



TRANSVAAL COLONY
PROCLAMATIONS

FROM

1900—1902

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TRANSVAAL COLONY PROCLAMATIONS.

CHRONOLOGICAL LIST.

NUMBER.	SUBJECT.	PAGE.	REMARKS.
1 of 1900	<i>Guarantees to Non-combatants and Burghers who surrender.</i>		<i>Not reprinted</i>
1 of 1900	<i>Tariff of Foodstuffs in Pretoria ...</i>		" "
2 of 1900	<i>Further Guarantees to Burghers who surrender.</i>		" "
2 of 1900	<i>Regulation of Banking Business in Pretoria.</i>		" "
3 of 1900	<i>Repudiation of S. A. R. Government's Promissory Notes.</i>		" "
3 of 1900	<i>Prohibition of Ejectment in Pretoria ...</i>		" "
4 of 1900	<i>Constitution of " Pretoria High Court "</i>		" "
4 of 1900	<i>Prohibition of Meetings and Assemblies</i>		" "
5 of 1900	<i>Penalties for wanton Damage to public property.</i>		" "
5 of 1900	<i>Commissioner to enquire in Ejectment cases.</i>		" "
6 of 1900	<i>Further Penalties for wanton Damage to public property.</i>		" "
6 of 1900	<i>Marriage Officers for Natives ...</i>	Appendix	Marriages solemnized by marriage officers appointed under this Proclamation legalized by Pr. Tr. 31 of 1902.
7 of 1900	<i>Quorum of the Pretoria High Court ...</i>		<i>Not reprinted.</i>
7 of 1900	<i>Tariff of Foodstuffs in Pretoria ...</i>		" "
8 of 1900	<i>Repudiation of S. A. R. Government's Promissory Notes.</i>		" "
8 of 1900	<i>Removal of Restrictions on Banking ...</i>		" "
9 of 1900	<i>Repealing sect. 3 of No. 6 of 1900 ...</i>		" "
10 of 1900	<i>Regulation of Imports</i>		" "
11 of 1900	<i>Military Governors</i>		" "
12 of 1900	<i>Withdrawal of Guarantees and Penalties for Oath-breakers.</i>		" "
13 of 1900	<i>Payment of Taxes to H. M. Government</i>		" "
4 of 1900	<i>Penalties for Rebellion in O. R. C. ...</i>		" "
15 of 1900	<i>Annexation of the S. A. R.</i>		" "
16 of 1900	<i>Martial law in the Transvaal</i>		" "
17 of 1900	<i>Surrender of Burghers demanded ...</i>		" "
18 of 1900	<i>Central Authority for Martial Law ...</i>		" "
19 of 1900	<i>Officers to administer Statute Law ...</i>		" "

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20 of 1900	<i>Jurisdiction of Johannesburg Courts ...</i>		<i>Not reprinted.</i>
21 of 1900	Public Health	1	
22 of 1900	<i>Evidence before Concessions Commission</i>		<i>Not reprinted.</i>
23 of 1900	<i>Exportation of Goods</i>		" "
24 of 1900	South African Constabulary	3	Sect. 11 amended by Pr. 1 of 1901, and sect. 19 repealed by Ord. 32 of 1902.
25 of 1900	Defacement of Coins	11	Repealed by Pr. 4 of 1901.
26 of 1900	Imperial Penny Postage	12	
27 of 1900	Registration of Births and Deaths ...	13	See, as to Registration in Burgher Camps, Pr. Tr. 22 of 1901, sect. 6.
1 of 1901	Amendment of Pr. 24 of 1900	17	Proviso added to sect. 11.
2 of 1901	Importation of Goods	18	Repealed by Pr. Tr. 3 of 1902 as from 1 Feb., 1902.
2 of 1901	<i>H. M. King Edward VII. proclaimed...</i>		<i>Not reprinted.</i>
4 of 1901	Defacement of Coin	20	Amended by Pr. Tr. 15 of 1901.
5 of 1901	<i>Oath of Allegiance</i>		<i>Not reprinted.</i>
6 of 1901	Magistrates' Courts and Special Criminal Courts.	21	So much as applies to Courts of R.M., repealed by Pr. Tr. 21 of 1902, and amended as to Special Criminal Courts by Pr. Tr. 6 of 1901 and Pr. Tr. [19 of 1901.
7 of 1901	Justices of the Peace	27	
8 of 1901	Government Gazette	28	
9 of 1901	<i>Penalties for disobeying Military Governor's Proclamations.</i>		<i>Not reprinted.</i>
10 of 1901	<i>Persons of Unsound Mind</i>		Making provision for complying with Law 9 of 1894, which is now repealed by Pr. Tr. 36 of 1902. <i>Not reprinted.</i>
11 of 1901	<i>Conferring Powers of Staats Procureur on Legal Adviser to Transvaal Administration.</i>		<i>Not reprinted.</i> See Pr. Tr. 15 of 1902, sect. 17.
12 of 1901	Interdicts and Curators Bonis ...	29	Repealed as to sects. 1 and 2 by Pr. Tr. 21 of 1902, as to sect. 3 by Pr. Tr. 28 of 1902
13 of 1901	<i>Compensation for Goods requisitioned ...</i>		<i>Not reprinted.</i>
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15 of 1901	Town Police Force	32	Repeal of sect. 37 by Ord. 32 of 1902.
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N O T E.

Proclamations 1-5, 7-20, 22-23 of 1900, and 2, 5, 11 and 13 of 1901; and Pr. Tr. 4, 5, 11, 19, 20 and 29 of 1901; and Pr. Tr. 2 of 1902 were proclamations either for provisionally dealing with questions arising from military occupation and military necessity, or were Administrative Proclamations now obsolete, and are not reprinted. No. 6 of 1900, dealing with the appointment by Military Governors and by the Government of the late Republic of officers and ministers to solemnize native marriages is inserted in the Appendix. The number and subject matter of all proclamations not reprinted are inserted in the Chronological list in italics.

PROCLAMATION

Proc. No. 21
of 1900.

By FIELD-MARSHAL LORD ROBERTS, *Commander-in-Chief*.

(DATED 8TH OCTOBER, 1900.)

WHEREAS IT IS EXPEDIENT, in the interest of the Public Health, that the occurrence of all cases of infectious or contagious diseases should be notified, in order that measures may be promptly taken for preventing the spread of such diseases,

Preamble.

Now, therefore, I, FREDERICK SLEIGH, BARON ROBERTS OF KANDAHAR AND WATERFORD, K.P., G.C.B., G.C.S.I., G.C.I.E., V.C., Field-Marshal, Commander-in-Chief of Her Majesty's troops in South Africa, do hereby declare, proclaim, and make known as follows :—

1. Every occupier of any house, building, premises, wagon, cart, or tent within the jurisdiction of any Municipality or Township, on the occurrence of any case of any of the hereinafter specified contagious or infectious diseases within the precincts of any such house, building, or premises, or in any wagon, cart or tent, shall notify the same in writing to the Magistrate or Burgomaster, or to some officer duly authorised for the purpose, within twenty-four hours of the occurrence of such case of contagious or infectious disease becoming known to him.

Notification by occupiers of infectious disease.

The written notice aforesaid shall contain the full name, sex, age, race and address of the affected person, the nature of the disease, the date of its occurrence; and he shall furthermore furnish any other particulars relating to the case as may be required of him by any duly authorised officer.

The notice may be delivered either by hand or through the Post Office.

2. Every Medical Practitioner attending, or called upon to attend, any person suffering from any of the hereinafter specified diseases shall, within twenty-four hours of becoming aware of the nature of the disease, forward to the Magistrate or Burgomaster, or to some Officer appointed for the purpose, a certificate in the form set forth in the accompanying schedule, specifying the nature of the disease from which, in his opinion, the patient is suffering.

Notification by Medical Practitioner of infectious disease.

Penalty for failure.

3. Any occupier or Medical Practitioner, as aforesaid, negligently or wilfully concealing a case of any of the herein-after mentioned diseases shall be liable to penalty of Five Pounds sterling.

Notifiable diseases.

4. For the purpose of this Proclamation the following diseases, and any other diseases which may from time to time be proclaimed by the Governor, shall be held to be infectious or contagious diseases, viz. :—

- (a) Smallpox, chickenpox, and amaas.
- (b) Typhus, typhoid, enteric, gastric, or typho-malarial fever.
- (c) Malaria.
- (d) Scarlet fever and scarletina.
- (e) Puerperal fever and puerperal septioemia.
- (f) Dysentery.
- (g) Diphtheria and membranous croup.
- (h) Erysipelas.
- (i) Leprosy.

Fees of Medical Practitioner for notification.

5. Medical Practitioners shall be entitled to a fee of 2s. 6d. for each case notified in accordance with the terms of this Proclamation, and any Medical Practitioner can obtain a book of forms of certification on personal or written application to the Officer appointed for carrying out this Proclamation within the district in which such Medical Practitioner resides.

[SCHEDULE.]

Name of Municipality or Township.....
 (a)190 .
 To the (b).....

I, the undersigned, a legally registered Practitioner of Medicine, hereby notify that on (a)....., 190..., I was called upon to attend (c)....., sex (d)..... aged (e)....., race (f)....., living at (g)....., and that in my opinion he is suffering from the disease known as (h)....., and that the disease is probably caused by (i).....

Signed.....
 Address

(a) Insert date. (b) Name and address of Officer appointed under the Proclamation. (c) Insert full name. (d) Male or female, as the case may be. (e) Age in years; if an infant under twelve months, state age in months. (f) If race cannot be given exactly, add E. (White or European) or C. (Coloured). (g) Give fullest possible address. (h) Name of disease. (i) The Medical Practitioner's opinion as to the cause is very desirable, but it is optional.

PROCLAMATION

By FIELD-MARSHAL LORD ROBERTS, *Commander-in-Chief.*

(DATED 22ND OCTOBER, 1900.)

Organisation of the South African Constabulary.

WHEREAS IT IS EXPEDIENT to organise, establish, and regulate a force for the better protection of life and property in the Transvaal and Orange River Colony, to be called the "South African Constabulary":

Preamble.

Now, therefore, I, FREDERICK SLEIGH, BARON ROBERTS, of KANDAHAR and WATERFORD, K.P., G.C.B., G.C.S.I., G.C.I.E., V.C., Field-Marshal, Commander-in-Chief of Her Majesty's Forces in South Africa, do proclaim, declare, and make known:

1. An armed and mounted force shall be established in the Transvaal and Orange River Colony, and known as the "South African Constabulary."

Constitution of South African Constabulary.

2. The members of the said force shall be sworn before a Justice of the Peace, or Officer empowered by the Inspector-General to administer the oath, to act as a police in and throughout the Transvaal and Orange River Colony for preserving the peace and preventing crimes, and apprehending offenders against the peace; and also as a military force for the defence of the Colonies. In addition to their ordinary duties in the Transvaal or Orange River Colony, the members of the force may be called upon to serve as a military or police force in any part of South Africa.

Members to be sworn in.

Duty to serve as military or police in any part of South Africa.

3. The said force shall be under the command of Field Officers, to be styled Lieutenant-Colonel, and other Officers to be styled Major, Captain, and Lieutenant respectively, to be from time to time appointed as hereinafter provided; and all such Officers shall be under, and subject to, the orders and command of the Inspector-General of the said Constabulary, to whom such Field Officers shall from time to time, as occasion may require, or whenever they shall be called upon so to do by the said Inspector-General, report on the condition of the force under their command, and on all matters of importance connected therewith, and shall consult and be guided by the advice of the said Inspector-General in respect of the subjects of such reports. It shall be competent for the Inspector-General to appoint one or more of the Field Officers of the Force to be Assistant Inspector-General.

Officers.

Appointment of
Field Officers by the
Governor.

4. The Governor, Administrator, or other person for the time being responsible for the administration of the Transvaal and Orange River Colony (hereinafter called the Governor) shall, by warrant under his hand, appoint the Field Officers in the preceding section mentioned and such other Officers as he may deem expedient for the general superintendence and management of the said force, and may from time to time displace and remove such Officers and appoint others in their place as to him shall seem meet; provided that no Officer so appointed shall be promoted to any higher grade than that to which he was first nominated without passing a satisfactory examination in such subjects as the Governor shall from time to time settle and appoint, and before such examiners as the Governor shall from time to time nominate.

Inspector-General
may frame rules, &c.,
as to enlistment, dis-
cipline, &c.

5. The Inspector-General shall from time to time make such regulations respecting the enlistment, discipline, discharge, training, arms, and accoutrements, clothing and equipment of such force, and respecting all other matters connected therewith as may be required for promoting the discipline and efficiency thereof, and shall also direct the employment and distribution of the said force, within or without the boundaries of the Transvaal or Orange River Colony, as to him shall seem meet, under the direction of the said Governor.

Duties of Officers.

6. It shall be the duty of the Field and other Officers of the said force to suppress all tumults, riots, and affrays, or breaches of the peace in any part of the Transvaal or Orange River Colony where they may be on duty, and to assist in the defence of the Transvaal and Orange River Colony, and to discharge military duties in connection therewith when called upon so to do.

Powers and duties
members.

7. The members of the said force so sworn as aforesaid throughout the Transvaal and Orange River Colony shall have such powers and privileges and shall be liable to all such duties and responsibilities as any Police Officers or Constables may by Law have, or be liable to, and shall obey all lawful directions touching the execution of their office which they may from time to time receive from their officers.

PART II.--DISCIPLINE.

Penalties on mem-
bers contravening
rules and regula-
tions.

8. Any member of the force who may be charged with the offence of contravening any regulation which may be made, under and by virtue of this Proclamation, or any of the offences in the schedule hereto, may be tried by and before:—1. Any of the superior Courts of Law in the Transvaal or Orange River Colony within the jurisdiction of which such offence shall have been committed. 2. The Court of the Magistrate of the district in which such offence has been committed; or 3. A Board of Officers as hereinafter mentioned. And shall, upon conviction, be liable to be punished as follows:

(1) If the conviction shall be before any of the said superior Courts such Court may sentence the offender

to be imprisoned with or without hard labour for a period not exceeding five years, or to pay a fine not exceeding one hundred pounds, and in default of payment thereof, to be imprisoned with or without hard labour for any period not exceeding one year ; or to both such fine and such imprisonment.

- (2) If the conviction shall be before a Court of Magistrate, such Court may sentence the offender to pay a fine not exceeding twenty pounds, and in default of payment thereof, to be imprisoned with or without hard labour for any period not exceeding six months ; or to be imprisoned as aforesaid without the infliction of any fine ; or to both such fine and such imprisonment.
- (3) If the conviction shall be by a Board of Officers, such Board may sentence the offender as mentioned in the last preceding paragraph.

9. In case any non-commissioned officer or private shall offend against any such regulation as aforesaid, it shall be lawful for any officer commanding a troop, or any officer commanding a detachment of the said force, to stop from the pay of such offender any sum not exceeding five pounds, or to sentence him to imprisonment with or without hard labour for any period not exceeding fourteen days, or to sentence him to such punishment as may be provided on that behalf in any such regulation as aforesaid, or such officer may take proceedings for the purpose of such offender being tried under the eighth section of this proclamation ; provided that any officer who shall try any offender under the provisions of this section shall forthwith after such trial forward the proceedings in, and full particulars of, the case to the field officer commanding the wing in which such offender is serving.

Powers of officer commanding to stop pay for breach of regulations.

10. Upon any member of the force being charged with having committed any of the offences in this proclamation mentioned, the charge, in case the offence shall not have been summarily dealt with under the last preceding section, shall be forthwith reported to the officer in command of the troop or detachment to which such offender is then attached, who shall thereupon forthwith report the particulars of the case to the field officer of his wing of the force, who shall, having regard to the said particulars and the nature and magnitude of the offence, direct whether the offender shall be proceeded against before a Board of Officers as aforesaid, before the Court of Magistrate having jurisdiction in the case, or (as to offences in the eighth section hereof mentioned) before a superior Court as aforesaid : Provided that nothing herein contained shall prevent the said officer or the field officer from ordering the discharge of any prisoner in case it appears to him that there are not sufficient grounds for putting such prisoner upon his trial ; and if the proceedings are directed to be before a superior Court, or before a Court of Magistrate, they shall be the same in all respects as in the case of an ordinary offender or supposed offender against

How charges of breach of regulations to be dealt with.

the law, and the said offender shall be in the same plight and condition as any other person charged with a criminal offence.

Constitution of
Board of Officers.

11. The Board of Officers hereinbefore mentioned shall consist of not less than three officers of the said force, of whom the field officer commanding the wing in which the accused is serving may be one; and the said officers shall be selected and summoned by the said field officer. The said field officer, if present, and if not, the senior officer present, shall be the President of such Board, and the decision of the majority of the members of such Board shall be deemed to be the decision of such Board; Provided that, in case the members of the said Board shall be equally divided in opinion, the decision of the President shall be deemed to be the decision of the Board; Provided that in any district where a Magistrate has not been appointed, and it may not be practicable to summon a Board of Officers as aforesaid, the said field officer may by himself exercise the jurisdiction of such Board, as provided by section 8, sub-section 3 hereof.*

Procedure.

12. The proceedings before and at any trial by a Board of Officers shall, except as otherwise herein mentioned, as near as may be, be the same as those prescribed for criminal proceedings before the Lower Courts; and all the evidence which may be given before such Board shall be taken down in writing by the President or by order of the said President by a shorthand writer duly sworn by the said President, who shall extend the same in ordinary writing, and his testimony shall at some time thereafter be read over to the witness and signed by him; the said President shall also swear the witnesses, and any person so sworn who shall wilfully and corruptly give false evidence before any such Board shall be deemed to be guilty of the crime of perjury, and upon conviction thereof shall suffer any punishment by law provided for that crime.

Summoning of witnesses.

13. Every person who may be required to give or produce evidence in any case pending before any such Board shall be summoned, in writing, by any officer of the said force; and all witnesses so duly summoned, who shall not attend, or attending shall refuse to be sworn, or being sworn shall refuse to give evidence, or not produce the documents under their power or control required to be produced by them, or to answer all such questions as the said Board may legally demand of them, shall be liable to be dealt with by such Board in like manner as if such witness had been a witness duly summoned to appear before a Magistrate in a criminal case pending in the Court of such Magistrate.

Report by Board
to Inspector-General.

14. When and as often as any such Board as aforesaid shall sentence any offender under this Proclamation to be imprisoned, with or without hard labour, for any period exceeding fourteen days, or to pay a fine exceeding one pound, the President of such Board shall forthwith, after pronouncing such

* The last proviso to sect. 11 is inserted by virtue of an amending Proclamation (No. 1 of 1901).

sentence, transmit the original proceedings in the case, together with such remarks, if any, as he may desire to append to the *Commandant-General.

15. All offenders arrested for any offence under this Proclamation, and all offenders sentenced to imprisonment by an officer or Board of Officers as aforesaid, may be imprisoned in any building set apart as a guard-room or police prison by order of the field officer commanding: Provided that, in case the sentence shall exceed fourteen days' imprisonment, with or without hard labour, the person convicted shall be removed to the nearest public gaol, there to undergo such sentence, and when so removed he shall be in the same plight and condition as if the sentence had been a sentence of one of the ordinary Courts of Law of the Transvaal or Orange River Colony: And provided also, that so long as any man shall be imprisoned in any guard-room or prison as aforesaid, the same shall as to such offender be deemed to be a public gaol, but every Board of Officers aforesaid and the Magistrate of the district shall have the like jurisdiction and powers as to offences committed by any such prisoner while imprisoned in any such guard-room prison as are given to the Magistrate of the district, as to the public gaols within his district.

Imprisonment
of offenders.

16. No period during which any offender shall be imprisoned for any offence for which he shall be afterwards convicted, or during which he shall be imprisoned under a sentence of any Court or Board as aforesaid, shall be reckoned for any purpose as part of the period of the service of such offender unless the Court or Board aforesaid ordering such imprisonment shall otherwise direct.

Period of imprisonment not to be reckoned in period of service.

17. Nothing in this Proclamation contained shall prevent any offender from being prosecuted otherwise than under the provisions of this Proclamation in all cases in which he would by law, without this Proclamation, be liable to such prosecution; but no member of the said force acquitted or convicted of any crime or offence under the provisions of this Proclamation, shall be liable to be again tried for the same crime or offence: Provided that nothing herein contained shall prevent a member of the said force who has been convicted from being dismissed from the said force or reduced in rank therein by an officer empowered to dismiss.

Prosecution under this Proclamation not a bar to prosecution otherwise.

18. It shall be lawful for the said field officers, respectively, to suspend, degrade, or dismiss from his employment any non-commissioned officer or private whom he shall think remiss or negligent in the execution of his duty, or otherwise unfit for the same; and when any such non-commissioned officer or private shall be so dismissed, or shall otherwise cease to belong to the said force, all powers and authorities vested in them by virtue of this Proclamation shall cease and determine: Provided, however, that no sentence of dismissal

Powers of field officers to suspend, dismiss, &c.

* Clerical error for Inspector-General.

shall take effect unless and until the same be confirmed by the Inspector-General of the South African Constabulary or officer acting for the time being in that capacity.

PART III.—GENERAL.

Penalty on liquor dealers for harbouring members of force.

19. **If any licensed or unlicensed dealer in wines and spirits, or any intoxicating liquors, shall knowingly harbour or entertain any man belonging to the said force, or permit such man to abide or remain in his house, shop, room or other place, during any part of the time appointed for his being on duty elsewhere, every such dealer shall, for a first offence, forfeit and pay any sum not exceeding ten pounds, to be recovered in a summary way; and for a second or subsequent offence shall be liable, besides such penalty, to imprisonment for any period not exceeding one month with or without hard labour.*

Penalties for contravening Clause 17 of Schedule.

20. If any person shall, in consequence of any sale, pledge, or other disposition made by any member of the said force, in contravention of paragraph No. 17 of the schedule to this Proclamation, knowingly receive or have any animal, article, matter, or thing in the said section mentioned, such person shall incur and be liable to a fine not exceeding twenty pounds, and, in default of payment thereof, shall be liable to be imprisoned and kept at hard labour for any period not exceeding three months unless such fine be sooner paid.

Sale or pledge of certain articles forbidden.

21. No animal, article, matter or thing mentioned in paragraph seventeen in the schedule to this Proclamation, and therein forbidden to be sold, pledged, or otherwise disposed of, shall be capable of being seized or attached by or under writ of execution which may be sued out against any member of the said force, nor shall the same pass by or any order made for the sequestration of the estate of any such member.

Rewards and compensation.

22. It shall be lawful for the Governor to award, to any of the men belonging to the said force, such sum of money as to him shall seem meet, as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received, or shall be worn out by length of service.

Limitation of actions against members of the force.

23. For the protection of persons acting in the execution of this Proclamation, all actions and prosecutions to be commenced against any person for anything done in pursuance of this Proclamation shall be commenced within four calendar months after the cause of action shall have arisen, or offence be committed, and not otherwise; and notice in writing of such action and of the cause thereof, shall be given to the defendant one calendar month, at least, before the commencement of the action; and if a verdict shall be given for the defendant, or the plaintiff be non-suited, or discontinue any such action after issue joined, or if, upon exception, or otherwise, judgment shall

* This section is repealed by the Liquor Licensing Ordinance (Ord. 32 of 1902), sect. 56 of which deals with the matter.

be given against the plaintiff, the defendant shall recover his full costs as between attorney and client.

24. Any officer, non-commissioned officer, or other member of the South African Constabulary who, by his negligence, causes any loss or damage to Government property under his charge or control, shall be liable to make good such loss or damage, over and above any penalty imposed by this Proclamation, or by any regulation thereunder framed. If the loss amounts to five pounds, or less, the matter may be investigated by any officer commanding a troop or detachment, who may impose a fine to the amount of five pounds, or sentence him to imprisonment with or without hard labour for a period not exceeding fourteen days; but if the loss amounts to more than five but less than twenty pounds it must be dealt with by a Magistrate or Board of Officers, who can impose a fine to the amount of the loss, or sentence him to a term of imprisonment with or without hard labour for a period not exceeding six months; and if the loss be more than twenty pounds it must be dealt with by a Superior Court, which can impose a fine to the extent of the loss, or sentence him to a term of imprisonment with or without hard labour for a period not exceeding one year.

Liability for negligence causing damage to Government property in charge of member.

SCHEDULE OF OFFENCES REFERRED TO IN THIS
PROCLAMATION.

1. Beginning, inciting, causing, or joining in any mutiny or sedition.
2. Being present at any mutiny or sedition, and not using his utmost endeavour to suppress the same.
3. Conspiring with any other person to cause a mutiny or sedition.
4. Knowing of any mutiny or sedition, and not without delay giving information thereof to his immediate commanding officer.
5. Striking or offering violence, or using threatening or insubordinate language to a superior officer in the force, being in the execution of his duty.
6. Disobeying the lawful command of a superior officer in the force.
7. During the period for which he shall have engaged to serve in the said force deserting from the same or refusing to serve therein, or advising or persuading any other member of the said force to desert from the same, or knowingly receiving or entertaining any deserter, and not immediately on discovery giving information to his commanding officer, or taking other means to cause such deserter to be apprehended.
8. Misbehaving before the enemy, or shamefully abandoning or delivering up any fort, post, camp, station, or guard committed to his charge, or which it was his duty to defend, or inciting any other person so to do.
9. Discharging any fire-arms, making any signal, or by other means whatsoever, intentionally occasioning false alarm in action, camp, or quarters.
10. Casting away his arms in the presence of an enemy.
11. Being, while a sentinel, found sleeping on his post, or leaving the same before being regularly relieved.
12. Disclosing, verbally or in writing, the numbers, position, or preparations of the force or forces to which he is attached, and by such disclosure, producing effects injurious to the service to which he belongs.
13. Being in the command of a guard, picquet, or patrol, and without proper authority, releasing any prisoner committed to his charge, or suffering him to escape.
14. Drunkenness.

15. Malingering, feigning, or producing disease or infirmity, or wilfully maiming or injuring himself or any other member of the force, whether at the instance of such other member or not, or causing himself to be maimed or injured by any other person, with intent thereby to render himself, or such other member, unfit for service.

16. Taking any bribe or gratuity whatever with reference to any duty imposed upon him, or wilfully neglecting to execute any warrant entrusted to him.

17. Selling, pledging, or otherwise disposing of any horse, saddle, bridle, gun, clothing, ammunition, or other article or equipment, which by the regulations of the said force for the time being he shall be required to keep and possess.

18. Conduct to the prejudice of good order and discipline.

(Repealed by Proc. 4 of 1901.)

PROCLAMATION

By FIELD-MARSHAL LORD ROBERTS, *Commander-in-Chief.*

(DATED 29TH OCTOBER, 1900.)

Defacement of Coin.

WHEREAS *DIVERS PERSONS* have, for their own profit, altered and defaced coins issued by the late Government of the South African Republic :

Preamble.

And whereas it is advisable to prevent the repetition of such acts, and to warn the public against accepting such coins :

Now, therefore, I, Frederick Sleigh, Baron Roberts of Kandahar and Waterford, K.P., G.C.B., G.C.S.I., G.C.I.E., V.C., Field-Marshal, Commander-in-Chief of Her Majesty's Forces in South Africa, do proclaim, declare, and make known :

That whosoever shall deface any of the Queen's current gold, silver, or copper coin, or any of the gold or silver coin issued by the Mint of the late South African Republic, by stamping thereon any names or words, or by affixing any metal or other device thereon, whether such coin shall or shall not be thereby diminished or lightened, shall be guilty of a crime and offence, and shall be liable, at the discretion of the Court, to be imprisoned for a term not exceeding one year with or without hard labour, and that all such defaced coin wheresoever found shall be forfeited to the Crown.

Penalty for defacement of coin.

PROCLAMATION

By FIELD-MARSHAL LORD ROBERTS, *Commander-in-Chief.*

(DATED 18TH NOVEMBER, 1900.)

Imperial Penny Postage.

UNDER AND BY VIRTUE of the powers vested in me, I, FREDERICK SLEIGH, BARON ROBERTS, of Kandahar and Waterford, K.P., G.C.B., G.C.S.I., G.C.I.E., V.C., Field-Marshal, Commanding-in-Chief Her Majesty's Forces in South Africa, do hereby proclaim, declare and make known that on and after the 1st December next the rate of postage on letters posted in the Transvaal and Orange River Colonies and addressed to the United Kingdom and places hereafter to be notified by the Administrators of Civil Posts in the above-mentioned Colonies, will be reduced to One Penny per Half Ounce or fraction thereof.

The existing Post Office Law, No. 18, 1898, of the South African Republic will, therefore, be amended accordingly.

PROCLAMATION

By FIELD-MARSHAL LORD ROBERTS, *Commander-in-Chief.*

(DATED 18TH OCTOBER, 1900.)

* Registration of Births and Deaths.

WHEREAS IT IS ESSENTIAL for the better government of the Colony of the Transvaal that all Births and Deaths occurring within the Colony should be registered as accurately and with as little delay as possible.

Preamble.

Now, therefore, I FREDERICK SLEIGH, BARON ROBERTS of Kandahar and Waterford, K.P., G.C.B., G.C.S.I., G.C.I.E., V.C., Field-Marshal, Commanding-in-Chief Her Majesty's Troops in South Africa, hereby declare, proclaim, and make known as follows :

That Registration Officers shall be appointed in the various urban and rural districts of the Transvaal whose duty as such will be to keep Registers of Births and Deaths.

Appointment of
Registration Officers.

Every birth, together with the information contained in the accompanying Schedule, must be registered within three weeks of its occurrence.

Period for registration.

The information may be given verbally to the Registration Officer, by one of the parents or some one present at the birth, and the officer shall forthwith record the same by filling up the form hereinafter prescribed in Schedule No. 1. Or the form already filled may be posted to the Registration Officer, in which case it must be duly attested by a Justice of the Peace, the Government Surgeon, or a Minister of Religion.

In case of a living new born child found exposed, the person finding the child shall forthwith report the fact to the nearest Police Station or Field Cornet, and the Police Constable or Field Cornet shall register the birth of such child.

Registration of unknown child by finder.

In the case of illegitimate children, the name of the father or putative father shall not be placed upon the Register unless the father shall expressly desire to register the birth in conjunction with the mother.

Registration of bastards.

Any medical man who has attended any person during his or her last illness, or who may have been called upon to attend any deceased person, shall give to the nearest relative, or to the person having legal charge of the corpse, or to the occupier of

Certificate of death.

* For Registration of Births and Deaths in Burghers Camps, see Pr. Tr. 22 1901, sect. 6.

Information as to
death by medical
man.

To whom certifi-
cate of death to be
handed.

Information as to
death by next of kin,
occupier, &c.

Burial permit.

Penalties.

the house in which the death took place, a certificate in terms of the hereinafter mentioned Schedule No. 2. Unless the medical man in attendance, or who has been called upon to attend the deceased, shall have reason to withhold such certificate, in which case he shall immediately inform the Resident Magistrate of the fact, and the Resident Magistrate shall decide whether it may be necessary to hold an inquest.

The person to whom the medical man shall have given the certificate shall hand the certificate to the Registrar within twenty-four hours if the death shall have occurred in any urban area, and shall supply the further information necessary to fill in the form prescribed in Schedule No. 3.

In case the death shall have occurred in a rural district, the medical certificate shall be forwarded to the Registrar by the next post, and the form prescribed by Schedule No. 3 shall be filled in, and having been attested by a Justice of the Peace, a Government Medical Officer, or a Minister of Religion, shall be posted with the medical certificate.

Should the deceased not have been attended by any medical man during his or her last illness, and should no medical man have inspected the body, then the next of kin, or some person present at the death, or the occupier of the house in which the death occurred, shall report the death to the Registration Officer, in terms of Schedule No. 3, within twenty-four hours if the death should have occurred in an urban area, or by the next post if in a rural district, and the Registration Officer shall either authorise the burial of the body, or shall report the case to the Resident Magistrate, who shall cause an inquest to be held if he shall consider it necessary.

In the case in which the form prescribed by Schedule No. 3 shall have been filled in and posted, it shall be previously attested by a Justice of the Peace, a Government Medical Officer, or a Minister of Religion.

When a death has been registered, the Registration Officer shall give the informant a burial permit, and no burial shall take place in any urban district without the production of such a permit, or in any ground other than a licensed Cemetery.

Any person who shall, without reasonable cause or excuse, fail to register any Birth or Death in the manner aforesaid, shall, on conviction, be liable to a penalty not exceeding £5.

Any person who shall wilfully make, or cause to be made, for the purpose of being inserted in any notice or information, or in any Registration Book of Births and Deaths, any false statement touching any of the particulars set forth in this Schedule, shall, in accordance thereof, be guilty of the same pains and penalties as if he were guilty of perjury.

SCHEDULE No. 1.

FORM OF INFORMATION OF A BIRTH.

WARNING.—The penalties for false statements wilfully made are the same as those for perjury. Anyone who loses a completed registration form is liable to a penalty not exceeding £2.

Child (a)—

1. Date of Birth.....19.....
2. Place where Born.....
3. Christian Name (if any).....
4. Sex

CAUTION.—If birth is illegitimate, the father's name, occupation and race are to be omitted, unless in the presence of a Deputy Registrar or Assistant (including Field-Cornet or Police Officer) a man acknowledges himself in writing on the form to be the father, and signs form in conjunction with the mother.

NOTE.—State here.....where the marriage took place.

Father—

5. Christian Names and Surname.....
6. Occupation.....
7. Race (*b*)

Mother—

8. Christian Names
and Maiden Surname
9. Race (*b*)

Informant—

10. Original Signature (or mark).....
11. Qualifications
12. Residence

Signed in my presence this.....day of.....19.....

This space intended for rural area reports.

.....Witness (*c*)

- (*a*) In case of twins the birth report of each child must appear on a separate form.
- (*b*) If born outside the Colony, enter on same line, in addition to the race the name of the Country, State, or Colony, where born, if known.
- (*c*) When a Rural Assistant, Field-Cornet, or Police Officer writes out form for informant, he should add the words: "Form written out by me," and sign as "Rural Assistant," "Field-Cornet," or "Police Officer," as the case may be.

SCHEDULE No. 2.

REGISTRATION OF DEATH.

COUNTERFOIL.

Name
Age
Sex
Race
Address
Date of Death ...
Last seen
Cause
Primary
Secondary

I, the undersigned, a legally registered Medical Practitioner, hereby declare that I attended (a) *Mary Jane Thomson, a (b) European female*, aged 32, residing at (c) *No. 1 Commissioner Street, Johannesburg*, that she died, (d) *as I am informed, on June 12th, 1900*, that I last saw her on (e) *June 11th 1900*, and that the cause of her death, to the best of my knowledge and belief, was as follows:—

Primary Cause	<i>Influenza</i>	Duration of Illness	<i>One week</i>
Secondary Cause	<i>Broncho pneumonia</i>	Duration of Illness	<i>3 days</i>

Signed: *Thomas Brown, M.D.*
Address: *241 Rissik Street,*
Johannesburg.

- (a) Name and Christian name.
- (b) Age, sex, and race.
- (c) Patient's last address.
- (d) Date of death, if the practitioner has not seen the body insert "as I am informed."
- (e) Insert date.

SCHEDULE No. 3.

FORM OF INFORMATION OF A DEATH.

WARNING.—The penalty for false statements wilfully made are the same as those for perjury. Anyone who loses a completed registration form is liable to a penalty not exceeding £2.

Deceased—

1. Christian Names and Surnames
2. Sex
3. Usual place of Residence
4. Age
5. Race (a)
6. Whether Single, Married, Divorced, or Widowed (b)
7. Occupation.....
8. Date of Death.....
9. Place of Birth.....
10. Intended Place of Burial
11. Causes of Death.....
- 11a. Duration of last Illness
12. Medical Man's Name.....

Informant—

13. Original Signature (or mark)
14. Qualification
15. Residence

Signed in my presence on this.....day of.....19.....

(This space for Rural Area Report.)

.....Witness (c).

- (a) If born outside the Colony, enter on the same line, in addition to the race, the name of the Country, State, or Colony where born, if known.
- (b) If married, divorced, or widowed, state on this line the total number of children deceased has had.
- (c) When a Rural Assistant, Field-Cornet, or Police Officer writes out form for informant, he should add the words; "Form written out by me," and sign as "Rural Assistant," "Field-Cornet," or "Police Officer," as the case may be.

PROCLAMATION

By His Excellency SIR ALFRED MILNER, His Majesty's High Commissioner for South Africa, &c., &c., &c.

(DATED 1ST FEBRUARY, 1901.)

WHEREAS it is expedient to amend Field-Marshal Lord Roberts' Proclamation No. 24 of 1900, relating to the South African Constabulary ;

Preamble.

Now, therefore, under and by virtue of the powers, jurisdiction and authority conferred upon me by Her late Majesty's Commission, dated the 8th day of October, 1900, as Administrator of the Transvaal and Orange River Colony, I do hereby proclaim, declare and make known, as follows :—

Section 11 of Proclamation No. 24 of 1900 is hereby amended by the addition of the following proviso at the end thereof: "Provided further that in any District where a Magistrate has not been appointed and it may not be practicable to summon a Board of Officers as aforesaid, the said Field Officer may by himself exercise the jurisdiction of such Board as provided by Section 8, Sub-section 3 hereof."

Amendment of Proclamation 24 of 1900.

(Repealed by Proc. Tr. 3 of 1902, as from 1st February, 1902.)

PROCLAMATION

By His Excellency SIR ALFRED MILNER, His Majesty's High Commissioner for South Africa, &c., &c., &c.

(DATED 4TH FEBRUARY, 1901.)

WHEREAS by Field-Marshal Lord Roberts' Proclamation No. 10 of the 27th July, 1900, provision was made for the importation of goods into such portions of the territory of the South African Republic as were or might be in the occupation of Her late Majesty's Forces :

And whereas by Field-Marshal Lord Roberts' Proclamation of the 1st September, 1900, all the territories known as the South African Republic were annexed to and now form part of Her late Majesty's dominions, and Her late Majesty was pleased to direct that the new territories should thenceforth be known as the Transvaal :

And whereas it is necessary to make provision for the importation of goods into the Transvaal :

Now, therefore, under and by virtue of the powers, jurisdiction and authority conferred upon me by Her late Majesty's Commission dated the 8th day of October, 1900, as Administrator of the Transvaal, I do hereby proclaim, declare, and make known as follows :—

1. The importation of goods as aforesaid is now permitted, subject to the following conditions :—

- (a) That a permit for such importation has been previously obtained from the Military Governors of Pretoria or Johannesburg, or their duly appointed deputies ;
- (b) That Customs duties are paid on all goods imported.

These duties shall for the present and until further provision is made therefor, be levied according to the Customs tariff which was leviable by the laws of the late South African Republic, which shall be read, however, as if the following appeared therein in the Schedule of articles exempted from duty :—

Public Stores, imported or taken out of bond by, and *bonâ fide* for the sole and exclusive use of, the Government of His Britannic Majesty or the Government of any Colony, State or Territory in South Africa, provided that a certificate be delivered to the Customs given under the hand of a principal Imperial, Military, Naval, Civil, Commissariat or Ordnance Secretary or Officer, or under the hand of a Secretary to any Government as aforesaid, setting forth

that any duty levied on such public stores would be borne directly by the Treasury of his Government; and provided further that no portion of such stores used or unused shall be sold or otherwise disposed of so as to come into the possession of or into consumption by any parties not legally entitled to import the same free of duty, until the intention so to sell or dispose of the stores shall have been notified to the principal officer of Customs in this Territory, to whom the duty leviable according to the tariff then in force shall be paid by the Government selling or disposing of the stores; wine, spirits and beer, imported direct or taken out of bond by, and for the sole use of Commissioned Officers serving on full pay in the regular Military or Naval Forces of His Britannic Majesty, subject to such regulations as the Customs may take for the due protection of the Revenue, provided that if any such liquors shall be sold or otherwise disposed of to or for consumption by any other person not legally entitled to import the same free of duty without the duty being first paid thereon to the Customs according to the tariff then in force, then they shall be forfeited, and the parties knowingly disposing of such liquors or into whose possession the same shall knowingly come shall be liable to such penalties as may be prescribed by law; and provided further that until otherwise enacted articles commonly known as "Canteen Stores" imported or taken out of bond for the sole and exclusive use of His Majesty's Military forces may, under the foregoing conditions, be admitted free of duty.

2. In the case of goods imported from or through the Colonies of the Cape of Good Hope or Natal, the Customs duties as aforesaid shall be paid to the Collectors of Customs in those Colonies, and I do hereby, with the consent of the Government of the aforesaid Colonies, nominate and appoint the said Collectors of Customs to be my agents for the collection of such duties, provided, however, that in the case of goods entered and destined for the towns of Pretoria and Johannesburg, the payment of the duties may be deferred until the arrival of the goods at such places, where it shall be duly made to the proper Officer of Customs.

3. The permits mentioned in Section 1, sub-section (a), shall be issued subject to such conditions as may from time to time be prescribed by the said Military Governors of Pretoria or Johannesburg.

4. Any goods imported as aforesaid without payment of the proper Customs duties or contrary to the regulations mentioned in the preceding section, shall be liable to confiscation, and the importer or his agent shall, in addition, be liable to a fine not exceeding five times the amount of the Customs Duties thereon.

(This was a Proclamation by the Military Governor, announcing the accession of H.M. King Edward VII., and proclaiming him Supreme Lord of the Transvaal).

Proc. No. 2
of 1901.

PROCLAMATION

By His Excellency SIR ALFRED MILNER, His Majesty's High Commissioner for South Africa, &c., &c., &c.

(DATED 6TH FEBRUARY, 1901.)

Preamble.

WHEREAS DIVERS PERSONS have, for their own profit altered and defaced coins issued by the Government of the late South African Republic, and whereas coins and tokens resembling coins of the Mint of the late South African Republic as well as the King's current gold and silver coins have been circulated in the Transvaal :

Now therefore, I, ALFRED MILNER, under and by virtue of the powers, jurisdiction and authority conferred upon me by Her late Majesty's Commission dated the 8th day of October, 1900, as Administrator of the Transvaal, do hereby proclaim, declare, and make known as follows :

Penalties for defacing coin, altering defaced coin.

1. Whosoever shall deface any of the King's current gold, silver or copper coin, or any of the gold, silver or copper coin issued by the Mint of the late South African Republic by stamping thereon any names or words or by affixing any metal or other device thereon in such a manner as to efface or alter the original design whether such coin shall or shall not be thereby diminished or lightened,* or whosoever shall utter, put off, tender or circulate any such defaced coin, shall be guilty of a crime and offence and shall be liable at the discretion of the Court to be imprisoned for a term not exceeding one year with or without hard labour, and all such defaced coin wheresoever found shall be forfeited to the Crown.

Penalties for making counterfeit coin.

2. Whosoever shall coin or make any coin or token resembling any of the gold and silver coin issued by the Mint of the late South African Republic, or any of the King's current coin in such a way that the coin or token might pass for coins issued by the said Mint of the late South African Republic, or for the King's current coins, or whosoever shall utter, put off, tender or circulate any such counterfeit coins or such tokens, shall be liable at the discretion of the Court, to be imprisoned for a term not exceeding two years with or without hard labour, and all such counterfeit coins or tokens wheresoever found shall be forfeited to the Crown.

3. Proclamation No. 25 of 1900 is hereby repealed.

Proc. No. 5
of 1901.

