

Clause 699. CONDITIONS FOR ACTION AGAINST COUNCIL.

Amendment.—Include in subclause (1) a requirement that the person concerned must give formal notice within 21 days that a claim is proposed.

Provide in subclause (4) that no action will be permissible unless commenced within one year of the occurrence of the accident.

Reason.—Ensuring that actions are not unduly protracted.

Clause 701. POWER OF ENTRY.

Amendment.—Add a new subclause as follows :—

“Any person appointed under the hand of the Minister or the Mayor or President of any Council may for the purpose of this Act search the public registers of the Office of Titles and Registry of Deeds or any office of the Departments of Lands or Mines without payment of any fee.”

Reason.—To ensure facilities for searching of deeds.

Clause 702. OBSTRUCTING COUNCIL OR OFFICERS.

Amendment.—Take in after this a new clause imposing a penalty on any person offering a bribe to an officer or upon any officer accepting or soliciting a bribe.

Reason.—To prevent bribery.

Clause 704. OCCUPIER OBSTRUCTING OWNER.

Amendment.—Take in after this clause Section 524 of the Municipal Corporations Act, which reads as follows :—

“ If on the request of the council or any collector of rates duly authorised by them as such, the occupier of any property or any agent of the owner of such property refuses or wilfully omits to disclose or wilfully misstates to the council or collector making such request the name of the owner of such property or of the person receiving or authorised to receive the rents of the same, such occupier or agent shall be liable to a penalty not exceeding five pounds.”

Reason.—Supply an omission.

Clause 706. PERSONS COMMITTING BREACH TO GIVE NAME.

Amendment.—Insert the word “ an ” after the word “ of ” in line 35.

Reason.—Drafting error.

Clause 707. PENALTIES.

Amendment.—Amend the word “ Act ” in line 8 to read “ act ”.

Reason.—Typographical or drafting error.

Clause 714. MINISTER TO HAVE POWER TO DECIDE DISPUTES.

Amendment.—Substitute the word “ difference ” for the word “ deference ” in line 6.

Reason.—Typographical error.

Clause 716. POWER TO PRESCRIBE FORMS.

Amendment.—In the heading to the Division insert the words “ make regulations and ” after the word “ to ”.

Reason.—To accord with the clause which follows.

Clause 718. LIMITATION OF LIABILITY.

Amendment.—Substitute the word “ than ” for the word “ that ” in line 30. The clause should also be considered by the Draftsman as to whether it prevents reasonable rights of action and if this is so it should be redrafted to supply any deficiency.

Reason.—Clarification.

Clause 720. TESTING OF VALIDITY OF VALUATIONS, RATES, LOANS.

Amendment.—Delete the reference to loans in the relevant subclauses and clarify in regard to valuations and rates, to make it clear that the power given is to test the validity of the valuation of the whole district.

Reason.—Clarification and abolition of right to attack the validity of a loan, in view of provisions of Clause 625.

Clause 724. POWER TO APPEAL TO LOCAL COURT FROM DECISION OF COUNCIL.

Amendment.—Redraft to confine the power of appeal to by-laws or regulations of a council.

Reason.—It is considered that if every decision of a council can be appealed against it may lead to excessive litigation.

Clause 725. STATISTICS.

Amendment.—Delete the second half of the clause as printed.

Reason.—Typographical error, duplication.

Clause 726. ADVISORY BOARDS.

Amendment.—Amend subclause (1) to provide that the Governor may appoint an advisory board to consider the question of the boundaries of municipalities, and that he may at the request of any local authority or local government association also appoint an advisory board on any other question. In this latter case at least two members of the advisory board shall be chosen from among the persons listed in a panel of names submitted by the local authority or local government association.

Reason.—It is felt that advisory boards should not be created other than by request, except in regard to boundary questions, which require an advisory board because of the provisions of Sections 34-36 of this Bill.

Amendment.—Substitute the word “thereof” for the word “hereof” in line 6.

Reason.—Typographical error.

Clause 727. TEMPORARY PROVISIONS.

Amendment.—Alter the dates to a more suitable period and delete subclause (3).

Reason.—Owing to the Bill being delayed the dates therein specified are no longer suitable. In view of the recommendation for the alteration of the audit provisions subclause (3) is no longer necessary.

FIRST SCHEDULE.

Consider whether the Superannuation Act should be continued and not repealed.

Reason.—Consequential amendments.

FOURTH AND SIXTH SCHEDULES.

Delete column 5.

Reason.—Simplification.

THIRTEENTH SCHEDULE.

Part 2.—Alter the amounts shown in the money columns to read :—

1.	£2.	£4.
2.	£1.	£2.
3.	4s.	6s.

Part 3.—Add a new line to the first section. Line 4 to read “wethers, ewes, lambs, goats per head 2s. and 1s.”.

In the second section alter line 1 to read “7s. 6d.” and line 3 to read “3s.”.

Transpose the position of lines 2 and 3 as altered.

Part 4.—Amend as follows :—The word “unclosed” to “unenclosed”.

Transpose the position of the three money columns.

Amend the heading of existing column (1) to read, “Trespass in other unenclosed lands.”

Amend the figures shown in the money column to read as follows after the columns have been transposed :—

Item 1	£1	4s.	3d.
Item 2	2s.	1s.	1d.
Item 3	2s.	1s.	1d.
Item 4	£1	4s.	3d.

Raise Item 4 to the position occupied by Item 2.

Delete Parts 6 and 7 of the Schedule.

Reason.—Simplification and the increase of the fees in certain cases.

FOURTEENTH SCHEDULE.

Make columns 4, 6, 10, 11, 12 optional.

Delete column 16.

Reason.—Simplification of the rate book.

TWENTY-FIRST SCHEDULE.

Add to this a specimen debenture for a sinking fund type of loan. Amend the debenture as shown in the Bill as follows :—

Above the words “Twenty-first Schedule” insert the following words :—“Western Australia Local Government Act, 1949”.

Line 2, delete the words “The Local Government Act, 1949”.

Line 14, delete the words “Proviso to Section 457”, substitute the word “provisions.”

Line 17, before the word “set” add the word “as”.

Line 26, after the word “The” add the word “specified”, delete the word “of”.

Line 33, delete the words “of Part XXVI”.

Reason.—Clarification as well as the provision of a debenture type for a sinking fund loan.