This Proclamation was for the provision of facilities for the burghers wishing to take the oath of allegiance.

* The words "or whosoever.....defaced coin" are inserted by virtue of the amending Proclamation (Tr. 15 of 1901).

PROCLAMATION

By His Excellency SIR ALFRED MILNER, His Majesty's High Commissioner for South Africa, &c., &c., &c.

(DATED 5TH APRIL, 1901.)

WHEREAS IT IS EXPEDIENT to make further provision for the Administration of Justice in certain Towns and Districts of the Transvaal :

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby order, direct, and declare as follows :—

1. *A Court of Resident Magistrate shall be, and is hereby, established at each of the following places, to wit :*

Establishment of Courts of Resident Magistrate.

At Pretoria for the District of Pretoria,

At Potchefstroom for the district of Potchefstroom,

At Johannesburg, at Krugersdorp, and at Boksburg for the area heretofore under the jurisdiction of the Special Landdrost of Johannesburg, Krugersdorp, and Boksburg respectively ; and for such other places and such other districts or areas as I may from time to time notify in the Gazette.

2. *Each of the said Courts shall be holden before such person as I may appoint, and shall have within the district or area for which it is established all the powers, privileges and jurisdiction in civil and criminal matters arising within such district which are conferred by the Laws of the late South African Republic on Courts of Landdrosts ; provided that no such Courts shall exercise jurisdiction in any civil cause, matter or proceeding unless the defendant thereto has been personally served with the process of the said Court and within the area of its jurisdiction, and provided further that the cause of action in any such proceeding has arisen since the date of the annexation of the Transvaal to His Majesty's dominions, to wit, the 1st of September, 1900.*

Jurisdiction of Courts.

3. *All sentences of any of the said Courts whereby the penalty shall exceed a fine of £10, or imprisonment for three months with or without hard labour, or whereby any corporal punishment exceeding twelve lashes is ordered, shall forthwith be forwarded by the Magistrate of the said Court to the Legal Adviser of the Transvaal Administration to be by him submitted to me for the confirmation, reduction or quashing of such sentence as may appear to me to be right ; and no corporal punishment exceeding twelve lashes ordered*

Sentences, &c., to be forwarded to Legal Adviser.

So much applies to Courts of R. M., repealed by Pr. Tr. 21 of 1902. These are sects. 1, 2, 3, 4, 5, 9 and 17.

by any sentence shall he inflicted until such sentence shall have been confirmed by me.

*Appointment of
Assistant Resident
Magistrate.*

4. *It shall be lawful for me from time to time to appoint for any district or area in which a Court of Resident Magistrate is established or for any portion thereof one or more fit and proper persons to be styled Assistant Resident Magistrate, and every Assistant Resident Magistrate shall, subject to the provisions of this Proclamation, have and exercise all the power and jurisdiction of a Resident Magistrate in and for the district or area or portion thereof for which he shall be appointed to act, in all cases civil and criminal.*

*Powers and duties
of Assistant Resident
Magistrate.*

5. *Every Assistant Resident Magistrate shall be subordinate to the Resident Magistrate of the district or area within which such Assistant Resident Magistrate is appointed, and shall act as such Assistant Resident Magistrate :—*

(1.) *When so required to act at the stated and ordinary place of holding the Court of Resident Magistrate by me or by the Resident Magistrate, whether the Resident Magistrate be present or not, and such Assistant Resident Magistrate may act in the disposal of any cases assigned to him for disposal by me or by such Resident Magistrate, while the Resident Magistrate shall be acting in other cases.*

(2.) *During the absence of the Resident Magistrate on leave, duty, or from illness, or any other unavoidable cause ;*

He shall also act at any other place and within such local limits within the jurisdiction of the Resident Magistrate as may be assigned by me.

*Establishment of
Special Criminal
Courts.*

6. *There shall be and there are hereby also established in Pretoria and Johannesburg Courts for the trial of Criminal cases, each of which shall consist of three persons appointed by me, one of whom shall be the President thereof. The Court at Pretoria shall be styled "The Special Criminal Court at Pretoria," and the Court at Johannesburg shall be styled "The Special Criminal Court at Johannesburg."*

*Jurisdiction of Spe-
cial Criminal Courts.*

7. *The said Special Court at Pretoria shall have jurisdiction over all crimes and offences of whatsoever nature (save as hereinafter excepted) committed within the district of Pretoria, and any other district or area which I may from time to time notify ; and the said Special Court of Johannesburg shall have jurisdiction over all crimes and offences (save as hereinafter excepted) committed within the areas in which the Resident Magistrates of Johannesburg, Krugersdorp and Boksburg have jurisdiction, as also within the district of Potchefstroom and any other district or area which I may from time to time notify, and each of the said Courts shall sit at such times as the President thereof may appoint.*

*Quorum of Court
and sentences.*

8. *In all trials before either of the said Courts established under Section 6 hereof, the three members thereof shall sit and a decision of a majority of them shall be deemed and taken to be the judgment of the Court, and the said Court shall have power to pass any sentence upon any person convicted by it*

which a Judge of the High Court of the late South African Republic might have passed had such person been convicted after trial before him and a Jury; provided always that no sentence of death passed by the said Court shall be carried out until confirmed by me.*

If any defendant who shall be tried upon any indictment in the Special Criminal Court at Pretoria or at Johannesburg shall think that any of the proceedings of the Court before which the trial takes place are irregular or not according to the law it shall be lawful for him either during his trial or after his conviction to apply to such Court to direct a special entry to be made on the record showing the nature of the proceedings alleged to be irregular or illegal. If such special entry be directed to be made it shall be drawn up by the Registrar of the Court and the defendant and the prosecutor or their counsel and attorney shall be permitted to see it and to copy it, and if either of them shall object to its terms it shall be settled by the President of the Court before which the case is tried.

When appeal in criminal cases to be applied for.

If any defendant who shall be convicted of any indictable crime or offence shall obtain leave to make and shall cause to be made such a special entry on the record as hereinbefore provided for it shall be lawful for him by leave of the Court before which the case shall have been tried to appeal to the High Court of the Transvaal constituted of any three or more members thereof against his conviction, on the ground of the irregularity or illegality of such proceedings as aforesaid stated in such special entry as aforesaid: Provided that within fourteen days after verdict notice of such appeal shall be given to the Registrar of the Court appealed from: and such Registrar shall forthwith after receiving such notice give notice of such appeal to the Legal Adviser to the Transvaal Administration and transmit to the Registrar of the said High Court an authenticated copy of the record including copies of the evidence whether oral or in writing taken or admitted at the trial and of the special entry made on the record in manner aforesaid.

Leave to be applied for to appeal to High Court.

If any question of law shall arise in the trial of any person for an indictable crime or offence in the Special Criminal Court at Pretoria or at Johannesburg it shall be lawful for such Court to reserve such question for consideration of the High Court of the Transvaal. If the Court shall determine to reserve any such question and the defendant shall be convicted the Court shall state the question, or questions reserved and shall direct such case to be specially entered in the record and a copy thereof to be transmitted to the said High Court.

Questions of law reserved.

The execution of a sentence shall not be suspended by reason of any appeal against a conviction or by reason of a question having been reserved for consideration of the said High Court:—

Cases in which execution of the sentence may be suspended.

(a) Unless the sentence shall be that the defendant suffer

* The Proviso to sect. 8 was repealed by Pr. Tr. 19 of 1902; and the provisions here inserted contained in sec. 1 of that Proclamation were substituted for it,

death or be flogged or whipped, in either of which cases the sentence shall not be executed until the appeal or question shall have been heard or decided.

- (b) Unless the Court from which the appeal is made or by which the question is reserved shall think fit to order either that the defendant be admitted to bail or if he is sentenced to any punishment other than simple imprisonment that he be treated as an unconvicted prisoner till the appeal or the question reserved shall have been heard and decided.

Powers of High Court when question of law is reserved.

In cases of any appeal against a conviction or any question being reserved as aforesaid it shall be lawful for the High Court :—

- (a) To confirm the judgment of the Court below ; in which case if the defendant having been admitted to bail in Court the Court may forthwith commit him to custody for the purpose of undergoing any term of imprisonment to which he may have been sentenced.
- (b) Or direct that the judgment shall be set aside notwithstanding the verdict, which order shall have for all purposes the same effect as if the defendant had been acquitted.
- (c) Or direct that the judgment of the Court below shall be set aside, and that instead thereof such judgment shall be given by the Court before which the trial took place as ought to have been given at the trial :
- (d) Or if the Court below has not delivered judgment remit the case to it in order that it may deliver judgment :
- (e) Or give such judgment as ought to have been given at the trial :
- (f) Or make such other order as justice may require : Provided that no conviction shall be set aside by reason only of some irregularity or illegality whereby the defendant was not prejudiced in his defence or because evidence was improperly admitted or rejected by which no substantial wrong was in the opinion of the said High Court done to the defendant.

How order of High Court is to be certified.

The order or direction of the High Court coming before it on appeal as aforesaid shall be certified by the Registrar to the Registrar of the Court before which the case was tried and such order or direction shall be carried into effect and shall authorise every person affected by it to do whatever is necessary to carry it into effect.

What powers of High Court not affected.

Nothing herein contained shall in any way affect or limit the powers and jurisdiction of the High Court as a Court either of review or appeal in criminal cases in relation to Courts of Resident Magistrates.

Procedure in Courts of Resident Magistrate where no jurisdiction.

9. *When in the course of any trial in any Court established under Section 1 hereof it shall appear that the crime or offence under trial is from its nature and magnitude not subject to its jurisdiction or more proper for the cognisance of one of the Courts*

established under Section 6 hereof, then the Magistrate before whom such first-mentioned Court is held shall stop the trial and order it to be commenced before that one of the last-mentioned Courts which has jurisdiction in the matter.

10. All the said Courts herein established shall have jurisdiction over contraventions of any Proclamation or notice which has appeared or may at any time hereafter appear in any Official Gazette; but none of the said Courts shall, save by the request of the Commander-in-Chief of His Majesty's Forces in this Colony, exercise jurisdiction over any crime or offence, or over any such contravention as aforesaid committed by any member of His Majesty's forces on active service in this Colony, or over any crime or offence connected with military operations, such as spying, murder under the guise of warfare, and such like.

No jurisdiction over members of H.M. Forces on active service save by request of Commander-in-Chief.

11. Each of the said Courts herein established shall adjudicate upon and determine all matters within its jurisdiction* in accordance with the law of this Colony, and the form and manner of procedure before it and the rules of evidence in all cases pending before it shall be according to the laws and rules regulating the practice, form, and manner of procedure and rules of evidence in the Courts of Landdrosts of the late South African Republic.

Procedure and rules of evidence.

12. All prosecutions in either Court established under Section 6 hereof shall be in the name of His Majesty the King, upon indictment signed by such person as may be appointed by me Crown Prosecutor in the said Court. † The indictment shall be as nearly as possible in the following form:—

Indictments.

In the Special Criminal Court of.....
A.B., Crown Prosecutor in the Court of.....

*(who prosecutes for and on behalf of His Majesty the King,
presents and informs the Court)*

That C.D. is guilty of the crime of.....

The particulars of the charge against him are, that.....

(here the facts are to be shortly and concisely stated)

and that he did thereby commit the said crime of.....

In case of conviction the said Crown Prosecutor prays for judgment against the said C.D. according to Law.

* The civil jurisdiction of the Special Criminal Courts at Pretoria and Johannesburg was abolished on the establishment of the High Court at Pretoria in May, 1902. (See sect. 43 of Pr. Tr. 14 of 1902, and Government Notice 118 of 1902, published in *Government Gazette*, 14th April, 1902, p. 442).

† By Pr. Tr. 9 of 1901, sect. 4, indictments in the two Special Criminal Courts are to be signed by the Legal Adviser to the Transvaal Administration, *i.e.*, now the Attorney General.

Abolition of certain Special Courts.

13. On the publication of this proclamation the Court established under Lord Roberts's Proclamation No. 22, dated the 11th June, 1900, and styled "The Pretoria High Court," and "The Military Tribunal," established in Johannesburg under Proclamation No. 4 of the Military Governor of Johannesburg, dated 7th June, 1900, as also the "Court of the Chief Magistrate," in Johannesburg, established under the last-mentioned Proclamation, and the Courts established at Boksburg, Krugersdorp, Germiston, and Florida, under and by virtue of Proclamation No. 7 of the said Military Governor, dated 14th June, 1900, shall be dissolved, and the members thereof shall cease to hold office, and all Proclamations relating to such Courts shall, in so far as they deal with such Courts be repealed, provided that such dissolution shall not affect the validity or effect of any act of judgment of any of the said Courts made prior to the date of such dissolution, and any matters pending at such date in any of the said Courts shall be transferred to and determined by any of the Courts herein established which would have jurisdiction in the matter.

14. Nothing herein declared shall in any way affect the Courts styled "District Courts," established under Section 7 of the said Proclamation No. 4, dated 7th June, 1900.

The Courts to be Courts of Record.

15. The Courts established under this Proclamation shall be Courts of Record, and shall be dissolved upon such date as I shall notify by Proclamation in the *Gazette*. The pleadings and proceedings of the said Courts shall be in the English language.

Officers practitioners.

16. The Courts established under this Proclamation may, subject to my approval, appoint such officers as shall be necessary to carry out the work of the said Courts and may permit any Barrister-at-Law, Advocate, Solicitor, Attorney or Agent-at-Law to be admitted to practise before them: provided that such Barrister-at-Law, Advocate, Solicitor, Attorney, or Agent-at-Law before admission shall have taken the Oath of Allegiance to His Majesty the King; and provided further that only such Agents-at-Law shall be entitled to be admitted to practise in any of the Courts of Landdrost of the late South African Republic and have never been struck off the Roll of practitioners in the said Courts.

Resident Magistrate* to be Marriage Officer under Law 3 of 1871.

17. *Each of the Resident Magistrates appointed by me under this Proclamation shall have all the powers with regard to Marriages conferred on a Landdrost by Law No. 3 of 1871.*

* See now sect. 52 of Pr. Tr. 21 of 1902, and for powers of Superintendents of Burgher Camps as to solemnization of marriage, see Pr. Tr. 22 of 1901, sect. 5.

* PROCLAMATION

By His Excellency SIR ALFRED MILNER, His Majesty's High
Commissioner for South Africa, &c., &c., &c.

(DATED 9TH APRIL, 1901.)

WHEREAS it is desirable to appoint Justices of the Peace
for the several districts of the Transvaal :

Preamble.

Now, therefore, by virtue of the authority in me vested, I
hereby direct, order, and declare as follows :—

1. Every Resident Magistrate and Assistant Resident
Magistrate appointed by me under my Proclamation No. 6, dated
the 5th April, 1901, shall be *ex-officio* a Justice of the Peace for
the district in which he has been appointed to act as such Resident
Magistrate or Assistant Resident Magistrate.

*Resident Magis-
trates and Assistant
Resident Magistrates
to be ex-officio Justices
of the Peace.*

2. It shall be lawful for me, whenever I may deem it to be
necessary, to appoint one or more Justices of the Peace for any
district or area in this Colony.

*Power to Governor
to appoint Justices of
the Peace.*

3. Every Justice of the Peace under this Proclamation shall
have, within such district or area aforesaid, all the powers, rights,
duties, and jurisdiction of Justices of the Peace under Law No. 7,
of 1894.

Jurisdiction.

* It has been the practice since Pr. Tr. 21 of 1902 came into force to specially
appoint R.M.'s and A.R.M.'s Justices of the Peace.

PROCLAMATION

By His Excellency SIR ALFRED MILNER, His Majesty's High
Commissioner for South Africa, &c., &c., &c.

(DATED THE 9TH APRIL, 1901.)

BY VIRTUE OF THE AUTHORITY in me vested, I do hereby order, direct, and declare as follows:—

- Government Gazette.* 1. The *Government Gazette* at present printed and published at the Government Printing Works, Pretoria, shall be the *Government Gazette* for this Colony; and all Proclamations by me, and Government Notices, shall be published in the said *Gazette* for general information.
- Publication of Proclamations.
2. Every Proclamation by me shall on such publication be law, and shall commence and take effect from and after the date thereof, unless otherwise expressly provided for.
- Date at which Proclamations take effect.
3. The expression "*Gazette*" in any Proclamation, Notice, or Regulation shall be taken to mean the said *Government Gazette*.
- Notices and advertisements.
4. All Notices or Advertisements which, in virtue or in terms of any law at present in force within this Colony, are required to be published in the *Staats-courant*, shall henceforth be published in the *Government Gazette* aforesaid.

Proc. No. 11
of 1901.

This Proclamation conferred the powers, &c., of "Staats Procureur" on the Legal Adviser to Tr. Adm., and is rendered obsolete by Pr. Tr. 15 of 1902, sect. 17.

(Repealed: Sects. 1 and 2 by Pr. Tr. 21 of 1902; sect. 3 by Pr. Tr. 28 of 1902).

PROCLAMATION

By His Excellency SIR ALFRED MILNER, His Majesty's High Commissioner for South Africa, &c., &c., &c.

(DATED 22ND APRIL, 1901.)

WHEREAS COURTS OF LANDDROSTS have jurisdiction under Article 2 of Law No. 6, 1885, to grant interdicts in Civil Cases against persons and movable property, but it is provided in the said Law that where the debt or the amount is above the jurisdiction of the Landdrost the interdict shall only be provisional and subject to confirmation by the late High Court, or one of the Judges thereof—

Preamble

And whereas Courts of Resident Magistrates established under my Proclamation No. 6, 1901, have in civil and criminal matters the same jurisdiction as is conferred on Courts of Landdrosts by the Law of the late South African Republic:

And whereas no provision at present exists for the confirmation of such interdicts as aforesaid:

And whereas it is desirable to make provision in this respect and also to make provision for the appointment of Curators Bonis in certain cases:

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

1. All interdicts which, had they been granted by a Landdrost of the late South African Republic, would have been subject to confirmation by the late High Court, shall, if granted by a Resident Magistrate or Assistant Resident Magistrate be subject to confirmation by the President of the Special Criminal Court at Johannesburg, in cases in which the interdicted property is situated within the area in which the said Court has jurisdiction and to confirmation by the President of the Special Criminal Court at Pretoria in all other cases; and such Presidents shall, with regard to the confirmation of such interdicts, have all the powers formerly possessed by the said High Court.

Confirmation of interdicts of Landdrost.

2. Any such interdict granted and confirmed as aforesaid shall operate as an interdict pending action; which action shall be instituted by such of the parties and within such time after the date on which a Supreme or other Court competent to try the issue shall have been established and opened in this Colony as the Magistrate granting or the President confirming the interdict shall direct.

Operation of Interdict.

Notwithstanding anything to the contrary provided in Section 2 of Proclamation No. 6, 1901, interdicts may be granted by the Magistrates aforesaid, where the cause of action has arisen before the date of the annexation of the Transvaal to His Majesty's dominions, but all such interdicts shall be subject to confirmation as aforesaid.

*Appointment of
Curators Bonis by Special
Criminal Courts.*

3. *In all cases where according to law a Curator Bonis may properly be appointed, it shall be lawful for the President of either of the Special Criminal Courts at Pretoria and Johannesburg, upon application made to him, to appoint a Curator Bonis of the Estate and effects of any deceased or absent person, or any person who by reason of any mental or physical incapacity is unable to administer his own affairs; such application may be made by or at the instance of any heirs, relative, Consul, or other person lawfully interested or concerned in, or who has bonâ fide charged himself with the safe custody or preservation of any of the assets of such estate; and the President of the Court aforesaid may, in appointing any such Curator Bonis, confer upon him such powers as to the realisation of perishable assets and the collection of the effects of and accounts due to such estate, and may give such directions as to the security to be given, inventory and report to be filed, and the banking of moneys, and generally such other directions as he may deem fit. Such Curator shall within the scope of his appointment, and in so far as may be necessary in order that due effect may be given thereto, be competent to institute or defend any proceedings of claim or demand in any Court of Law on behalf of the estate to which he is appointed Curator Bonis.*

Proc. No. 13
of 1901.

This Proclamation notified the intended appointment of the Military Compensation Commission, and invited the sending in of claims.

PROCLAMATION

By His Excellency SIR ALFRED MILNER, *His Majesty's High Commissioner for South Africa, &c., &c., &c.*

(DATED 23RD APRIL, 1901.)

WHEREAS IT IS DESIRABLE to make provision for complying with the requirements of Law No. 14 of 1880, dealing with Gaols, and the safe custody and discipline of prisoners confined therein :

Preamble.

Now, therefore, by virtue of the authority in me vested, I hereby declare, proclaim, and make known as follows:—

1. The powers and jurisdiction conferred, and the duties imposed by Law No. 14 of 1880 on the Inspector of Prisons, shall be, and are hereby conferred and imposed on the Director of Prisons appointed by Government Notice No. 74 of 1900, in respect of all *Gaols in the Transvaal; and on the Superintending Officer of Gaols in Johannesburg, appointed by Government Notice No. 11 of 1901, in respect of Gaols within the areas under the jurisdiction of the Resident Magistrates of Johannesburg, Krugersdorp, and Boksburg.

Powers and duties of Inspectors of Prisons and Superintendent of Gaol.

2. When and as often as the Director of Prisons or the Superintending Officer of Gaols for Johannesburg, shall, under the jurisdiction vested in them as aforesaid, sentence any prisoner to be punished, such sentence shall forthwith be submitted to the President of the Special Criminal Court in Pretoria or Johannesburg according as the crime or offence, in respect of which such sentence was passed, was committed within the jurisdiction of the Special Criminal Court at Pretoria, or of the Special Criminal Court at Johannesburg; and such President as aforesaid shall, and is hereby authorised to confirm, modify, or quash such sentence, as to him may appear in accordance with real and substantial justice; provided always that no sentence of lashes ordered by such Director of Prisons or Superintending Officer of Gaols for Johannesburg shall be inflicted until it has been confirmed.

Review of sentences for prison offences by Special Criminal Court.

3. The term "Landdrost" in the said Law No. 14 of 1880, shall be taken to mean "Resident Magistrate" † appointed under my Proclamation No. 6 of 1901.

* The Office of Superintending Officer of Gaols in Johannesburg was abolished by Pr. Tr. 30 of 1902, sect. 1, and powers and jurisdiction were conferred on the Governor of Johannesburg Prison in respect of all prisons in the Witwatersrand district.

† Now also under Pr. Tr. 21 of 1902.

PROCLAMATION

By His Excellency SIR ALFRED MILNER, His Majesty's High
Commissioner for South Africa, &c., &c., &c.

(DATED 29TH APRIL, 1901.)

Organisation and Regulation of a Police Force.

Preamble.

WHEREAS it is expedient to organise a Police Force for
Towns in this Colony, and to provide for its efficiency in
the prevention and detection of crime and the maintenance of
Law and Order :

Now, therefore, by virtue of the authority vested in me, I
do hereby declare, proclaim and make known as follows:—

Definitions.

1. The following words and expressions in this Proclamation
shall have the meaning assigned to them unless there be some-
thing in the context repugnant to such construction, that is to
say:—The word "Governor" shall mean the Officer for the
time being administering the Government of this Colony.

The words "Town Police" shall include all persons who
shall be enrolled under this Proclamation.

The words "Town Police District" shall include any town
or area in the Transvaal in which this Proclamation shall be
declared to be in force.

The words "Town Police Station" shall include any area
into which a town may be divided for police purposes.

The words "The Force" shall mean Officers and Men of
the Police Force constituted under this Proclamation, and the
words "Member of the Force" shall apply to any person
employed in the Force.

The words "Deputy Commissioner of Police" shall include
any Assistant Commissioner of Police, Inspector of Police, or
other person appointed by the Governor to have charge of the
Police in any Town.

The words "Station Officer" shall include the Officer who
is in charge of a Town Police Station.

The words "Articles of Equipment" shall include the
horse, saddle, bridle, rifle, revolver, ammunition, clothing or
other articles of equipment which, by the regulations for the
time being, a member of the Force shall be required to keep and
possess.

The word "Property" shall include any movable property,
money, or valuable security.

Governor may de-
clare areas to be

2. The Governor may from time to time by notice in the
Gazette declare any town or area in this Colony to be a Town

Police District, and any portion of such Town to be a Town Police Station, and may from time to time appoint an officer to be styled "The Commissioner of Police," "Deputy Commissioner," and so many Assistant Commissioners, Inspectors, and other officers of different grades, as may be deemed necessary, and may from time to time suspend, reduce, discharge or dismiss any member of the Force.

Town Police Districts.

3. The Commissioner shall, subject to the directions of the Governor, have the superintendence and control of the Force. He may provisionally appoint Superintendents, and when such appointments are to be permanent he must report them to the Governor, who shall confirm or disallow the same.

Powers of Commissioner of Police.

4. The Commissioner may from time to time appoint so many fit persons to be sergeants and policemen as the Governor may think necessary. The Commissioner may from time to time, under rules and regulations made under this Proclamation, or under any sections of this Proclamation applicable thereto, discharge or dismiss any sergeant or policeman.

5. All Officers of Police shall have the superintendence and control of that portion of the Force which may be placed under their charge, subject to the authority by this Proclamation conferred upon the Commissioner, and to the Regulations to be made as hereinafter provided.

Powers of Officers of Police.

6. The Governor may, when circumstances so require, appoint a person to act in the place of the Commissioner, and every such acting Commissioner shall have all the powers conferred and shall discharge all the duties imposed by this Proclamation on a Commissioner.

7. Every policeman shall in any district of this Colony have such powers, and shall perform all such duties as any constable or policeman now has or hereafter may have by virtue of any law now or hereafter to be in force in this Colony.

Powers and duties of Constables.

8. Every member of the Force appointed under section 4 hereof shall, after taking the oath of service, receive an appointment certificate in the form in Schedule A annexed to this Proclamation, under the Seal of the Commissioner of Police, by virtue of which the person holding such certificate shall be vested with the powers, functions and privileges of a Police Officer. Such certificate shall cease to have effect when the person therein named ceases to be a Police Officer through dismissal, discharge, resignation, or otherwise, and shall be then forthwith surrendered by him to the Commissioner of Police or any person empowered by him to receive the same. All the powers and authority vested in such person as a Police Officer shall immediately cease and determine upon his ceasing to be a Police Officer through dismissal, discharge, resignation, or otherwise.

Appointment of Constables.

9. A member of the Force may be suspended from office pending an inquiry into any charge of misconduct against him. He shall not, however, by reason of such suspension cease to be a member of the Force. The powers, privileges, and functions vested in him as such member shall, however, during his

Suspension of Constables.

suspension be in abeyance; but he shall continue subject to the same responsibilities, discipline, and penalties, and to the same authorities as if he had not been suspended.

Character of Town
Police Force.

10. The force to be raised under this Proclamation may be armed and mounted, or partly armed and partly not armed, partly mounted and partly unmounted, as to the Governor shall seem fit; and such Force shall serve as a Police Force for preserving the peace and preventing crimes and apprehending offenders, and shall perform such other duties as may be required by this Proclamation or any rule or regulation to be made as hereinafter provided.

Liability to serve
as a military force
and outside Colony.

11. The Governor may, in case of any war or other emergency, employ the force raised under the provisions of this Proclamation, or any part thereof, for the purpose of assisting in the defence of the Colony, either within or beyond the borders thereof, and may place such Force, or any part thereof as aforesaid, under the orders and directions of such person as he may appoint in that behalf; and while so employed such force shall be subject to the provisions of any law hereafter to be passed for the discipline of the Colonial Forces.

Notice of resigna-
tion by member of
the Force.

12. No member of the Force, other than a Commissioner, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, notwithstanding that the period of his engagement shall have expired, unless expressly authorised in writing so to do by the Commissioner, or unless he shall give to such Commissioner three months' notice of his intention to resign or withdraw; and no Commissioner shall be at liberty to resign or withdraw as aforesaid without the consent of the Governor.

Power to Commis-
sioner to frame rules.

13. The Commissioner may from time to time, subject to the approval of the Governor, frame rules, orders, and regulations, which shall be published in the *Gazette*, relative to the organization, classification, and distribution of the Force; the places at which members of the said Force shall reside, and the particular services to be performed by them; their inspection, the description of arms, equipment, and other necessaries furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders, rules, and regulations relative to the Force as may be from time to time deemed expedient for preventing abuse or neglect of duty, and for rendering such Force efficient in the discharge of its duties. The Commissioner may, subject to the approval of the Governor, vary, alter, and repeal any such rules, regulations, and orders as aforesaid.

Penalties for con-
travention of rules.

14. Any member of the Force who shall be guilty of any neglect or violation of duty, or of contravening any of the rules and regulations made as aforesaid, shall, upon conviction, be liable to the following punishments:—

- (a) Reduction in grade or rank.
- (b) Fine to any amount not exceeding one month's pay.
- (c) Deprivation of good conduct allowance.

15. Every member of the Force shall obey and execute all lawful summonses, warrants, executions, and other process of any Court of Justice or the Peace, to him directed or delivered, and any summonses, warrant or other process directed or given to any member of the Force shall and may be executed and enforced by any other member of the same or any other Force, and every such last-mentioned member shall have the same rights, powers, and authorities for and in the execution of such summons, warrant, and other process as if the same had been originally directed to him expressly by name.

Duties of obedience and execution of processes.

16. Any member of the Force who has served for a period of not less than ten years, and has attained the full age of fifty years, may, at the discretion of the Governor, be superannuated, and shall on retirement receive, at his option, either a gratuity of one month's pay for each year's service, or a yearly pension according to the following scale :—After ten years' service, ten-fiftieths of the pay received by him during the year preceding his retirement, and an increase of one-fiftieth for each additional year's service completed, not exceeding thirty.

Superannuation.

17. When any member of the Force has served for ten years, and has not attained the full age of fifty years, if a certificate to the effect set forth in Schedule B to this Proclamation signed by two medical practitioners, to be first approved of by the Commissioner, be forwarded to the Governor by such Commissioner, the Governor may superannuate such member, and he shall thereupon be entitled to receive, at his option, the gratuity or pension provided by the last preceding section for members of the Force who have attained the full age of fifty years.

18. When any member of the Force has served for a less period than ten years, if, without his own default and in the discharge of his duty, he receive such bodily injury as to incapacitate him from active service, he may retire from the Force, and the Governor may grant to such member a gratuity not exceeding one month's pay for each year's service, or a yearly pension not exceeding half the pay received by him during the year preceding his retirement, or in the event of his death before so retiring such gratuity may be granted to his widow and children, or partly to his widow and partly to his children, as the Governor may deem fit.

Incapacitation from bodily injury in discharge of duty.

19. When any member of the Force has served for a less period than ten years, if a certificate to the effect set forth in the said schedule shall be granted by two medical practitioners to be first approved of by the Commissioner, such member shall be entitled to his discharge and to receive a gratuity of one month's pay for each year of service at his then rate of pay.

Discharge on medical certificate.

20. No pension shall be granted to members of the Force except upon condition that it is liable to be forfeited and may be withdrawn by the Governor in any of the following cases :—

Forfeiture of pension.

(1) On conviction of the grantee of any crime or offence,

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- (2) On his knowingly associating with suspected persons, thieves, or other offenders.
- (3) On his refusing to resume his duties in his former office when required to do so by the Governor, in accordance with any regulations made under this Proclamation.
- (4) If he shall make use of the fact of his former employment in the Force in a manner which the Governor considers to be improper.

Retirement after
20 years' service.

21. Any member of the Force who has attained the age of forty years, and who has served with diligence and fidelity for not less than twenty years, shall be entitled to retire upon a gratuity at the rate of one month's pay for every year of service.

Pensions to widows
and children.

22. Should any member of the Force lose his life in the discharge of his duty, a gratuity or pension equal to what he would have been entitled to if he had reached the age of fifty years, shall be paid to his widow and children, or partly to his widow and partly to his children, as the Governor may determine.

Forfeiture of pen-
sion for misconduct.

23. Any member of the Force who has been discharged or dismissed therefrom for misconduct shall not be entitled to any pension, gratuity, or allowance.

Period of service
how reckoned.

24. The Governor may permit the period of service of any member of an existing police force who shall be appointed to serve in the Force by this Proclamation constituted to be reckoned for the computation of pension, or gratuity under this Proclamation.

Rewards for meri-
torious service.

25. The Governor may pay out of the public revenue such sums of money by way of reward to members of the Force as shall by extraordinary service have merited the same.

Enquiry by Board
of Officers into
charges of insub-
ordination.

26. When a charge of insubordination or conduct against the discipline of the Force is made against a Sergeant or Superintendent, the Station Officer shall, if he considers the offence to be of a serious nature, report the facts to a Deputy Commissioner of Police, who will decide whether an enquiry by a Board of Officers appointed and convened by him shall be held. The Board shall consist of not less than two Officers above the rank of Superintendent, who are hereby empowered to examine on oath into the charge in manner provided by Rules framed under this Proclamation. Their finding shall be submitted to the Deputy Commissioner, who may, if he concurs with it, impose a penalty (not exceeding ten pounds), and may recommend such Sergeant or Superintendent for reduction, discharge, or dismissal by the Commissioner.

Reports by Station
Officer of insub-
ordination.

27. When a charge of insubordination or conduct against the discipline of the Force is made against a policeman, the Station Officer shall, if he considers the offence to be of a serious nature, report the facts to a Deputy Commissioner, who shall decide whether an enquiry by a Board of Officers appointed and convened by him shall be held. The Board shall consist of not less than two Officers above the rank of Sergeant,

who are empowered to examine on oath into the charge. Their finding shall be submitted to the Deputy Commissioner, who may, if he concurs with it, impose a penalty not exceeding five pounds, may deprive such policeman of good conduct allowance, or may direct his discharge or dismissal from the Force. An appeal from discharge or dismissal shall lie to the Commissioner of Police or Officer in charge of a Town Police District. If the charge is not of a serious nature, the Station Officer may deal with it, and is authorised to impose a penalty not exceeding one pound, or may submit the case to the Deputy Commissioner, who is authorised to impose a penalty not exceeding three pounds, or to deprive such policeman of his good conduct allowance.

28. The Boards of Officers mentioned in the two last preceding sections, through their Presidents, may issue summonses requiring any persons named therein to appear at a time and place to be therein appointed to give evidence on oath as to all matters and things known to them respecting any charge or complaint preferred against any member of the Force as to any neglect or violation of duty, and any person duly summoned as aforesaid who shall not attend in obedience to such summons, or attending shall refuse to be sworn, or being sworn shall refuse to give evidence, or to answer all such questions as such person may lawfully be required to answer, shall incur and be liable to pay, for each offence, such penalty not exceeding five pounds, as such Boards holding such enquiry may direct and adjudge.

Summoning of witnesses to enquiry into charges against constables.

29. Any penalty imposed under the three last preceding sections of this Proclamation, or for breach of any regulation made by the Governor, may be recovered, in the case of a member of the Force, by stoppage from the pay of the offender, and shall be credited to a fund to be styled the "Mulct Pay Fund," which will be controlled by the Commissioner of Police or other Officer in charge of a Town Police District under such *Rules as the Governor may prescribe, and which fund may be applied for making rewards to members of the Force for specially meritorious work and in aid of any undertaking which, in the opinion of the Commissioner, is for the well-being of the Force.

Mulct Pay Fund.

30. When any member of the Force above the rank of a Superintendent is accused of a breach of duty, or of any conduct rendering it unfit that he should remain in the Force, if he deny the truth of such accusation, and if the Governor is of opinion that sufficient cause has been shown for further proceedings, the Governor may appoint three or more fit and proper persons, of whom one only may be a member of the Force, to inquire as to the truth of such charge; and such person shall have authority to hear, receive, and examine evidence on oath, and shall, after fully hearing the case, report to the Governor their opinion thereon.

Enquiry into charges against superior officers.

31. Any member of the Force who is convicted of a crime or offence, or becomes a hired servant, or engages directly or

Offences and penalties.

* Such rules have been prescribed and published under Government Notice 564 of 1902 (*Gazette*, 31st October, p. 1530).

indirectly in any business, trade or undertaking, or in any Stock Exchange speculations, or keeps a house for the sale of wine, beer, or spirituous liquors in his own or any other name, or is directly or indirectly interested in any such house, may be reduced in rank or grade, or dismissed from the Force, and if dismissed shall forfeit all pay, gratuity, or pension to which he may have become entitled. Whenever a charge under this section is brought against a member of the Force, it shall be dealt with by a Board of Officers as laid down in Sections twenty-six and twenty-seven of this Proclamation. If the charge relates to the conduct of an Officer of rank superior to that of Superintendent, the Board shall consist of not less than three Officers of the highest rank available, of whom the Commissioner of Police or some person nominated by the Governor shall be President.

Penalty for resignation without notice, &c.

32. Any member of the Force who shall resign his office or withdraw himself from the duties thereof without the previous permission or notice required by this Proclamation, shall upon conviction be liable, for every such offence, to a penalty not exceeding forty pounds.

Penalty for receiving bribes, and other offences.

33. Any member of the Force who shall take any bribe, pecuniary or otherwise, either directly or indirectly, to forego his duty, or who shall in any manner aid or connive at the escape, or attempt to escape, of any prisoner in lawful custody, or who shall desert his post or assault his superior in rank in the Force, or shall neglect or refuse to obey or execute any process by this Proclamation directed to be by him executed, or shall be guilty of any act of insubordination or misconduct against the discipline of the Force, or of any contravention of any rule or regulations made under the provisions of this Proclamation, shall incur and be liable to a penalty not exceeding forty pounds; but nothing herein contained shall exempt such offender from any higher or other punishment to which he may be subject by this Proclamation, or any other law in force in this Colony.

Penalty for obtaining admission to Force by false representation.

34. Any person who shall by a false certificate or any false representation obtain admission to the Force, or having been dismissed therefrom shall by concealing such dismissal receive any pay, gratuity, or pension, shall be guilty of an offence against this Proclamation, and shall on conviction before a Magistrate be liable to three months' imprisonment with or without hard labour.

Penalty for non-delivery of accoutrements on dismissal or resignation.

35. If any person who having been a member of the Force has been dismissed, or who has otherwise ceased to be a member of the Force, shall not forthwith deliver up his certificate of appointment and everything which may have been supplied to him for the execution of his office, or which may be in his custody by virtue thereof, to such person as may be appointed by any order issued by the Commissioner, such first mentioned person shall be guilty of an offence against this Proclamation, and shall upon conviction be liable to be imprisoned with or without hard labour for any period not exceeding three months; and any Justice of the Peace may and shall issue his warrant

to search for and seize any article of equipment which shall not be so delivered wherever the same shall be found.

36. If any member of the Force shall, during the period which he shall have engaged to serve and not being duly discharged from the same, desert or refuse to serve, or absent himself from duty without lawful cause or reasonable excuse, the proof of which shall lie upon him, every such offender shall be liable upon conviction for every such offence to a penalty not exceeding forty pounds.

Offence of desertion, &c.

*37. *The holder of any licence to sell wine, beer, or spirituous liquors, who shall by himself or his servants knowingly permit any policeman to become intoxicated on his premises, or to be supplied with liquors while intoxicated, shall for every such offence be liable upon conviction to pay a penalty not exceeding twenty pounds.*

Offence of supplying liquor by licence holder.

38. If any person not being a member of the Force shall have in his possession any article of equipment supplied to any member of the Force, and shall not be able satisfactorily to account for his possession thereof, or shall put on or assume the dress, name, designation, or description of any member of the Force, or shall give or promise to give any bribe, pecuniary or otherwise, or shall make any agreement with any member of the Force to induce him in any way to forego his duty, or shall supply any member of the Force while on duty with intoxicating drink, or shall concert or connive at any act, whereby any rule or regulation made under this Proclamation in relation to the Force may be evaded, every such person shall, in addition to any other punishment to which he may be liable, for such offence, upon conviction, incur and be liable to a penalty not exceeding forty pounds.

Inability to account for accoutrements in possession, &c.

39. No member of the said Force shall, without permission of the Commissioner first had and obtained, sell, pledge, or otherwise dispose of any article of equipment; and every sale, pledge, or other disposition of any such article shall be null and void; and any member of the said Force who shall make or attempt to make any sale, pledge, or other disposition as aforesaid, in contravention of this section, shall be liable on conviction to a penalty not exceeding twenty pounds.

Sale, pledge, &c., of accoutrements penalized.

40. If any person shall in consequence of any sale, pledge, or other disposition made by any member of the said Force in contravention of the last preceding section, knowingly receive or have any such article of equipment, such person shall be liable upon conviction to a fine not exceeding twenty pounds sterling.

Knowingly receiving accoutrements, &c.

41. No article of equipment of any member of the Police Force shall be capable of being seized or attached under a writ of execution issued against such member.

Accoutrements not liable to be seized in execution.

42. Every member of the said Force, when in uniform, whose duty it shall be, in proceeding to or from any place, to pass through any toll-bar, or over any ferry, at or in respect of which the payment of toll shall now or may hereafter be lawfully

Exemption from tolls when in uniform.

* Repealed by Liquor Licensing Ordinance (Ord. 32 of 1902) where another provision on the subject will be found (sect. 56 of the Ord.).

demanded, shall be exempted from the payment of any such toll in respect of himself, and of any animal and vehicle that may be required for the performance of the duty on which he may be employed.

Penalty on toll
collector for delay of
member in uniform.

43. It any person duly authorised to collect tolls in respect of any toll-bar or ferry shall wilfully subject any member of the said Force to unreasonable delay or detention in respect to the passage through such toll-bar or over such ferry, then such person shall be liable on conviction to a penalty not exceeding Five Pounds, and in default of payment thereof shall be liable to be imprisoned with or without hard labour for any period not exceeding one month.

Duties of con-
stables.

44. It shall be the duty of every member of the Force to collect and communicate intelligence affecting the public peace to prevent the commission of offences, to detect and bring offenders to justice, and to apprehend all persons whom he is legally authorised to apprehend.

Non-liability for
irregularity in war-
rant executed.

45. If any action shall be brought against any member of the Force for any act done in obedience to the warrant of any Magistrate or Justice of the Peace, such member shall not be liable for any irregularity in the issuing of such warrant, or for want of jurisdiction in the person issuing the same; and upon producing such warrant and proving that the signature thereto is in the handwriting of the person whose name is subscribed thereto, and that such person is reputed to be and acts as a Magistrate or Justice of the Peace, and that the acts complained of were done in obedience to such warrant, judgment shall be given against the plaintiff, and the defendant shall recover his full costs of suit.

Penalties.

46. Except where otherwise specially provided, imprisonment, with or without hard labour, may, in the discretion of the Court having jurisdiction, be substituted in lieu of any pecuniary penalty for any offences mentioned in this Proclamation other than such as are mentioned in the 26th, 27th, and 28th Sections respectively, provided that such imprisonment shall not exceed one month, in case the penalty which may be imposed shall not exceed Five Pounds, or three months when such penalty exceeds Five Pounds, but shall not exceed Twenty Pounds, or six months when such penalty exceeds Twenty Pounds.

Whenever any penalty shall have been imposed under the provisions of this Proclamation and the person convicted shall not forthwith pay the same, the Court imposing such penalty may direct that such person may be imprisoned with or without hard labour for any period not exceeding one month if the penalty imposed do not exceed Five Pounds, or not exceeding three months if the penalty be above Five Pounds and not exceeding Twenty Pounds, and for a period not exceeding six months if the penalty be above Twenty Pounds, and such person shall be detained and kept with or without hard labour, as the case may be, unless he shall sooner pay the penalty.

47. No imprisonment or confinement of any member of the Force shall be deemed to be part of any period for which he shall have engaged to serve in the Force.

Period of imprisonment deducted from period of service.

48. All offences created by this Proclamation, and all fines and penalties to be inflicted under or by virtue of this Proclamation, or for breach of any Regulations made thereunder, may, unless otherwise expressly provided, be prosecuted before and imposed by, any Resident Magistrate, whether the offence be committed within the local limits of his jurisdiction or not, or within or beyond the Colony.

Jurisdiction of Resident Magistrate to deal with offences under this Proclamation except where otherwise provided.

49. It shall be lawful at the instance of an Officer in charge of a Town Police District or of any Magistrate within whose jurisdiction such district is, to whom credible information on oath is given that an unlawful assault, riot, or disturbance of the peace has occurred or is likely to occur, if the strength of the Force within such district is insufficient for the preservation of the peace and the protection of the persons and property of the inhabitants, to appoint one or more of the residents of the district to be special constables for a specified time, who shall therefor become vested with the same powers, functions and responsibilities, and become subject to the same discipline and authorities as members of the Force.

Power to Officer to strengthen Force in insufficiently protected districts.

50. Law No. 11 of 1895, and so much of any other Law as is inconsistent with the provisions of this Proclamation, shall be and are hereby repealed.

Repeal.

This Proclamation may be cited for all purposes as the "Police Regulation Proclamation, 1901," and shall come into force in any Town or Area as the Governor may by notice from time to time declare to be Town Police Districts.

Short title.

SCHEDULE A.

TOWN POLICE.

CERTIFICATE OF APPOINTMENT.

It is hereby certified that A.B. has been duly appointed by me to be a Policeman (or Sergeant) in the Town Police of this District under the terms of, and with the powers, functions, and privileges conferred by, the "Police Regulation Proclamation, 1901."

Given under my Hand and Seal this..... day of.....

Commissioner of Police.

Town District.....

SCHEDULE B.

We certify that on the day of 19..... we examined a member of the Police Force constituted under the "Police Regulation Proclamation, 1901," and we believe that he is incapable of discharging his duties as a member of the Force, from infirmity (of mind or body), and that we believe that such infirmity is likely to be permanent, and has not been occasioned by any excess or misconduct on his part.

(Amended by Pr. Tr. 16 of 1901; Pr. Tr. 29 of 1901;
Pr. Tr. 38 of 1902; Pr. Tr. 39 of 1902).

PROCLAMATION

By His Excellency SIR ALFRED MILNER, *His Majesty's High
Commissioner for South Africa, &c., &c., &c.*

(DATED THE 16TH MAY, 1901.)

Preamble.

WHEREAS IT IS DESIRABLE to make temporary provision for the Municipal Government of Johannesburg :

Now, therefore, by virtue of the authority vested in me, I do hereby declare, proclaim, and make known as follows :—

Definition.

1. The expression " Governor " in this Proclamation shall be taken to mean the Officer for the time being administering the Government of this Colony.

Repeal.

2. Law No. 9 of 1899, providing for a Municipality for Johannesburg, and so much of any other Law as is inconsistent with the provisions of this Proclamation shall be and is hereby repealed.

Area of municipality.

3. From and after the promulgation of this Proclamation the town of Johannesburg, including all the lands and property within the areas defined by Government Notice No. 125, dated 23rd March, 1897, namely :—

- (a) Johannesburg proper, Marshall's Township, City and Suburban, Ferreira, Fordsburg, Jeppe's portion of Braamfontein and portion of Mayfair, as more fully shown on diagram of Town Engineer, Chas. Aburrow, and Official Survey of the Surveyor, Wm. H. A. Pritchard, as per diagram dated November, 1893, and February, 1894, confirmed by Surveyor-General on 14th April, 1894 ;
- (b) Two pieces of land formerly known as New Grahams-town and Salisbury Extension, and now known as Marshall's Township Extension ;
- (c) The remaining extent of the farm Randjeslaagte, No. 34, District Heidelberg, now known as Hillbrow ;
And including all the lands and property within the areas known as Park Town, the Berea Township, Yeoville, Bellevue, Highlands, Bertram's Town, Lorentzville, Troyville, Judith's Paarl, that portion of Mayfair not included in sub-section (a) above,

and the Government of ground adjacent to the northern boundary of the former Municipality of Johannesburg are hereby constituted the Municipality of Johannesburg. The boundaries of the said Municipality are more clearly defined in a map deposited in the Municipal Offices at Johannesburg.

*4. There shall be for the Government of the said Municipality a Council which shall consist of so many Councillors as the Government shall from time to time by notice in the *Gazette* determine, not being less than twelve, to be appointed by the Governor and to hold office during pleasure. A Chairman and Deputy-Chairman of the Municipality shall be appointed by the Governor from among the Councillors, and shall hold office during the Governor's pleasure, and the Deputy-Chairman shall be paid such salary from and out of the funds of the Municipality as the Governor may direct.

Constitution of Council.

5. It shall be lawful for the Governor to appoint a Town Clerk, Treasurer, and Town Engineer for the said Municipality, and the Council may, subject to the approval of the Governor, appoint such other fit and proper Officers, not being members of the Council, as they shall think necessary for enabling them to carry into execution the provisions of this Proclamation, and may pay all the officers appointed under this section such salaries as they shall deem reasonable, and as shall be approved by the Governor, and, unless it shall be otherwise stipulated in the contract of service, the Council may remove all such officers appointed by them upon a notice of not less than one month, or in case of misconduct without any notice.

Appointment of Officers.

MEETINGS.

†6. The Council shall meet at least 40 times in each calendar year, and all meetings of the Council shall be open to the public.

Meetings.

‡7. Save where it is otherwise specially provided in this Proclamation, all acts, matters or things hereby authorised or required to be done by the Council, and all questions that may come before it shall be done and decided by the majority of Councillors who shall be present at any meeting at which not less than one half or such larger proportion as the Council may from time to time fix of the members of the Council shall attend.

Quorum.

¶8. At every meeting of the Council the Chairman of the Municipality, if present, shall preside, and in case of his absence the Deputy Chairman thereof, if present, and in case

Proceedings

* See Pr. Tr. 39 of 1902, sect. 2 (1) (a), p. 485, which repealed the original section 4, and substituted the above provision for it.

† See Pr. Tr. 39 of 1902, sect. 2 (2), p. 485, which amended this section to its present form.

‡ See Pr. Tr. 39 of 1902, sect. 2 (3), p. 485, which amended this section to its present form.

¶ See now, Ord. 34 of 1902, as to the duties and privileges of the Chairman being exercised by the Deputy Chairman.

neither the Chairman of the Municipality nor the Deputy Chairman thereof be present, then the Councillors present shall elect a Chairman from among themselves, who shall have the power and authority of the Chairman of the Municipality until he or the Deputy Chairman of the Municipality is again present and acting, or until another Chairman is appointed.

Casting vote of
Chairman.

9. In case of equality of votes the Chairman of the meeting shall have a second or casting vote.

Minutes of pro-
ceedings.

*10. Minutes of the proceedings of every meeting of the Council shall be regularly entered in a book to be kept for that purpose, and minutes of proceedings at a meeting of the Council signed at the same or the next ensuing meeting by the Chairman or by a member of the Council describing himself as or appearing to be Chairman of the meeting at which the minutes are signed, shall be received in evidence without further proof.

Adjournment.

11. The Councillors present at any meeting may from time to time adjourn such meeting; and if at any meeting of the Council a sufficient number of members be not present to exercise the powers vested in the Council, the Councillors present may adjourn the meeting.

Special Meeting.

12. The Chairman of the Municipality or any three Councillors may at any time call a special meeting of the Council, provided that he or they cause a notice of the time and place of such intended meeting, specifying the object thereof, and signed by him or them, or by the Town Clerk, to be served on every Councillor either personally or by leaving the same at his usual place of abode twenty-four hours at least before such meeting.

Pecuniary interest
of Councillor.

13. No Councillor shall vote or take part in the discussion of any matter in or before the Council in which he has directly or indirectly any pecuniary interest. Every Councillor contravening the provisions of this section shall for every offence be liable to a penalty not exceeding Fifty Pounds.

Committees.

14. It shall be lawful for the Council to appoint out of their own body such and so many committees either of a general or special nature, and consisting of such number of members as to the Council may seem fit for any purpose which in the judgment of the Council would be better managed by means of a Committee, and to fix the quorum of any such Committee, provided always that the proceedings of the Committee shall be regularly entered in a minute book to be kept for that purpose and reported to the Council. The Chairman of the Municipality shall be *ex officio* a member of all such committees.

Finance Com-
mittee.

15. The Council shall from time to time appoint a Finance Committee for regulating and controlling the finance of the Municipality; and an order for the payment of a sum out of the

* See Pr. Tr. 39 of 1902, sect. 2 (4), p. 485, amending the section to its present form.

funds of the Municipality shall not be made by the Treasurer of the Municipality except in pursuance of a resolution of the Council passed on the recommendation of the Finance Committee, and any cost, debt, or liability exceeding fifty pounds shall not be incurred except by a resolution of the Council passed on an estimate submitted by the Finance Committee. The Deputy Chairman of the Municipality shall be Chairman of the said Committee, but should he through some unavoidable cause be unable to attend any meeting of the said Committee, the members thereof who are present shall elect a Chairman.

16. Every Committee appointed by the Council may meet from time to time and may adjourn from place to place as they may think proper, and no business shall be transacted at any meeting of the Committee unless the quorum of members (if any) fixed by the Council, and if no quorum be fixed two members be present, and at all meetings of the Committee, if the Chairman be not present, one of the members present shall be appointed Chairman, and all questions shall be determined by a majority of votes of the members present, and in case of an equal division of votes the Chairman shall have a casting vote in addition to his vote as a member of the Committee.

Adjournment and quorum of Committees.

*17. No Councillor shall vote upon or take part in the discussion of any matter in or before the Council in which he has either directly or indirectly by himself or his partners any pecuniary interest. Any Councillor contravening the provisions of this section shall on conviction vacate his seat and be liable to a penalty not exceeding £50.

Pecuniary interest of Councillors.

ACCOUNTS AND AUDIT.

†18. The Council shall cause proper books to be provided and true and regular accounts to be entered therein of all sums of money received and paid on account of and for the Municipality, and of the several purposes for which such sums of money have been received and paid.

Keeping of accounts.

19. The Governor may appoint one or more persons to examine once in every month the accounts of the Municipality, and the Council shall by the Town Clerk produce and lay before the person so appointed all books and accounts of the Municipality with all vouchers in support of the same, and all books, papers and writings in their power relating thereto: Provided that seven days' notice in writing shall be given to the Town Clerk of any such intended examination.

Monthly audit of accounts.

20. For the purpose of any audit under the provisions of the last preceding section it shall be lawful for the auditor to hear, receive and examine evidence upon oath (which oath such auditor is hereby empowered to administer), and by summons under his hand to require such persons as he may think fit to

Auditor's powers.

*This section was substituted for the original section by Pr. Tr. 29 of 1901.

† Pr. Tr. 39 of 1902, section 2 (5), repealed the last part of the section as it originally stood.

appear personally before him at a time and place to be stated in such summons and to produce all such books and papers as may be necessary for such audit. And any person so required who shall without lawful excuse refuse to attend in obedience to such summons, or who having appeared shall refuse to be examined on oath or affirmation, or to take such oath or affirmation, or having taken such oath or affirmation to answer such questions as shall be put to him, shall be liable to a penalty not exceeding Twenty Pounds for every act or offence, and in default of payment to be imprisoned with or without hard labour for any period not exceeding three months unless such fine be sooner paid: Provided that no conviction under this section shall be taken to exempt the person convicted from liability to do or perform the act, matter or thing required to be done or performed by him, or from being successively convicted and punished for every distinct commission of the same act or offence.

BYE-LAWS OR REGULATIONS.

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| Powers of Council. | 21. The Council may from time to time make, alter and revoke bye-laws or regulations for all or any of the following purposes:— |
| Proceedings. | (1) For regulating the proceedings of the Council and the duties of their officers and servants, and preserving order at Council meetings. |
| Fires prevention. | (2) For preventing and extinguishing fires and compensating the owners of buildings removed to prevent the spread of fires. |
| Markets. | * (3) For establishing and regulating public markets and market dues, and regulating public sales, and the charging of fees in connection with public sales held on any public square or open space. |
| Nuisances. | (4) For suppressing nuisances, houses of ill-fame, and gaming houses. |
| Offensive trades. | (5) For restraining noisome and offensive trades, and compelling residents to keep their premises free from offensive or unwholesome matter. |
| Water supply regulation. | (6) For regulating the supply and distribution of any water under the control or management of the Council. |
| Sewerage and drainage. | (7) For regulating sewerage or drainage, and for compelling the connection at the owner's expense of private drains with public drains, sewers, or pipes, and for regulating the construction by the Council at the owner's expense of all house drains in so far as they connect with and extend from the main sewer to the kerb of the street. |
| Lighting. | (8) For regulating, lighting with gas, electricity, or otherwise. |

* The words "and the charging of fees," &c., were added by Pr. Tr. 39 of 1902, section 3.

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| (9) | For preserving public decency. | Public decency. |
| (10) | For preventing the spread of contagious or infectious diseases, and for preserving the public health. | Contagious disease. |
| *(11) | For regulating, supervising, and licensing porters, public carriers, carters, cabs, jinrickshas, and vehicles standing or plying for hire, and the drivers thereof; and for fixing the amount of licence fees to be paid, the charges and fare to be made, and the number of passengers to be carried. | Licensing of cabs, &c. |
| (12) | For regulating, restricting, and licensing the use of bicycles, tricycles, motor cars, and velocipedes within the Municipality. | Licensing of cycles. |
| (13) | For regulating the killing of cattle and other animals and sale of butcher's meat, and the establishment and locality of slaughter houses and meat shops, and their maintenance in a cleanly and proper state. | Slaughter houses. |
| (14) | For regulating the removal of night soil, stable litter, filth, and refuse from private premises; and from all streets, roads, and public places, and for fixing the charges for such removal. | Night soil. |
| †(15) | For preventing or regulating and controlling the use, storage, sale, and removal of dynamite, petroleum, and other explosives or combustibles. | Explosives. |
| ‡(16) | For imposing a tax upon the keeping of dogs, and for providing for the seizure, sale and destruction of ownerless dogs and of those in respect of which the tax has not been paid, and also for dealing with vicious or dangerous dogs, and such as create disturbance by barking or otherwise. | Dogs. |
| (17) | For preventing the pollution of any water which the inhabitants have a right to use. | Water supply pollution. |
| §(18) | For establishing and maintaining cemeteries, and for charging fees in connection therewith. | Cemeteries. |
| ¶(19) | For planting and preserving trees and shrubs, and for prohibiting or regulating and controlling the planting of trees in streets, and for maintaining, cutting or removing any such trees. | Trees, shrubs, &c. |
| (20) | For regulating the width, curbing, paving, guttering, gravelling, and cleansing of roads and streets. | Paving, &c. |
| (21) | For granting licenses or permits for the making of bricks, or for digging or removing clay or gravel, or | Brickfields, quarries, &c. |

* The words "standing or" after "vehicles" were added by Pr. Tr. 39 of 1902, section 3.

† The present form of this section is due to the amendment made by Pr. Tr. 39 of 1902, section 3.

‡ The words beginning "and also" to end of sub-section were added by Pr. Tr. 39 of 1902, section 3.

§ The words "and for charging, &c.," were added by Pr. Tr. 39 of 1902, section 3.

¶ The words "and for prohibiting" to end of sub-section were added by Pr. Tr. 39 of 1902, section 3.

- for quarrying stone, or for cutting firewood, brush-wood, or grass upon Municipal lands, and to prescribe the fees (if any) to be paid for the same.
- Public libraries, museums, &c. (22) For establishing, maintaining, and regulating public libraries, museums, botanical gardens, parks, open spaces, public baths, wash-houses, and locations for natives, and for establishing and licensing public places of recreation.
- Traffic. †(23) For regulating and controlling traffic, processions, and gatherings in public places.
- Line of buildings. (24) For securing the regularity of lines and level of buildings, the architecture of buildings, and the removal, alteration, and prevention of projections or obstructions in front of buildings.
- Unightly buildings. (25) For enabling the Council to prevent the alteration, erection, or use of buildings, the class or character of which are either in themselves or from the circumstances or nature of the locality in which they are placed, a disfigurement to the town or an annoyance to the inhabitants thereof; also for preventing the owners of property which have been sub-divided and sold in building lots from closing any roads or streets shown upon any plan which has been approved of by the Council.
- Dangerous structures. (26) For compelling the pulling down, removing, or rendering safe all buildings, walls, bridges, earth-works, and stoeps of an unsafe or dangerous character, or which have been allowed to fall into a dilapidated or ruinous condition, and for doing so at the cost of the owner.
- Inspection of buildings. *(27) For regulating the inspection of buildings and structures by the Council and its officers; and for regulating the erection of scaffolding and hoarding during the construction or alteration of any building, and the charging of fees in connection with any such hoarding.
- Advertising boards. †(28) *Generally* for maintaining the good rule and government of the Municipality.
- (29) For determining and regulating the places where, and the manner in which placards, bills, advertising boards or advertisements, or notices of any kind shall be displayed in or near, or in view of any street or thoroughfare.
- Advertising vans. (30) For prohibiting or regulating or licensing the use and passage of advertising vans, sandwich boards, lanterns, flags, screens or other movable advertising devices in or along any street or thoroughfare.

* The words "and the charging of fees, &c.," were added by Pr. Tr. 39 of 1902, section 3.

† The clauses 29 et seq. were added by Pr. Tr. 39 of 1902, section 3.

‡ Traffic Bye-laws have been approved under Government Notice 605 of 1902, and are published in *Gazette*, 21st November, p. 1666 et seq.

¶ Parks and Open Spaces Bye-laws have been approved under Government Notice 604 of 1902, and are published in *Gazette*, 21st November, p. 1664.

- * (31) For the regulation or prevention of washing of clothes on public or private premises and the licensing of persons for washing and laundry work. Washing of clothes.
- (32) For establishing, maintaining and regulating tramways. Tramways.
- (33) For licensing and regulating tea rooms, cafés, restaurants, eating and lodging - houses, and all dairies, milk shops, cowsheds, bakehouses, butchers' shops, and all factories and places where articles of food or drink are manufactured or prepared for sale or use. Tea rooms, cafés, &c.
- (34) For licensing, controlling and regulating theatres, music halls, public halls, concert rooms and other places of public entertainment. Places of entertainment.
- † (35) For licensing and regulating locomotive tramcars, omnibuses and all private vehicles. Locomotives, tramcars, &c., public vehicles.
- (36) For establishing and maintaining and compelling the use of any sanitary or other service which the Council is authorised to carry out or regulate or which may be established by virtue of any powers vested in the Council. Compelling use of sanitary service.
- (37) For preventing the pollution of gathering grounds, springs, wells, reservoirs, filter-beds, water purification or pumping works, tanks, cisterns or other sources of water supply or storage, whether situate within or without the Municipality, the water wherein or wherefrom is used or is likely to be used by man within the Municipality for drinking or domestic purposes. Purity of water supply.
- (38) For determining and regulating :—
- (a) The structure of walls, foundations, roofs, chimneys, windows, guttering and down-piping, and all other parts of buildings, whether new or already existing, in order to secure stability, sufficient height light and ventilation, and the proper carrying off of rain-water, as well as for the prevention of fires and for purposes of health. Structure of walls, foundations, &c.
- (b) The sufficiency of the space about buildings in order to secure a free circulation of air and the proper ventilation of buildings. Air spaces.
- (c) The closing of buildings or parts of buildings unfit for human habitation and the prohibition of their use for habitation or occupation. Buildings unfit for habitation.
- (39) For the giving of notice and the deposit of plans and sections by persons wishing to construct or alter buildings ; for the approval or otherwise of all plans and sections of any such buildings or alterations by the servants of the Council and the charging of fees in connection therewith, and for the removal, alteration or pulling down at the expense of the owner of any work begun or done in contravention of any Bye-Law Approval of plans, &c.

* For bye-laws as to laundries see *Gazette*, 28th November, 1902, p. 1698 (Govt. Notice No. 636 of 1902).

† The word "private" was inserted in the Proclamation as originally gazetted owing to an error.

- or Regulation, and for preventing the occupation of any new or altered buildings until a certificate of the fitness thereof for habitation shall have been issued signed by the Medical Officer of Health.
- (40) For preventing the disfiguring of the front of buildings or fences and for prohibiting or licensing the use or regulating the size, description and fixing of sign-boards, screens, private lamps, sun blinds or other devices attached to or connected with any buildings or fences by means whereof any advertisements or notices of any kind may be displayed.
- (41) For preventing and removing obstructions in streets, roads, squares and public thoroughfares, foot pavements and sidewalks; for dealing with diseased animals and the burial of dead animals and the driving of live stock through streets or thoroughfares, and as to live stock found straying in any streets or thoroughfares.
- (42) For establishing, maintaining and regulating pounds and public weighing machines and charging of fees in connection therewith.
- (43) For establishing, maintaining and regulating cold storage works.
- (44) For prohibiting or regulating the erection of wires of any kind in, along, under or over any street or thoroughfare provided that such wires as may be erected for public purposes by the Postmaster-General shall not be prohibited.
- (45) For the prevention of nuisances arising from stable litter, filth, dust, ashes and rubbish, or from any other cause, and for the prevention of the keeping of animals on any premises so as to be a nuisance or to be injurious to health.
- (46) For preventing any person or vehicle for carrying or conveying any article, burden or load so as to obstruct or incommode passengers or vehicles in any street, sidewalk or foot pavement, and for preventing the wheeling of wheelbarrows, cycles or other vehicles on any sidewalk or foot pavement except for the purpose of crossing the same to or from any house or building.
- (47) For preventing persons from congregating with others and thus causing an obstruction in any sidewalk, thoroughfare or open space except such as may be set apart for the purpose, and for preventing obstructions in streets, thoroughfares and open spaces.
- (48) For regulating the construction and maintenance of all installations; for the supply of light, heat or power by means of electricity, gas or otherwise.
- (49) For regulating and controlling the generation of acetylene gas or other inflammable or explosive gas, and the construction and use of all apparatus con-
- Disfiguring of buildings or fences.
- Obstructions in streets.
- Pounds and weighing machines.
- Erection of wires.
- Prevention of nuisances.
- Obstructions on pavements, &c.
- Installation for supply of light, &c.

nected therewith, and for preventing or regulating the storage of liquid acetylene or carbide of calcium.

- (50) For the provision of a proper and sufficient water supply for every dwelling-house, school, store, factory or workshop.
- (51) For the giving of notice and the deposit of plans by persons wishing to lay out any building lots or new townships; for the approval or otherwise of all such plans by the Council for securing uniformity and continuity of streets on or leading to or from any private property, and for preventing the laying out of new building lots or townships or the sub-division of existing building lots without the approval of the Council. Plans of building lots.
- (52) For enabling the Council to establish, maintain and control locations and townships for Asiatics and other coloured persons, and to charge rents for the use of stands in locations or townships laid out by the Council. Establishment and control of locations.
- (53) For enabling the Council to control and supervise the housing of Natives by employers, and to prevent annoyance to persons in the neighbourhood arising therefrom; to compel all Natives not residing on the premises of their European employers or not holding Letters of Exemption whilst lawfully within the Municipality to reside at any location for Natives which may have been established by the Council; and for enabling the Council to regulate the use of public streets by Natives, and for prohibiting the carrying by Natives of knobkerries, assegais or other sticks or weapons, and further for enabling the Council to license Native wash-boys and Native labourers, *other than boys or labourers employed in industrial concerns or domestic service. The term "Natives" as used herein shall include any person belonging to any of the Aboriginal races or tribes of Africa South of the Equator, and any person one of whose parents belongs to any such race or tribe as aforesaid. Housing of Natives by employers.
Compulsory residence of Natives in locations.
Natives in public streets.
- (54) For preventing the use and securing the closing of cesspools, and for regulating the provision, construction, use and repair of, and for preventing damage to earth closets, water closets, privies, ashpits, urinals, sinks, fixed baths and fixed basins, waste pipes, drains and slop tanks in connection with buildings. Meaning of term "Native."
Cesspools, &c.
- (55) For ascertaining the existence and cause of any nuisance arising from any drain, closet, cesspool or water supply, sink, trap, syphon, pipe or other work or apparatus connected therewith, and for remedying the same and recovering the expenses incurred by the Municipality in respect thereof.
- (56) For establishing, maintaining and regulating public closets, urinals and lavatories. Urinals.

* The words "other than.....domestic service" are inserted by virtue of Ord. 41 of 1902, sect. 2.

Street decorations
and temporary plat-
forms.

(57) For regulating and controlling street decorations and for prohibiting, regulating and controlling the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment, or for the accommodation of spectators at any procession, ceremony or spectacular display of any kind.

Gutterings and
down-pipes.

(58) For preventing the discharge of any guttering or down-pipes on to any pavement or sidewalk, and securing, regulating and controlling the laying down of pipes to carry any out-flow therefrom to such gutter or drain as may be authorised or approved by the Council for the purpose.

Weights and mea-
sures.

*(59) For regulating and controlling the sale and use, and the inspection, verification and stamping of weights, measures and weighing instruments, and the charging of fees in connection therewith.

Sale by weight and
measure.

*(60) For regulating and controlling the sale of goods, wares, merchandise or other things by weight or measure.

Meters.

(61) For regulating and controlling the use of gas, water and electric meters, and the testing and stamping of such meters and the charging of fees in connection therewith.

Bees and wild
animals.

(62) For preventing or regulating and controlling the keeping of bees and of wild or dangerous animals.

Diseased meat and
adulteration of food.

(63) For preventing the possession, sale or offering for sale, or the conveyance or handling otherwise than for purposes of destruction, and for ensuring the destruction when necessary in the opinion of the Medical Officer of Health of diseased animals and of diseased meat, fish or other articles of food or drink unfit for the use of man, and for preventing the adulteration or reduction below a proper standard of quality, and for securing the sale in a pure state of milk or any other article of food or drink, and for authorising the entry on and inspection of premises, vehicles or packages for securing any of the objects of this clause.

Conveying meat in
town.

(64) For regulating and controlling the conveyance of meat or dead animals through or along any public streets or public thoroughfares.

(65) To establish and maintain cemeteries, and to make such charges in connection therewith as may be fixed by bye-laws.

(66) To establish, erect and maintain markets and market-buildings.

Power to establish
fire brigade.

(67) To establish, maintain and regulate one or more fire brigades, and to make such charges for the service of such brigades, and for the water used at fires as may be fixed by bye-laws.

* For bye-laws as to weights and measures and the sale of goods, &c., by weight or measure see *Gazette*, 28th November, 1902, p. 1700. (Govt. Notice No. 638 of 1902).

- | | | |
|------|--|---|
| (68) | To purchase, lease or otherwise acquire all such movable, and subject to the approval of the Governor such immovable, property as the Council may from time to time require for the proper carrying out of the powers, duties, rights and obligations of the Council. | Purchase. |
| (69) | To establish, maintain and carry out such sanitary services for the removal of nightsoil, slops, rubbish and refuse of all kinds, and to make such charges for the same as the Council may from time to time think fit. | Sanitary service. |
| (70) | To acquire, construct, lay down, equip, maintain and work tramways, and to make charges in connection therewith. | Tramways. |
| (71) | To acquire, erect, construct, equip and carry on lighting, heating or power supply works within the Municipality or beyond its limits. | Lighting works,
&c. |
| (72) | To erect, construct, equip and carry out sewerage or drainage works within the Municipality or beyond its limits. | Drainage. |
| (73) | To acquire, erect, construct, equip and carry on and make charges in connection with cold storage works. | |
| (74) | To enter into any contract or contracts with any Municipality, Board of Health or other corporation or company, person or persons to secure or further the carrying out beyond the limits of the Municipality of any work or undertaking which may be within the powers of the Council. | To provide for carrying on works beyond the boundaries. |
| (75) | To sell all by-products resulting from the carrying on of any works or undertakings which may be within the powers of the Council, and also to let, sell or otherwise dispose of any movable or immovable property; Provided no sale or lease of immovable property exceeding £1,000 in value shall take place without the sanction of the Administrator of this Colony. | To sell. |
| (76) | To do all things necessary for carrying out all the purposes for or in regard to which the Council is authorised from time to time to make, alter or revoke bye-laws or regulations, and for carrying into effect all such bye-laws or regulations. | Power to do all the things for which there is power to make bye-laws. |

But no such bye-law or regulation shall be contrary to the provisions of this Proclamation.

22. No bye-law or regulation shall be made or amended by the Council until a copy of such proposed bye-law or amendment be deposited at the office of the Council for inspection by any person at all reasonable times, and a notice be published in some newspaper generally circulating in the Municipality seven days prior to the meeting of the Council held for the purpose of making such bye-law or amendment, setting forth the general purport of the proposed bye-law or regulation and amendment, and stating that a copy is open to inspection as aforesaid.

Inspection of proposed bye-laws.

Approval and publication of bye-laws.

23. After any bye-law or regulation has been passed by the Council it shall be submitted for the approval of the Governor, and, if approved, shall be published in the *Gazette*, and thereupon such bye-law shall have the force of law in the Municipality.*

Penalties for breach of bye-laws.

24. Every bye-law or regulation in force in the Municipality may be repealed by the Governor.

25. Any bye-law or regulation made under this Proclamation may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches, but no penalty shall exceed fifty pounds. And any such bye-law or regulation may provide that, in addition to any such penalty, any expense incurred by the Council in consequence of any breach of such bye-law or regulation or in the execution of any work directed by any such bye-law or regulation to be executed by any person, and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

Evidence of due making of bye-laws.

26. A copy of the *Gazette* containing any bye-law or regulation of the Council shall be evidence of the due making of such bye-law or regulation and of the contents thereof.

Saving of former regulations.

27. The regulations of the Town Council established under Law No. 9 of 1899 shall in so far as they are not in conflict with this Proclamation continue of force until modified or repealed by the Council.

Loan to Council for temporary purposes from the Government.

†28. It shall be lawful for the Governor to advance to the said Council from time to time such moneys as he may think fit for the proper carrying out of the provisions of this Proclamation, as well as for liquidating the overdraft at the National Bank, Johannesburg, and other debts incurred for Municipal purposes between the 1st June, 1900, and the taking effect of this Proclamation by Major O'Meara, appointed by the Military Governor, Johannesburg, to take charge of the Municipal affairs of Johannesburg during that period, and to charge the said Council interest thereon at a rate not less than 4 per cent. per annum, and on such terms and conditions as to repayment as to the Governor may seem proper. The moneys so advanced and the interest thereon shall constitute a liability of the said Council and their successors in office, whether appointed under this Proclamation or appointed or elected under any law hereafter to be promulgated for providing for a Municipality for Johannesburg; and shall be a charge on the revenue of the Council and on all future rates levied on the rateable property within the Municipality, whether such rates be made by the Council appointed under this Proclamation or by any future Council of the Municipality.

* See Ord. 41 of 1902, sect. 1, as to the procedure in framing bye-laws affecting mining companies.

† By Ord. 27 of 1902, sect. 1, power is given to the Council to liquidate the liabilities of the late Stadsraad out of moneys raised on loan.

29. No such moneys as are referred to in the last preceding section shall be advanced by the Governor for expenditure in connection with the construction of permanent works and undertakings, or for the purchase of any lands or buildings, unless such construction or purchase has been approved by him. The Council shall submit to him plans and specifications and an estimate of the cost of any such permanent works or undertakings.

POWERS AND DUTIES OF COUNCIL.

30. The Council shall have power and authority to do any of the following things :—

To make, construct, alter, keep clean and in repair the roads, streets, dams, furrows, sewers, drains, culverts, and bridges within the Municipality. Construction of sewers, &c.

To excavate, construct and lay down within the limits of the Municipality watercourses, water pipes, conduits, sluices, dams, reservoirs, aqueducts, wells and other works for supplying the inhabitants of the Municipality with water, and to keep the same in repair, or to grant leave to any person or company of persons to lay down pipes or to execute any other like works. Construction of watercourses.

To lease or purchase any land, and to erect, lease or purchase, maintain and keep in repair any building or buildings for any municipal requirement or purpose. Purchase of land.

*31. The Council shall, in addition to the powers above enumerated, have the power to supply on such terms as may be fixed by the Council, electricity, gas and water for all purposes for which the same can be used to all buildings, grounds, places or premises, or any part thereof. Supply of gas, water and electricity.

32. The said Council shall have full power and authority to do all things necessary for the laying of main and branch wires and lines or pipes to convey the electric current, gas or water to be used for the purposes hereinbefore set forth underneath and over the streets of the Municipality, and to connect the said wires, lines or pipes with any premises at the request of the owners or occupiers thereof. Laying of pipes, &c.

†33. The said Council shall have full power and authority to enter into agreements with any person, company or public body for the supplying of electricity, gas or water to such places or premises, and for such purposes as are hereinbefore set forth, and shall make charges for the said supply in accordance with a tariff to be framed by the said Council with the approval of the Governor. Agreements for supply of gas, water, &c.

†34. If any person or company neglect to pay any charge for electricity, gas or water or any other sum due to the said Council in respect of the supply thereof, the Council may cut Cutting off supply.

* Pr. Tr. 39 of 1902, sect. 2 (6), p. 486, amended this section to its present form.

† Amended to its present form by Pr. Tr. 39 of 1902, sect. 2 (7), p. 486.

off such supply, and for that purpose may cut or disconnect any pipe, electric wire, line or other work through which the electricity, gas or water may be supplied, and may, until such charge or other sum, together with any expenses incurred by the Council in cutting off such supply of electricity, gas or water are fully paid, but no longer, discontinue the supply thereof to such company or person.

Penalty for injuring pipes, &c.

*35. Any person who unlawfully and maliciously cuts or injures any wire, line, pipe or other work used for the conveyance of electricity, gas or water as aforesaid, shall be guilty of an offence against this Proclamation, and shall be liable, upon conviction, to a fine not exceeding One Hundred Pounds, or to be imprisoned, with or without hard labour, for any period not exceeding two years.

Power of entry and inspection of pipes &c.

*36. Any officer appointed for that purpose by the Council may at all reasonable times enter any premises to which electricity, gas or water is or has been supplied by the Council, in order to inspect the pipes, electric wires, lines, meters, accumulators, fittings, work and apparatus for the supply of electricity, gas or water belonging to the Council, and for the purpose of ascertaining the quantity of electricity, gas or water consumed or supplied, or where a supply of electricity, gas or water is no longer required, or where the Council is authorised to take away and cut off the supply of electricity, gas or water from any premises, for the purpose of removing any pipes, electric wires, lines, accumulators, fittings, works or apparatus belonging to the Council, repairing all damage caused by such entry or removal.

Vesting of streets, &c., in Council.

MUNICIPAL PROPERTY.

†37. All streets, roads, thoroughfares, foot-pavements, foot-paths, sidewalks, squares and open spaces, which have been or shall be at any time set apart and appropriated by proper authority for the use of the public or to which the inhabitants of the Municipality shall at any time have or acquire a common right, shall be vested in and be under the management and control of the Council.

Contracts.

CONTRACTS.

38. The Council may, in the name and on behalf of the Municipality, enter into contracts for the purposes of this Proclamation, and all such contracts lawfully made shall be effectual and binding on the Council and all the other parties thereto, their successors, heirs, executors or administrators, as the case may be. Every contract shall be deemed to be duly executed by or on behalf of the Council if signed by the Chairman or in his absence the ‡Deputy Chairman of the Municipality, or if signed by any one or more Councillors thereto, authorised by resolution of the Council.

* Amended to its present form by Pr. Tr. 39 of 1902, sect. 2 (7) p. 486.

† This clause was by Pr. Tr. 39 of 1902, sect. 2 (8) substituted for that originally enacted.

‡ The words as to the Deputy Chairman were added by Pr. Tr. 39 of 1902, sect. 2 (9).

Advertisement of
contracts of £50 and
invitation to tender

39. Except in cases of emergency, before any contract for the execution of any work, or the furnishing of any goods to the amount of Fifty Pounds or upwards is entered into by the Council, fourteen days' clear notice at the least shall be given in some newspaper circulating in the Municipality, expressing the purpose of such contract and inviting any person willing to undertake the same to make proposals for that purpose to the Council. The Council shall accept the proposal which, on a view of all the circumstances, appears to them to be most advantageous; and may take security for the due and faithful performance of every such contract, or the Council may decline to accept any such proposal.

REVENUE.

†40. The revenue of the Municipality shall consist of:—

- (1) All fines imposed by a competent Court for the contravention of Municipal regulations.
- (2) All licence moneys on licences issued by the Council, and all market dues, tolls, ‡ rents, pound fees, and taxes on dogs.
- (3) All charges made by the Council for the supply of electricity, gas, water, and sanitary services, § and also all charges and profits arising from any service or undertaking carried on by the Council by virtue of any powers vested in it.

Revenue :
Fines.

Licence moneys
Market dues.

Gas, &c., charges.

||All moneys due for sanitary services shall be recoverable either from the occupier for the time being, or, failing him, from the owner of the premises in respect of which the services were rendered.

Sanitary service
charges.

MISCELLANEOUS.

41. The Council shall, for the purposes of this Proclamation, have power by themselves or their officers to enter at all reasonable hours in the day time into and upon any building or land within the Municipality for the purpose of executing any work or making any inspection authorised to be executed or made by them under this Proclamation ¶ or under any bye-law in force in the Municipality without being liable to any legal proceedings on account thereof.

Powers of entry to
execute works.

† See Johannesburg Rating Proclamation (Tr. No. 38 of 1902).

‡ The word "rents" was inserted in this subsection by Pr. Tr. 39 of 1902, sect. 2 (10).

§ The words beginning "and also" to end of subsection were inserted by Pr. Tr. 39 of 1902, sect. 2 (10).

|| See Pr. Tr. 16 of 1901 as to power of Council to recover arrears of sanitary charges under Law 9 of 1899, and see also Ord. 27 of 1902, sect. 3.

¶ The words after "Proclamation" "or under any bye-law in force in the Municipality," were inserted by Pr. Tr. 39 of 1902, sect. 2 (11).

Authentication of documents.

42. Every order, notice or other document requiring authentication by the Council may be sufficiently authenticated without the Common Seal of the Municipality if signed by two Councillors or by the Town Clerk.

Penalty for obstruction.

43. Every person who shall at any time obstruct the Council, or any person employed by them, or any person appointed by the Governor, in the performance of anything which they are respectively empowered or required to do by this Proclamation,* or under any bye-law in force in the Municipality, shall be liable to a penalty not exceeding five pounds.

Recovery of penalties.

44. The Council may order proceedings to be taken for recovery of any penalties and for the punishment of any person offending against the provisions of this Proclamation, or of any bye-law made thereunder, and may order the expenses of such prosecution or other proceedings to be paid out of the Municipal fund.

Acts and omissions not otherwise provided for.

45. Where any matter or thing is by this Proclamation or by any order or notice made and published under the authority hereof directed or forbidden to be done, or where any authority is given by this Proclamation to any person to direct any matter or thing to be done, or to forbid any matter or thing to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done, in every such case every person offending against such direction or prohibition shall be deemed guilty of an offence against this Proclamation.

Penalties where not otherwise provided.

46. Every person guilty of an offence against this Proclamation or any bye-law in force in the Municipality shall for every such offence be liable to the penalty expressly imposed by this Proclamation, or by the bye-law, and if no penalty be imposed then to a penalty not exceeding ten pounds.

Recovery before Court of Resident Magistrate.

47. All penalties or other moneys payable in respect of any offence against this Proclamation, or by any bye-law made thereunder, may be recovered before the Court of the Resident Magistrate of Johannesburg.

Sufficiency of summons for contraventions of bye-laws.

48. All offences against any bye-law or regulation in force in the Municipality shall be deemed to be offences against this Proclamation, and in any prosecution for contravening the provisions of any such bye-law or regulation it shall be sufficient to allege that the accused is guilty of contravening or offending against a bye-law or regulation in force in the Municipality, without describing the bye-law or regulation by number or otherwise, and alleging the act complained of.

Imprisonment in default of payment of penalties.

49. Whenever any penalty shall have been imposed under the provisions of this Proclamation, or of any bye-law made thereunder, and the person convicted shall not forthwith pay the same, the Court may direct that such person be imprisoned with or without hard labour for a period not exceeding one month if the penalty imposed do not exceed five pounds, or not exceeding three months if the penalty be above five pounds, and

*The words after "Proclamation" in this section "or under any bye-law in force in the Municipality" were inserted by Pr. Tr. 39 of 1902.

such person shall be detained and kept to hard labour unless he shall sooner pay the penalty.

50. All penalties recovered for offences against the bye-laws of the Municipality, or for offences against this Proclamation committed in the Municipality, or in any way in respect of the Municipality, shall be paid into the Municipal fund.

Penalties to be paid to Municipal fund.

51. All actions brought by or against the Council of the Municipality shall be brought or defended in the name of the Chairman of the Municipality.

How actions brought or defended.

*52. Notwithstanding anything in this Proclamation contained it shall be lawful for the Governor (by notice to be published in the *Gazette*) from time to time to alter the boundaries of the Municipality.

Power to Governor to alter boundaries.

53. This Proclamation may be cited as the "Johannesburg Municipal Proclamation, 1901."

Title.

NOTE.—For further powers given to Johannesburg Municipality beyond those inserted in this Proclamation, see Proclamation Tr. 38 of 1902, and Proclamation Tr. 39 of 1902, sects. 5–24.

* The Municipal Boundaries have been altered by Procl. No. 13 (Admn.) 1902, published in the *Gazette*, 28th Nov. 1902, p. 1695. The present boundaries are defined in the Schedule to that Proclamation.

PROCLAMATION

By *His Excellency* BARON KITCHENER OF KHARTOUM, *Acting High Commissioner for South Africa and Acting Administrator of the Transvaal, &c., &c., &c.*

(DATED THE 13TH MAY, 1901.)

Preamble.

WHEREAS LAW No. 12 of 1870, regulating the administration of the estates of deceased persons, provides, amongst other things, for the framing of the Death Notice and Inventory (where there is no Executor) required by the said Law by the Field Cornet of the Ward in which the death has occurred :

And whereas it is not desirable at present to issue Letters of Administration to Executors appointed by will :

And whereas it is desirable in the present circumstances to make other provisions for the framing of such Death Notices and Inventories :

Now therefore by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows :

Notices where given.

1. *The Notice required by sections 6 or 28 of Law 12 of 1870 shall, from and after the taking effect of this Proclamation, be given at the office of the Resident Magistrate which is nearest to the place where the death shall occur.*

Failure to give such notice as aforesaid shall be deemed to be a contravention of the aforesaid sections of Law No. 12 of 1870.

Framing of death notices and making of inventories.

2. *The Resident Magistrate at whose office such Death Notice as aforesaid is given shall forthwith appoint some fit and proper person to frame the Death Notice and make the Inventory required by sections 7, 9, 29 and 30 of the said Law, and the provisions of the said sections shall, save in so far as they are modified by this Proclamation, mutatis mutandis, apply to the person so appointed.*

The person so appointed shall within four weeks of his appointment transmit to the said Resident Magistrate the said Death Notice Inventory and the Will of the deceased person (if there be one), and the said Magistrate shall transmit the same to the Orphan Master or person acting as such.

Remuneration of person appointed to frame death notice.

3. *The person appointed by the Resident Magistrate under the last preceding section shall be paid out of the proceeds of the Estate*

Repealed by Pr. Tr. 28 of 1902.

of the deceased person such reasonable remuneration as the said Resident Magistrate may approve, and shall incur all the penalties for a contravention of the provisions of the said section as are provided by section 78 of Law No. 12 of 1870 for the contravention of sections 7 and 30 thereof.

4. The said Resident Magistrate may, as far as possible, make provision for the custody and safe keeping of the personal property, if any, of the deceased until or unless a Curator Bonis shall have been appointed under Proclamation No. 12 of 1901, upon the happening whereof such Curator Bonis shall become responsible for the safety of such property.

Resident Magistrate to make temporary provision for safe custody of property.

PROCLAMATION

By His Excellency BARON KITCHENER OF KHARTOUM, Acting High Commissioner for South Africa and Acting Administrator of the Transvaal, &c., &c., &c.

(DATED 16TH MAY, 1901.)

Preamble.

WHEREAS it is necessary to provide for the signing of special licences to marry and to amend Article 3 of Law No. 3 of 1871 as amended by Article 6 of Law No. 22 of 1894:

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows:—

Amendment of Marriage Laws as to officer granting special licences.

1. The words “the Secretary to the Transvaal Administration” shall be substituted for the words “the Under State Secretary” appearing in Article 3 of Law No. 3 of 1871, as amended by Article 6 of Law No. 22 of 1894.

Validation of special licences signed by Military Governors.

2. All special licences to marry which before the date of this Proclamation have been signed by the Military Governor of Pretoria or of Johannesburg or by the Secretary or Legal Adviser to the Transvaal Administration shall be of the same force and effect in all respects as though the same had been signed by the Secretary of the Transvaal Administration after the date of this Proclamation.

PROCLAMATION

By His Excellency BARON KITCHENER OF KHARTOUM, *Acting High Commissioner for South Africa and Acting Administrator of the Transvaal, &c., &c.*

(DATED 16TH MAY, 1901.)

BY VIRTUE of the authority in me vested, I hereby declare, proclaim and make known as follows:—

1. Section 2 of Proclamation No. 14 of 1901, conferring certain powers on the Director of Prisons and on the *Superintending Officer of Gaols in Johannesburg, shall, except as to a sentence of lashes, apply only to sentences imposed by the aforesaid officials exceeding imprisonment for one month or a fine of Five Pounds.

(This Proclamation provided for the places where Courts of Resident Magistrates might be held. It is rendered obsolete Pr. Tr. 21 of 1902.)

Transvaal
Proc. No. 4
of 1901.

(This Proclamation announced the dissolution of the District Courts established under sect. 7 of Pr. 4 of 1900 and of the Court established under a Proclamation of the Military Governor of Johannesburg, dated 2nd July, 1900.)

Transvaal
Proc. No. 5
of 1901.

* The office of "Superintending Officer of Gaols in Johannesburg" was abolished by Pr. Tr. 30 of 1902, and his powers and jurisdiction conferred on the Governor of the Prison in Johannesburg in respect of all prisons within the Witwatersrand district.

PROCLAMATION

By *His Excellency* BARON KITCHENER OF KHARTOUM, *Acting High Commissioner for South Africa and Acting Administrator of the Transvaal, &c., &c.*

(DATED 31ST MAY, 1901.)

Preamble.

WHEREAS IT IS DESIRABLE to remove the restrictions placed on the transport and exportation from this Colony of raw gold by Proclamation No. 23 by Lord Roberts, dated 16th October, 1900, and also by Government Notice No. 3, dated 2nd June, 1900, signed by the Military Governor of Johannesburg and by Government Notice No. 6, dated 7th June, 1900, signed by the Military Governor of Pretoria:

Now, therefore, I do hereby declare, proclaim and make known as follows:

Delivery of gold deposited in banks to mining companies.

1. From and after the date of this Proclamation all gold deposited in any bank of this Colony under the requirements of the aforesaid Government Notices by mining or metallurgical companies duly registered in this Colony, shall on application to such bank by any such company, supported by an affidavit that the said gold is its *bonâ-fide* property and was won by it in the course of its mining or metallurgical operations, be delivered up to such company.

Power to export raw gold under restrictions of law.

2. It shall be lawful for any bank or company as aforesaid to export raw gold from this Colony under such restrictions only as are imposed by the laws of the late South African Republic in force in this Colony, anything to the contrary in the aforesaid Proclamation and Notices notwithstanding.

Applications to Special Criminal Court for delivery of raw gold deposited.

*3. Any person or company not included in section 1 hereof, who has under the aforesaid Notices deposited raw gold in any bank in this Colony, may make application for the delivery to him thereof to the Special Criminal Court at Johannesburg, which is hereby authorised to hear and adjudicate upon any such application.

Procedure on such applications.

4. On every such application as aforesaid the following provisions shall apply:—

(a) Notice of such application accompanied by affidavits and other documents in support thereof shall be filed with the Registrar of the said Court not later than 48 hours before the hearing thereof.

* The civil jurisdiction of the Special Criminal Court at Johannesburg was abolished on the establishment of the High Court at Pretoria and the District Court at Johannesburg in May, 1902. (See sect. 43 of Pr. Tr. 14 of 1902 and Government Notice 118 of 1902 published in "Government Gazette," 15 April, 1902, p. 442.)

- (b) *The said Court may on being satisfied that the applicant is primâ facie entitled to the gold referred to in his application grant a Rule nisi calling on all persons interested in the said gold to show cause on a date not less than four weeks from the granting of such Rule why the said gold should not be delivered to the applicant.*
- (c) *The Registrar of the said Court shall cause the said Rule, together with the Notice of Application, Affidavits and other documents in support of it, to be published in the "Gazette" in Pretoria, or in the "Johannesburg Gazette," or in both the said papers, as to the said Court may seem advisable, once at least in every week for a period of four weeks.*
- †(d) *Four days at least before the return day of the said Rule any person appearing to show cause against it shall file any affidavits or documents he proposes to produce to the said Court in support of his opposition with the Registrar of the said Court and shall also serve them on the applicant, who shall be entitled at any time before the return day aforesaid to file with the said Registrar and serve on the person opposing the said Rule any affidavits in reply to those filed by the latter.*
- (e) *The Court may, on the return day after hearing both parties or Counsel on their behalf, give judgment on the said application; or may postpone the final determination thereof for further evidence or argument; or may, if in their opinion the application cannot be satisfactorily determined* on affidavit, direct that it be determined by an action to be brought in the Supreme Court or High Court of this Colony when established, or may make such order in the premises and as to costs as appears to the said Court to be just and equitable.*

5. *Any such applicant aforesaid to whom by order of the said Court any raw gold is delivered may deal with it subject only to such restrictions as are placed on such dealing by the laws of the late South African Republic in force in this Colony.*

Dealing with raw gold under restrictions of ordinary law.

6. So much of any Proclamation or Government Notice as is inconsistent with or repugnant to the provisions of this proclamation shall be and is hereby repealed.

Repeal.

* For the words "on affidavit" were substituted by Pr. Tr. 17 of 1901, sect. 2, the words "on the evidence before them."

† See Pr. Tr. 17 of 1901, sect. 1, as to the further particulars the Court might order the applicant to file.

house or building) the said affidavit shall allege that neither the claimant or anyone authorised by him thereto at any time disposed of the right of occupation thereof, and that the person in occupation thereof has no title thereto, or any licence from him to occupy the same, and that he, although requested to do so, refuses to deliver up to the claimant the occupation of the said house or building.

Orders nisi of Resident Magistrate for delivery up.

3. On receiving such affidavit, the said Resident Magistrate shall grant a written order informing the person in possession of the said movables, or in occupation of the said house as the case may be, that they are claimed in terms of the affidavit annexed to the said order, and calling upon such person to forthwith deliver up to the claimant the said goods, or the occupation of the said house as the case may be, unless he can satisfy the said Magistrate on affidavit within forty-eight hours after the service of the said order on him that he is entitled to the possession of the said goods, or the occupation of the said house as the case may be. The said notice, with a copy of the affidavit mentioned in the preceding sections, shall be served personally on such person as aforesaid.

Orders absolute of Resident Magistrate for delivery up.

4. If the person in possession of the goods, or in occupation of the house claimed, does not within forty-eight hours after such service as aforesaid, lodge with the Resident Magistrate the affidavit mentioned in the last preceding section, or if he lodge with him an affidavit which does not satisfy the said Magistrate that he is entitled to the possession of the said goods or the occupation of the said house, the said Resident Magistrate shall order the person in possession of the said goods or in occupation of the said house, as the case may be, forthwith to deliver up the same to the claimant, and on his failing to do so he shall be deemed to be guilty of an offence against this Proclamation, and shall be liable on conviction to pay a fine not exceeding £50 or to be imprisoned for a period not exceeding three months with or without hard labour, or to both such fine and imprisonment, and shall further be liable to have the said goods forcibly taken from him or to be summarily ejected from the said house or building as the case may be.

Penalty for false affidavit.

5. Any person knowingly making any false affidavit under this Proclamation shall be guilty of perjury, and be liable to be prosecuted and punished accordingly.

Saving of ordinary criminal jurisdiction.

6. A prosecution under Section 4 of this Proclamation shall not in any way be a bar to the prosecution of the person in possession of goods belonging to another for theft, or for any crime known to the law which the circumstances of such possession may disclose.

Saving of civil remedy.

7. Nothing in this Proclamation contained shall in any way be a bar to the party against whom an order has been made under Section 4 hereof, or the claimant in whose favour the said Resident Magistrate has refused to make an order under the said Section from instituting an action in any competent Court in this Colony already established, or hereafter to be established, in respect of the property and rights claimed in manner provided in this Proclamation.

8. *This Proclamation shall not apply to movable property used for military purposes, nor to houses or buildings in the occupation of Officers of His Majesty's Forces on active military service or required for military purposes.*

Saving as to property in military use.

9. *The powers and jurisdiction conferred on a Resident Magistrate of a district or area by this Proclamation may be exercised by the Assistant Resident Magistrate thereof.*

Powers of Assistant Resident Magistrate.

PROCLAMATION

By His Excellency BARON KITCHENER OF KHARTOUM, *Acting High Commissioner for South Africa and Acting Administrator of the Transvaal, &c., &c., &c.*

(DATED 19TH JUNE, 1901.)

Preamble.

WHEREAS IT IS DESIRABLE to make provision for the holding of preliminary examinations and to give further powers to Resident Magistrates :

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :

Preliminary examination on criminal charges.

1. It shall be lawful for any Resident Magistrate or any Assistant Resident Magistrate, on receiving information of the commission of any crime or offence, to hold a preliminary examination thereon, except when it shall appear that such crime or offence is proper for the cognizance of and trial in a Court of Resident Magistrate.

*2. *The ninth section of Proclamation No. 6 of 1901 is hereby amended by omitting all the words after the words "stop the trial" therein, and substituting the following "and shall forthwith hold a preliminary examination thereon."*

Procedure on preliminary examination

3. All preliminary examinations held under this Proclamation shall be conducted in manner and form provided by the Laws of the late South African Republic now in force in this Colony, save that such examinations shall be conducted in the English language, and immediately after the committal to trial of any accused person by the Magistrate before whom the preliminary examination is held, the said Magistrate shall cause the proceedings therein to be forwarded to the Legal Adviser to the Transvaal Administration.

Signature of indictments.

4. All indictments in the Special Criminal Courts at Johannesburg and Pretoria shall be signed by the Legal Adviser to the Transvaal Administration, anything in the 12th section of Proclamation No. 6 of 1901 to the contrary notwithstanding.

Resident Magistrate to have powers of Landdrost.

†5. All the powers and privileges conferred, and the duties imposed on Landdrosts by the Laws of the late South African Republic shall be and are hereby conferred and imposed on Resident Magistrates, and wherever the term "Landdrost" occurs in any law, the words "Resident Magistrate" shall be deemed and taken to be substituted therefor.

* The ninth section of Proclamation No. 6 of 1901 was among those repealed by Proclamation No. 21 of 1902.

† The provisions of this section are re-enacted in effect by Pr. Tr. 21 of 1902, section 52.

PROCLAMATION

By His Excellency BARON KITCHENER OF KHARTOUM, Acting High Commissioner for South Africa and Acting Administrator of the Transvaal &c., &c., &c.

(DATED 24TH JUNE, 1901.)

WHEREAS no adequate provision exists in the Law of this Colony for the holding of inquests in cases where persons die suddenly, or are found dead, or are supposed or suspected to have come by their death by violence or otherwise than in a natural way :

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

1. In all cases in which it shall come to the knowledge of any Resident Magistrate that there is at or within the distance of six miles from the ordinary and stated place for holding his Court, the dead body of any person who died suddenly, or was found dead, or is supposed or suspected to have come by his death by violence or otherwise than in a natural way, such Magistrate shall, as soon as possible, proceed in person to the spot where the dead body is, and shall inspect the same and hold an inquest thereon, and if necessary shall cause the same, if interred, to be disinterred for the purpose of such inspection and inquest, and shall by the examination of witnesses ascertain the cause of death.

Duty of Resident Magistrate to hold inquests in certain cases.

2. In viewing the dead body the Resident Magistrate shall take careful note of all appearances, marks, and traces presented by it and about it which shall tend to show whether the deceased did or did not come by his death from violence, and, if from violence, whether the same was used by himself or by some other, and if by some other, who such other was, or how he may be discovered.

Duties in viewing the corpse.

3. The Resident Magistrate shall also cause the dead body to be examined as soon as possible by a regularly admitted medical man, if such can be procured, and if not, then by the best qualified person or persons that can be obtained.

Examination of corpse by medical practitioner.

4. The process for summoning witnesses to attend before any inquests shall be in substance as follows :—

Summoning of witnesses to inquest.

INQUEST FOR THE DISTRICT OF.....
To.....

Messenger of Resident Magistrate's Court for.....

You are hereby required in His Majesty's name to summon A.B., of.....(describe him

particularly), that he appear before me on this the.....
day of.....190...in the forenoon (or afternoon
as the case may be, stating the day and hour according to the
fact), then and there to be examined at an inquest touching the
death of C. D. (or "of a certain deceased person whose name
is unknown").

Herein fail not at your peril.

Dated at.....this.....day of.....
.....190...

.....
Resident Magistrate.

Penalty for dis-
obedience to sum-
mons.

5. If any person summoned as a witness shall not attend
pursuant to such a summons then such person so making
default shall, unless some reasonable excuse be proved by oath
or affidavit, be liable to be fined by such Magistrate a sum not
exceeding £25, or in default of payment to imprisonment with
or without hard labour not exceeding one month, as such
Magistrate shall think fit ; and such Magistrate may, moreover,
issue his warrant for the apprehension of the person so making
default, which warrant shall be in substance as follows :—

To.....Police and other constables and officers
of the law proper to the execution of criminal warrants :—

WHEREAS A.B. of (describe him particularly as in the
summons) who was duly summoned to appear before me at
(name the place as in the summons) at (state the time as in the
summons) then and there to be examined at an inquest touching
the death of C.D., or of a certain deceased person whose name
is unknown, and hath refused and neglected so to do to the
great delay and hindrance of justice : These are, therefore, in
His Majesty's name to command you or some of you to
apprehend and bring before me the body of the said A.B.
that he shall be dealt with according to law ; and for so doing
this shall be your warrant.

Dated at.....this.....day of.....
190...

.....
Resident Magistrate.

Oath of witnesses.

6. The oath to be taken by witnesses appearing before the
inquest, shall be administered by the Magistrate and shall be
as follows :—

"The evidence which you shall give to this inquest touching
the death of C.D. (or of the deceased person name unknown
regarding whom this inquest is held) shall be the truth the
whole truth and nothing but the truth ; so help you God."

7. All contempts committed by witnesses or others before or in regard of any inquest shall be punished in like manner *mutatis mutandis*, as contempts committed by witnesses and others before any Court of Resident Magistrate.

Contempt of Court.

8. The evidence of each witness shall be taken down in writing by the Magistrate or by the Magistrate's clerk according as the Magistrate shall think proper and direct.

Evidence to be taken down in writing.

9. Nothing in this Proclamation contained shall prevent any person authorised by law to issue warrants of apprehension or authorised to apprehend offenders or supposed offenders in that warrant from acting in all respects as regards such warrants or such offenders, and whether an inquest shall or shall not have been commenced precisely as if this Proclamation had not been issued.

Warrants of apprehension.

10. All witnesses, medical or otherwise, summoned or attending to give evidence before any inquest shall be entitled to receive their expenses precisely as if witnesses summoned to give evidence at a criminal trial.

Expenses of witnesses.

11. If the Resident Magistrate upon such inquest shall see reason to believe that the deceased person came by his death in any way which involved or amounted to some crime or offence upon the part of any person who can be made amenable to justice, the Resident Magistrate shall cause such person to be apprehended in order that criminal proceedings may be instituted against him. In all other cases the Resident Magistrate shall forward to the Legal Adviser to the Transvaal Administration the original evidence taken by him.

Apprehension for purposes of criminal proceedings.

12. As often as it shall come to the knowledge of any Justice of the Peace that there is at any spot within his jurisdiction the dead body of any person who died suddenly or was found dead, or is supposed or suspected to have come by his death by violence or otherwise than in a natural way, such Justice of the Peace shall forthwith, if such spot be at a distance of six miles or less from the ordinary place of holding a Court, report the fact to the Resident Magistrate of the district, but if such spot shall be more than six miles from the ordinary place of holding a Court, such Justice of the Peace shall himself, with all convenient speed, proceed to the spot where the dead body is, and shall inspect the same, and, if necessary, shall cause the same if interred, to be disinterred for the purpose of such inspection, and shall obtain all such information as shall be procurable for the purpose of ascertaining the cause of death.

Duty of Justice of Peace to report to Resident Magistrate.

13. In viewing the dead body the Justice of the Peace shall take careful note of all appearances, marks, and traces presented by it and about it which shall tend to show whether the deceased did or did not come by his death from violence,

Viewing of corpse by Justice of the Peace.

and if from violence, whether the same was used by himself or some other, and if by some other, who such other was, or how he may be discovered.

Justice of Peace to have corpse examined by medical practitioner.

14. It shall be the duty of the Justice of the Peace, where practicable, to cause the dead body to be examined as soon as possible by a regularly admitted medical man, if such can be procured, and if not, then by the best qualified person or persons that can be obtained, and such medical man or other qualified person shall be entitled to receive from the Receiver of Revenue for the district or area in which such Justice of the Peace has jurisdiction, his expenses precisely as if he had been summoned to give evidence at a criminal trial held at a place where he made such examination as aforesaid.

Report by Justice of Peace to medical practitioner.

15. The Justice of the Peace shall without delay report to the Resident Magistrate in detail the circumstances of the case in order that such Magistrate may take such further steps if any as may be needful either to ascertain the cause of death or to bring to justice such person or persons as shall appear to have unlawfully caused such death.

Duty of Resident Magistrate on receiving such report.

16. Upon receiving such report as is in the last preceding section mentioned it shall be lawful for the Resident Magistrate, if in his opinion the circumstances of the case require it, to hold an inquest for the purpose of ascertaining the cause of death and thereupon it shall be competent for the said Magistrate to exercise all such power and functions and to perform all such duties in regard to the summoning and examination of witnesses and the inspection of the dead body as are hereinbefore provided in regard to cases occurring at or within a distance of six miles of the ordinary place of holding a Court.

Transmission of report of proceedings to Attorney General.

17. As often as any case investigated by any Justice of the Peace shall be reported by him to any Resident Magistrate, and no inquest shall be held by such Magistrate, and no criminal proceedings shall be instituted against any person upon any charge arising from or connected with the death of the deceased person, the Resident Magistrate shall transmit to the Legal Adviser to the Transvaal Administration the Report of the Justice of the Peace, or a copy of it, together with such remarks upon the case, if any, as the Resident Magistrate shall think fit.

Fees of Justice of Peace.

18. Every Justice of the Peace shall, for the performance of the duties imposed on him by this Proclamation, be entitled to a fee of two guineas for every day or portion of a day whilst engaged in such performance as aforesaid, which sum shall be paid to him by the Resident Magistrate of the district or area for which the said Justice of the Peace has jurisdiction.

Resident Magistrate includes Assistant Resident Magistrate.

19. For the purposes of this Proclamation the expression "Resident Magistrate," whenever it occurs, shall include "Assistant Resident Magistrate."

20. Nothing in this Proclamation contained shall be taken to alter or repeal the regulations under Chapter XIX. of Law No. 12, of 1898, dealing with Mining Regulations, save and except that the investigation directed by Regulation 156 to be held by the Public Prosecutor shall be held by the Resident Magistrate or Assistant Resident Magistrate of the district or area in which the place where the accident took place is situate, and all the provisions of Sections 4 to 11 inclusive of this Proclamation shall apply *mutatis mutandis*, to the holding of such an investigation

21. This Proclamation may be cited for all purposes as "The Inquests Proclamation, 1901."

Short Title.

(This Proclamation was for the purpose of amending (as to minimum penalties) Law 23 of 1899, which was repealed by Pr. Tr. 37 of 1901.)

**Transvaal
Proc. No. 11
of 1901.**

PROCLAMATION

By His Excellency BARON KITCHENER OF KHARTOUM, *Acting High Commissioner for South Africa and Acting Administrator of the Transvaal, &c., &c.*

(DATED 1ST JULY, 1901.)

Preamble.

WHEREAS prior to the commencement of present hostilities between His Majesty and the late South African Republic and Orange Free State contracts had been entered into between owners of farms and other lands in this Colony and certain other persons, by which rights were acquired to purchase such farms and lands or to purchase or lease the mining rights thereover with or without the right of prospecting for minerals and precious stones thereon :

And whereas as a rule the said contracts require that payments by way of rent or otherwise be made at certain fixed times in consideration and for the preservation of the said rights, and also that such rights be exercised within a certain time :

And whereas as a rule the said contracts further provide that in default of such payments as aforesaid, or in default of exercising such rights within the time stipulated therein, the said contracts would cease and determine :

And whereas owing to a state of war having arisen between His Majesty and the late South African Republic and Orange Free State holders of such rights as aforesaid were prevented from complying with the terms of the said contracts, more especially in respect of the making of such payments and the exercise of such rights as aforesaid, not only by reason of the fact that many of such holders, being British subjects, were compelled to leave the Transvaal at the commencement of the aforesaid hostilities, and were prohibited by Law and warned by Proclamation of the High Commissioner from having any dealings with the enemy, but also by reason, *inter alia*, of the fact that such owners were absent from their farms on military service against His Majesty and could not be communicated with for the purpose of complying with the terms of the aforesaid contracts :

And whereas it appears to me to be just and equitable in the circumstances that some relief should be given to the holders of such rights as aforesaid :

Now therefore, by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows:—

1. Save as is hereinafter mentioned in all contracts executed prior to the date of the commencement of hostilities between His Majesty and the late South African Republic and Orange Free State, to wit, the 11th day of October, 1899, by which rights were acquired to purchase farms and other lands situated in this Colony or to purchase or lease the mining rights thereover, with or without the right of prospecting thereon for minerals or precious stones, the period between the 11th day of October, 1899, and a *date to be hereafter notified in the *Gazette*, shall not be taken into account in calculating the period during which it was agreed between the contracting parties that such contracts were to be in force.

Extension of time
for exercising option
contracts.

2. All payments required by the said contracts to be made and which became or shall become due during the said period mentioned in the last preceding section, and all acts required to be performed in consideration and for the preservation of the rights acquired thereunder during the said period, and all rights required to be exercised at a time falling within the said period, may, save as hereinafter mentioned, be made, performed, and exercised as if the said period between the 11th of October, 1899, and the date notified in the *Gazette* as aforesaid did not exist, and as if the latter date were the 11th October, 1899; and all payments made, acts performed and rights exercised in terms of the said contracts as interpreted by this Proclamation, shall be deemed and taken to be for all such purposes a due compliance therewith.

Savings.

3. Whenever it is proved to the satisfaction of any competent Court that the payments, acts and rights mentioned in the last preceding section were not made, performed or exercised through the neglect of the person required to make, perform and exercise them, and not because of any of the reasons mentioned in the preamble of this Proclamation or any reason due directly to the existence of the aforesaid hostilities, then the provisions of this Proclamation shall not apply.

In cases of neglect
provisions of Procla-
mation not to apply.

*By Government Notice No. 223 of 1902, the 1st of June, 1902, was notified as the date from which time would again commence to run under the above Section. This date was subsequently by Pr. Tr. 37 of 1902 (qv.) changed to 1st August, 1902: and Government Notice No. 223 of 1902 was withdrawn.

(Obsolete. See Pr. Tr. 21 of 1902.)

PROCLAMATION

By His Excellency BARON KITCHENER OF KHARTOUM, Acting High Commissioner for South Africa and Acting Administrator of the Transvaal, &c., &c., &c.

(DATED 1ST JULY, 1901.)

Preamble.

WHEREAS the Court of Resident Magistrate at Johannesburg has, under Proclamation No. 6 of 1901, no civil jurisdiction in any case in which the cause of action arose prior to the 1st September, 1900 :

And whereas the Johannesburg Waterworks Estate and Exploration Company have undertaken to turn on the water under its control to any house on application therefor being made to it by the occupier, notwithstanding that there may be rates due and in arrear for water supplied to such house prior to 31st May last :

And whereas it is desirable that the said Company shall be able to institute proceedings at law for the recovery of any arrear rates alleged to be due to it at any time prior to the 1st September, 1900 :

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

Extension of Jurisdiction of Court of Resident Magistrate at Johannesburg.

1. Notwithstanding anything contained in Proclamation No. 6 of 1901 to the contrary, the Court of Resident Magistrate at Johannesburg shall have jurisdiction to try any civil suit or action either brought by the Johannesburg Waterworks Estate and Exploration Company for the payment of water rates alleged to be due to it, whether such rates became due and payable before or after the 1st September, 1900, or brought by any person against such Company as aforesaid for the refund of any rates paid by such person to the said Company under protest, whether such payment was made before or after the said 1st September, 1900, provided always that in any such suit or action the amount claimed shall not exceed £100.

Recovery of sums not over £15.

2. When the sum claimed either by the said Company on account of the arrear rates or by any person against such Company for a refund of moneys paid under protest does not exceed the sum of £15, the claimant shall have the right to proceed for the recovery thereof under Law No. 10 of 1897 relating to the recovery of petty debts.

PROCLAMATION

By His Excellency BARON KITCHENER OF KHARTOUM, Acting High Commissioner for South Africa and Acting Administrator of the Transvaal, &c., &c., &c.

(DATED 2ND JULY, 1901.)

WHEREAS BY PROCLAMATION No. 6 of 1901 a Resident Magistrate appointed thereunder is vested with all the powers with regard to marriages conferred on a Landdrost by Law No. 3 of 1871 :

Preamble.

And whereas it is desirable that Assistant Resident Magistrates should be vested with the same powers in regard to marriages that are now vested in Resident Magistrates :

Now, therefore, by virtue of the authority vested in me, I do hereby declare, proclaim and make known as follows :—

*1. The term "Resident Magistrates" in section 17 of Proclamation No. 6 of 1901 shall be taken to include Assistant Resident Magistrates, and all marriages which before the taking effect of this Proclamation have been celebrated by any Assistant Resident Magistrate of any District or Area shall be as valid in all respects as if the same had been celebrated by the Resident Magistrate of such District or Area.

Assistant Resident Magistrate to be a Marriage Officer.

* The power of celebrating Marriages is expressly given to an A.R.M. by Pr. Tr. 21 of 1902, Sect. 8.

PROCLAMATION

By His Excellency BARON KITCHENER OF KHARTOUM, *Acting High Commissioner for South Africa and Acting Administrator of the Transvaal, &c., &c., &c.*

(DATED 10TH JULY, 1901.)

Preamble.

WHEREAS DOUBTS EXIST as to whether uttering defaced coin is prohibited by Proclamation No. 4, of 6th February, 1901 :

And whereas it is desirable to prohibit the uttering of such defaced coin :

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows :—

Amendment of
Sect. 1 of Pr. 4 of
1901, so as to pro-
hibit uttering of de-
faced coin.

Section 1 of Proclamation No. 4, of 6th February, 1901, is amended so as to read as follows :—

Whosoever shall deface any of the King's current gold, silver, or copper coin, or any of the gold, silver, or copper coin issued by the Mint of the late South African Republic, by stamping thereon any names or words, or by affixing any metal or other device thereon in such a manner as to efface or alter the original design, whether such coin shall or shall not be thereby diminished or lightened, or whosoever shall utter, put off, tender, or circulate any such defaced coin, shall be guilty of a crime and offence, and shall be liable at the discretion of the Court to be imprisoned for a term not exceeding one year with or without hard labour, and all such defaced coin, wheresoever found, shall be forfeited to the Crown.

PROCLAMATION

By *His Excellency* BARON KITCHENER OF KHARTOUM, *Acting High Commissioner for South Africa, and Acting Administrator of the Transvaal, &c., &c., &c.*

(DATED 10th JULY, 1901.)

WHEREAS DOUBTS HAVE ARISEN as to the power of the Council for the Municipality of Johannesburg, constituted under Proclamation No. 16 of 1901, to collect assessment rates and charges for sanitary services due and in arrear to the late Town Council of Johannesburg, constituted under Law No. 9 of 1899, or to the officer in charge of the Municipal affairs of Johannesburg appointed thereto by the Military Governor of Johannesburg for the period between the 31st May, 1900, and the 15th May, 1901 :

Preamble.

And whereas it is desirable to remove all such doubts as aforesaid :

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

* 1. All assessment rates and all charges for sanitary services due and unpaid either to the late Town Council of Johannesburg, constituted under Law No. 9 of 1899, or to the officer in charge of the Municipal affairs of Johannesburg, as aforesaid (during the period between the 31st May, 1900, and the 15th May, 1901), shall be and are hereby vested in the Council for the Municipality of Johannesburg constituted under Proclamation No. 16 of 1901.

Arrears of assessment rates and sanitary charges vested in Town Council.

2. It shall be lawful for the said Council to demand payment of such rates and charges as aforesaid from the persons by whom they are due, and, on any such person refusing to comply with such demand, it shall be competent for the said Council to institute an action at law for the recovery of the amount claimed to be due by such person in the Court of the Resident Magistrate at Johannesburg, and the said Court shall have jurisdiction to try any such action as aforesaid although the rates and charges sued for became due and payable prior to the 1st September, 1901,† anything to the contrary in this respect in Proclamation No. 6 of 1901 notwithstanding.

Recovery of such arrears.

* See also Ord. 27 of 1902, sect. 3, by which certain other rates and charges due to the late Stadsraad are vested in the Council.

† The 1st September, 1901, was a clerical error for 1st September, 1900 : it is corrected by Pr. Tr. 20 of 1901.

PROCLAMATION *

To Amend Proclamation Transvaal No. 6 of 1901,

By His Excellency BARON KITCHENER OF KHARTOUM, Acting
High Commissioner for South Africa, and Acting Adminis-
trator of the Transvaal, &c., &c., &c.

(DATED 10TH JULY, 1901.)

Preamble.

WHEREAS IT IS DESIRABLE to amend Proclamation
Transvaal No. 6 of 1901 by giving further powers to
the Special Criminal Court therein referred to :

Now, therefore, by virtue of the authority in me vested, I do
hereby declare, proclaim, and make known as follows :—

*Amendment of Pr.
Tr. 6 of 1901 as to
procedure.*

1. The Court mentioned in Proclamation Transvaal No. 6,
1901, may at any time, on the application of any person, on
sufficient cause shown, order the Applicant under the said Proclama-
tion to file with the Registrar further particulars of the transaction
or transactions through which he claims the gold referred to in his
application, and may at any time order the said Applicant to
produce, on the return day of the said rule, all books and other
documents relating to the matters referred to in his affidavit or in
the further particulars filed by him, and may on the said return
day order the Applicant to give oral evidence in support of his claim,
and may allow the party opposing the said application, by himself or
his counsel, to cross-examine the said Applicant thereon.

2. The words " on affidavit " in sub-section (e) of Section 4 of
the said Proclamation shall be, and are hereby, expunged, and the
words " on the evidence before them " shall be, and are hereby,
substituted instead thereof.

* This Proclamation ceased to have effect from the establishment of the
High Court at Pretoria and District Court at Johannesburg in May, 1902.
(See sect. 43 of Pr. Tr. 14 of 1902, and Government Notice 118 of 1902,
published in Government Gazette, 15th April, 1902, page 442.)

PROCLAMATION

By *His Excellency* BARON KITCHENER OF KHARTOUM, *Acting High Commissioner for South Africa, and Acting Administrator of the Transvaal &c., &c., &c.*

(DATED 18TH JULY, 1901.)

WHEREAS IT IS DESIRABLE to provide for the performance under certain circumstances of the duties imposed by any Law on any Member of the Transvaal Administration :

Now, therefore, by virtue of the authority in me vested, I do hereby proclaim, declare, and make known as follows :—

* 1. It shall be lawful for the Administrator of the Transvaal, when and so often as, by reason of the absence or incapacity through sickness or other cause of any Member of the Transvaal Administration for the time being, it shall appear to him necessary or expedient so to do, to appoint some other fit and proper person to perform and execute the duties and powers imposed or conferred by any Law in force in this Colony upon such Member of the Transvaal Administration ; and all such duties and powers performed and exercised by the person so appointed shall be as valid and effectual as if they had been performed and exercised by such Member of the Transvaal Administration as aforesaid.

Temporary appointments of Members of the Administration in cases of sickness, &c.

(This Proclamation amended Law 23 of 1899 as to penalty of lashes : Law 23 of 1899 was repealed by Pr. Tr. 37 of 1901.)

Transvaal
Proc. No. 19
of 1901.

(Correcting clerical error in Pr. Tr. 16 of 1901, Section 2: for 1st Sept., 1901, read 1st Sept. 1900.)

Transvaal
Proc. No. 20
of 1901.

* See Ord. 37 of 1902, making similar provision in the case of any officer in the service of the Government.

PROCLAMATION

By His Excellency BARON KITCHENER OF KHARTOUM, *Acting High Commissioner for South Africa and Acting Administrator of the Transvaal, &c., &c., &c.*

(DATED 6TH AUGUST, 1901.)

Preamble.

WHEREAS IT IS DESIRABLE to make provision for the solemnization of marriages in districts of this Colony in which no Resident Magistrates have been appointed under Proclamation No. 6 of 1901 :

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

Temporary appointment of Marriage Officers where no Court of Resident Magistrate established.

1. It shall be lawful for the Administrator of this Colony to appoint in any District in this Colony in which a Court of Resident Magistrate has not been established under Proclamation No. 6 of 1901 some fit and proper person to solemnize marriages under Law No. 3 of 1871.

2. The person so appointed as aforesaid shall have and exercise all the powers and perform the duties conferred and imposed on Landdrosts under the said Law No. 3 of 1871.

3. When and as soon as a Court of Resident Magistrate is established under Proclamation No. 6 of 1901 or under any other Law hereafter promulgated in this Colony in any district in which a person has been appointed to solemnize marriages under this Proclamation such appointment shall *ipso facto* cease and determine.

PROCLAMATION

By His Excellency BARON KITCHENER OF KHARTOUM, Acting
• High Commissioner for South Africa, and Acting Administrator
of the Transvaal, &c., &c., &c.

(DATED 12TH AUGUST, 1901.)

WHEREAS IT IS DESIRABLE to make more adequate provision for the framing of death notices and inventories, and the appointment of *Curators bonis* in the event of deaths occurring in what are known as "Burgher Camps" in this Colony, and to provide for the solemnization of marriages between parties detained within the said Camps, and the registration of births and deaths occurring therein :

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

1. When any death occurs in any one of the "Burgher Camps" in this Colony, it shall be the duty of the Superintendent of such Camp, or in his absence, of the person acting for him, to give the notice required by Sections 6 or 28 of Law No. 12 of 1870 to the Resident Magistrate, having jurisdiction over the district or area in which such Camp is situate, and if there be no Resident Magistrate, then to the Acting Orphan Master at Pretoria.

Duties of Superintendents of Burgher Camps.

2. On receipt of such notice as aforesaid, the Resident Magistrate or Acting Orphan Master, as the case may be, shall appoint the Superintendent or Acting Superintendent of such Camp as aforesaid, to frame the death notice, and in so far as is possible, make the Inventory required by Sections 7, 9, 29 and 30 of Law No. 12 of 1870, and the provisions of the said Sections shall, save in so far as they are modified by this Proclamation, *mutatis mutandis*, apply to the person so appointed.

Duties of Resident Magistrate or Orphan Master.

3. The Superintendent or Acting Superintendent appointed under the last preceding Section shall have authority to take into his custody and safe keeping the movable assets in the estate of such deceased person, as aforesaid, until a Curator Bonis is appointed under Proclamation No. 12 of 1901, and shall have authority to dispose of any perishable assets belonging to the said estate, and shall account for the proceeds thereof to the Acting Orphan Master.

Superintendent to have custody of movables temporarily.

4. The Superintendent or Acting Superintendent of any such Camp as aforesaid in which a death has occurred shall and is hereby authorised to make application, under Proclamation No. 12 of 1901, for the appointment of a Curator Bonis of the estate and effects of the deceased person.

Power to Superintendent to apply for appointment of Curator Bonis.

Power to Superintendent to solemnize marriages in certain cases.

5. The Superintendent of every "Burgher Camp" in this Colony situated more than four miles distant from any stated and ordinary place for holding a Court of Resident Magistrate under Proclamation No. 6 of 1901, shall be and is hereby authorised to solemnize marriages, under Law No. 3 of 1871, between parties resident in such Camp, and shall, for that purpose, have all the powers and exercise all the rights vested in "Landdrosts" in respect of the solemnization of marriages by them under the said Law.

Superintendent to be a Registration Officer of births and deaths.

6. The Superintendent of every "Burgher Camp," or in his absence the Acting Superintendent, shall be and is hereby appointed a Registration Officer under Lord Roberts' Proclamation No. 27 of 1901, for the purpose of registering all births and deaths occurring within the said Camp.

PROCLAMATION

By His Excellency BARON KITCHENER OF KHARTOUM, Acting High Commissioner for South Africa, and Acting Administrator for the Transvaal, &c., &c., &c.

(DATED 12TH AUGUST, 1901.)

WHEREAS IT IS DESIRABLE to provide for the vaccination of all Natives employed in the areas heretofore under the jurisdiction of the Mining Commissioners at Johannesburg, Boksburg and Krugersdorp, and hereinafter referred to as the Labour Districts of Johannesburg, Boksburg, and Krugersdorp respectively :

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

1. It shall be lawful for the Administrator of this Colony to make rules and regulations for the issue of District* and Monthly Passes to Natives† employed in the Labour Districts of Johannesburg, Boksburg, and Krugersdorp, in addition to those in force under Law No. 23 of 1899 for the purpose of securing the vaccination of such Natives and to provide penalties for the contravention of any such Regulations.

Power to Governor to make rules, &c., as to District and Monthly Passes for Natives in Labour Districts.

2. The said Regulations shall, on publication in the *Gazette*, have the force of Law.

3. The said Regulations may at any time, by notice in the *Gazette*, be extended by the Administrator to any other Labour Districts in this Colony.

REGULATIONS FOR THE COMPULSORY VACCINATION OF NATIVES IN LABOUR DISTRICTS.

The following Regulations, approved of by the Administrator under Proclamation Transvaal No. 23, will be brought into force from and after the 2nd September, 1901, in the Labour Districts of Johannesburg, Boksburg and Krugersdorp :—

1. The term "Native," within the meaning of these Regulations, shall be deemed to include all persons compelled

* The term "District Pass" is by sect. 9 of Pr. Tr. 37 of 1901, to be read as "Labour Identification Passport."

† The term "Native" in this Proclamation is by Pr. Tr. 37 of 1901 (sects. 4 and 9) to include every male person above the age of 14 years belonging to any of the aboriginal tribes or races of Africa south of the Equator, and every male person one of whose parents belongs to any such race or tribe.

by Law No. 23 of 1899, the "Native Pass Law on Gold Fields," to carry passes.

2. Every Mining Company shall submit for approval to the Medical Officer of Health, Pretoria, the name of the Medical Practitioner to be authorised by it to endorse certificates of vaccination on the District Passes of Natives employed on its mines.

3. From and after 2nd September next the authorised and approved Medical Officers of every Company employing Natives within any of the aforesaid Labour Districts shall make an examination of every Native in the service of such Company, for the purpose of ascertaining whether such Native has been vaccinated.

4. In every case in which such Medical Officer as aforesaid shall be satisfied that a Native has been successfully vaccinated within a period of five years previous to such date, he shall make an endorsement on his District Pass to that effect.

5. Where, in the opinion of such Medical Officer, a Native has not been successfully vaccinated within the last five years, it shall be his duty to vaccinate such Native, and to endorse upon the District Pass the fact of his having done so, at the same time specifying the date of the operation.

6. In order to ensure the vaccination of Natives on their first arrival within any of the Labour Districts aforesaid. Medical Officers will be appointed by the Administrator of the Transvaal to attend at the Pass Offices in the said Districts for the purpose of vaccinating Natives applying for District Passes.

7. The Medical Officers aforesaid shall, from and after the 2nd September next, examine every Native applying for a District Pass, and shall vaccinate any such applicant who, in their opinion, has not been successfully vaccinated within a period of five years immediately preceding the date of application, before a District Pass is issued to such applicant.

8. Every such Medical Officer shall endorse with his signature the District Pass of every Native, whether such Native may have been vaccinated by him or elsewhere during the preceding five years; and such endorsement shall be taken to mean that such Native has either been vaccinated by such Officer, or that in his opinion he had been successfully vaccinated during the preceding five years.

9. No Monthly Pass shall be issued to a Native whose District Pass does not bear an endorsement of vaccination by one of the Medical Officers appointed under these Regulations.

10. The authorised and approved Medical Officers at the various mines shall examine all Natives engaged thereat after the 2nd September next—but not before the eighth day after their arrival at the mines—for the purpose of ascertaining whether the vaccination performed by the Medical Officer at the Pass Office has been successful; they shall, in every case of

unsuccessful vaccination, re-vaccinate not less than one month and not more than six weeks after the vaccination at the Pass Office, and shall endorse the fact on the District Pass.

11. Where they may consider it necessary to do so, the Medical Officers shall from time to time, re-vaccinate any Natives employed on the various mines.

12. Any person wilfully contravening any of these Regulations shall be liable, on conviction, to a fine not exceeding Ten Pounds, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding one month.

13. Any Medical Officer making any endorsement on a District Pass under the authority of these Regulations which is false, to his knowledge, shall be liable, on conviction, to be imprisoned, with or without hard labour, for a period not exceeding six months.

(Repealed by Pr. Tr. 28 of 1902.)

PROCLAMATION

By His Excellency BARON MILNER *Administrator of the Transvaal, and His Majesty's High Commissioner for South Africa, &c., &c., &c.*

(DATED 18TH SEPTEMBER, 1901.)

Preamble.

WHEREAS it is necessary to provide for the speedy liquidation of Estates of deceased persons which are of small value :

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

Powers of Orphan Master in case of estate of deceased person not exceeding £100.

1. In all cases in which it shall appear from the Death Notice or Inventory filed in respect of the Estate of any deceased person and from such other information as the Orphan Master may call for that the value of the assets of such Estate does not exceed £100 sterling, it shall be lawful for the Orphan Master summarily and without observance of the usual and customary forms to appoint an Executor to administer the Estate of such deceased person ; provided that in all cases where an Executor has been nominated by last will or other testamentary writing of such deceased person, the person so nominated shall, if present and willing to act, be appointed by the said Orphan Master as such Executor ; and provided further that the Orphan Master shall require such security from Executors other than Executors Testamentary as he may deem fit.

Duties of Executor appointed.

2. Any Executor so appointed as aforesaid shall administer such Estate in terms of the provisions of Law No. 12, 1870 ; provided always that it shall be lawful for the Orphan Master at any time to direct that such Estate is to be administered within a less time than is by the said Law No. 12, 1870, prescribed, and to give directions :—

- (a) With regard to the advertising for claims against the Estate, that such advertisement be inserted once or twice only in the Gazette and that all claims are to be filed within fourteen days from the last publication thereof.
- (b) With regard to the filing of a liquidation and distribution account, that the same is to be filed within fourteen days after the time fixed for the sending in of claims shall have expired, and that notice be published once or twice in the Gazette that the liquidation account is open for the inspection of the parties interested for a period of fourteen days, during which time any objections to the same are to be lodged.

Any such directions given by the Orphan Master as aforesaid shall have and be of full force and effect ; subject, however, to the

right of the Orphan Master to grant an extension of any period previously fixed by him should he see cause.

3. It shall be lawful for the Orphan Master to approve of and confirm any liquidation and distribution account filed as aforesaid, and to the confirmation of which no objections shall have been lodged by any interested party, or if lodged shall have been withdrawn.

Powers of Orphan Master as to confirmation of accounts.

4. Any person who shall lodge an objection to any such liquidation and distribution account as aforesaid shall within two weeks after lodging his objection, unless such objection has been accepted by the Executor and the account amended accordingly, institute an action in the Court of the Resident Magistrate of Pretoria or of the district in which the Executor resides, in order to have his objection declared valid and of force, and such Court shall have jurisdiction to decide such objection and to order the amendment of or to confirm such account, although such Court might for any other reasons not have had jurisdiction in such case. Failing the institution of such action as aforesaid within the time allowed, the liquidation account may be confirmed by the Orphan Master. The confirmation of any account under this Proclamation shall have the like effect in law as the confirmation of an account under Law No. 12, 1870.

Objections to accounts.

5. In all cases in which an Executor shall already have been appointed to an Estate the value of the assets of which shall not exceed £100 sterling, it shall be lawful for the Orphan Master to direct that the administration of such Estate is to be conducted as nearly as possible in terms of the provisions of this Proclamation.

Powers of Orphan Master where Executor already appointed.

6. In all cases in which the amount shall have been deposited with the Orphan Master in any such Estate as aforesaid for the heirs of any deceased person who are known or believed or supposed to be resident in Great Britain and Ireland, or in any British Colony, it shall be lawful for the Orphan Master to remit such amount to such person in Great Britain or Ireland or in any such British Colony (as the case may be) as the Legal Adviser to the Transvaal Administration may direct to be dealt with by such person as regards the distribution thereof as the laws of the country to which such amount is remitted may require.

Powers to remit amounts deposited to Great Britain, &c.

(Previously published as No. 18 of 1901.)

PROCLAMATION

By His Excellency BARON MILNER, *Administrator of the Transvaal, and His Majesty's High Commissioner for South Africa, &c., &c. &c.*

(DATED 16TH SEPTEMBER, 1901.)

BY VIRTUE of the provisions of Clause 5 of the Order of His Majesty in Council, dated the 8th day of August, 1901, hereunto annexed, it is hereby proclaimed and made known that the said Order shall come into operation in the Transvaal on the 30th day of August, 1901.

ORDER IN COUNCIL.

AT THE COURT AT ST. JAMES'S

The 8th day of August, 1901.

Present :

THE KING'S MOST EXCELLANT MAJESTY.

Lord President. Earl of Kintore.
Lord Chamberlain. Earl Waldegrave.

Whereas by an Order of Her late Majesty Queen Victoria in Council, dated the 17th day of November, 1888, it was provided that Part 2 of the Fugitive Offenders Act, 1881, should apply to the group of British Possessions therein mentioned :

And whereas by a further Order of Her late Majesty in Council, dated the 12th day of December, 1891, it was provided that the Fugitive Offenders Act, 1881, should apply as if the territories within the limits of Part 1 of the said Order were a British Possession, and that Part 2 of the said Act should apply to the British Possessions named in the aforesaid Order of the 17th day of November, 1888, and to the parts of South Africa mentioned in the said Order of the 12th day of December, 1891 :

And whereas by an Order of Her late Majesty in Council, dated the 3rd day of October, 1895, it was provided that the Governor of the Colony of the Cape of Good Hope might declare by Proclamation that on the date named in such Proclamation the territory of British Bechuanaland should be annexed to and form part of the Colony of the Cape of Good Hope, and by Proclamation by the said Governor dated the 11th day of November, 1895, the territory of British Bechuanaland was on the 16th day of November, 1895, annexed to and became part of the said Colony :

And whereas by Letters Patent passed under the Great Seal of the United Kingdom, dated the 1st day of December, 1897, the Governor for the time being of the Colony of Natal was authorised by Proclamation to declare that, from and after a date in such Proclamation to be mentioned, the British Possession of Zululand should be annexed to and form part of the Colony of Natal, and such Proclamation was duly made on the 29th day of December, 1897, and the said Possession of Zululand was from and after the 30th day of December, 1897, annexed to and became part of the said Colony :

And whereas by a Proclamation, dated the 24th day of May, 1900, certain territories in South Africa theretofore known as the Orange Free State were annexed to and now form part of His Majesty's Dominions and are known as the Orange River Colony :

And whereas by a Proclamation, dated the 1st day of September, 1900, certain territories in South Africa heretofore known as the South African Republic were annexed to and now form part of His Majesty's Dominions and are known as the Transvaal :

And whereas by treaty, grant, usage, sufferance and other lawful means, His Majesty has power and jurisdiction in the territories of South Africa known as the Bechuanaland Protectorate, Southern Rhodesia, Barotsiland, North Western Rhodesia, North Eastern Rhodesia and the British Central Africa Protectorate:

And whereas by reason of the contiguity of the aforesaid Colonies and Possessions in South Africa and the said territories, and the frequent inter-communication between them, it seems expedient to His Majesty and conducive to the better administration of justice therein that Part 2 of the Fugitive Offenders Act, 1881, should apply to the said Colonies, Possessions, and territories, and that, subject to the provisions of this Order, the Fugitive Offenders Act, 1881, should apply as if the said territories respectively were British Possessions:

Now therefore, His Majesty by virtue of the powers in this behalf by the Fugitive Offenders Act, 1881, the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased by and with the advice of his Privy Council, to order, and it is hereby ordered as follows:—

1. Subject to the provisions of this Order the Fugitive Offenders Act, 1881, shall apply as if the territories named in the First Schedule of this Order were a British Possession.

2. In the Fugitive Offenders Act, 1881, as hereby applied to the territories named in Schedule 1 of this Order and in this Order with reference to the said territories, unless the context otherwise requires, the expression "Governor" means the officer for the time being exercising the functions:

(a) As regards the Bechuanaland Protectorate, Southern Rhodesia, and Barotsiland, North Western Rhodesia, of High Commissioner for South Africa:

(b) As regards the British Central Africa Protectorate and North Eastern Rhodesia, of Commissioner and Consul General:

3. The jurisdiction under Part 1 of the Fugitive Offenders Act, 1881, to hear a case and commit a fugitive to prison to await his return may be exercised in the territories named in Schedule 1 of this Order by any person having in the said territories authority to issue a warrant for the apprehension of persons accused of crime and to commit such persons for trial.

4. Part 2 of the Fugitive Offenders Act, 1881, shall apply to the Colonies, Possessions, and territories mentioned in Schedules 1 and 2 of this Order.

5. The Governor of each of the Colonies, Possessions, and territories named in the Schedules to this Order shall cause this Order to be proclaimed therein and this Order shall come into operation on a day to be fixed by such proclamation.

6. The Orders of Her late Majesty Queen Victoria in Council of the 17th day of November, 1888, and the 12th day of December, 1891, shall, as from the date of the coming into operation of this Order, be revoked, without prejudice to anything lawfully done thereunder, or to any proceedings commenced before the said date.

A. W. FITZROY.

SCHEDULE I.

The Bechuanaland Protectorate.
Southern Rhodesia.
Barotsiland, North Western Rhodesia.
British Central Africa Protectorate.
North Eastern Rhodesia.

SCHEDULE 2.

The Colony of the Cape of Good Hope.
The Colony of Natal,
Basutoland.
The Orange River Colony.
The Transvaal.

PROCLAMATION

By *His Excellency* BARON MILNER, *Administrator of the Transvaal, and His Majesty's High Commissioner for South Africa, &c., &c., &c.*

(DATED 27TH SEPTEMBER, 1901.)

Preamble.

WHEREAS a Proclamation was issued by the High Commissioner at Capetown, on the 19th March, 1900, notifying that the Government of Her late Majesty the Queen would not recognise as valid any alienations of property or any interest therein or any charges or incumbrances thereon affected, declared, charged, or made by the late Governments of the South African Republic or Orange Free State subsequent to the date of the said Proclamation or any concessions granted by either of the said Governments subsequent to that date.

And whereas it is desirable to give full force and effect to such Proclamation as Law within the Transvaal.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

Alienations, &c.,
by Government of
late Republic not to
be recognised.

1. Any alienation of property, whether of lands, railways, mines, or mining rights, within the Transvaal, and any interest therein of whatsoever nature, and any charges or incumbrances of whatsoever description upon any such property or interest as aforesaid, effected, declared, charged, or made by the late Government of the South African Republic subsequent to the 19th March, 1900, and any concessions granted by the said Government subsequent to the said date shall be and are hereby declared to be null and void and of no effect whatsoever.

PROCLAMATION

By His Excellency BARON MILNER, *Administrator of the Transvaal, and His Majesty's High Commissioner for South Africa, &c., &c., &c.*

(DATED 9TH OCTOBER, 1901.)

WHEREAS a Proclamation by the President of the late South African Republic was issued on the 25th October, 1899, dealing with the payment of rent and interest on mortgage bonds for the period commencing from the date of the Proclamation of Martial Law until its withdrawal :

Preamble.

And whereas it has been made to appear to me that by the Common Law of the Transvaal lessees of immovable property are exempted from the payment of rent in respect thereof for the period during which they have been prevented from beneficially occupying such property by reason of war or other unforeseen and unavoidable misfortunes :

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

1. No lessee of immovable property who has the beneficial occupation thereof shall be entitled, under and by virtue of the aforesaid Proclamation, dated October 25th, 1899, by the President of the late South African Republic to claim exemption from the payment of rent which shall become due in respect of such property after the date of this Proclamation.

Lessees who have had beneficial occupation to be no longer entitled to claim exemption from rent.

2. No person who has passed a mortgage bond, on land or other fixed property, and who has the beneficial occupation thereof shall be entitled, under and by virtue of the aforesaid Proclamation, to claim exemption from the payment of any interest which shall accrue in respect of such bond from the date of this Proclamation ; or from the date when such beneficial occupation shall have commenced, if the latter date be subsequent to the former ; provided always that no action shall be brought or maintained in any of the Courts in this Colony for the capital sum of such mortgage bond* until a date to be notified in the *Gazette*.

Similarly as to mortgagees from payment of interest.

* By virtue of Pr. Tr. 32 of 1902, sect. 2, such actions may be brought, notwithstanding the above proviso, for the capital sum of any mortgage bond included in Proclamation of 25th October, 1899, after the expiration of 6 months reckoned from the 1st June, 1902, but not before.

PROCLAMATION

FOR THE ESTABLISHMENT OF HEALTH BOARDS,

By *His Excellency* BARON MILNER, *Administrator of the Transvaal, and His Majesty's High Commissioner for South Africa, &c., &c., &c.*

(DATED 16TH OCTOBER, 1901.)

- Preamble. **W**HEREAS it is desirable in the interests of public health to establish Health Boards for such towns or areas as the Governor may approve of:
- Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—
- Definition. 1. The expression "Governor" in this Proclamation and in the regulations in the schedule thereto shall mean the Officer for the time being administering the Government of this Colony.
- Appointment of Health Boards. 2. It shall be lawful for the Governor to appoint for any town or area he may from time to time notify, in which no Municipality is established, a board to be called "The Health Board" which shall consist of so many persons as the Governor may approve of not exceeding five, one of whom shall be appointed Chairman of the said Board.
- Powers of Health Boards as to bye-laws. 3. The said Board shall within the area for which it is appointed to act have power to make, alter, and revoke bye-laws for—
- (1) Regulating the proceedings of the Board and the duties of its officers and servants and preserving order at its meetings.
 - (2) The prevention and extinguishing of fires.
 - (3) The prevention of the spreading of infectious or contagious diseases, and the maintenance of the public health.
 - (4) The regulation and prohibition of troublesome and obnoxious trades.
 - (5) The regulation of the construction and elevation of buildings in all streets and other public places.
 - (6) The regulation of sewers or sluices.
 - (7) Regulating the slaughtering of animals, the sale of meat and other provisions, and the erection and fixing of slaughter-houses or abattoirs.

- (8) Regulating the removal of night soil and rubbish from private dwelling-houses, and streets, roads and public places, and the amount to be paid for such removal.
- (9) The construction and maintenance of cemeteries, the maintenance of squares, public gardens, streets, public roads, baths and wash-houses, and public recreation grounds, and the planting and cultivation of trees in streets and squares.
- (10) Regulating the traffic in public streets, the licensing of carts, wagons, or other vehicles plying for hire within the limits of the Board's jurisdiction, and the fixing of the tariff of charges which the owners or drivers of vehicles plying for hire as aforesaid may make.
- (11) The maintenance in general of the health of the inhabitants.

4. After any bye-law has been passed by the Board it shall be submitted for the approval of the Governor, and if approved it shall be published in the *Gazette*, and thereupon such bye-law shall have the force of law in the area for which the said Board has been appointed.

Approval and publication of Bye-laws.

5. The bye-laws or regulations in the schedule to this Proclamation shall be of force and effect in any area for which a Board is appointed until revoked or amended by other bye-laws, made in pursuance of the preceding sections of this Proclamation.

6. All actions on behalf or against the said Board shall be brought by or against the Chairman thereof.

Actions by and against Health Boards.

7. All moneys due in respect of sanitary services rendered by any Board previously exercising statutory powers or by any Board or individuals appointed under Martial Law by any Military Governor or any District Commissioner or Assistant District Commissioner to deal with sanitary matters in any area for which a Board is appointed under this Proclamation shall on the appointment of such last mentioned Board vest in it and such Board shall be entitled to recover such moneys by action in the Court of Resident Magistrate even although the cause of action may have arisen prior to the 1st September, 1900, anything to the contrary notwithstanding in Proclamation No. 6 of 1901.

Recovery of arrears sanitary services due to former Boards.

8. For the due and proper carrying out of the aforesaid bye-laws or regulations it shall be lawful for the Governor to appoint for each area for which a Board is appointed a fit and proper person as "Sanitary Inspector" at a salary to be fixed by the Governor.

Appointment of Sanitary Inspectors.

9. The Board shall meet for dispatch of business as often as may be considered necessary, but not less than once in every month.

Meetings.

10. The Board shall from time to time, with the approval of the Governor, appoint a Secretary and such other officials

Officers.

as it may consider necessary, and pay such salaries and allowances to such officials as he may determine; and unless it shall be stipulated otherwise in the contract with or in the appointment of an employé the Board may at any time, with the approval of the Governor, remove such employé upon notice of not less than one month or in case of misconduct immediately without notice.

Control of streets,
&c.

11. The Board shall have the general control and care of all public roads, streets, squares, and other open public places within its jurisdiction, and over all public cemeteries, gardens, parks, or other enclosed spaces to which the public may have access.

Powers as to native
locations.

12. The Board may, with the approval of the Governor, lay out any places within its jurisdiction, such locations for aboriginal natives as it may deem desirable, and may compel all aboriginal natives, except such as are employed in domestic service and are lodged on the premises of their employers, to reside within such locations. The Board may make regulations for the proper carrying out of the provisions of this section and the effectual supervision of such locations.

Penalties for con-
travention of bye-
laws.

13. Every person guilty of contravening any of the bye-laws or regulations of the Board shall, for every such contravention, be liable to a penalty expressly imposed by such bye-law and if no penalty be imposed, then to a penalty not exceeding ten pounds, and in default of payment, to imprisonment, with or without hard labour, not exceeding one month. All such penalties may be recovered before the Court of the Resident Magistrate having jurisdiction over the area in which such contravention has been committed.

Recovery of penal-
ties.

14. In case the contravention of any bye-law shall consist in the non-payment of any money due thereunder, the Court adjudicating on the same may, in addition to any other penalty, order the payment of the money due, which order shall be a judgment of the said Court, and may be executed in the same manner as if it were a judgment of the said Court in any civil matter or proceeding.

SCHEDULE.

1. Every occupied building or premises, whether such occupation is continuous or not, must be provided with suitable and sufficient privies or latrines, to the satisfaction of the Board, and each such privy or latrine must be provided with a receptacle to contain ash, dry earth, or other sufficient disinfecting material, and a suitable utensil to distribute same. This receptacle must be kept supplied with such ash, dry earth, or other disinfecting material, which must be distributed on the fecal matter by each person making use of such privy or latrine.

2. Every such privy or latrine must be provided with proper pails to be approved by the Health Board. These pails shall be under the care of the Board, who shall provide for the removal, emptying, and replacing of same.

3. Every person having natives in his service shall provide a suitable latrine for the use of such natives, to be approved of by the Board.

4. All privies and latrines must be kept in a clean and sanitary condition.

5. The Board, by its Inspectors and other servants appointed for that purpose, shall have the right at any time of inspecting any privy or latrine, and giving orders to clean the same. Should any person fail to execute the orders

so given within the specified time, the Board shall have the right to have the same executed at the expense of such person.

6. The Board shall appoint places for depositing dirt, rubbish, and stable-litter, and shall notify the same in one or more local newspaper; and if there be no local newspaper then by publication in such other way as to it shall seem expedient.

After the publication of such notice, no dirt, stable-litter, or other refuse may be deposited in any other places.

7. All stands, lands, and other premises shall be kept in a clean and sanitary condition, and no stable-litter or other refuse shall be allowed to accumulate or remain on same so as to be a nuisance to neighbours or the public, or detrimental to health. On failure to remove such refuse, the Board may remove same at the expense of the owner and occupier or either of them.

8. No corpses may be interred anywhere else than at the cemetery or other place indicated for the purpose by the Board.

9. All animals found in a dying state in any street or public place, or suffering from any infectious disease, must be killed immediately by the owner thereof. In the event of the owner neglecting or refusing to do so, or not being able to be found, the Board shall cause such animals to be killed at the expense of the owner. All dead animals must be removed and buried by the owner within 12 hours after death, at such places as may be fixed by the Board.

In the event of the owner not being known, or not being able to be found, the person upon whose property such dying or diseased animals or any dead animal are found, shall be considered to be the owner.

In the event of the owner neglecting or refusing to remove and bury such animals it shall be done at his expense.

10. The Board shall have the right to prohibit kraals or stables for horned cattle, sheep, pigs, or other animals, where it may consider the presence of the same prejudicial to health.

11. The Board shall fix the necessary slaughtering places, and no person shall slaughter at any other place, unless he shall previously have obtained the express consent thereto of the Board.

12. All pigs found in the public streets, or in any other public place, shall be sent to a pound indicated for the purpose. The owner shall pay a sum of £1, or such less sum as the Board may fix, for each pig found in this manner before he may release same. Should the owner not claim such pigs within 8 days after the impounding thereof, the pigs may be sold by public auction. The proceeds of such sale shall accrue to the Board.

13. The drying, tanning, and dressing of skins and hides shall only be allowed to be done at places to be fixed by the Board.

14. No person may pollute any well, dam, or other water supply used for drinking purposes for domestic use or animals.

15. The Board, by its officials or servants, shall have the right at all times to inspect any meat, fish, vegetables, or other eatables put out or kept in any place for sale, and should it appear that such meat, fish, vegetables, or other eatables are unfit for human food, shall have the right immediately to seize the same. Such seizure shall, however, without delay be reported to the District Surgeon, or other qualified person appointed by the Board for that purpose, who shall inspect the articles so seized. In the event of the latter certifying that the articles so seized are not fit for human food, the same shall be destroyed in such manner and at such place as may be fixed by the Board. The sale, exposure for sale, or the keeping for sale of any meat, fish, vegetables, fruit, or other eatables unfit for human consumption is prohibited, and if such articles are sold on any public market or by auction the Market Master or Auctioneer shall be liable under this regulation as well as the owner or vendor.

16. Suitable receptacles must be provided on all occupied premises for receiving slops, dishwater, and other liquid refuse, other than bath or washing water and urine, and also for receiving solid or dry refuse, other than stable or kraal litter and faecal matter. Separate receptacles to be used for liquid and for dry refuse. All liquid refuse, other than bath or washing water and urine, and all dry refuse, other than stable and kraal litter or faecal matter, shall be placed in such receptacles. The contents of such receptacles shall be removed by the Board.

17. Bath and washing water may be sprinkled on the public streets, and on private ground in occupation of the person so disposing of such water, but not in such a way as to cause a nuisance, damage the streets, or be detrimental to health. No other liquid refuse may be deposited on any public or private place or land. The Board may at any time prohibit the depositing of bath or washing water on public or private places or land, and may direct in what other manner same may be disposed of.

18. In the event of there being found to be at any time a larger number of persons residing in any house or other dwelling-place as shall be, in the opinion of any duly qualified medical practitioner appointed for that purpose by the Board, injurious or dangerous to health, the owner or occupier of such house or other dwelling-house shall immediately, on being required thereto by the Board, cause such numbers of persons to be reduced to such extent as such medical practitioner shall consider necessary, and such medical practitioner shall, for the purposes of this regulation, have power of entry on and inspection of private premises and dwelling-houses, and shall be deemed to be an official of the Board.

19. The Board may, by its officials and servants, whether in uniform or plain clothes, enter upon any private premises or business places, and, on production of a written authority from the Board, into any dwelling-houses for the purpose of inspection, with a view to the proper enforcement of any of these regulations or of any regulations hereafter to be framed, and no person shall obstruct any such official or servant so doing.

20. Every occupier of immovable property, or where such property is unoccupied, the owners thereof shall keep the pathway and gutter, whether paved or unpaved, in front thereof, free from all accumulations of filth, dirt, or refuse of any kind.

21. No person shall dig any excavations, pit or cellar, for any purpose whatever, in any street, or other place open to the public, without the written consent of the Board, which consent may be given subject to any special conditions or restrictions.

22. The Board may at any time temporarily close any road, street, or thoroughfare, for such purposes and for such time as the Board may consider necessary.

23. No person shall allow any wagon, cart, carriage or other vehicle with animals harnessed, or yoked thereto, to stand in any street or road, unless in charge of a proper person, nor allow any vehicle not in use at the time to remain in any street, square, or thoroughfare.

24. No person shall drive any cart, carriage or other vehicle, through any street or other public place, who is not competent to drive and who has not proper control of every horse or animal drawing the same, nor shall any person ride or drive furiously, negligently, or carelessly.

25. In driving any wagons, carts, carriages, or other vehicles, the custom shall be observed of keeping to the left-hand side of the road or street, and allowing all other wagons, carts, carriages or vehicles to pass on the right hand.

26. No person shall ride, drive, or lead, or allow to stand on any public footpath, any horse or other animal, whether loose, under saddle, or in harness; and no person shall drive, wheel, roll, or place any truck, wheel-barrow, bicycle, cart, wagon or other vehicle, or any barrel on any public foot-path, or gutter, except when necessarily crossing from the road to any entrance to private property.

27. All bullock wagons passing through the streets or thoroughfares shall have leaders, who shall properly lead in front of the oxen and remain at their posts during a halt, and the use of long whips while in any such street or other public place is prohibited.

28. No person shall turn loose or suffer to be at large in any street or thoroughfare, or other place to which the public has access, any wild animal or ferocious dog, or set on or urge any dog, or other animal, to attack, worry or put in fear any person or animal.

29. No person shall plant, cut down, remove, or in any way destroy or injure any trees, bushes or plants in any street or thoroughfare, or any public place.

30. No one shall in any way obstruct or impede the passengers on public foot-paths, or the vehicle traffic on roadways, and no person shall whoop, shout, or roar, or otherwise create a disturbance or disturb the public peace in any street or thoroughfare within the said jurisdiction.

31. Any animal found obstructing the footway, and any cattle, horses, sheep, pigs, or other animals found straying in any street, road, square, or thoroughfare, or in any public place not in charge of a fit person, may be impounded by the Board.

32. No person shall cause or leave in any public street, square, or thoroughfare, or on any foot-path, any obstruction whatever, except in the case of buildings, under the regulations on that behalf provided.

33. The Board shall at all times have the right of removing any trees, posts, or other obstructions in the streets, roads, squares, or thoroughfares, notwithstanding any previous consent given by the Board to the same being planted or erected; if, however, such consent has been given previously by the Board, then the Board may take into consideration whether and what amount of compensation shall be given for removal.

34. No person or persons shall, either by themselves, their servants, horses, or cattle, damage, remove, or obstruct any public work or any water pipe or gas pipe or lamp post, tree, or other thing in any public street or thoroughfare, or injure or damage any footway or other portion of such street or thoroughfare.

35. No person shall permit any sledge, dray, goods, tank, or other article to be drawn or rolled in any street or thoroughfare, except upon some wheeled vehicle.

36. No person shall commit within the jurisdiction of the said Board any indecent or obscene act, or write, paint, draw, use, or exhibit any indecent or obscene words, figures, or writing; and no person shall stop, molest, or otherwise interfere with any other person by the use of indecent language, gestures, acts, or practices.

37. No person shall be in any street or public place without being clothed as decency requires.

38. All wagons or carts coming and remaining within the area in which these regulations are in force shall have the name and address of the owner painted legibly on the right side of such wagons or carts in letters of not less than one inch in length, and the person driving or in charge of such wagons or carts shall be regarded as the offender in the event of a contravention of this regulation, provided that nothing herein contained shall extend to any wagon, cart, or other vehicle on springs used solely for the conveyance of passengers or for personal use.

39. The Board shall have the general control and care of all roads, streets, squares, and other public places within its jurisdiction, and shall also exercise a supervision over all cemeteries, gardens, parks, or other enclosed spaces to which the public may have access, and the Board may, from time to time, by resolution, impose such conditions as to the management, conduct, and control, arrangements and working of any such cemetery, garden, park, or other enclosed spaces as aforesaid, as they may consider necessary or desirable in the interests of the public health and recreation.

40. The Board shall at all times have the right of closing any cemetery or cemeteries whenever they shall be found to be injurious to public health, overcrowded, or otherwise detrimental to public interests.

41. No colonnades, balconies, verandahs, or any other projections, shall be erected over the foot-way of any public street or thoroughfare, except upon the consent of the Board first being obtained, which consent may be given subject to a payment to be fixed by the Board in each case or to such other conditions as it may see fit to impose.

42. (a) The owner of every vehicle intended to ply for hire, shall, before such vehicle may be used, exhibit it to some person, at such place and time as may be fixed by the Board, in order to receive his approval that it is a suitable vehicle, and to have the number of passengers to be carried fixed, and the vehicle registered and numbered. Such vehicle shall thereafter be exhibited for further inspection and approval in the month of January of each succeeding year.

(b) The owner of every such foregoing vehicle shall likewise, before any such vehicle may be used, take out a license for such vehicle, to be issued by the Board, for which a sum not exceeding Ten Shillings (10s.) sterling per month shall be charged.

(c) The Board shall have the right to fix a tariff of fares to be charged for the use of all vehicles plying for hire, and from time to time to alter same.

(d) All drivers of vehicles plying for hire must be approved of as suitable by the Board before exercising their calling, and must take out a license to be issued

by the Board, for which a sum not exceeding Ten Shillings (10s.) per quarter shall be charged.

(e) All licenses for vehicles and drivers shall run from the 1st January to 31st December of each year, be payable in advance, be taken out quarterly, half-yearly, or yearly, at the option of the licensee, and be renewable before the expiration of the current license.

(f) No driver of a vehicle licensed to carry passengers shall refuse to accept an engagement unless he is at the time actually hired or engaged, in which case he shall exhibit a placard on each side of his vehicle bearing the word "Engaged" in legible letters. No driver shall be bound to carry an intoxicated person, or a person in a filthy condition.

(g) No driver of any passenger vehicle shall carry any person suffering from a contagious or infectious disease.

(h) All passenger vehicles shall be kept in a clean and sanitary condition, and in good order and repair, and all harness in good working order.

(i) Every person hiring a vehicle shall pay the fare fixed by the Board prior to leaving or discharging such vehicle. Should such person refuse or neglect to do so, the driver may call in the aid of the police or inspectors for the arrest, if necessary, and the prosecution of such person.

(j) No driver of any vehicle plying for hire shall demand a sum in excess of the legal fare from any person hiring or using it.

(k) The drivers of all vehicles in use after sunset, whether plying for hire or private vehicles, shall, within half-an-hour after sunset affix and keep brightly burning two suitable lamps, one on each side of such vehicle, in such a position and of such construction as to show a bright light from the front and back of each lamp.

(l) No driver of any vehicle shall drive at a speed exceeding seven (7) miles an hour, and, in case of a passenger vehicle plying for hire, at less than five (5) miles an hour unless the hirer shall require a lower speed.

(m) All drivers of vehicles for hire shall carry their licenses to drive, and shall exhibit same whenever called upon to do so by the police or any passengers.

43. No person shall permit any bitch in heat to be at large within the limits of said jurisdiction.

44. Every householder shall pay the sum of not exceeding Seven Shillings per month per pail, for the removal of night soil, as set forth in Regulation No. 2.

45. All payments under this Article shall be made at the office of the Board within the first five days of every month between the hours of 9 and 11 in the morning.

In default of payment or any sums due in terms of these regulations for licenses or otherwise or any other contravention or breach of any of these regulations, the Public Prosecutor shall institute criminal proceedings on complaint made to him by the Board.

46. No person shall permit any building, chimney or wall to be or remain in a ruinous or dangerous condition, and every person receiving notice from the Board that any building, chimney or wall is deemed to be in such condition, shall forthwith cause the same to be guarded, fenced, removed, repaired or secured to the satisfaction of the Board; and, if the said notice be not complied with within a reasonable time, and the work of such removal, repair or security be not commenced within 48 hours from delivery of written notice, it shall be lawful for the Board to remove, repair or secure such dangerous structure, and the cost of such work shall be recoverable in a Court of law in addition to the penalty for breach of these regulations.

When such dangerous structure is taken down or removed by the Board, it may sell the materials thereof or any part of them, and may apply the proceeds of the sale or any part thereof, either in or towards payment of the cost and expenses incurred by the Board in connection with such removal, &c.

SUPERVISION EXPENSES.—When the Board, through the default of the owner, may have to carry out any work in consequence of contravention of these bye-laws, or case of removal of insecure buildings by the Board the owner of the building shall pay to the Board a supervision fee not exceeding five per centum of the amount of actual cost of such work as supervision cost.

47. It shall be the duty of the Town Police to assist in seeing that these regulations are duly performed, and to take the necessary steps against those contravening the same.

48. Where in these regulations it is provided that any premises must be supplied with any sanitary addition, appliance or accessory, the owner as well as the occupier shall be responsible to see that such regulations are complied with.

49. Where in terms of these regulations any sum of money is payable to the Board in respect of any property by way of rates or for performing any duty in respect thereof, the owner as well as the occupier shall be liable to pay the same and the Board may claim such sum of money in whole or in part from either or both of them.

50. Any contravention of these regulations shall be punishable by a fine not exceeding Ten Pounds (£10) sterling or in default of payment by imprisonment not exceeding three months with or without hard labour

Where the contravention consists in neglect, failure or refusal to pay any sum of money payable in terms of any of these regulations the Court adjudicating on same may likewise order payment to the Board of such sums of money as it may find to be due, which order shall have the same effect, and may be executed, appealed from and otherwise dealt with as a judgment in a civil suit or proceeding.

(This Proclamation repealed sect. 17 of Pr. 16 of 1901, and substituted other provisions which in turn were repealed by Pr. Tr. 39 of 1902, and the present provision substituted therefor.)

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 23RD OCTOBER, 1901.)

Preamble.

BY VIRTUE of the authority in me vested, I do hereby declare, proclaim and make known as follows:—

Power to Governor
to appoint public
holidays.

1. It shall be lawful for the Administrator of this Colony from time to time, by notice in the *Gazette*, to appoint any day mentioned in such notice to be observed as a public holiday.

Protesting of bills
of exchange.

2. Any bill or promissory note due and payable on any such public holiday shall be deemed and taken to become due and payable, and, in case of non-payment, may be noted and protested on the next following day and not sooner, and any such notice or protest shall be as valid as if made on the day on which the bill or note was made due and payable; and for all the purposes of this Proclamation the day next following such public holiday shall mean the next following day on which a bill of exchange may be lawfully noted or protested.

Notice of dis-
honour of bills of
exchange.

3. When the day on which any notice of dishonour of an unpaid bill of exchange or promissory note should be given, or when the day on which a bill of exchange or promissory note should be presented or received for acceptance is a public holiday, such notice of dishonour shall be given and such bill of exchange or promissory note shall be presented on the day next following such holiday.

(Repealed by Pr. Tr. 21 of 1902.)

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 18TH NOVEMBER, 1901.)

(To amend Proclamation No. 6 of 1901.)

WHEREAS it is desirable to amend Proclamation No. 6 of 1901: *Preamble.*

Now therefore by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows:—

1. Whenever the place at which an Assistant Resident Magistrate for any District is appointed to act shall be so near the boundary of such district that the inhabitants of any adjoining district can with ease and convenience resort thereto, the Administrator of the Transvaal may define any portion of any such adjoining district as an area over which such Assistant Resident Magistrate shall have and exercise jurisdiction.

Definition of Assistant Resident Magistrate's area.

2. All persons residing within any such defined area as aforesaid shall, for all proceedings civil and criminal, be subject to the jurisdiction of such Assistant Resident Magistrate as aforesaid, as well as to the Court of the Resident Magistrate of the District to which such area belongs.

Jurisdiction.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 27TH NOVEMBER, 1901).

BY VIRTUE OF THE AUTHORITY in me vested, I do hereby declare, proclaim, and make known as follows:—

1. All the jurisdictions, powers, and privileges vested by the laws of the late South African Republic in the Superintendent of Natives shall be and are hereby vested in the Commissioner for Native Affairs save where otherwise expressly provided in any Proclamation issued by the Administrator of the Transvaal.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 27TH NOVEMBER, 1901).

WHEREAS it is desirable to make provision against the establishment of betting houses.

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby proclaim, declare, and make known as follows :—

1. No house, office, room, or other place shall be opened, kept or used with intent that the owner, occupier or keeper thereof, or any person procured or employed by or acting on behalf of such owner, occupier or keeper, or any person having the care or management, or in any manner conducting the business thereof, may bet or wager with persons resorting thereto, or being in any manner in communication therewith, or for the purpose of any money or valuable thing being received by or on behalf of or expressly or impliedly promised, undertaken or agreed to be paid or given to such owner, occupier, keeper or person as aforesaid, as or for the consideration for any assurance, undertaking, promise or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse race, or other race, fight, game, sport or exercise, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid.

Prohibition on the keeping of betting-houses.

2. Any person who being the owner or occupier of any house, office, room or other place, shall open, keep or use the same for the purposes hereinbefore mentioned, or any of them, and any person who being the owner or occupier of any house, room, office, or other place shall knowingly and wilfully permit the same to be opened kept or used by any other person for the purposes aforesaid or any of them, and any person having the care or management of, or in any manner assisting in conducting the business of any house, office, room, or place opened, kept or used for the purposes aforesaid or any of them shall on conviction thereof before any Magistrate be liable to imprisonment, with or without hard labour, for a term not exceeding six months or to a fine not exceeding one hundred pounds, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding six months.

Penalties for keeping, &c., betting-houses.

3. Any person being the owner or occupier of any house, office, room, or place opened, kept, or used for the purposes aforesaid or any of them, or any person acting for or on behalf of any such owner or occupier, or any person having the care

Penalties on receiving money, &c., for purposes of bets.

or management, or in any manner assisting in conducting the business thereof, who shall receive, directly or indirectly, or to whom shall expressly or impliedly be promised, undertaken, or agreed to be paid or given any money or valuable thing as a deposit on or security for any bet or wager on condition of paying any sum of money or other valuable thing on the happening of any event or contingency of or relating to a horse race, or any other race, or any fight, game, sport, or exercise, or as for the consideration of any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any such event or contingency, and any person giving any acknowledgment note, security, or draft on the receipt of any money or valuable thing so paid or given, or promised, undertaken, or agreed to be paid or given as aforesaid, purporting or intended to entitle the bearer or any other person to receive any money or valuable thing on the happening of any such event or contingency as aforesaid, shall, upon conviction thereof before a Magistrate, be liable to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding fifty pounds; and, in default or payment, to imprisonment, with or without hard labour, for a period not exceeding three months.

Recovery of monies
so paid.

4. Any money or valuable thing received by any such person aforesaid as a deposit on any bet, or as or for the consideration for any such assurance, undertaking, promise or agreement as aforesaid, shall be deemed to have been received to or for the use of the person from whom the same was received, and such money or valuable thing, or the value thereof, may be recovered accordingly with full costs in any Court of competent jurisdiction.

Penalty on pub-
lication, &c., of bet-
ting house advertise-
ments.

5. Any person exhibiting or publishing or causing to be exhibited or published any placard, handbill, card, writing, sign, or advertisement, whereby it shall be made to appear that any house, office, room, or place is opened, kept, or used for the purpose of making bets or wagers in manner aforesaid, or for the purpose of exhibiting lists for betting, or with intent to induce any person to resort to or in any manner get into communication with such house, office, room or place, for the purpose of making bets or wagers in manner aforesaid, or any person who, on behalf of the owner or occupier of any such house, office, room, or place, shall invite other persons to resort thereto, or in any manner to get into communication therewith for the purpose of making bets or wagers in manner aforesaid, shall, upon conviction thereof before a Magistrate, be liable to imprisonment with or without hard labour for a term not exceeding two months, or to a fine not exceeding twenty-five pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding two months.

Penalties on send-
ing letters, circulars,
&c., give information
and advice as to bets.

6. While any letter, circular, telegram, placard, handbill, card, or advertisement is sent, exhibited, or published:

- (1) Whereby it is made to appear that any person either in this Colony or elsewhere will on application give

information or advice for the purpose of or with respect to any such bet or wager or any such event or contingency as is hereinbefore mentioned, or will make on behalf of any other person any such bet or wager as hereinbefore mentioned, or :

- (2) With intent to induce any person to apply to any house, office, room, or place, or to any person with the view of obtaining information or advice for the purpose of any such bet or wager or in respect to any such event or contingency as is hereinbefore mentioned, or :
- (3) Inviting any person to make or take any share in or connection with any such bet or wager.

Every person sending, exhibiting, or publishing or causing the same to be sent, exhibited, or published, shall be subject to the penalties provided in the 5th section of this proclamation with respect to offences under that section.

7. One-half of every pecuniary penalty which shall be adjudged to be paid under this Proclamation may be paid to any person who gives such information as shall lead to conviction and to the infliction of any such penalty under the provisions of this Proclamation.

Half the penalty to go to the informer.

8. It shall be lawful for any Magistrate, upon complaint made before him on oath that there is reason to suspect any house, office, room, or place to be kept or used as a betting house or office contrary to this Proclamation, to give authority by special warrant under his hand, when in his discretion he shall think fit, to any Constable or Police Officer to enter with such assistance as may be found necessary, into such house, office, room, or place, and if necessary to use force for making such entry, and to arrest, search, and bring before a Magistrate all persons found therein, and to seize all lists, cards, or other documents relating to racing or betting found in such house or premises.

Powers of Magistrates on complaints received or on reasonable suspicion of existence of betting house.

9. Nothing in this Proclamation contained shall extend to any person receiving or holding any money or valuable thing by way of stakes or deposit to be paid or given to the winner of any race or lawful sport, game or exercise, or to the owner of any horse engaged in any race.

Saving of stakes held for winner of lawful sport.

10. Nothing in this Proclamation contained shall extend to any owner or occupier of any race-course or other ground used for horse or other racing, or for any lawful sport, game or exercise, or to any person employed by or acting on behalf of such owner or occupier, opening, keeping or using on any day on which any recognised race, sport, game or exercise as aforesaid is being held, played or carried on, any building, shed, or other erection or enclosed space on or within any such race-course or other ground as aforesaid for the purposes mentioned in Section 1 of this Proclamation or any of them, and no such building, shed, or other erection or enclosed space on or within any such race-course or other ground as aforesaid shall on any such day as aforesaid be deemed to be a house,

Saving of places used for lawful sport.

office, room or other place within the meaning of this Proclamation: Provided always that the "event" or "contingency" mentioned in Section 1 relate to such race, sport, game or exercise, held, played or carried on, on any such day as aforesaid.

Repeal.

*11. So much of Article 7 of Law No. 7 of 1890 as enacts that lotteries on horse racing shall not fall under the provisions of such Law shall be and is hereby repealed.

*By Pr. Tr. No. 40 of 1902, this section is to be of full force and effect only from 1st January, 1902.

PROCLAMATION.

By His Excellency the Administrator of the Transvaal.(DATED 27TH NOVEMBER, 1901.)

Declaring certain Laws, Volksraad Resolutions, &c., to
be no longer of any force or effect.

WHEREAS it is desirable that certain Laws, Volksraad Resolutions, and Government Notices published in the Statute Books of the late South African Republic, which have been impliedly repealed or become obsolete or are unsuitable to the change in Government in the Transvaal consequent upon the annexation thereof to His Majesty's Dominions, shall be declared to be of no force or effect;

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

1. The Laws, Volksraad Resolutions, and Government Notices mentioned in the Schedule to this Proclamation and published in the Statute Books of the late South African Republic are hereby, to the extent mentioned in the third column to the said Schedule, declared to be of no force or effect in this Colony.

Repeal of former
laws of Transvaal.

SCHEDULE.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
The Thirty-Three Articles ...		The whole	1
Volksraad Resolution ...	23 5 1849	4	6
” ” ...	19 9 1849	17	6
” ” ...	20 5 1850	37, 38	7
” ” ...	24 1 1850	41	7
” ” ...	5 5 1851	9	8
Apprentice Law ...	9 5 1851	The whole	8
Volksraad Resolution ...	5 5 1851	15	11
” ” ...	20 3 1852	41	15
” ” ...	15 6 1852	{ 57,65,66,67, 69,70,71,72, 73,74,75,76 }	15, 16, 17, 18, 19

† The figures refer to the Articles of the Law or Resolution.

<p>Laws, Volksraad Resolutions, &c.</p>	<p>Date.</p>	<p>Extent of Law, Resolution, &c., declared to be of no force.†</p>	<p>Page in Statute Book.</p>
Volksraad Resolution	20 11 1852	12	17
" "	16 6 1852	38	19
" "	20 3 1853	45, 46	20
" "	24 3 1853	77, 85	20, 21
" "	13 6 1853	54	21
" "	18 6 1853	66	21
" "	13 8 1853	56	22
" "	9 8 1853	21	22
" "	10 8 1853	33	22
" "	19 9 1853	29	23
" "	21 9 1853	115	23
" "	19 9 1853	{ 62, 63, 64, 65, 67, 68 }	23, 24, 25
" "	21 11 1853	125	24
" "	23 9 1853	70	25
Instructions for Inspectors of Farms		The whole	26
Government Notice No. 3, 1853			
Volksraad Resolution	28 11 1853	124	28
" "	21 11 1853	{ 143, 128, 129 111 }	28, 29
" "	7 6-1854	31	29
" "	18 6 1855	145, 159	30, 31
Proclamation	29 9 1857	The whole	32
Grondwet	1858	" "	35
Volksraad Resolution	13 2 1858	21	69
Ordinance... ..	7 4 1858	The whole	75
Ordinance... ..	14 4 1858	" "	78
Instructions for the Inspectors of Lydenburg	25 3 1858	" "	79
Regulations for Towns in the South African Republic	5 8 1858	" "	85
Volksraad Resolution (Instruc- tions for Fieldcornets and for Commandants)... ..	17 9 1858	19	90, 100
Volksraad Resolution	20 9 1858	22	103
" "	9 1858	{ 23 a; 23 b; } { 23 c; 23 d; } { 23 e; 32 g; }	104, 105, 106
Volksraad Resolution (Game Law)	22 9 1858	26	106
Volksraad Resolution (Native Trade)	22 9 1858	26	110
Volksraad Resolution	14 to 23 9 1858	28	111
Instructions for Marketmasters	25 10 1858	The whole	112
Volksraad Resolution	5 5 1859	18, 19, 20	115
Annexure I. (to Grondwet)	19 9 1859	The whole	115
Annexure II. (to Grondwet)	19 9 1859	" "	116
Annexure III. (to Grondwet)	20 9 1859	" "	117
Annexure IV. (to Grondwet)	21 9 1859	" "	123
Volksraad Resolution	21 9 1859	64	123
Government Notice (including Instructions)	7 12 1859	The whole	124
Volksraad Resolution	21 9 1859	68	125
" "	22 9 1859	75	126
Instructions for Land Com- mission	18 3 1860	The whole	131
Volksraad Resolution	9 4 1860	42	140
" "	28 9 1860	149	142
Proclamation	8 10 1860	The whole	142
Government Notice	8 10 1860	" "	143
Instructions for Inspectors of Farms	1 2 1861	" "	145

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Volksraad Resolution	18 2 1864	26	170
Proclamation	12 4 1864	The whole	170
Volksraad Resolution	12 5 1864	33	171
" "	12 9 1864	5, 6	174
Ordinance No. 7, 1864	6 10 1864	The whole	175
Ordinance for Registration of Wills, No. 8, 1864	6 10 1864	" "	181
Ordinance No. 9, 1864	6 10 1864	" "	199
Volksraad Resolution	27 9 1864	" 96 "	225
" "	27 9 1864	98	225
" "	29 9 1864	142	225
Proclamation	24 11 1864	The whole	226
Volksraad Resolution	9 3 1866	314 b	228
" "	20 3 1866	460	230
" "	24 3 1866	554	231
" "	4 4 1866	644 b	231
" "	6 4 1866	675	232
Law No. 3, 1864 (Approved 22nd March, 1866)		The whole	243
Volksraad Resolution (Instruc- tions to Sheriff)	25 & 26 9 1866	200 to 238	251
Ordinance No. 3, 1866			253
Volksraad Resolution	22 10 1866	484	269
Volksraad Resolution	26 10 1866	566	270
" "	26 10 1866	569	270
Ordinance No. 5, 1866		The whole	295
Proclamation	13 11 1866	" "	297
Government Notice No. 70	24 6 1867	" "	302
Volksraad Resolution	30 9 1867	" 93 "	303
" "	5 12 1867	240	304
Government Notice No. 143	20 1 1868	The whole	305
Volksraad Resolution	12 2 1868	253	306
" "	12 2 1868	257	307
" "	23 3 1868	465	308
" "	2 4 1868	533	308
" "	26 11 1868	316	311
" "	27 11 1868	{ 320, 321, 323, }	313
" "	24 5 1869	82	315
" "	28 5 1869	116	315
" "	1 6 1869	136	315
" "	2 6 1869	144	316
" "	2 6 1869	145	316
" "	4 6 1869	151	316
" "	11 6 1869	199	318
" "	14 6 1869	211	319
Volksraad Resolution (Instruc- tions for Auditor-General)	16 6 1869	226	319
Volksraad Resolution (Pound Regulations)	18 6 1869	239	321
Law No. 3, 1869		The whole	326
Post Office Law (Approved by Volksraad Resolution)	18 6 1869	242	329
Volksraad Resolution	19 6 1869	250	339
Orphan Chamber Law (Ap- proved by Volksraad Resolu- tion)	19 6 1869	250	340
Volksraad Resolution	19 6 1869	255	354
Government Notice No. 146	30 10 1869	The whole	356
Law No. 1, 1870		" "	359
Law No. 4, 1870		" "	369
Law No. 5, 1870		" "	371
Law No. 6, 1870		" "	375

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Law No. 7, 1870		The whole	376
Law No. 8, 1870		" "	376
Law No. 9, 1870		" "	378
Volksraad Resolution	7 6 1870	159	385
" "	8 6 1870	161	386
" "	10 6 1870	172	387
Volksraad Resolution (first portion)	13 6 1870	176	387
Volksraad Resolution (second portion)	13 6 1870	176	387
Law No. 10, 1870		The whole	387
Volksraad Resolution	14 6 1870	181	391
" "	15 6 1870	184	392
" "	18 6 1870	186	392
Law No. 11, 1870		The whole	392
Volksraad Resolution	21 6 1870	199	395
Law No. 13, 1870		The whole	409
Law No. 14, 1870		" "	412
Volksraad Resolution	4 9 1871	4	417
Government Notice No. 732	11 9 1871	The whole	418
Volksraad Resolution	20 9 1871	75	421
" "	3 10 1871	144	422
" "	12 10 1871	151	422
Law No. 1, 1871		The whole	423
Volksraad Resolution	6 11 1871	280	427
" "	8 11 1871	304	427
" "	14 11 1871	346	448
" "	15 11 1871	351	449
" "	21 11 1871	357	449
Law No. 3, 1871		9	444
Law No. 4, 1871		The whole	450
Volksraad Resolution	28 11 1871	377	452
" "	29 11 1871	399	452
" "	30 11 1871	416	452
" "	2 12 1871	426	453
" "	2 12 1871	431	454
Law No. 5, 1871		The whole	455
Law No. 6, 1871		" "	457
Law No. 7, 1871		" "	459
Volksraad Resolution	12 2 1872	485	460
" "	{ 16, 17 & 19 2 } 1872	523	460
" "	20 2 1872	535	460
" "	21 2 1872	541	460
Law No. 1, 1872		The whole	461
Volksraad Resolution	27 2 1872	570	462
{ Government Notice, No. 847, } including Volksraad Resolu- tion	10 4 1872 27 11 1871	} The whole	463
Volksraad Resolution	11 & 12 7 1872		
" "	24 7 1872	80	463
" "	25 7 1872	131	464
" "	25 7 1872	136	465
Law No. 2, 1872		The whole	465
Volksraad Resolution	29 7 1872	156	469
{ Government Notice No. 933 } including Treaty	8 8 1872	The whole	469
Volksraad Resolution	29 7 1872	157	472
" "	30 & 31 7 1872	161	472
" "	2 8 1872	174	472
Law No. 3, 1872		The whole	473
Volksraad Resolution	8 3 1873	28	475
" "	11 3 1873	39	475
Law No. 1, 1873		The whole	476

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Law No. 2, 1873		The whole	478
Law No. 3, 1873		" "	479
Law No. 4, 1873		" "	480
Law No. 5, 1873		" "	482
Volksraad Resolution	24 5 1873	" 23	515
" "	26 5 1873	25	515
" "	26 5 1873	26	516
" "	29 5 1873	41	516
Law No. 6, 1873		The whole	517
Volksraad Resolution	30 5 1873	54	519
" "	30 & 31 5 1873	55	519
" "	31 5 1873	59	519
" "	5 6 1873	105	519
" "	7 6 1873	111	520
" "	7 6 1873	112	520
" "	7 6 1873	113	520
" "	9 6 1873	123	521
" "	10 6 1873	133	522
" "	10 6 1873	135	522
" "	10 6 1873	137	522
" "	10 6 1873	142	523
" " with report	11 6 1873	146	523
" "	11 6 1873	{ 153, 154, 155, 156, 157, 158, 159 }	525
" "	14 6 1873	170	526
Law No. 7, 1873		The whole	527
Volksraad Resolution	19 5 1873	" "	537
" "	20 5 1873	2	537
Government Notice No. 1419	6 1 1874	The whole	538
Law No. 4, 1874		" "	566
Law No. 7, 1874		" "	591
Volksraad Resolution	22 9 1874	" 2	594
" "	23 & 24 9 1874	10	594
" "	28 & 29 9 1874	27	595
" "	30 9 1874	32	595
" "	9 10 1874	94	596
" "	12 10 1874	112	596
" "	16 10 1874	132	596
" "	19 & 20 10 1874	138	597
" "	21 & 22 10 1874	149	597
" "	23 10 1874	154	597
" "	23 & 24 10 1874	157	598
" "	29 10 1874	178	598
" "	31 10 1874	185	598
" "	2 11 1874	191	599
Government Notice No. 1644	2 11 1874	The whole	599
Volksraad Resolution	3 11 1874	195	600
Notice of Surveyor-General	4 11 1874	The whole	600
Volksraad Resolution	4 11 1874	206	602
" "	13 11 1874	244	602
" "	16 11 1874	252	603
" "	18 11 1874	271	604
" "	18 11 1874	278	604
Government Notice No. 1689	8 12 1874	The whole	605
Proclamation No. 1705	14 12 1874	" "	605
Government Notice No. 1874	22 3 1875	" "	607
Volksraad Resolution	8 & 10 5 1875	" 30, 31	607
Government Notice No. 1925	11 5 1875	The whole	607
Volksraad Resolution	11 5 1875	44	608
" "	12 5 1875	56	608
" "	13 5 1875	79	608
" "	21 5 1875	103, 110, 111	609

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Volksraad Resolution	24 5 1875	118	611
" "	26 5 1875	146	611
" "	26 5 1875	147	612
" "	27 5 1875	150	612
" "	27 5 1875	151	612
Law No. 2, 1875		The whole	615
Law No. 3, 1875		" "	616
Law No. 4, 1875		" "	617
Volksraad Resolution	2 6 1875	" 183 "	621
Law No. 5, 1875		The whole	621
Volksraad Resolution	3 6 1875	188	622
Law No. 6, 1875		The whole	622
Government Notice No. 1983	3 8 1875	" "	632
Government Notice No. 1998 (with appendix)	16 8 1875	" "	633
Government Notice No. 2080	12 10 1875	" "	634
Government Notice No. 2082	12 10 1875	" "	635
Government Notice No. 2092	18 10 1875	" "	636
Government Notice No. 2161	26 11 1875	" "	637
Government Notice No. 14	14* 1 1876	" "	638
Government Notice No. 13	14 1 1876	" "	638
Government Notice No. 36	15 2 1876	" "	640
Government Notice No. 42	15 2 1876	" "	640
Government Notice No. 75	15 3 1876	" "	640
Volksraad Resolution	5 5 1876	29, 30	642
" "	9 & 10 5 1876	43, 44	642
Regulations for Examination of Teachers	15 5 1876	The whole	643
Volksraad Resolution	15 5 1876	52	644
" "	27 5 1876	89	645
Law No. 1, 1876		The whole	645
Law No. 2, 1876		" "	649
Volksraad Resolution	3 6 1876	" 101 "	658
" "	7 6 1876	108	659
" "	7 6 1876	109	660
" "	7 6 1876	111	660
" "	7 6 1876	112	660
" "	7 6 1876	113	661
" "	7 6 1876	114	661
" "	7 6 1876	115	661
" "	7 6 1876	116	661
" "	7 6 1876	119	661
" "	8 6 1876	135	662
Law No. 3, 1876		The whole	662
Volksraad Resolution	12 6 1876	201	668
" "	14 6 1876	216, 219	669
" "	14 6 1876	220	669
" "	14 6 1876	222	669
" "	16 6 1876	232	670
" "	6 9 1876	7	670
" "	11 & 12 9 1876	17	670
Law No. 4, 1876		The whole	671
Law No. 5, 1876		" "	673
Volksraad Resolution	22 9 1876	" 37 "	675
" "	26 9 1876	45	676
" "	27 9 1876	48	676
Government Notice No. 342	24 10 1876	The whole	677
Government Notice No. 517	6 1 1877	" "	677
Government Notice No. 532	20 2 1877	" "	678
Volksraad Resolution	1 3 1877	" 18 "	678
" "	2 3 1877	24	679
Government Notice No. 569	15 3 1877	The whole	679
Law No. 1, 1877		" "	684

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Volksraad Resolution	8 3 1877	39	685
Government Notice No. 572	16 3 1877	The whole	685
Proclamation	5 4 1877	" "	686
Government Notice No. 10	20 4 1877	" "	700
Government Notice No. 26 and annexure)	4 5 1877	" "	702
Proclamation	18 5 1877	" "	703
Proclamation	1 6 1877	" "	708
Government Notice No. 51	8 6 1877	" "	709
Government Notice No. 122	26 10 1877	" "	712
Government Notice No. 30	2 3 1878	" "	712
Government Notice No. 69	2 6 1879	" "	717
Government Notice No. 75	4 6 1879	" "	718
Government Notice No. 77	7 6 1879	" "	719
Government Notice	19 7 1879	" "	719
Government Notice No. 110	26 7 1879	" "	720
Government Notice No. 40 (with Convention))	11 2 1880	" "	736
Proclamation dated Mar. 9, 1880) (re High Court and annexure))		" "	741
Law No. 1, 1880		" "	744
Law No. 2, 1880		" "	744
Law No. 8, 1880		" "	755
Law No. 10, 1880		" "	764
Proclamation	28 8 1880	" "	766
Law No. 11, 1880		" "	773
Law No. 12, 1880		" "	785
Government Notice No. 151) (with Regulations))	29 6 1880	" "	839
Law No. 17, 1880		" "	856
Law No. 21, 1880		" "	864
Government Notice No. 175	13 8 1880	" "	939
Government Notice No. 189	1 9 1880	" "	941
Government Notice No. 223	12 10 1880	" "	944
Law No. 1, 1881		" "	953
Law No. 2, 1881		" "	981
Law No. 4, 1881		" "	984
Proclamation	9 8 1881	" "	1011
Government Notice No. 24	15 3 1881	" "	1014
Volksraad Resolution	18 8 1881	127	1015
" "	25 10 1881	193	1021
Law No. 2, 1881		The whole	1021
Law No. 3, 1881		" "	1025
Law No. 4, 1881		" "	1029
Volksraad Resolution	1 11 1881	226	1036
" "	1 11 1881	282	1036
" "	2 11 1881	288	1036
" "	5 11 1881	237	1037
Government Notice No. 76) (with Regulations))	5 11 1881	The whole	1037
Law No. 5, 1881		" "	1038
Volksraad Resolution	7 11 1881	352	1043
" "	7 11 1881	354	1043
" "	7 11 1881	355	1044
" "	8 11 1881	363	1045
" "	8 11 1881	372	1046
Government Notice No. 131) with annexure))	27 1 1882	The whole	1047
Government Notice No. 160	27 2 1882	" "	1065
Government Notice No. 162	27 2 1882	" "	1065
Government Notice No. 217) (with annexure))	11 4 1882	" "	1068
Law No. 1, 1882		" "	1069

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Government Notice No. 252 } (with annexure) ...	12 5 1882	The whole	1076
Law No. 3, 1882 ...		" "	1096
Law No. 4, 1882 ...		" "	1099
Volksraad Resolution ...	31 5 1882	248	1105
" " ...	31 5 1882	253	1105
" " ...	1 6 1882	258	1105
" " ...	2 6 1882	261	1105
" " ...	3 6 1882	271 & 272	1106
" " ...	8 6 1882	317	1107
" " ...	9 6 1882	323	1108
" " ...	21 6 1882	538	1108
" " ...	26 6 1882	580	1109
" " ...	27 6 1882	583	1110
" " ...	27 6 1882	594	1111
" " ...	27 6 1882	595	1111
" " ...	27 6 1882	596	1111
" " ...	3 7 1882	685, 686	1113
Law No. 6, 1882 ...		The whole	1118
Volksraad Resolution ...	7 & 8 7 1882	743 & 744 (except so much as relates to taxes on farms)	1125
" " ...	7 & 8 7 1882	754, 755	1129
" " ...	8 7 1882	757	1130
Law No. 7, 1882 ...		The whole	1131
Law No. 8, 1882 ...		" "	1135
Government Notice ...	11 9 1882	" "	1140
" " No. 411 ...	5 10 1882	" "	1141
Proclamation ...	27 1 1883	" "	1147
Volksraad Resolution ...	18 5 1883	88, 89	1150
" " ...	21 & 22 5 1883	110, 113 & 114	1150
" " ...	7 6 1883	257 & 258	1151
" " ...	11 6 1883	268, 269	1152
" " ...	12 6 1883	278	1153
" " ...	15 6 1883	344	1153
Law No. 1, 1883 ...		The whole	1156
Law No. 2, 1883 ...		" "	1164
Law No. 3, 1883 ...		" "	1178
Law No. 5, 1883 ...		" "	1185
Law No. 6, 1883 ...		" "	1189
Law No. 7, 1883 ...		" "	1192
Law No. 8, 1883 ...		" "	1200
Law No. 9, 1883 ...		" "	1209
Volksraad Resolution ...	28 6 1883	480	1215
" " ...	30 6 1883	505	1215
" " ...	3 7 1883	538	1215
" " ...	4 7 1883	570	1216
" " ...	9 7 1883	620, 621	1216
" " ...	12 7 1883	713	1217
" " ...	13 7 1883	752	1217
" " ...	19 7 1883	849	1218
" " ...	23 7 1883	877, 879	1219
Proclamation ...	24 7 1883	The whole	1220
Volksraad Resolution ...	20 7 1883	855	1221
" " ...	24 7 1883	885	1223
" " ...	24 7 1883	892	1223
" " ...	24 7 1883	900, 901	1223, 1224
" " ...	25 7 1883	902, 906	1224, 1225
" " ...	25 7 1883	909, 911	1225, 1226
" " ...	26 7 1883	{ 917, 918, 919 }	1226
" " ...	27 7 1883	920	
" " ...	27 7 1883	943	2271

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Volksraad Resolution	30 7 1883	{ 967, 969, 970, 971 }	1227, 1228
" "	31 7 1883	982	1228
" "	31 7 1883	985	1229
Government Notice No. 210	27 9 1883	The whole	1232
Government Notice No. 214	1 10 1883	" "	1233
Government Notice No. 212	29 9 1883	" "	1234
Government Notice No. 239	14 11 1883	" "	1234
Proclamation	6 3 1884	" "	1236
Government Notice No. 113	17 4 1884	" "	1240
Government Notice No. 127	29 4 1884	" "	1241
Proclamation	19 5 1884	" "	1244
Proclamation	17 6 1884	" "	1246
Volksraad Resolution	30 7 1884	1017	1248
" "	31 7 1884	1030	1249
" "	13 8 1884	85	1259
" "	18 8 1884	155	1261
" "	28 8 1884	273, 287	1262
" "	29 8 1884	315	1262
" "	1 9 1884	340	1263
" "	4 9 1884	373	1263
" "	6 9 1884	418	1264
" "	8 9 1884	419, 427	1264
" "	9 9 1884	431	1265
" "	17 9 1884	490	1265
" "	24 9 1884	574	1267
" "	3 10 1884	733, 749	1268
" "	13 10 1884	857	1268
Government Notice No. 292 (with annexures)	20 10 1884	The whole	1269
Volksraad Resolution	18 10 1884	{ 951, 952, 953, 954, 958 }	1273
" "	22 10 1884	{ 979, 981, 982, 983, 984, 985, 988 }	1274
Appendix to Law No. 1, 1883			1276
Volksraad Resolution	27 10 1884	1055, 1056	1280
" "	28 10 1884	1066	1280
Law No. 2, 1884		The whole	1281
Volksraad Resolution	3 11 1884	{ 1161, 1162, 1165, 1166 }	1298
Government Notice No. 322	10 11 1884	The whole	1300
Volksraad Resolution	10 11 1884	1273, 1288	1300
Government Notice No. 330	17 11 1884	The whole	1303
Proclamation	25 11 1884	" "	1304
Government Notice No. 346 (with annexure)	25 11 1884	" "	1305
Proclamation	27 11 1884	" "	1307
Government Notice No. 357	2 12 1884	" "	1308
Government Notice No. 366	12 12 1884	" "	1309
Government Notice No. 368	17 12 1884	" "	1310
Government Notice No. 369 (with annexure)	22 12 1884	" "	1311
Government Notice No. 375 (with annexure)	22 12 1884	" "	1313
Government Notice No. 55	9 3 1885	" "	1317
" " "	17 3 1885	" "	1317
" " "	1 4 1885	" "	1319
" " "	2 4 1885	" "	1320
Volksraad Resolution	15 5 1885	117	1322
" "	21 5 1885	184	1325
" "	22 5 1885	195	1327
" "	27 5 1885	218	1327

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Volksraad Resolution	29 5 1885	247, 248	1327, 1328
" "	2 6 1885	264	1331
" "	2 6 1885	272	1331
" "	6 6 1885	309	1338
" "	9 6 1885	331	1338
" "	10 6 1885	360	1338
" "	11 6 1885	375	1340
" "	11 6 1885	{ 377, 378, 379, } 380	1340
" "	13 6 1885	400, 401	1341, 1342
" "	15 6 1885	405	1342
" "	15 6 1885	407 ...	1342
Government Notice No. 123 (with annexure)	16 6 1885	The whole	1342
Volksraad Resolution	18 6 1885	{ 470, 471, 472, } 474	1343
" "	18 & 19 6 1885	475, 481	1344
" "	25 6 1885	450	1345
" "	26 6 1885	565	1346
Government Notice No. 134 (with annexure)	29 6 1885	The whole	1346
Law No. 5, 1885		" "	1356
Volksraad Resolution	6 7 1885	644, 651	1364, 1365
" "	7 7 1885	715	1365
" "	8 7 1885	735	1365
" "	9 7 1885	757, 769	1365, 1366
" "	10 7 1885	776	1366
" "	13 7 1885	823	1366
" "	13 7 1885	825	1367
" "	22 7 1885	949	1367
" "	22 7 1885	951	1367
Proclamation	22 7 1885	The whole	1368
Volksraad Resolution	23 7 1885	977	1368
" "	25 7 1885	989	1369
" "	25 7 1885	990, 991	1369, 1370
" "	29 7 1885	1066	1370
" "	31 7 1885	1104	1373
Law No. 7, 1885		The whole	1373
Volksraad Resolution	1 8 1885	112	1377
Law No. 8, 1885		The whole	1377
Volksraad Resolution	30 7 1885	1074	1400
" "	3 8 1885	1120	1400
" "	4 8 1885	1136	1401
" "	5 8 1885	1192, 1193	1402
" "	6 8 1885	1199	1402
Law No. 9, 1285		The whole	1404
Law No. 10, 1885		" "	1407
Notice re Telegraphs	20 8 1885	" "	1411
Government Notice No. 172	20 8 1885	" "	1411
Government Notice No. 173	20 8 1885	" "	1412
Government Notice No. 207	13 10 1885	" "	1413
Notice (Postal)	24 10 1885	" "	1417
Government Notice No. 256	15 12 1885	" "	1420
Notice	30 12 1885	" "	1421
Law No. 1, 1886		" "	1
Law No. 2, 1886		" "	22
Appendix No. 4, 1886		" "	23
Law No. 6, 1886		" "	27
Law No. 7, 1886		" "	28
Law No. 9, 1886		" "	33
Law No. 10, 1886		" "	35
Law No. 11, 1886		" "	41
Law No. 13, 1886		" "	54

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Law No. 14, 1886		The whole	56
Appendix to Law No. 8, 1885		" "	65
Amendment of Law No. 8, 1885		" "	66
Volksraad Resolution	17 5 1886	218	72
" "	19 5 1886	224	73
" "	19 5 1886	226	73
" "	27 5 1886	352	75
" "	28 5 1886	373	75
" "	31 5 1886	384	76
" "	1 6 1886	394	76
" "	2 6 1886	405	77
" "	3 6 1886	411, 413	77
" "	4 6 1886	423	77
" "	8 6 1886	459	78
" "	22 6 1886	615	79
" "	28 6 1886	723	79
" "	29 6 1886	730	79
" "	1 7 1886	800	80
" "	7 7 1886	877	81
" "	9 7 1886	888	81
" "	10 7 1886	919	81
" "	29 7 1886	1226	82
" "	29 7 1886	1228	83
" "	29 7 1886	1231	83
" "	30 7 1886	1240	83
" "	2 8 1886	1269	84
" "	2 8 1886	1277	84
" "	4 8 1886	1294	84
" "	4 8 1886	1304	84
" "	5 8 1886	1316	85
" "	5 8 1886	1318	85
" "	9 8 1886	1344	86
" "	9 8 1886	1355	86
" "	9 8 1886	1356	86
" "	10 8 1886	1391, 1392	86, 87
" "	11 8 1886	1410, 1411	87
" "	12 8 1886	1415	88
" "	12 8 1886	1423	89
" "	12 8 1886	1424	89
Law No. 1, 1887		The whole	90
Law No. 4, 1887		" "	99
Law No. 5, 1887		" "	108
Law No. 6, 1887		" "	111
Law No. 8, 1887		" "	130
Law No. 9, 1887		" "	132
Law No. 10, 1887		" "	137
Law No. 11, 1887		" "	151
Law No. 12, 1887		" "	153
Law No. 13, 1887		" "	154
Law No. 14, 1887		" "	159
Law No. 15, 1887		" "	162
Law No. 16, 1887		" "	164
Law No. 18, 1887		" "	171
Standing Orders of the Volksraad		" "	172
Volksraad Resolution	3 5 1887	26	187
" "	5 5 1887	37, 44	189
" "	7 5 1887	47	190
" "	9 5 1887	57	191
" "	10 5 1887	64, 66, 68, 70	192, 193, 194
" "	20 5 1887	260	194
" "	24 5 1887	288, 291	194, 195
" "	31 6 1887	393	195
" "	9 6 1887	516	195

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Volksraad Resolution	11 6 1887	525	196
" "	16 6 1887	564	197
" "	20 6 1887	618	199
" "	21 6 1887	644, 646	200
" "	24 6 1887	688, 691	200
" "	27 6 1887	708	201
" "	13 7 1887	1077	201
" "	21 7 1887	1203	203
" "	27 7 1887	1302, 1305	203
" "	29 7 1887	† 1344	204
" "	30 7 1887	1366	205
Law No. 1, 1888		The whole	1
Law No. 2, 1888		" "	3
Law No. 4, 1888		" "	6
Law No. 6, 1888		" "	10
Law No. 8, 1888		4	15
Law No. 9, 1888		The whole	20
Law No. 10, 1888		" "	33
Law No. 11, 1888		" "	34
Volksraad Resolution	7 5 1888	18	37
" "	9 5 1888	43	38
" "	11 5 1888	63	39
" "	11 5 1888	65	40
" "	12 5 1888	74	41
" "	14 5 1888	78	42
" "	14 5 1888	90, 92	43
" "	15 5 1888	94	44
" "	16 5 1888	111	45
" "	17 5 1888	114	46
" "	22 5 1888	158, 160	46, 47
" "	25 5 1888	241	48
" "	30 5 1888	322, 323	49
" "	1 6 1888	335	49
" "	4 6 1888	359	49
" "	6 6 1888	387	50
" "	14 6 1888	454	52
" "	21 6 1888	538	53
" "	6 & 7 7 1888	928	65
" "	9 7 1888	931	66
" "	11 7 1888	972	66
" "	13 7 1888	1010	67
" "	20 7 1888	1073	67
" "	23 7 1888	1081	69
" "	23 7 1888	1085	69
" "	23 7 1888	1088	70
" "	24 7 1888	1092	71
Proclamation	26 4 1888	The whole	76
" "	23 7 1888	" "	78
Law No. 1, 1889		" "	82
Law No. 2, 1889		" "	83
Law No. 3, 1889		" "	88
Law No. 4, 1889		" "	89
Law No. 5, 1889		" "	90
Law No. 8, 1889		" "	98
Volksraad Resolution	7 5 1889	27	139
" "	7 5 1889	30	139
" "	8 5 1889	40	140
" "	8 5 1889	49	141
" "	10 5 1889	66, 67	142
" "	10 5 1889	69	143
" "	10 5 1889	71	143
" "	18 5 1889	179, 181	147, 148
" "	21 5 1889	211	150

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Volksraad Resolution	27 5 1889	253	150
" "	27 5 1889	256	151
" "	28 5 1889	281	151
" "	29 5 1889	292	152
" "	7 6 1889	379	152
" "	12 6 1889	404	153
" "	13 6 1889	410	153
" "	17 6 1889	443	155
" "	20 6 1889	473, 474, 475	156
" "	22 6 1889	496	157
" "	27 6 1889	546	158
" "	28 6 1889	584	159
" "	15 7 1889	965	159
" "	15 7 1889	982	159
" "	17 7 1889	1037	159
" "	18 7 1889	1040	160
" "	18 7 1889	1042	160
" "	18 7 1889	1044	161
Proclamation	5 1 1889	The whole	162
" "	16 4 1889	" "	163
" "	23 8 1889	" "	167
Grondwet, 1889		" "	173
Law No. 1, 1890		" "	1
Law No. 3, 1890		" "	9
Law No. 4, 1890		" "	22
Law No. 5, 1890		" "	27
Law No. 6, 1890		" "	29
Law No. 8, 1890		" "	34
Volksraad Resolution	7 5 1890	33, 36	41
" "	8 5 1890	47	42
Executive Council Resolution (confirmed by Volksraad Resolution 10th May, 1890, Article 58)	8 4 1890	699, 271	45
Volksraad Resolution	10 5 1890	64	47
" "	10 5 1890	73	49
" "	12 5 1890	77	49
" "	13 5 1890	90	50
" "	13 5 1890	109	52
" "	20 5 1890	149	53
" "	24 5 1890	179	55
" "	27 5 1890	182 & 188	56
" "	4 6 1890	249	57
" "	7 6 1890	316	57
" "	10 6 1890	333	58
" "	19 6 1890	434	59
" "	19 6 1890	436, 438	59
" "	1 7 1890	543	60
" "	4 7 1890	592	60
" "	23 7 1890	1034	61
" "	23 7 1890	1044	61
" "	29 7 1890	1159	62
" "	1 8 1890	1164	62
" "	2 8 1890	1168	62
" "	11 8 1890	1235, 1236	79
Proclamation	17 2 1890	The whole	87
" "	29 4 1890	" "	92
" "	12 5 1890	" "	95
" "	20 6 1890	" "	96
" "	26 8 1890	" "	98, 99
" "	6 9 1890	" "	101
" "	30 9 1890	" "	102
" "	30 9 1890	" "	103

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Proclamation	30 9 1890	The whole	104
" " " " " "	30 9 1890	" "	105
Law No. 6, 1891		" "	148
Law No. 7, 1891		" "	151
Law No. 8, 1891		" "	154
Law No. 10, 1891		" "	182
Law No. 11, 1891		" "	230
Law No. 12, 1891		" "	231
Law No. 13, 1891		" "	242
First Volksraad Resolution ...	8 5 1891	39	251
" " " " " "	20 5 1891	71	253
" " " " " "	20 5 1891	78	254
" " " " " "	20 5 1891	82	254
Executive Council Resolution (confirmed by First Volksraad Resolution of 21st May, 1891, Article 96)	25 9 1890	625, 620, 675	256, 259
First Volksraad Resolution ...	23 5 1891	107	260
" " " " " "	27 5 1891	{ 154,155,156, 157,158,160, 161,162,164, 166,167,170 }	262 to 266
" " " " " "	28 5 1891	175	266
" " " " " "	5 6 1891	300	267
" " " " " "	9 6 1891	342	280
" " " " " "	24 6 1891	516	284
" " " " " "	30 6 1891	634	284
" " " " " "	14 7 1891	889	285
" " " " " "	31 7 1891	1196	287
" " " " " "	31 7 1891	1197	288
" " " " " "	3 8 1891	1232, 1234	292
" " " " " "	4 8 1891	1265	292
" " " " " "	4 8 1891	1267	293
" " " " " "	4 8 1891	1271, 1273	294
" " " " " "	6 8 1891	1291, 1320, 1321	295, 296
" " " " " "	7 8 1891	1327	297
" " " " " "	8 6 1891	433	298
Second Volksraad Resolution ...		The whole	374
Amendment of Law No. 2, 1889			
Government Notice No. 338, with Regulations	14 9 1891	" "	390
Government Notice No. 387, with Regulations	14 11 1891	" "	394
Government Notice No. 399 ...	1 12 1891	" "	402
Government Notice No. 415 ...	31 11 1891	" "	403
Government Notice No. 418 ...	22 12 1891	" "	404
Government Notice No. 423 ...	29 12 1891	" "	409
Law No. 2, 1892		" "	412
Law No. 12, 1892		" "	466
Law No. 13, 1892		" "	471
Law No. 15, 1892		" "	495
Law No. 17, 1892		" "	501
Law No. 18, 1892		" "	502
Law No. 19, 1892		" "	555
Law No. 20, 1892		" "	562
Law No. 22, 1892		" "	580
Law No. 23, 1892		" "	584
First Volksraad Resolution ...	3 5 1892	20	587
" " " " " "	6 5 1892	55	588
" " " " " "	6 5 1892	58	588
Executive Council Resolution (approved by First Volksraad Resolution, Article 85, 10th May, 1892)	16 1 1892	35	589

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
First Volksraad Resolution ...	17 5 1892	188	601
" " " ...	19 5 1892	213	602
" " " ...	30 5 1892	315	603
" " " ...	2 6 1892	356	605
" " " ...	8 7 1892	691	615
" " " ...	12 7 1892	738	615
" " " ...	18 7 1892	825	616
" " " ...	22 7 1892	885	617
" " " ...	22 7 1892	886	617
" " " ...	2 8 1892	1024	621
" " " ...	6 8 1892	1077	622
" " " ...	11 8 1892 {	1102	623
" " " ...		1114	625
" " " ...	19 8 1892	1244	626
" " " ...	26 8 1892	1292	630
" " " ...	29 8 1892	1311	631
" " " ...	29 8 1892	1317	632
Proclamation ...	16 5 1892	The whole	660
Government Notice No. 9 ...	12 1 1892	" "	688
Government Notice No. 119 ...	26 4 1892	" "	698
Government Notice No. 323 ...	6 9 1892	" "	710
Government Notice No. 418 ...	1 12 1892	" "	726
Law No. 3, 1893 ...		" "	743
Law No. 5, 1893 ...		" "	770
Law No. 7, 1893 ...		" "	776
Law No. 10, 1893 ...		" "	796
Law No. 11, 1893 ...		" "	800
Law No. 12, 1893 ...		" "	802
Law No. 13, 1893 ...		" "	805
Law No. 14, 1893 ...		" "	806
First Volksraad Resolution ...	9 5 1893	68	813
" " " ...	17 6 1893	370	819
" " " ...	19 6 1893	376	819
" " " ...	21 6 1883	412	820
" " " ...	27 6 1893	474	822
" " " ...	1 8 1893	956	834
" " " ...	5 8 1893	{ 997, 998, 999, }	836
" " " ...		1000	
" " " ...	7 8 1893	1021	837
" " " ...	14 8 1893	1078	839
" " " ...	15 8 1893	1098	839
" " " ...	16 8 1893	1106	841
" " " ...	18 8 1893	1123	842
" " " ...	21 8 1893	1136	843
" " " ...	31 8 1893	1257	864
" " " ...	8 9 1893	1341	871
" " " ...	9 9 1893	1356	872
Proclamation ...	9 5 1893	The whole	885
Government Notice No. 154, with Regulations ...	11 7 1893	" "	956
Government Notice No. 413 ...	28 11 1893	" "	1014
Law No. 3, 1894 ...		" "	15
Law No. 14, 1894 ...		" "	113
Law No. 15, 1894 ...		" "	167
Law No. 16, 1894 ...		" "	208
Law No. 17, 1894 ...		" "	210
Law No. 18, 1894 ...		" "	212
Law No. 19, 1894 ...		" "	216
Law No. 20, 1894 ...		" "	224
Law No. 21, 1894 ...		" "	239
First Volksraad Resolution ...	8 5 1894	16	246
" " " ...	28 5 1894	237	249
" " " ...	22 6 1894	641, 651	265

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
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" " " ...	11 7 1894	787	267
" " " ...	11 7 1894	789	268
" " " ...	17 7 1894	872	269
" " " ...	20 7 1894	922	272
" " " ...	21 7 1894	938	292
" " " ...	25 7 1894	997	292
" " " ...	22 8 1894	1428	306
" " " ...	23 8 1894	1454	307
" " " ...	24 8 1894	1475	308
" " " ...	24 8 1894	1480	309
" " " ...	27 8 1894	1510	311
" " " ...	10 9 1894	1636	327
" " " ...	12 9 1894	1633	327
" " " ...	20 9 1894	1778	331
" " " ...	20 9 1894	1789	332
" " " ...	21 9 1894	1798	332
Proclamation ...	19 5 1894	The whole	350
Government Notice No. 36 ...	9 2 1894	" "	366
Law No. 2, 1895 ...	" "	" "	7
Law No. 5, 1895 ...	" "	" "	15
Law No. 17, 1895 ...	" "	" "	139
Law No. 18, 1895 ...	" "	" "	143
Law No. 19, 1895 ...	" "	" "	164
Law No. 23, 1895 ...	" "	" "	232
First Volksraad Resolution ...	7 5 1895	22	257
" " " ...	20 5 1895	128	260
" " " ...	28 5 1895	200	260
" " " ...	28 5 1895	205	261
" " " ...	7 6 1895	302	262
" " " ...	21 6 1895	435	268
" " " ...	22 6 1895	440	268
" " " ...	24 6 1895	451	269
" " " ...	1 7 1895	539	271
" " " ...	1 7 1895	541	272
" " " ...	25 7 1895	725	280
" " " ...	" "	729	282
" " " ...	31 7 1895	788	283
" " " ...	14 8 1895	916	286
" " " ...	23 8 1895	988	290
" " " ...	28 8 1895	1023	291
" " " ...	2 9 1895	1072	294
" " " ...	2 9 1895	1074	294
" " " ...	20 9 1895	1282	296
" " " ...	23 9 1895	1290	297
" " " ...	2 10 1895	1417	298
" " " ...	7 10 1895	1548	302
Second Volksraad Resolution ...	25 5 1895	203	306
Proclamation ...	29 5 1895	The whole	334
Law No. 1, 1896 ...	" "	" "	1
Law No. 2, 1896 ...	" "	" "	35
Law No. 3, 1896 ...	" "	" "	60
Law No. 4, 1896 ...	" "	" "	74
Law No. 9, 1896 ...	" "	" "	83
Law No. 10, 1896 ...	" "	" "	84
Law No. 12, 1896 ...	" "	" "	90
Law No. 13, 1896 ...	" "	" "	142
Law No. 17, 1896 ...	" "	" "	159
Law No. 21, 1896 ...	" "	" "	183
Law No. 24, 1896 ...	" "	" "	240
Law No. 25, 1896 ...	" "	" "	242
Law No. 30, 1896 ...	" "	" "	278
Law No. 31, 1896 ...	" "	" "	280

† The figures refer to the Articles of the Law or Resolution.

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Johannesburg Town Council Law		The whole	294
Regulations for Towns in S.A.R.		" "	303
Standing Orders for Volksraad...		" "	309
First Volksraad Resolution ...	8 5 1896	70	326
" " " ...	8 5 1896	69	327
" " " ...	11 5 1896	105	327
" " " ...	2 6 1896	446	328
" " " ...	27 & 29 6 1896	{ 732, 733, 735, } { 736, 739, 741 }	329
" " " ...	22 7 1896	981	332
" " " ...	23 7 1896	998	335
" " " ...	17 8 1896	1205	337
" " " ...	19 8 1896	1235	338
" " " ...	4 9 1896	1358	342
" " " ...	24 9 1896	1783	342
" " " ...	29 9 1896	1834	342
" " " ...	30 9 1896	1857	344
" " " ...	30 9 1896	1858	345
" " " ...	2 11 1896	1864	347
" " " ...	30 11 1896	2149	357
Proclamation ...	27 1 1896	The whole	368
" " " ...	29 5 1896	" "	370
" " " ...	19 6 1896	" "	372
" " " ...	19 12 1896	" "	390
Government Notice No. 24 ...	31 1 1896	" "	444
Government Notice No. 130 ...	21 5 1896	" "	451
Second Volksraad Resolution ...	23 6 1896	628	452
Government Notice No. 263 ...	31 7 1896	The whole	454
Government Notice No. 316 ...	24 8 1896	" "	457
Government Notice No. 517 ...	4 12 1896	" "	462
Government Notice No. 481 ...	14 12 1896	" "	463
Law No. 1, 1897 ...		" "	1
Law No. 2, 1897 ...		" "	9
Law No. 5, 1897 ...		" "	18
Law No. 6, 1897 ...		" "	19
Law No. 9, 1897 ...		" "	27
Law No. 11, 1897 ...		" "	39
Law No. 12, 1897 ...		" "	91
Law No. 13, 1897 ...		" "	113
Law No. 16, 1897 ...		" "	144
Standing Orders for Second Volksraad ...		" "	146
First Volksraad Resolution ...	6 5 1897	23 & 24	161
" " " ...	7 5 1897	50, 53	164
" " " ...	11 5 1897	75	164
" " " ...	17 5 1897	112	166
" " " ...	31 5 1897	189	166
" " " ...	22 7 1897	652	170
" " " ...	30 7 1897	743	170
" " " ...	16 8 1897	866	171
" " " ...	27 8 1897	981	173
" " " ...	12 10 1897	1491	189
" " " ...	19 10 1897	1585	190
" " " ...	22 10 1897	1601	191
" " " ...	10 11 1897	1683	193
" " " ...	11 11 1897	1693	194
Proclamation ...	20 5 1897	The whole	209
" " " ...	17 8 1897	" "	213
Government Notice No. 245 ...	29 5 1897	" "	283
Government Notice No. 359 ...	26 7 1897	" "	285
Law No. 2, 1898 ...		" "	8
Law No. 4, 1898 ...		" "	10
Law No. 9, 1898 ...		" "	22

† The figures refer to the Articles of the Law or Resolution.

Laws, Volksraad Resolutions, &c.	Date.	Extent of Law, Resolution, &c., declared to be of no force.†	Page in Statute Book.
Law No. 16, 1898		The whole	169
Law No. 20, 1898		" "	229
Law No. 21, 1898		" "	245
Law No. 23, 1898		" "	364
First Volksraad Resolution ...	15 3 1898	345	307
" " " ...	7 9 1898	1095	310
" " " ...	7 9 1898	1108	310
" " " ...	4 10 1898	1354	310
" " " ...	29 11 1898	1852	313
" " " ...	7 12 1898	1952	315
" " " ...	31 5 1898	314	347, 348
Second Volksraad Resolution ...	9 5 1898	84	350
First Volksraad Resolution ...	21 6 1898	565	350
" " " ...	30 6 1898	679	352
" " " ...	15 7 1898	829	352
Standing Orders for Second Volksraad		The whole	355
Law No. 2, 1899		" "	5
Law No. 3, 1899		" "	11
Law No. 5, 1899		" "	19
Law No. 16, 1899		" "	61
Law No. 19, 1899		" "	75
Law No. 20, 1899		" "	78
Law No. 21, 1899		" "	80
Law No. 22, 1899		" "	81
Proclamation <i>re</i> Extradition Cape Colony	13 5 1899	" "	939 (<i>Staats- courant</i>)
Government Notice No. 36 with Executive Council Resolution Art. 34, <i>re</i> Special War Tax }	26 1 1900	" "	127 (<i>Staats- courant</i>)
Proclamation No. 84	19 4 1900	" "	337 (<i>Staats- courant</i>)
Law No. 1, 1900		" "	415 (<i>Staats- courant</i>)

† The figures refer to the Articles of the Law or Resolution.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 10TH DECEMBER, 1901.)

WHEREAS it is desirable to relieve certain coloured persons residing in this Colony from the operation of the Law relating to passes and such other Laws as the Administrator of the Transvaal may from time to time notify.

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

* 1. Any ordained coloured Minister of a recognised Christian denomination, any coloured person holding a certificate of qualification as an elementary teacher or any higher educational certificate from the Educational Department in this or any other British Colony, and any coloured person who exercises a profession or trade may apply to the Commissioner for Native Affairs for a Letter of Exemption in the form in the Schedule hereto annexed relieving him from the operation of the Law relating to Passes or such other Laws as may from time to time be notified in the *Gazette* by the Administrator of the Transvaal.

Exemptions from
law as to Native
Passes.

2. (1) Every Letter of Exemption shall be signed by the Commissioner for Native Affairs, and shall be registered, and a copy thereof filed in his office, and shall have endorsed thereon the date of such registration.

How letters of
Exemption issued.

(2) No such Letter of Exemption shall be issued to any person applying therefor until he shall have taken an oath or declaration of allegiance to His Majesty, His Heirs or Successors, before some person authorised to administer the same.

3. Every coloured person who has obtained a Letter of Exemption shall carry it with him, and shall produce it at the request of any Police or Pass Official, and on failure to do so shall be liable on conviction to a fine not exceeding 10s., or in default thereof to imprisonment not exceeding three days.

Duty of holders of
letters of Exemption.

4. Every application for a Letter of Exemption shall be made by petition to the Commissioner for Native Affairs, and the following requirements shall be complied with by the applicant:—

Application for
letters of Exemption.

- (a) The petition must state the petitioner's full name, age, and residence, place of birth, and the length of time he has resided in this Colony; his trade or profession.
- (b) In the case of a Minister of Religion, the petition must state the date of his ordination, the person by whom he was ordained, and the religious denomination of which he is a Minister.

* See Ord. 28 of 1902 extending the classes of natives to whom exemption from the Pass Law may be granted.

(c) Where the petitioner is the holder of a certificate of qualification as an elementary teacher or of any higher educational certificate, such certificate must be produced by him.

5. To every such petition there shall be attached an affidavit sworn to, solemnly declared, or affirmed by the petitioner before any Justice of the Peace in this Colony verifying the allegations in the petition.

False oaths and affirmations—penalty.

6. Any person who shall wilfully and falsely swear, solemnly declare, or affirm that his allegations in the said petition are true when in truth they are not shall be deemed to be guilty of perjury and on conviction shall be liable to the penalties by law provided for that offence.

Powers of Commissioner of Native Affairs as to investigation of truth of statements.

7. The Commissioner for Native Affairs shall have full power and authority to investigate the truth of the statements contained in the petition or to require the petitioner to furnish any additional information or any explanation he may consider necessary; and the said Commissioner may for any reason which appears to him sufficient, refuse to issue to such petitioner a Letter of Exemption.

Power to Governor to include other laws in this Proclamation.

8. It shall be lawful for the Administrator from time to time to notify in the *Gazette* any other Laws to be included under this Proclamation, and on such notification as aforesaid the provisions of this Proclamation shall *mutatis mutandis* apply to the Laws mentioned in such notice.

9. Every person to whom a Letter of Exemption shall be granted under this Proclamation shall from and after the date of the delivery of such letter to him be deemed and reckoned as exempt from the provisions and operation of the laws mentioned in the first paragraph hereof or hereafter notified in the *Gazette*.

Title.

10. This Proclamation shall be cited for all purposes as "The Coloured Persons' Exemption (or Relief) Proclamation, 1901."

SCHEDULE.

To ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS under the provisions of the "Coloured Persons' Relief Proclamation, 1901," I am empowered to grant Letters of Exemption to any coloured person residing in this Colony and coming within any of the classes of coloured persons described in section one of this Proclamation; and whereas A. B., being at the present time residing at....., in the District of....., has in conformity with the provisions of the said Proclamation been deemed to be entitled to be relieved from the operation of certain laws mentioned in the said Proclamation and in Government Notice.....:

NOW KNOW YE that by and under the powers vested in me by the said Proclamation I do hereby make known and declare that A.B. shall be and is hereby declared to be exempted from and taken out of the operation of the laws relating to Passes and to [here mention any other Laws included in the Proclamation by Notice in the *Gazette*].

Given by me this.....day of.....
in the Year of our Lord.....
at.....

(Signed).....

Commissioner for Native Affairs.

(Repealed by Ord. 32 of 1902).

PROCLAMATION

To amend Law No. 19 of 1898.

By His Excellency the Administrator of the Transvaal.

(DATED 10TH DECEMBER, 1901.)

WHEREAS IT IS DESIRABLE to more effectually *Preamble.*
prohibit the sale of intoxicating liquor to coloured persons :

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

Article six of Law 19 of 1898, save as to the definition of the *Repeal of article 6, Liquor Law, 1898,*
expression “ coloured person,” is hereby repealed, and the following is substituted in lieu thereof :

1. No person shall sell, barter, or otherwise supply to any *and substitution of new clause as to supply of Liquor to coloured person.*
coloured person, wine, spirituous or malt liquor, methylated spirits or spirits of wine, or any other intoxicating brew or mixture : Provided always that liquor may be supplied to a coloured person for medicinal purposes, and in such case the burden of proof will be upon the person who supplied it to show that the liquor was required for such purpose.

Any person contravening the provisions of this Section shall, *Penalties.*
on conviction, anything to the contrary contained in Law 19 of 1898 notwithstanding, be liable :—

- (a) For a first offence to imprisonment with or without hard labour for a period not less than six months and not exceeding twelve months, and at the discretion of the Court in addition to such imprisonment to a fine not exceeding two hundred and fifty pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding six months ;
- (b) For a second offence to imprisonment with or without hard labour for a period not less than twelve months and not exceeding two years, and in addition to such imprisonment, at the discretion of the Court, to a fine not exceeding five hundred pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months ;
- (c) For a third or any subsequent offence to imprisonment with or without hard labour for a period not less than two years and not exceeding three years, and in addition to such imprisonment, at the discretion of

the Court, to a fine not exceeding one thousand pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding two years.

Penalties on holders of licences for breaches of law.

2. *Any person being the holder of a licence under Law No. 19 of 1898 who shall be convicted of contravening the provisions of Section one hereof shall, in addition to any other penalty, forfeit his licence, and no licence shall be granted to such person or in respect of the same premises for a period of five years from the date of such conviction.*

Penalty on coloured persons purchasing liquor.

3. *No coloured person shall obtain by purchase or barter wine, spirituous or malt liquor, methylated spirits, spirits of wine, or any other intoxicating brew or mixture. Any coloured person contravening the provisions of this section shall, on conviction, be liable to be imprisoned with or without hard labour for a period not exceeding three months.*

Saving as to Kafir Beer outside towns.

4. *Sections (one) and (three) of this Proclamation shall apply to the sale, purchase, or barter of the liquor commonly known as "Kafir Beer" only in any town and within any area of six miles from the boundaries thereof and on any public diggings.*

Jurisdiction of Magistrate.

5. *Any case of a contravention of this Proclamation may be brought before and determined by the Resident Magistrate or Assistant Resident Magistrate within whose jurisdiction such contravention was committed, and such Resident Magistrate or Assistant Resident Magistrate shall have jurisdiction to impose any of the penalties provided for such contravention.*

Repeal and substitutions.

6. *Article forty-three of the said Law No. 19 of 1898 is hereby repealed, and the following substituted in lieu thereof:—*

"It shall be lawful for any Police Constable, having a special written authority from a Magistrate, Justice of the Peace, or Police Officer above the rank of Inspector, at all reasonable hours to enter any unlicensed premises, or any wagon, cart, or other vehicle in which it shall reasonably be suspected that any intoxicating liquor is improperly sold or kept for sale, and search such premises, wagon, cart, or other vehicle. Any liquors found in the course of search may be seized and removed, and may be declared forfeited by any Court on conviction before it of the owner or person found in possession thereof under the provisions of the said Law No. 19 of 1898; Provided always that when there is danger that the delay occasioned by obtaining such written authority will defeat the objects of the section, any Police Constable may exercise the powers conferred hereby without any written authority, but he shall as soon as possible report what he has done to the Commissioner of Police.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 10TH DECEMBER, 1901).

WHEREAS it is expedient to make better provision for regulating the entry of Natives into the Transvaal from places beyond the borders thereof and their return thereto; for the departure from the Transvaal, or the return thereto, of Natives residing therein; for the protection and security of Natives travelling within the Transvaal; and for the control and regulation of Native labourers on Public Diggings:—

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby proclaim, declare, and make known as follows:—

1. The Administrator of the Transvaal may from time to time make Regulations for any of the following purposes, and provide penalties for the contravention thereof:—

- (1.) For regulating the entry of Natives into this Colony from any place beyond the borders thereof and their return thereto; their travelling from place to place in this Colony; and their sojourn therein.
- (2.) For regulating the travelling from place to place within this Colony of Natives residing therein; their departure therefrom to places beyond the borders thereof and their return thereto.
- (3.) For regulating the introduction and supply of Native labour on Public Diggings in this Colony and ensuring the better control of natives in service on such Diggings.

Governor power to
make Regulations.

Such regulations shall, on publication in the *Gazette*, be of full force and effect.

* 2. Any person knowingly contravening any of the Regulations made under this Proclamation shall be liable to the penalties provided thereby, and in the absence of any penalties expressly provided in such Regulation he shall be liable to pay a fine not exceeding *ten* pounds, or in default of payment thereof to imprisonment for a term not exceeding six months, with or without hard labour, or to both such fine and such

Penalty for con-
travention of Regula-
tions.

* By Pr. Tr. 21 of 1902, Sec. 56 & 57, a Native Court was constituted at Johannesburg to try all contraventions by coloured persons of any law or regulation applicable exclusively to such persons. By Pr. Tr. 40 of 1902, such Native Court is given exclusive jurisdiction to try all contraventions of the above Proclamation (Pr. Tr. 37 of 1901).

Moiety may be awarded to informer.

imprisonment: Provided that one half of any fine may be awarded by the Court by which it is imposed to the informer on whose information such person shall have been convicted.

Persons harbouring or aiding natives in violation hereof to be deemed guilty of a contravention.

3. Any person who shall harbour any Native contravening any of the aforesaid Regulations, or who shall in any way aid or abet any Native to contravene the same, shall on conviction be liable to the penalties provided in the last preceding section.

Definition of terms.

4. The term "Native" in this Proclamation and the regulations thereunder, shall include every male person above the age of fourteen years belonging to any of the aboriginal races or tribes of Africa south of the Equator and every male person one of whose parents belongs to any such race or tribe as aforesaid; the term "Employer" shall, in the case of a Company, mean the Responsible Manager thereof, and if there be no Manager then the person registered as responsible for the control, management, and direction thereof; the term "Labour District" shall mean any area proclaimed as such by the Administrator; and the term "District" shall mean an area subject to the jurisdiction of a Court of Resident Magistrate.

What are Labour Districts.

The areas defined as Labour Districts by Law No. 23, of 1899, shall be Labour Districts under this Proclamation until altered as aforesaid.

Appointment of Native Inspectors.

5. (1) It shall be lawful for the Administrator from time to time to appoint in each Labour District so many Inspectors of Natives as he may think necessary, whose duty it shall be—

- (a) To inquire into and redress if possible or otherwise to report to the Commissioner for Native Affairs any grievances complained of by Natives employed in or about any Mine within such District as aforesaid.
- (b) To enquire into and determine all breaches of discipline and minor contraventions of Regulations made under this Proclamation by any such Natives as aforesaid.
- (c) To hear and determine any matter or dispute of a civil nature between any such Natives as aforesaid.

When such matter or dispute is in reference to money alleged to be due to one Native by another an order by the Inspector for the payment of such money may be discharged by the employer and deducted by him from any wages due to the Native against whom such order was made.

(2) Every such employer shall afford every facility in his power required for such investigation by an Inspector, and any employer refusing to do so shall be guilty of an offence against this Proclamation, and shall be liable, on conviction by any Court of Resident Magistrate, to a fine not exceeding *five* pounds, and in default of payment to imprisonment, with or without hard labour for a term not exceeding six months,

6. For the purpose of inquiring into and determining such grievances, disputes, breaches of discipline, and contraventions of regulations, such Inspector as aforesaid shall have the following powers:—

Powers of Inspectors.

- (1) He may examine witnesses on oath.
Any person giving false evidence in any such inquiry shall be deemed guilty of perjury, and shall be liable to the penalties provided by law for the commission of that crime.
- (2) He may, on finding any Native guilty of a breach of discipline or a contravention of any Regulation, impose a fine on him not exceeding *five* pounds, and in default of payment, the employer of such Native shall withhold the said amount from any wages due to such Native and pay it over to the Inspector for the benefit of the Colonial Treasury.

7. No deduction otherwise than as provided by the last preceding sections, or by a sentence of a competent Court, shall be made from the wages of any Native.

No deduction to be made from wages of native.

8. The regulations in the schedule to this Proclamation shall be of full force and effect until revoked or amended, and there shall be paid on the "passes" and "passports" in the said regulations mentioned the fees therein prescribed.

Regulations in schedule to be of full force until revoked.

9. The term "District Pass," wherever it occurs in Proclamation Transvaal No. 23 of 1901 shall be taken and read as "Labour Identification Passport," and the term "Native" in the said Proclamation shall be covered by the definition of that term in Section 4 of this Proclamation.

Proclamation, Transvaal, No. 23 of 1901, applies to Passports.

10. It shall be lawful for the Administrator to establish at every Pass Office in a Labour District guard rooms of adequate size in which it shall be lawful to detain for a period not exceeding six days any Native suspected of desertion from the service of his employer.

11. The following Laws shall be and are hereby repealed:—

Repeal of Laws.

Law No. 22 of 1895.

Law No. 23 of 1899.

and so much of any other Law as may be inconsistent with or repugnant to the provisions of this Proclamation.

12. This Proclamation may be cited for all purposes as the "Native Passes Proclamation, 1901," and shall take effect from and after the second day of January next.

Title and taking effect of Proclamation.

SCHEDULE.

A.—GENERAL PASS REGULATIONS.

1. No Native shall, save as is hereinafter excepted, enter or leave this Colony, unless he be in possession of a pass, duly issued for that purpose.

All Natives travelling must have passes.

2. Any Native who has obtained a Pass to proceed to any place within the Transvaal, issued by an authorised Pass Officer in any British Territory in South Africa may travel in the Transvaal to such place upon having such Pass

Foreign passes.

endorsed by the Pass Officer in this Colony who is conveniently nearest the place where the Native has entered it.

Within district
travelling.

3. Any Native residing on a farm, or on any private property in this Colony or in a Government Native Location who desires to travel within the district in which he resides for the purpose of visiting, or on the business of his employer, may do so upon a permit or note issued by the owner of the farm or private property on which he resides, or by an official appointed by the Administrator to issue such notes or permits to Natives residing in such location as aforesaid, or by his employer, as the case may be.

Such permit or note shall bear the date when, and shall state the purpose for which it was issued.

Ditto.

4. Any Native within this Colony who desires to go and work or seek work at any place other than within a Labour District, or who desires to go beyond the District in which he resides on his own business or that of his employer, shall obtain an Official Travelling Pass in the form hereto annexed and marked I. G., on which he shall pay the sum of *one* shilling.

Infectious disease.

5. No Pass to travel shall be issued to any Native apparently suffering from infectious disease.

Apprehension
without passes.

6. In order to prevent vagrancy and habitual idling, any Native found wandering abroad without a proper pass or travelling otherwise than in the direction indicated in his Pass may be apprehended by any officer authorised by Law to arrest, or by any person upon whose property he is found, and shall be forthwith brought before the nearest officer empowered to deal with offences against the Pass Law.

No employment
without passes.

7. (1) No person may employ or take into his service any Native who is not provided with a proper Pass, which such employer shall demand from him and retain in his possession until the expiration of his period of service, when it shall be returned to him with an endorsement thereon by the employer, correctly dated, of the discharge of such Native from his employ; and on the production thereof to any Pass Officer, such Native shall be entitled, without any charge, to a Pass entitling him to return to his home.

(2) This regulation shall not apply to the owner or lessee of a farm employing a Native residing thereon.

Penalty for with-
holding pass.

8. Any person who unlawfully deprives a Native of his Pass, or maliciously withholds it from him, or maliciously destroys or alters it, or who grants a permit to a Native to travel who is not in his employ, or who forges a Pass, shall be liable to a fine not exceeding *fifty* pounds, and in default of payment, to imprisonment, with or without hard labour for a term not exceeding six months.

No railway ticket
without a pass.

9. No railway ticket shall be issued to a Native unless he is in possession of a permit, note, or Pass, issued under these Regulations.

Exemptions.

* 10. No Native coming within the following list of exemptions shall be required to take out a Pass to enter, leave, or travel within this Colony.

(a) Native Police or Messengers while on the service of the Government of this Colony.

(b) Any Native driver or leader in the employ of a European master whilst actually engaged as such, and producing a Pass signed by his employer.

(c) Any Native to whom a letter of exemption has been granted by the Commissioner for Native Affairs.

(d) Any Native in the employ of and travelling in the company of a European master or mistress, residing in or coming into the Transvaal: Provided that this exemption shall in each case extend to not more than three Natives.

11. Any Native who shall claim to be exempted from taking out a Pass by virtue of the provisions of Section (c) of the foregoing Regulation, may be required to satisfy any Magistrate, Pass Officer, or Police Officer that he is entitled to exemption, either by production of his letter of exemption, or otherwise.

Not more than one
on a pass.

12. No Pass shall include the name of more than one person; provided that when any Native taking out a Pass is accompanied by his wife or children under the apparent age of *fourteen* years, a note made on the Pass referring to and

* See Ord. 28 of 1902 extending the classes of Natives to whom exemption from Pass Regulations may be granted.

setting forth the name of the wife and number of children shall be a sufficient authority for such wife and children to enter or leave or travel within the Colony under such Pass.

13. A Pass Officer shall have the discretion to refuse to issue or endorse a Pass to any Native to enter or depart from this Colony or travel therein for any reason appearing to him sufficient. Pass may be refused.

14. If a Pass Officer shall refuse to issue or endorse a Pass, he shall report such refusal to the Resident Magistrate of the District, who shall direct the Pass Officer to issue the same or not, as he shall seem fit. Procedure thereupon.

15. The Commissioner for Native Affairs shall have full authority and discretion in any case to order that a Pass shall be issued or refused to any Native, notwithstanding any prohibition or other provision contained in these Regulations. Reference to Commissioner for Native Affairs.

16. Any Native who shall have lost his Pass shall be required to obtain a duplicate thereof from the Pass Officer, on payment of the proper fee. Lost passes.

17. Every Pass Officer shall inquire of every Native who applies for a Pass to seek work, or for an endorsement of his Pass to return home, whether he is under an unexpired contract of service, and any applicant making a false statement in reply to such inquiry shall be deemed guilty of a contravention of these Regulations. Natives under contract.

18. No Pass shall be granted to a Native who is known by the Magistrate or Pass Officer to be under an unexpired contract of service, except with the consent, in writing, of the employer.

19. It shall not be lawful for any Native to enter and be upon the property of any person (unless he be in such person's employ) without the permission of the person in charge of such property, or without a note from his employer stating the object for which he is on such property; an open delivery note accompanying goods from a merchant or other tradesmen shall be considered as such a note.

20. The above Regulations shall apply to all Districts in this Colony, including Labour Districts, except in so far as they may be in conflict with the next succeeding Regulations. The expression "Pass" in these Regulations shall, in Labour Districts, include the "Identification Labour Passport" hereinafter referred to.

B.—REGULATIONS FOR LABOUR DISTRICTS.

1. Any Native residing in the Transvaal, or coming from the borders thereof desiring to work within any Labour District, or being at the date of the taking effect of these regulations under contract of service within any Labour District, must be provided with an Identification Labour Passport, hereinafter referred to as a Passport, in the form hereto annexed and marked I.L., which shall be filled in as required thereby, and shall be held by him during his period of service, and shall be available to him for travelling to and from his destination. A Passport shall contain a complete record by which the holder may be identified and his movements traced, and shall in any court of Law be *prima facie* evidence of the facts therein recorded. It shall not be available after final endorsement for return home for any purpose other than for such return. Identification labour passes.

2. Passports may be obtained of all Pass Issuers in the Transvaal, and at any other place outside the Colony notified in the *Gazette*.

3. Every Native accompanied by a licensed Labour Agent shall, before being granted a passport, be questioned by the Pass Officer as to the terms of his agreement of service, and whether such service is voluntary on his part. In the event of it being found that there was coercion or misrepresentation on the part of the Labour Agent in obtaining the service of such Native, or that the agreement of service is in other respects void, such Native may be sent back to his home at the expense of the Labour Agent or his employer. Natives with Labour Agents. Procedure in matter of coercion or faulty agreement.

4. Every Native engaged by a Labour Agent to work in any Labour District must within three days after his arrival therein proceed to the Pass Office to have his passport registered, and the Pass Officer shall in a book, Registration after arrival.

to be called the "Pass Register," record the name of his employer and the terms of his agreement of service. On every such registration there shall be paid by the employer a fee of *one shilling*.

Procedure for
Natives travelling
independently.

5. (1.) Every Native under a contract of service within any Labour District at the date of the taking effect of this Proclamation shall forthwith obtain a Passport and have it registered at the Pass Office within such District. The name and address of the employer shall be recorded upon the Passport and also in the Pass Register on payment by such employer of a fee of *one shilling*.

(2.) Every Native entering a Labour District to seek work, or being within such District at the taking effect of these Regulations, shall obtain a passport and report himself at the Pass Office therein within *twenty-four* hours after arrival in such district, or within one week after the taking effect of these Regulations as the case may be, and shall thereafter be allowed six days to enable him to find an employer. The employer when found shall cause the said Passport to be registered and his name and address to be recorded thereon and also in the Pass Register. On every such registration there shall be paid by the employer a fee of *one shilling*.

(3.) During the said period of six days, such Native shall return every night and report himself to the Pass Office. If he fail to find employment within the period aforesaid, his passport shall be endorsed to return home, or to proceed to another Labour District, at the discretion of the Pass Officer: in the latter case the provisions of this section shall apply to such Native on his arrival within such other Labour District.

(4.) Any Native who is found in a Labour District without a Passport or who fails to report himself as aforesaid, or who remains in that Labour District longer than one day after his passport has been endorsed, shall be liable to pay a fine not exceeding five pounds, and in default of payment to imprisonment, with or without hard labour, not exceeding one month.

(5.) Every Native shall be bound, on demand of any Pass official, to state all the particulars required to be entered upon his Passport. Any Native who shall wilfully, and with intent to deceive such Pass official, give false particulars shall on conviction be liable to the penalties provided in the last preceding sub-section.

Native travelling
in Labour District
must be provided
with permit by his
employer.

6. Any Native employed within a Labour District, sent by his employer on business beyond the boundaries of the town or municipality in which he resides or who with the consent of his employer, travels within such district shall be provided by such employer with a special permit in addition to his passport. Such permit shall not extend beyond three consecutive days, and shall set forth the object for which it is granted and the date of its issue.

No Native may
enter on any pro-
perty without consent
of person in charge
thereof or a note from
his employer.

7. It shall not be lawful for any Native to enter and be upon the property of any company or person (unless he be in the employ of such company or person) without the permission of the person in charge of such property, or without having in addition to his passport, a note from his employer, stating the object for which he is on such property; an open delivery note accompanying goods from a merchant, shopkeeper, and any other tradesman, shall be considered as such a note.

Monthly fee.

8. Upon every passport in use there shall be payable in advance by the employer of the holder thereof a monthly fee of *two shillings*, which may for any period not exceeding six months be paid in one sum; providing that—

(1.) Any Native wishing to become in any Labour District a daily labourer or to follow any occupation by which he is not under any contract of service to any particular person, shall obtain a permit from a duly authorised Municipal Officer, or if such District is not within any Municipality, then from the Resident Magistrate thereof, which shall entitle him to have his Passport registered accordingly.

(2.) Such Passport shall be registered as if the person on whose permit it was issued were the employer and the fee upon such registration and the monthly fees thereon payable under this Section shall be paid by such Native.

Period of contract
defined.

9. A labour contract or agreement with any Native shall not, unless with the special sanction of the Commissioner for Native Affairs, extend beyond one year, which shall consist of not less than 313 working days, after which it may be renewed by endorsement upon his passport, but the yearly contract shall not

be deemed to have expired, unless the Native shall have actually worked for such 313 days.

10. (1) Upon termination of such contract, as is referred to in the last preceding regulation, the employé shall be entitled, unless such contract be renewed or a new contract made by him, to demand from his employer endorsement of his passport to return home.

Procedure upon termination of contract.

(2) The renewal of a contract or the making of a new one shall be endorsed on the passport, and the terms and particulars thereof registered at the Pass Office of the District in which such contract is to be performed.

Upon renewal.

11. Any Native who upon the termination of his contract of service desires time to seek another employer may be allowed six days for that purpose, during which period he shall return every night to the Pass Office of the District in which he is seeking work, and the provisions of Regulation No. 5 shall apply to such Native.

Natives seeking new contracts.

12. Any Native who while under contract of service to one employer shall knowingly enter the service of another employer, shall on conviction be liable to a fine not exceeding *ten* pounds, and in default of payment to imprisonment, with or without hard labour, for a term not exceeding three months; and any employer who knowingly engages and takes into his service a Native, while the latter is still bound by a contract of service to another employer, shall on conviction be liable to a fine of *fifty* pounds, and in default of payment, to imprisonment, with or without hard labour, for a term not exceeding six months.

Fraudulent contracts.

Employers not to engage Natives already under contract.

13. Any native who shall be guilty of desertion, or shall leave the service of his employer with intent to desert before the term of his contract of service with such employer shall have expired, shall be liable to a fine not exceeding *ten* pounds, and in default of payment, to imprisonment, with or without hard labour, for a term not exceeding *three* months; and after having satisfied the sentence imposed on him, he shall, if his employer so desire, be ordered to return to work and to complete the term of his contract.

Desertion during term of contract.

Deserter how to be treated after punishment.

14. Upon the death or desertion of any Native, the person in whose employ he was at the time he died or deserted, shall as soon as possible report such fact for registration to the Pass Office at which his passport was registered.

Returning pass in case of desertion or casualty.

At every Office at which Passports are registered (hereinafter referred to as a Registry Office), a book shall be kept for the registering of Native deaths.

Record of casualties.

15. Any Native who has lost his Passport may apply for a new one, which shall be supplied upon payment of a fee of *one shilling*, provided the Pass Officer to whom application is made is satisfied of the identity and *bona fides* of the applicant.

Lost passes procedure.

If the loss of the Passport be due to the employer, the latter shall pay the aforesaid fee.

16. Every employer of more than *twenty* Native labourers shall be required to keep for each month a correct account according to a form (to be had at every Registry Office), showing during each month—

Employers with over 20 labourers to be registered.

- (a) Number of Natives employed by him.
- (b) Number of contracts with Natives made by him which have expired.
- (c) Number of new contracts with Natives made by him.
- (d) Number of deaths and desertions of Natives employed by him.

A copy of these particulars shall, within ten days after the end of each month, be sent to the said Registry Office.

Such account as aforesaid shall be open for inspection by any authorised Government official.

17. Any employer in a Labour District having work to be done in another Labour District, and wishing to transfer natives in his service to that district temporarily, shall apply in writing to, and obtain permission from, the officer at the Registry office attaching to his application a list in duplicate of the names of such Natives and the numbers of their Passports.

Transfer of natives from one district to another.

On obtaining the necessary permission he shall forward one list to the Registry Office in the District to which such Natives are transferred.

Penalties.

18. Any person who shall illegally withhold a Passport from a Native, or who shall defraud any Native of his wages or deduct therefrom any sum of money not authorised to be deducted under this Proclamation shall, upon conviction, be liable to a fine not exceeding *fifty* pounds, or in default of payment, to imprisonment, with or without hard labour, for a term not exceeding six months.

19. It shall not be lawful for any person within any Labour District—

- (a) To engage or have in his service any Native who has not a Labour Passport showing that such Native has been properly discharged by his last employer, or that he has not previously been employed under such Passport.
- (b) To engage or have in his service any Native whose Passport shows that he has been discharged for longer than six days, or that he has been in the Labour District in which his Passport has been endorsed for more than six days without finding work, or whose Passport is not endorsed by the Medical Officer at the Pass Office under Proclamation Transvaal No. 23 of 1901.
- (c) To harbour any Native who is not in his lawful employ.
- (d) To refuse, at the request of a Native on the termination of his contract of service, to sign his discharge.
- (e) To tamper in any way with a Passport belonging to a Native not in his employ.
- (f) To issue permits to visit or travel to any Native not in his *bonâ fide* employ.
- (g) To register himself as the employer of a Native, unless it is his *bonâ fide* intention to employ such Native.

Any person guilty of contravening any of the provisions of this Regulation shall be liable to a fine not exceeding *fifty* pounds, or in default of payment to imprisonment with or without hard labour for a term not exceeding six months.

Penalties for for-
ging passes.

20. Any person guilty of forging, imitating or altering any Passport which may in terms of these Regulations have been issued by a Pass Officer, or of uttering the same, or guilty of forging and uttering counterfeit Passports, shall, upon conviction, be liable to a fine of *fifty* pounds, and in default of payment to imprisonment with or without hard labour for a term not exceeding six months; or to both such fine and imprisonment.

Natives discharged
from gaol.

21. (1) Every Native who shall have been discharged from gaol shall be sent by the officer in charge thereof to the Registry Office in the Labour District in which such gaol is, with a letter of discharge which shall state the nature of such offence for which he was punished and the term of imprisonment he served; and any Native convicted of a criminal offence for which a fine was imposed and paid, shall be sent by the Clerk of the Court before which he was convicted to the Registry Office with a similar letter of discharge. Every Native discharged from gaol shall, at the option of his master, be compelled to return and complete the term of his engagement.

(2) A Native sent to the Registry Office as aforesaid having a Passport but no master, shall be granted six days to find one.

(3) A Native sent to the Registry Office as aforesaid, not having a Passport shall have one issued to him, and shall be allowed six days to look for work.

(4) The provisions of Regulation No. 5 shall, *mutatis mutandis*, apply to the Native referred to in sub-sections (2) and (3) of this Regulation.

Rest-houses for
accommodation of
natives at Pass Office.

22. The Government shall erect a rest house at each Passport Office, or where it is deemed necessary for the accommodation and rationing of Natives who are seeking work in any Labour District, and any Native accepting such accommodation shall pay a fee of 1s. a day.

Face of Form.

C-Forms.

OFFICIAL TRAVELLING PASS.

No. 1 G.

Serial No.....

1. Name (Native).....
2. Name known by.....
3. Location or place of residence.....
4. Tribe or Nationality.....
5. Travelling to.....
6. By way of (Route).....
7. For purpose of.....
8. Has in his possession (stock or property).....

Issued at.....

Date.....190.....

STAMP.

Signature of Pass Officer.

No. 1 G.

OFFICIAL TRAVELLING PASS.

Serial No.....

1. Name (Native).....
2. Name known by.....
3. Location or place of Residence.....
4. Tribe or Nationality.....
5. Travelling to.....
6. By way of (Route).....
7. For purpose of.....
8. Has in his possession (stock or property).....

Issued at.....

Date.....190.....

Signature of Pass Officer.

Back of Form.

ENDORSEMENT FOR TRANSFER OR RETURN HOME.

To proceed to	Date.	Signature.	Stamp.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 10TH DECEMBER, 1901.)

Preamble.

WHEREAS it is expedient to regulate and control the procuring and engaging of Natives to do work or labour within or beyond the borders of the Transvaal Colony :

Now therefore by virtue of the authority in me vested I do hereby declare, proclaim, and make known as follows :—

Governor power to
make Regulations.

1. The Administrator of the Transvaal may from time to time make Regulations for the purpose of regulating and controlling the procuring and engaging of Natives to do work or labour within or beyond the borders of the Transvaal ; and of regulating the issue, suspension and cancellation of licenses to persons exercising or desiring to exercise the calling of Labour Agents and Compound Overseers, and the fees to be paid for such licenses.

Such Regulations shall, on publication in the *Gazette*, be of full force and effect.

Definition of
terms.

2. The term "Labour Agent" shall mean and include any person who shall himself, or through Agents or Messengers, in his own name or otherwise procure or attempt to procure, seek for, engage, conduct, take charge of, supply or undertake to supply, Natives to be employed in work or labour of any kind within the Transvaal ; provided that the term "Labour Agent" shall not include any person who procures or engages or conducts Natives for his own *bonâ fide* domestic or personal service or business exclusively ; provided that the total number of Natives so employed by him does not exceed twenty at any one time.

The term "Native" in this Proclamation, and the Regulation thereunder, shall include every person belonging to any of the aboriginal races or tribes of Africa south of the Equator, and every person one of whose parents belongs to any such race or tribe as aforesaid. The term "Compound Overseer" shall mean and include any person having the charge, management, or superintendence of *fifty* or more Natives employed to work in any Labour District. The term "Employer" shall, in the case of a Company, mean the Responsible Manager thereof, and, if there be no Manager, then the person registered as responsible for the control, management, and direction thereof.

3. Any person contravening any of the Regulations made under this Proclamation shall be liable on conviction to the penalties provided by such Regulation, and if no penalty be provided then to a fine not exceeding *ten* pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding six months. Any such contravention wherever committed may be summarily dealt with by any officer empowered to deal with contraventions of this Proclamation within whose jurisdiction the person accused of such contravention may be; and such officer shall, on the conviction of any person for a contravention of any of such Regulations as aforesaid, make a report thereof to the Commissioner for Native Affairs.

4. The Regulations in the Schedule annexed to this Proclamation shall be of full force and effect until revoked or amended, and there shall be paid on the licences in the said regulations mentioned the fees therein prescribed.

Regulations in
a schedule to be of full
force until revoked

5. This Proclamation may be cited for all purposes as the "Labour Agents' and Compound Overseers' Proclamation, 1901."

Title.?

SCHEDULE.

A—LABOUR AGENTS.

1. It shall not be lawful for any person to act as a Labour Agent within the Transvaal unless he is in lawful possession of a licence issued by the Commissioner for Native Affairs, or by any officer appointed by him thereto.

No person to act as
a Labour Agent
unless licensed.

Such a licence may be issued for periods of not less than three months and not more than one year, and shall in every case expire on the thirty-first of December of each year.

2. (1) Application for a licence must be made on a printed form to the Commissioner for Native Affairs, or any officer appointed by him thereto, either direct or through the Native Commissioner of the district in which the applicant wishes to exercise his calling, or in the case of any person wishing to act as a travelling Conductor of Natives, to the Native Commissioner, and if there be none, then to the Resident Magistrate of the district in which the journey is to begin.

How application
for licenses to be
made. B...

(2) Every application for a licence must be accompanied by a statement giving the following particulars:—

- (a) Copy of the agreement between the applicant and his employer.
- (b) The place or places where the Natives to be engaged or conducted by him are to work.
- (c) The name and location of the Native Chief (if any) in whose district the applicant desires to engage labourers; the route which he desires to follow (if he is a Conductor); and in cases where the applicant proposes to receive and conduct Natives recruited beyond the borders of the Transvaal, the name or names of the person or persons who hold licences to recruit such Natives.

(d) Particulars of any previous licence issued to the applicant, or refused, cancelled, or suspended in any place in South Africa.

In addition to this statement, the applicant must at the time of making his application deposit with the officer to whom his application is made, and to the satisfaction of such officer, security to the amount of *one hundred* pounds for all charges and fines for which he may become liable.

(3) Any person wilfully giving any false particulars in such statements as aforesaid shall be deemed to be guilty of perjury, and shall, on conviction, be liable to the penalties provided by law for the commission of that offence.

Application must be accompanied by a report from Native Commissioner or Magistrate.

No licence to be granted until proper security deposited.

Amount payable for a licence.

Term of licence.

Renewal of licence.

Cancellation of licence.

Labour Agent may only employ natives for one employer.

Rights under licence not to be exercised on Public Roads and Diggings.

No Labour Agent to have exclusive rights.

Penalty for wilful misrepresentation by Labour Agents.

Penalty for seducing servants from the service of their employers.

3. The application, when made through a Resident Native Commissioner, or Resident Magistrate, shall, together with a confidential report by him thereon, be forwarded to the Commissioner for Native Affairs.

4. No licence shall be granted until the aforementioned security has been deposited and the formal application and confidential report mentioned in the last preceding Regulation shall have been received.

5. The licence, if granted, shall be sent to the applicant through the officer to whom the application was made.

6. The amount payable for such licence shall be at the rate of *fifteen* pounds sterling for each year or portion of a year ending the thirty-first day of December in each year: Provided that in respect of licences issued after the first day of July in any year one half of the said amount shall be payable.

7. The issue or renewal of a licence may be refused by the Commissioner for Native Affairs without any reason being given therefor.

8. The granting of a licence to any person shall not confer any right to its renewal.

9. (1) Any Labour Agent who has been convicted of any crime and imprisoned therefor by a Court of Law or who has been convicted of any contravention of this or any other law relating to Native labour or Native passes, or who has had his licence cancelled or suspended in any other Colony or territory in South Africa is liable to have his licence cancelled or suspended by the Commissioner for Native Affairs in this Colony, in addition to any other punishment to which he may have rendered himself liable.

(2) In case of such cancellation as above the security deposited by him under Regulation No. 2 shall be forfeited to the Government.

(3) Any Labour Agent who, in the opinion of the Commissioner for Native Affairs, has been guilty of any misconduct which renders it undesirable that he should be allowed to continue to carry on the calling of a Labour Agent under the provision of this Proclamation is liable to have his licence cancelled.

10. (1) Every Licence shall be issued to engage Natives for one employer or registered company or association of employers only, who must be registered, as provided in Regulation No. 16, and the District or Districts for which it is issued shall be clearly defined. All these particulars shall be embodied in the Licence.

(2) Any Agent holding a Licence who desires to exercise the rights thereunder in any District other than that specified on his Licence shall, before doing so, on entering such other District for that purpose, immediately report himself to the Native Commissioner, and if there be none then to the Resident Magistrate thereof, who may grant him permission to exercise such rights as aforesaid in such District. Such permission, if granted, shall be endorsed upon the Licence.

11. No Labour Agent shall be entitled to exercise the rights granted to him under his Licence on any public road or thoroughfare, or within any public diggings or Labour District.

12. No Labour Agent shall be granted the sole and exclusive privilege of exercising the rights granted by a Licence in any District or specified area.

No concession or contract by any Native Chief or Headman binding himself or his people to provide Native Labour shall be valid; and any person inducing or attempting to induce any Native Chief or Headman so to bind himself shall be liable on conviction to a fine not exceeding *one hundred* pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding six months, and shall further, if he hold a Licence as a Labour Agent, be liable to have such Licence cancelled.

13. Any person who shall by wilful misrepresentation of the terms or conditions of employment induce Natives to leave this Colony, or to engage themselves for work or labour either within or beyond the borders thereof, shall be liable on conviction for every such offence to a penalty not exceeding *one hundred* pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding six months, and if he hold a Licence under this Proclamation he shall be liable to have the same cancelled.

14. Whoever shall (whether a Labour Agent* or not) directly or indirectly, either by himself or by an Agent, by offer of higher wages or other privileges or by any other means, cause, induce, or persuade, or attempt to cause or induce or persuade, or aid, or assist in causing, inducing, or persuading, any Native servant, by words or any other means, to leave his employer's service in violation of any agreement of service whether in writing or not, shall, on conviction thereof, be liable to a fine not exceeding *fifty* pounds, or to be imprisoned with or without hard labour, for any term not exceeding six months, or to both such

fine and such imprisonment, and if a Labour Agent he shall also be liable to have his Licence cancelled.

15. Whoever shall (whether a Labour Agent or not) conceal, employ, or retain, aid or abet in concealing, employing or retaining any Native servant or apprentice who shall have deserted from the service of any master, or otherwise absconded or absented himself from such service, shall on conviction be liable to pay a fine not exceeding *fifty* pounds, or in default of payment to be imprisoned with or without hard labour for any term not exceeding six months, and to cancellation of Licence.

Penalty for employing Natives who have deserted.

16. All employers of more than *twenty* Natives shall be obliged to register their names and addresses, and the average number of Natives employed by them, at the office of the Commissioner for Native Affairs not later than the 31st January of each year, and lists of such employers shall from time to time be published in the *Gazette*.

Registration of employers.

17. If any Licence holder ceases to be employed by the person whose name appears upon his Licence, the Licence shall thereupon cease and determine, and the fees already paid thereon shall not be recoverable. If a new Licence is applied for no fees shall be paid in respect of the unexpired portion of the previous Licence.

Labour Agent ceasing to be employed by person whose name appears on his Licence.

18. Every employer of a Labour Agent shall, within seven days after such Agent has left his service, inform the Commissioner for Native Affairs thereof.

19. Lists shall from time to time be published in the *Gazette*, of Licences issued to Labour Agents, as well as of Licences which have been suspended or which have been determined or been cancelled.

Publication in *Gazette* of lists of Labour Agents.

20. It shall be lawful for any Justice of the Peace, Constable, or Officer of the Law, or Native Commissioner, or Pass Officer, or Railway Traffic Manager, Assistant Traffic Manager, or Station Master employed on any of the railways in the Transvaal, or for any other person authorised thereto at any time, to demand the production of his Licence by any Labour Agent or by any person whom he may believe or suspect to be acting as a Labour Agent.

Who may demand from Labour Agent production of Licence.

21. Every Labour Agent shall provide himself with a book of forms, to be obtained on application at the office of the Commissioner for Native Affairs, and shall, on engaging any Native to work under his Licence, enter all the particulars required in one of such forms, which he shall deliver to the Native, in order that he may exhibit it to the Issuer of Passports, for the purpose of the identification of such Native. The counterfoil must be produced to the Issuer of Passports by such Agent if called upon to do so.

Labour Agent to provide himself with book of forms.

22. These Regulations shall apply to any duly authorised officer or Agent of the Government who in the exercise of his duties may be lawfully engaged in collecting or conducting labourers for the purpose of work or labour for or on behalf of the Government; provided that it shall be competent in the case of such authorised Officer or Agent to dispense with the charge payable on Licences under Regulation No. 6.

Regulations to apply to Government Agent recruiting labourers for Government work.

23. Any person exercising the calling of a Labour Agent without being provided with a Licence for that purpose, or exercising the calling of a Labour Agent in any place or in any manner other than that specified in his Licence, shall, for every such offence, be liable on conviction, to imprisonment, with or without hard labour, for any period not exceeding six months.

Penalty for exercising calling of a Labour Agent without a Licence.

24. Any person who shall fail or refuse forthwith to give or deliver up any Licence which has been suspended or cancelled or which has expired by effluxion of time shall be liable to a penalty not exceeding *fifty* pounds, or, in default of payment, to imprisonment for any period not exceeding six months.

Penalty for refusing to give up a Licence which has been suspended or cancelled.

25. Any person who knowingly and wilfully employs or causes to be employed as Labour Agent any person not in possession of a Licence shall for every such offence be liable, on conviction, to imprisonment, with or without hard labour, for any period not exceeding six months, and to a penalty not exceeding *five hundred* pounds.

Penalty for employing as a Labour Agent a person not having Licence.

B.—COMPOUND OVERSEERS.

1. It shall not be lawful for any person to act as a Compound Overseer within the Transvaal unless he be in lawful possession of a Licence issued by the Commissioner for Native Affairs, or by any officer appointed by him thereto.

No person to act as Compound Overseer without Licence.

2. In the event of the death, absence on leave or duty, or sickness of a Licensed Compound Overseer, his employer shall have the right to appoint a

Substitute may be appointed on death,

absence on duty or sickness of Compound Overseer.

Conditions for issue of Licence.

Licence may be refused.

Licence may be cancelled on conviction of holder of any crime.

Licence may be cancelled if holder guilty of misconduct.

Employer to inform Commissioner when Compound Overseer enters or leaves his service.

List of Licences issued to be published in *Gazette*.

Penalty for exercising calling of Compound Overseer without a Licence.

Penalty for refusing to give up Licence which has been cancelled or suspended.

Penalty for employing unlicensed person as Compound Overseer.

Duties of Compound Overseer.

substitute, subject to the approval and confirmation of the Commissioner for Native Affairs, and such substitute shall act for such Overseer without taking out any licence for such period as the said Commissioner may approve, not exceeding the unexpired period of the Licence held by such Overseer as aforesaid.

3. (1) Licences may be issued for a period of not more than one year on payment of an amount at the rate of £1 per month in advance.

(2) Applications, on printed form, must be made to the Commissioner for Native Affairs or any Officer appointed by him to deal with such applications.

(3) Each application for a Licence must be accompanied by a recommendation from the employer of the applicant.

4. The issue or renewal of a Licence by the Commissioner for Native Affairs may be refused without any reason being given therefor.

5. The issue of a Licence to any person shall not confer any right to its renewal.

6. (1) A Compound Overseer who has been convicted of any crime and sentenced to imprisonment by a Court of Law, or who has been convicted of any contravention of these or any other regulations relating to Native Labour or Native Passes, shall be liable to have his Licence cancelled or suspended in addition to any other punishment to which he may have rendered himself liable.

(2) Any Compound Overseer who, in the opinion of the Commissioner for Native Affairs, has been guilty of any misconduct which renders it undesirable that he shall be allowed to continue to carry on the calling of Compound Overseer under the provisions of these Regulations, shall be liable to have his Licence cancelled.

7. Every Employer must at once inform the Commissioner for Native Affairs when any licensed Compound Overseer enters or leaves his service.

8. Lists shall from time to time be published in the *Gazette* of Licences issued to Compound Overseers, which are current as well as Licences newly granted, suspended, determined or cancelled.

9. Any person exercising the calling of a Compound Overseer without being provided with a Licence for that purpose, shall for every such offence be liable on conviction to imprisonment, with or without hard labour, for any period not exceeding six months or to a penalty not exceeding *one hundred* pounds, or both.

10. Any person who shall fail or refuse forthwith to give or deliver up any Licence which has been suspended or cancelled or which has expired by effluxion of time shall be liable to a penalty not exceeding *fifty* pounds, or in default of payment to imprisonment not exceeding six months.

11. Any person who knowingly or wilfully employs or causes to be employed as Compound Overseer any person not in possession of a Licence, shall for every such offence be liable on conviction to imprisonment, with or without hard labour, for any period not exceeding six months or to a penalty not exceeding *five hundred* pounds, or both.

12. It shall be incumbent upon a licensed Compound Overseer :—

(a) To see that there are no Native labourers in the employ of the Company or person in whose service he is in or about the compound not in possession of Registered Labour Passports ;

(b) To see that any transfers, new contracts or agreements or renewals, are recorded on the Passport ; and

(c) To afford to Inspectors of Natives appointed by the Commissioner for Native Affairs all facilities for having access to the Natives under his charge, and to all books and accounts relating to the wages of such Natives.

Provided that any neglect of the Compound Overseer to comply with these Regulations shall not absolve the employer from the obligations imposed on him under the provisions of the Pass Regulations in force in Labour Districts.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 19TH NOVEMBER, 1901.)

WHEREAS IT IS DESIRABLE to make further provisions for denoting the stamp duties imposed by law on Banker's cheques and Bank notes :

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows :—

1. All stamp duties for the time being chargeable by law upon Bankers' cheques and Bank notes may from and after the taking effect of this Proclamation, and in the case of Bank notes, shall after three months thereafter be denoted by means of stamps impressed by dies provided as hereinafter stated : Provided that when the duty on any cheque is denoted by an adhesive stamp it shall be effectually cancelled by the banker or other person paying the same.

Provisions as to stamps on cheques.

2. After the expiration of three months from the taking effect of this Proclamation any Bankers' cheque or Bank note which is by law required to be stamped, and which is not before the issue thereof stamped in conformity with this Proclamation shall be deemed to be unstamped in like manner as if no stamp had been affixed thereto, and shall be liable to all the disabilities and penalties which would attend such cheque or bank note if so unstamped as aforesaid ; and every person who shall after such date as aforesaid issue any such cheque or note which is not stamped as aforesaid, and every person who shall receive, pay or in any way negotiate such cheque or note not stamped as aforesaid shall be liable to the same penalties and disabilities as if such cheque or note were unstamped.

Penalties.

3. Proper and sufficient dies for impressing and denoting the amount or value of the stamps required by law to be affixed to all documents mentioned in this Proclamation shall be provided by the Controller of the Treasury, who shall stamp or cause to be stamped every such document tendered to him for the purpose of being so stamped, in accordance with the provisions of this Proclamation. No dies other than those approved and brought into use by the said Controller of the Treasury shall be available for denoting such duties.

Provision by Colonial Treasurer of dies for stamping cheques.

4. It shall be lawful for the said Administrator from time to time by notice in the Gazette, to extend the provisions of this Proclamation to any other instruments or documents chargeable by law with stamp duty : and from and after the publication of such notice the provisions of this Proclamation shall, mutatis mutandis, apply to the instruments or documents mentioned in such notice.

Power to extend Proclamation to other instruments.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 12TH DECEMBER, 1901.)

Lotteries on Horse-Racing.

Preamble.

WHEREAS prior to the publication of Proclamation Transvaal No. 33 of 1901, lotteries on horse-racing were allowed by Law No. 7 of 1890 :

And whereas it appears that many persons, relying upon the said Law, have incurred considerable expenditure in making arrangements for having lotteries on horse-racing during the current month :

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows :—

Amendment of
Proc. Tr. 33 of 1901
as to lotteries on
horse races.

1. Second *Eleven* of Proclamation Transvaal No. 33 of 1901 shall be of full force and effect only from and after the 1st January, 1902, and not sooner, anything to the contrary in the said Proclamation contained notwithstanding.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 2ND JANUARY, 1902.)

WHEREAS it is desirable to make provision, until the establishment of a Medical Board, for the admission of duly qualified persons to practise as Medical Practitioners, Dentists, or Chemists and Druggists in this Colony :

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows :—

1. In this Proclamation the term “Medical Practitioner” means every person duly admitted and lawfully entitled to practise in this Colony as a physician and surgeon on the day before the taking effect of this Proclamation, and also every person duly qualified by licence under this Proclamation to practise as a physician and surgeon within this Colony.

Definitions.
Medical Prac-
titioner.

The term “Dentist” means every person duly licensed and *bonâ-fide* engaged prior to the taking effect of this Proclamation in the practice of dentistry or dental surgery in this Colony, either separately or in addition to his practice as a physician and surgeon or chemist and druggist ; and also every person duly qualified by licence under this Proclamation to practise as a dentist within this Colony.

Dentist.

The term “Chemist and Druggist” means every person duly licensed in this Colony on the day before the taking effect of this Proclamation as an apothecary or chemist and druggist ; and also every person duly qualified by licence under this Proclamation to practise as a chemist and druggist.

Chemist and
Druggist.

2. Every person who, on the day before the taking effect of this Proclamation, shall have been duly admitted and lawfully qualified to practise as a physician, surgeon, accoucheur, dentist, apothecary, or chemist and druggist in the Transvaal, shall, notwithstanding the publication of this Proclamation, be entitled to continue to practise or carry on his calling as aforesaid, without obtaining the licence referred to in the next succeeding section.

Saving of existing
qualifications.

3. On and after the day on which this Proclamation takes effect, no person, save and except such person as is referred to in the last preceding section, shall be entitled to practise as a physician, surgeon, dentist, or chemist and druggist unless he has obtained a licence signed by the Secretary to the Transvaal Administration, and previously to obtaining such licence such person shall submit his diploma or other certificate of his being duly qualified to practise as a physician, surgeon, dentist, or chemist and druggist for the examination and approval of the said Secretary, who may require, by sworn declaration before a

Licences to be
taken out to practise.

Justice of the Peace or by other evidence, such proof of identity and good character of such person, of the authenticity of such diploma or certificate and of the right of the holder to practise elsewhere under such diploma or certificate, as he shall deem fit, and any person wilfully making a false statement in such declaration shall be liable to the penalties provided by law for the crime of perjury: Provided always that the Secretary to the Transvaal Administration shall, if satisfied with the proof of his identity and good character, grant a licence to every applicant whose name appears in a British Medical Register, or who is entitled to be registered in Great Britain and Ireland.

Conditions on
which licence
granted.

4. No such licence as aforesaid shall be granted to any applicant to practise as a physician, surgeon or dentist on the degree, diploma or certificate of a foreign university or medical school unless it be proved to the satisfaction of the Secretary to the Transvaal Administration that—

- (1) The said degree or diploma entitles the holder to practise as a physician, surgeon or dentist, as the case may be, in the country in which it was granted.
- (2) By the laws of the country in which such degree or diploma was conferred, British subjects legally qualified to practise as physicians, surgeons or dentists in Great Britain and Ireland are afforded privileges equivalent to those granted by licence under this Proclamation.

5. Every medical practitioner shall be entitled to practise as an accoucheur.

Licence forfeited
on conviction.

6. Any medical practitioner convicted of any offence affecting his moral character shall be liable to have his licence cancelled by the Secretary to the Transvaal Administration.

Penalties for
falsely pretending to
or using names and
titles.

7. Any person who shall wilfully and falsely pretend to be or take or use the name or title of a physician, doctor of medicine, licentiate in medicine or surgery, bachelor of medicine, surgeon, general practitioner, dentist, or chemist and druggist, or any name, title, addition or description implying that he is duly qualified under this Proclamation to practise as a physician, surgeon, dentist, or chemist and druggist, and any person who shall practise as a physician, surgeon, dentist, or chemist and druggist who is not entitled to practise as such under this Proclamation shall be liable to a fine not exceeding one hundred pounds for each offence, and in default of payment he shall be liable to be imprisoned, with or without hard labour, for a period not exceeding six months, unless such fine be sooner paid.

Repeal of Laws.

8. So much of Law No. 12 of 1886 as is inconsistent with the provisions of this Proclamation shall be and is hereby repealed.

(Repealed by Ord. 22 of 1902.)

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 9TH JANUARY, 1902.)

WHEREAS it is necessary to amend Proclamation No. 2 of 1901, and to make further provision for the importation of goods into the Transvaal :

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows :—

1. Proclamation No. 2 of 1901 shall from and after the first day of February, 1902, be repealed, and from and after the said date the importation of goods into this Colony will be subject to the following conditions :—

Repeal of Laws.

(a) A permit for such importation shall be previously obtained from the Military Governor of Pretoria or his duly appointed deputies.

Permits for importation of goods.

(b) Customs duties shall be paid on all goods imported in accordance with the laws and regulations of the Customs.

Customs duties.

These duties shall, until further provisions be made therefor, be levied according to the Customs tariff leviable by the laws of the late South African Republic, which shall be read, however, as if the following appeared therein in the schedule of articles exempted from duty :

“ Public stores, imported or taken out of bond by, and bonâ fide for the sole and exclusive use of the Government of His Britannic Majesty or the Government of any Colony, State or Territory in South Africa, provided that a certificate be delivered to the Customs given under the hand of a principal Imperial, Military, Naval, Civil, Commissariat or Ordnance Secretary or Officer, or under the hand of a Secretary to any Government, as aforesaid, setting forth that any duty levied on such public stores would be borne directly by the Treasury of his Government ; and provided further that no portion of such stores, used or unused, shall be sold or otherwise disposed of so as to come into the possession of or into consumption by any parties not legally entitled to import the same free of duty, until the intention so to sell or dispose of the stores shall have been notified to the principal Officer of Customs in this Territory, to whom the duty leviable according to the tariff then in force shall be paid by the Government

selling or disposing of the stores : Wine, spirits, and beer, imported direct or taken out of bond by, and for the sole use of, Commissioned Officers serving on full pay in the regular Military or Naval Forces of His Britannic Majesty, subject to such regulations as the Customs may make for the due protection of the revenue, provided that if any such liquors shall be sold or otherwise disposed of to or for consumption by any other person not legally entitled to import the same free of duty without the duty being first paid thereon to the Customs according to the tariff then in force, then they shall be forfeited, and the parties knowingly disposing of such liquors or into whose possession the same shall knowingly come shall be liable to such penalties as may be prescribed by law ; and provided further that until otherwise enacted articles commonly known as ' Canteen Stores ' imported or taken out of bond for the sole and exclusive use of His Majesty's Military Forces may, under the foregoing conditions, be admitted free of duty."

Where Customs duties are payable.

2. *The Customs duties on goods imported from or through the Colonies of the Cape of Good Hope or Natal, destined for places in the Transvaal other than the towns of Pretoria and Johannesburg, shall be paid to the Collectors of Customs of those Colonies, who have been nominated and appointed to act as agents for the collection of such duties. Goods destined for Pretoria or Johannesburg shall be duly entered and duty thereon shall be paid on arrival in accordance with the laws and regulations of the Customs.*

Conditions on which permits issued.

3. *The permits mentioned in Section 1, sub-section (a), shall be issued subject to such conditions as may from time to time be prescribed by the said Military Governor of Pretoria.*

Goods illegally imported liable to confiscation.

4. *Any goods imported as aforesaid without payment of the proper Customs duties or contrary to the regulations mentioned herein shall be liable to confiscation, and the importer or his agent shall in addition be liable to a fine not exceeding five times the amount of the Customs duties thereon, or, in default of payment, to imprisonment, with or without hard labour, for a period not exceeding twelve months.*

5. *This Proclamation shall be read together and with the Customs Law of the Transvaal.*

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 16TH JANUARY, 1902.)

WHEREAS there is not at present a Board of Examiners constituted under Law No. 6 of 1895, to examine persons desiring to be admitted to practise as land surveyors in this Colony;

Preamble.

And whereas it is desirable meanwhile to make some provision in that respect:

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

1. Anything to the contrary notwithstanding in any law of the late South African Republic, from and after the date of the taking effect of this Proclamation it shall be lawful for any person entitled to practise as a Government Land Surveyor in the Colony of the Cape of Good Hope to practise as a land surveyor in this Colony, on payment of the licence money required by section 6 of Law No. 17 of 1899.

Qualifications for
practising as Land
Surveyor.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 23RD JANUARY, 1902.)

Preamble.

WHEREAS IT IS DESIRABLE to make provision for the acquisition of lands by the Governor of this Colony for public purposes and for the compensation to be made for the same :

Now, therefore, by virtue of the authority in me vested, I do hereby proclaim, declare, and make known as follows :—

Definitions.

1. The following words and expressions in this Proclamation shall have the several meanings hereby assigned to them, unless there be anything in the context repugnant to such construction, that is to say :—

“Governor” shall mean the Officer for the time being administering the Government of the Transvaal.

“Land” shall extend to all land held under any tenure or under lease or stand licence.

“District” shall mean the area under the jurisdiction of a Court of Resident Magistrate.

“Resident Magistrate” shall mean Resident Magistrate or Acting Resident Magistrate exercising jurisdiction in the District in which the matter requiring the cognizance of any such Resident Magistrate or Acting Resident Magistrate shall arise and who shall not be interested in the matter.

Where under the provisions of this Proclamation, any notice shall be required to be given to the owner of any land, or where any act shall be authorised or required to be done with the consent of any such owner, the word “Owner” shall mean any person, public company or corporation, who, under the provisions of this Proclamation, would be enabled to sell and transfer such land.

The words “Owner” or “Parties” shall mean and include any person or corporation who, under the provisions of this Proclamation or any other law, would be enabled to sell and transfer land; it shall also include the holder of a stand licence.

Until the establishment of the Supreme Court of this Colony the Special Criminal Court at Johannesburg

and the Special Criminal Court at Pretoria shall have each, within the limits of its jurisdiction, all the powers and jurisdiction vested under this Proclamation in the Supreme Court or in any Judge thereof.

2. The Governor may, for public purposes, acquire by voluntary or compulsory sale any land the property of private persons situate within this Colony.

Compulsory Ex-propriation by Governor for public purposes.

The expression "Public Purposes" shall include :—

- (1) The construction and maintenance of works for the defence of this Colony and the erection of buildings for the use of any Police or Defence Force therein.
- (2) The construction and maintenance of railways, tramways, telegraphs, telephones, public roads, streets, squares, cemeteries, markets, irrigation works, water-courses, reservoirs, public buildings and native locations.

3. Subject to the provisions of this Proclamation the Governor acting through the Secretary to the Public Works Department, hereinafter called the "Secretary," may agree with the owner of any land required for public purposes for the absolute purchase for a consideration in money of any such land or such portion thereof as he shall think proper.

Purchase of land for public purposes by agreement.

4. It shall be lawful for all corporations, fiduciary heirs or fidei-commissary heirs, women married without community of goods, guardians, curators or trustees under marriage settlements or holding lands for native purposes, and all other trustees, executors and administrators, and all persons entitled to a life interest in any lands whether subject to a lease or not, to sell, transfer and convey the same and all their right, title, interest, claim and demand therein to the Governor and to enter into all necessary agreements for that purpose.

Power to persons with limited interests and under disabilities to transfer.

5. The purchase money to be paid for any lands to be purchased or taken from any party under any disability or incapacity and not having power to sell and transfer any lands except under the provisions of this Proclamation, and the compensation to be paid for the taking of any such lands, and for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by arbitration, be less than shall be determined by the valuation of two competent appraisers, one of whom shall be nominated by the Secretary and the other by the other party, and if they cannot agree then by such third person as the Supreme Court shall, upon application of either party after due notice to the other for that purpose, nominate, and all such purchase money or compensation shall be deposited with the Orphan Master for the benefit of the parties interested.

Determination of amount of purchase money and compensation by arbitration.

6. When the Governor shall require to purchase or take any lands for public purposes he shall by the Secretary give notice thereof to the owners thereof and by such notice shall demand the particulars of their interest in such land and of the

Notice to owners.

claims made by them in respect thereof, and every such notice shall state the particulars of the land required and that the Secretary is willing to treat for the purchase thereof, and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of such purchase or the carrying out of the purposes for which the land is required.

Limitation of quantity purchased from persons under disability, to that prescribed by the notice.

7. The Governor shall not by virtue of the power to purchase land for public purposes purchase more than the quantity prescribed in such notice as aforesaid from any party under legal disability, or who would not be able to sell and transfer such lands except under the powers of this Proclamation, and if the Governor purchases the said quantity of land from any party under such legal disability and afterwards sells the whole or any part thereof, it shall not be lawful for any such party being under legal disability again to sell to the Governor any other lands in lieu of the lands so sold or disposed of by him.

Service of notices to treat.

8. All notices required to be served by the Secretary upon the parties interested in or entitled to sell any such lands shall either be served personally on such parties or left at their last usual place of abode, and in case any such parties shall be absent from the Colony all such notices shall also be left with the occupier of such land or if there be no occupier shall be published in the *Government Gazette* of the Colony and left with the Registrar of Deeds.

Settlement of amount of compensation by arbitration after expiry of notice.

9. If for sixty days after the service of such notice any such party shall fail to state the particulars of his claim in respect of any such land or to treat with the Secretary in respect thereof, or if such party and the Secretary shall not agree as to the amount of compensation to be paid for the interest in such land belonging to such party or which he is by this Proclamation enabled to sell, or for any damage that may be sustained by him by reason of the carrying out of the purposes for which such land is required, the amount of such compensation shall be settled in manner hereinafter provided for settling cases of disputed compensation.

Where amount does not exceed £100, to be settled by Resident Magistrate.

10. If no agreement be come to between the Secretary and the owner of any land or of any interest in such land taken or required for or injuriously affected by the carrying out of the purposes for which such land is required as to the value of such land or of any interest therein or as to the compensation to be made in respect thereof, and if in any such case the compensation claimed shall not exceed One Hundred Pounds, the same shall be settled by the Resident Magistrate of the district in which such lands shall be situate.

Where amount exceeds £100 and arbitrators have not agreed, or no final award made, to be settled by action in Supreme Court.

11. If the compensation claimed or offered in any such case shall exceed One Hundred Pounds, and if the party or parties claiming compensation desire to have the same settled by arbitration and signify such desire by notice in writing to the Secretary stating in such notice the nature of the interest in respect of which such party or parties claim compensation and the amount of the compensation so claimed, the same shall

be so settled accordingly, but unless the party claiming compensation shall as aforesaid signify his desire to have the question of such compensation settled by arbitration, or if when the matter shall have been referred to arbitration the arbitrators or their umpire shall for two months have failed to make their or his award, or if no final award shall be made, the question of such compensation shall be settled by action to be instituted in the Supreme Court.

12. It shall be lawful for the Resident Magistrate of the District in which any such lands may be situated, upon the application of either party with respect to any question of disputed compensation by this Proclamation required to be settled by such Resident Magistrate, to summon the other party to appear before him at a time and place to be named in the summons, and upon the appearance of such parties or in the absence of any of them upon proof of due service of the summons, it shall be lawful for such Magistrate to hear and determine such question and for that purpose to examine such parties or any of them and their witnesses upon oath, and the costs of every such inquiry shall be in the discretion of such Magistrate and he shall settle the amount thereof.

Summoning of parties by Resident Magistrate and hearing and determining of question.

13. When any question of disputed compensation by this Proclamation authorised or required to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of an arbitrator, each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute shall be referred, and every appointment of an arbitrator shall be made on the part of the Secretary under his hand and on the part of any other party under the hand of such party or his agent thereunto lawfully authorised, or if such party be a corporate body under the common seal of such corporate body, and such appointment shall be delivered to the arbitrator and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made, and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation, and if for the space of fourteen days after any such dispute shall have arisen and after a request in writing in which shall be stated the matter so required to be referred to arbitration shall have been served by the one party on the other party to appoint an arbitrator such last-mentioned party fail to appoint an arbitrator, then upon such failure the party making the request and having himself appointed an arbitrator may appoint such arbitrator to act on behalf of both parties and such arbitrator may proceed to hear and determine the matters which shall be in dispute and in such case the award or determination of such single arbitrator shall be final.

Appointment of arbitrators.

14. If before the matters so referred shall be determined any arbitrator appointed by either party die or become incapable the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place,

Where arbitrator dies or becomes incapable.

and if for the space of fourteen days after notice in writing from the other party for that purpose he fail to do so, the remaining or other arbitrator may proceed as sole arbitrator. And every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid, and for all intents and purposes shall be considered as if he were originally nominated as such arbitrator.

Appointment of
umpire by arbitra-
tors.

15. When more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ or which shall be referred to him under the provisions of this Proclamation, and if such umpire shall die or become incapable to act they shall forthwith after such death or incapacity appoint another umpire in his place, and the decision of every such umpire on the matter so referred shall be final.

On refusal or neg-
lect of arbitrators to
appoint an umpire,
Supreme Court to do
so.

16. If in either of the cases aforesaid the said arbitrators shall refuse or shall for fourteen days after request of either party to such arbitration neglect to appoint an umpire, the Supreme Court shall, on the application of either party, appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ or which shall be referred to him under this Proclamation, shall be final.

Death of single
arbitrator.

17. If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable to act before he shall have made his award the matters referred to him shall be determined by arbitration under the provisions of this Proclamation in the same manner as if such arbitrator had not been appointed.

Refusal or neglect
of one arbitrator to
act.

18. If when more than one arbitrator shall have been appointed, either of the arbitrators refuse, or for fourteen days neglect to act, the other arbitrator may proceed as sole arbitrator, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

Determination by
umpire.

19. If where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

Production of doc-
uments.

20. The said arbitrators or their umpire may call for the production of any document in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose.

21. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall, in the presence of a Justice of the Peace, make and subscribe the following declaration; that is to say:—

“I, A.B., do solemnly and sincerely declare that I will faithfully and honestly and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of Proclamation No. 5 of 1902.

“(Signed) A.B.

“Made and subscribed in the presence of .”

And such declaration shall be annexed to the award when made, and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto, he shall be guilty of and be liable to be prosecuted for the crime of perjury, and on conviction shall suffer all the pains and penalties imposed by law for the commission of such crime.

Penalty for false
declaration.

22. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Colonial Treasury, unless the arbitrators shall award the same or a less sum than shall have been offered by the Secretary, in which case each party shall bear his own costs incident to the arbitration, and the cost of the arbitrators shall be borne by the parties in equal proportions.

Costs of arbitra-
tion.

23. The arbitrators shall deliver their award in writing to the Secretary, and the said Secretary shall retain the same and shall forthwith furnish a copy thereof to the other party to the arbitration, and shall at all times on demand produce the said award and allow the same to be inspected or examined by such party or any person appointed by him for that purpose.

Delivery of award
to Director of Public
Works.

24. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties. No award made with respect to any question referred to arbitration under the provisions of this Proclamation shall be set aside for irregularity or error in matter of form. Twenty days' notice shall be given by the Secretary to the other parties of the time when and the place where it is intended to hold the arbitration.

Submission may be
made a rule of Court.

25. Before the Secretary shall commence legal proceedings in any Court for settling any case of disputed compensation he shall give not less than twenty days' notice to the other party of his intention to commence such legal proceedings, and in such notice the Secretary shall state what sum of money he is willing to give for the interest in such lands sought to be purchased by him from such party, and for the damage to be sustained by such party by carrying out the purposes for which such lands are required.

Notice before legal
proceedings taken by
Director of Public
Works.

26. If any person duly summoned to give evidence before arbitrators, and to whom a tender of his reasonable expenses shall have been made, fail to appear at the time and place specified in the summons without sufficient cause, or if any

Penalty for diso-
bedience to summons.

person, whether summoned or not, who shall appear as a witness refuse to be examined on oath touching the subject matter in question, every person so offending shall for each offence forfeit to the party aggrieved a sum not exceeding Ten pounds.

Deduction of costs payable by owner from amount awarded.

27. If any costs shall be payable by the owner of the land or any interest therein, the same may be deducted and retained by the Secretary out of any money awarded to such owner or determined by the valuation of a surveyor under the provisions hereinafter contained, and the payment or deposit of the remainder (if any) of such money shall be deemed payment and satisfaction of the whole thereof, or if such costs shall exceed the amount of the money so awarded or determined the excess shall be recoverable by execution.

Determination of amount by person appointed by Court, in absence of party from the Colony.

28. The purchase money or compensation to be paid for any lands to be purchased or taken by the Governor from any party who by reason of absence from the Colony is prevented from treating or who cannot after diligent enquiry be found, and the compensation to be paid for any permanent injury to such land, shall be such as shall be determined by the valuation of such practical land surveyor or auctioneer as the Supreme Court shall nominate for that purpose.

Declaration by person so appointed.

29. The Supreme Court shall upon application by the Secretary and upon such proof as shall be satisfactory to it that any such party is by reason of absence from the Colony prevented from treating or cannot after diligent enquiry be found, or if any such party fail to enter any appearance in any suit instituted in such Supreme Court after due notice to him for that purpose, nominate a competent land surveyor or auctioneer for determining such compensation and such surveyor or auctioneer shall determine the same accordingly and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

30. Before such surveyor or auctioneer shall enter upon the duty of making such valuation as aforesaid he shall make and subscribe in the presence of a Justice of the Peace the declaration following at the foot of such nomination, that is to say:—

I, A.B., do solemnly and sincerely declare that I will faithfully, impartially and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

A.B.

Made and subscribed in the presence of

Penalty for corruptly acting contrary to declaration.

And if any surveyor or auctioneer shall corruptly make such declaration or having made such declaration shall wilfully act contrary thereto he shall be guilty of and be liable to be prosecuted for the crime of perjury, and on conviction shall suffer all the pains and penalties imposed by law for the commission of such crime. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor or auctioneer and shall be preserved together therewith by the

Secretary, and he shall at all times produce the said valuation and other documents on demand to the owner of the lands comprised in such valuation and to all other parties interested therein. All the expenses of and incident to every such valuation shall be borne by the Colonial Treasury.

31. In estimating the purchase money or compensation to be paid by the Governor in any of the cases aforesaid, regard shall be had by the Supreme Court or Magistrate's Court having jurisdiction, arbitrator, or surveyor, or auctioneer as the case may be, not only to the value of the land to be purchased or taken by the Governor, but also to the damage (if any) to be sustained by the owner of the lands by reason of severing the lands taken from the other lands of such owner, or otherwise injuriously affecting such other lands by the exercise of the powers under this Proclamation.

Damage sustained by severance to be considered in estimating compensation.

32. When the compensation payable in respect of any lands or any interest therein shall have been ascertained by the valuation of a surveyor or auctioneer, and deposited with the Orphan Master under the provisions herein contained, by reason that the owner of or party entitled to convey such lands or such interest therein as aforesaid could not be found, or was absent from the Colony, if such owner or party shall be dissatisfied with such valuation it shall be lawful for him, before he shall have applied to the Court for payment or investment of the moneys so deposited under the provisions herein contained, by notice in writing to the Secretary to require the question of such compensation to be submitted to arbitration; and thereupon the same shall be submitted accordingly in the same manner as in other cases of disputed compensation hereinbefore authorised or required to be submitted to arbitration.

If dissatisfied with the valuation owner may require the question of compensation to be submitted to arbitration.

33. The question to be submitted to the arbitrators in the case last aforesaid shall be whether the sum so deposited as aforesaid by the Secretary was a sufficient sum, or whether any and what further sum ought to be paid or deposited by him.

Questions for the arbitrators.

34. If the arbitrators shall award that a further sum ought to be paid or deposited by the Secretary, the Secretary shall pay or deposit, as the case may require, such further sum within fourteen days after the making of such award.

Payment of award.

35. If the arbitrators shall determine that the sum so deposited was sufficient, the costs of and incident to such arbitration to be determined by the arbitrators shall be in the discretion of the arbitrators; but if the arbitrators shall determine that a further sum ought to be paid or deposited by the Secretary all the costs of and incident to the arbitration shall be borne by the Secretary.

When costs to be paid by the Government.

36. Upon tender of payment to the owner, or deposit with the Orphan Master of the purchase money or compensation agreed or awarded to be paid in respect of any lands purchased or taken by the Governor, the owner of such lands (including in such term all parties by this Proclamation enabled to sell or convey lands) shall when required to do so by the Secretary

Transfer by owner on tender of purchase money.

Remedy in default
of transfer.

duly transfer such lands to such person as the Governor may direct; and in default thereof it shall be lawful for the Supreme Court, on the application of the Secretary, to order the Registrar of Deeds to transfer the same, and he is hereby authorised to transfer the same accordingly; and thereupon all the estate and interest in such lands of or capable of being sold and conveyed by the party between whom and the Secretary such agreement shall have been come to, or as between whom and the Secretary such purchase money or compensation shall have been determined by a competent Court, or by arbitrators, or by the surveyor or auctioneer appointed by the Supreme Court as hereinbefore provided, and shall have been deposited as aforesaid, shall vest absolutely in the Governor.

Deposit of purchase
money with Orphan
Master.

37. If the owner of any such lands purchased or taken by the Governor, or of any interest therein, on tender of the purchase money or compensation either agreed or awarded to be paid in respect thereof refuse to accept the same, or neglect or fail to transfer such lands or the interest therein claimed by him; or if he refuse to transfer or release such land as directed by the Secretary, or if any such owner be absent from the Colony or cannot after diligent enquiry be found, or fail to appear before the Supreme Court, it shall be lawful for the Secretary to deposit the purchase money or compensation payable in respect of such lands, or any interest therein, with the Orphan Master to the credit of the parties interested in such lands (describing them as far as the Secretary can do), subject to the control and disposition of the said Court.

Costs to be allowed
by Court.

38. In all cases of money deposited with the Orphan Master under the provisions of this Proclamation, except where such moneys shall have been so deposited by reason of the wilful refusal of any party entitled thereto to receive the same, or to transfer or release the lands in respect whereof the same, shall be payable, it shall be lawful for the Court to order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid out of the Colonial Treasury, that is to say: The costs of the purchase or taking of the lands or which shall have been incurred in consequence thereof, other than such costs as are herein otherwise provided for and the costs of the investment of such moneys, and also the costs of obtaining the proper orders for any of the purposes aforesaid, and of the orders for the payment of the interest of the securities or rent of the property upon which such moneys shall be invested, and for the payment out of Court of the principal of such moneys or of the securities whereon the same shall be invested, and of all proceedings relating thereto except such as are occasioned by litigation between adverse claimants. Provided always that the costs of one application only for investment in land shall be allowed, unless it shall appear to the Court that it is for the benefit of the parties interested in the said moneys that the same shall be invested in the purchase of lands in different sums; in which case it shall be lawful for the Court if it thinks fit to order the

costs of any such investments to be paid out of the Colonial Treasury.

39. It shall be lawful for the Secretary after the expiration of sixty days mentioned in Section 9 to enter upon, take possession of and use for the purposes authorised by this Proclamation any such land before proceedings have been taken to settle the amount of compensation to be paid for it, leaving all questions as to such compensation to be settled afterwards in manner provided by this Proclamation.

Power to Govern-
ment to enter and
take possession.

40. In every case in which any land is subject to a mortgage and the Governor requires only a portion of the said land, the mortgagee of such land may consent that the portion of land so required by the Governor be transferred to him released from such mortgage, and the consent to the transfer and release of such portion of any lands so mortgaged shall in no way affect the rights of the mortgagee to the remainder of the land, and the mortgage bond shall remain and be in full force and effect for the sum due thereon and interest as to the remainder of the lands, as if no consent to transfer had been given.

Transfer of portion
of incumbered land
released from incum-
brance.

41. In any case in which any land is subject to a mortgage and the Governor requires only a portion of the said land, and the mortgagee of such land does not consent to the transfer thereof released from such mortgage, and if the portion so required be of less value than the amount of the mortgage bond with interest thereon, and the mortgagee shall not consider the remaining part of such land a sufficient security for the payment of the said bond, the mortgagee may insist and demand that the value of and compensation to be given for that portion of the land so required by the Governor may be settled by agreement between him and the Governor ; and if the parties aforesaid disagree respecting the amount of such value or compensation, the same shall be determined as in all other cases of disputed compensation, and the amount of such value or compensation being so agreed upon or determined shall be paid by the Governor to the mortgagee in satisfaction of his mortgage debt, in so far as the same may extend, and a memorandum of what shall have been so paid shall be written or indorsed on the mortgage bond, and upon the official copy thereof filed of record in the Deeds or other Registration Office.

Rights of Mortga-
gee.

42. In any case in which all land comprised in and affected by a mortgage bond is required to be taken by the Governor, then the amount of compensation required to be paid by the Governor for the taking of such land shall be applied as far as the same is required towards the payment of the mortgage debt, and all interest due thereon and the balance of such compensation money shall be paid over to the owner of the land, and in any case where the amount of the compensation offered by the Governor to be paid for such land is not equal to the amount due on such mortgage bond, then the mortgagee shall for the purposes of determining the same, as in all other cases of disputed compensation, be considered as the owner, and all

Application of com-
pensation towards
payment of mortgage
debt.

the powers by this Proclamation given to owners in cases of disputed compensation are hereby conferred on the mortgagee: Provided that where the compensation when so agreed upon or determined exceeds the amount due on the mortgage bond, then the mortgagee must pay over the surplus to the owner: Provided always that it may be lawful for the owner at any time before the compensation is agreed upon or determined to redeem the mortgage bond, and then the same proceedings shall be had as in all other cases of disputed compensation.

Absence or incapacity of mortgagee.

43. In any case in which any mortgagee shall be a minor or incapacitated from acting by lunacy, absence from the Colony, or from any other cause, then in every such case the same proceedings shall be had for the purpose of determining the purchase money or compensation of any land or portions of land mortgaged to minors or incapacitated persons as are by this Proclamation required to be had when the owners may be absent or incapacitated, and the amount when so ascertained, or so much thereof as may be required for the satisfaction of the mortgage bond, shall be deposited with the Orphan Master, and thereupon the Supreme Court or any Judge thereof may order the Registrar of Deeds to transfer the same freed and discharged from such mortgage.

Apportionment of rent in case of unexpired lease of land.

44. If any land shall be comprised in a lease for a term of years unexpired, part only of which land shall be required for the purposes of this Proclamation, the rent payable in respect of the lands comprised shall be apportioned between the lands so required and the residue of such lands, and such apportionment may be settled by agreement between the lessor and lessee of such lands on the one part and the Secretary on the other part, and if such apportionment be not settled by agreement between the parties such apportionment shall be settled by the Resident Magistrate of the District in which such lands are situate, and after such apportionment the lessee of such lands shall as to all future accruing rent be liable only to so much of the rent as shall be so apportioned in respect of the lands not required for the purposes of this Proclamation, and as to the lands not so required, and as against the lessee the lessor shall have all the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease, and all the covenants, conditions and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of this Proclamation, in the same manner as they would have done in case such part only of the land had been included in the lease.

Compensation to lessee.

45. Every such lessee as last aforesaid shall be entitled to receive from the Governor compensation for the damage done to him in his tenancy by reason of the severance of the lands required from those not required, or otherwise by reason of the execution of the works for which such land is required,

46. If any lands shall be in the possession of any person having no greater interest therein than as tenant for a year, or from year to year, and if such person be required to give up possession of any land so occupied by him before the expiration of his term or interest, therein he shall be entitled to compensation for the value of the unexpired term or interest in such lands, and for any just allowance which ought to be made to him by an incoming tenant, and for any loss or injury he may sustain; or if part only of such land be required, compensation for the damage done to him in his tenancy by severing the lands held by him, or otherwise injuriously affecting the same, and the amount of such compensation shall be determined by the Resident Magistrate having jurisdiction in case the parties differ about the same.

Compensation to lessee for a short term.

47. If any party having a greater interest than a tenant at will claim compensation in respect of any unexpired term, or interest under any lease or grant of any such lands, the Secretary may require such party to produce the lease or grant in respect of which such claim shall be made, or the best evidence thereof in his power, and if after demand made in writing by the Secretary such lease or grant, or such best evidence thereof be not produced within twenty-one days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

Government may require production of lease.

48. In exercising the power given by this Proclamation, the Governor shall make to the owners and occupiers of and all other parties interested in any lands taken or used for the purposes of this Proclamation, or injuriously affected by the construction of any works for the purposes of this Proclamation, full compensation for all damages sustained by such owners, occupiers and other parties by reason of the exercise as regards such lands of the powers by this Proclamation vested in the Governor.

Compensation to owners and occupiers.

49. This Proclamation may be cited for all purposes as "The Expropriation of Lands and Arbitration Clauses Proclamation, 1902."

Title.

***PROCLAMATION**

By His Excellency the Administrator of the Transvaal.

(DATED 27TH JANUARY, 1902.)

To amend Proclamation No. 39 of 1901.

BY VIRTUE OF THE AUTHORITY, in me vested I do hereby proclaim, declare, and make known as follows:—

*Amendment of
Sect. 1. of Proclama-
tion Tr. 39 of 1901.*

1. So much of Section 1 of Proclamation Transvaal No. 39 of 1901, as makes it compulsory that stamp duties chargeable by law on Bank Notes shall after three months from the taking effect of the said Proclamation be denoted by stamps impressed by dies, and so much of Section 2 of the said Proclamation as applies to Bank Notes, shall be and is hereby suspended until a date to be hereafter notified in the Gazette.

*Period of suspen-
sion.*

2. The period during which the aforesaid provisions of the said Proclamation are suspended shall not be reckoned in calculating the three months mentioned in Section 1 thereof.

* This Proclamation has no longer any force and effect, inasmuch as Pr. Tr. 39 of 1901, which it is designed to amend, was repealed by Pr. Tr. 12 of 1902.

(Amended by Ord. 31 of 1902.)

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 16TH JANUARY, 1902.)

- W**HEREAS IT IS DESIRABLE to make temporary provision for the Municipal Government of Pretoria : Preamble.
- Now, therefore, by virtue of the authority vested in me, I do hereby declare, proclaim, and make known as follows :—
1. The expression “Governor” in this Proclamation shall be taken to mean the officer for the time being administering the Government of this Colony. Definition.
2. From and after the taking effect of this Proclamation, the town of Pretoria, including all the lands and property within the limits of the said town as defined in Government Notice No. 23 of 1900, signed by Major-General Maxwell, Military Governor, is hereby constituted the Municipality of Pretoria. Boundaries of the Municipality.
- The boundaries of the said Municipality are more clearly defined in a map to be deposited in the Municipal Offices at Pretoria, and a duplicate thereof in the office of the Secretary to the Transvaal Administration.
3. There shall be for the government of the said Municipality a Council, which shall consist of the Chairman of the Municipality and not more than fifteen or less than nine Councillors to be appointed by the Governor and to hold office during pleasure. Constitution of Council.
- The Chairman of the said Municipality shall be appointed by the Governor. Chairman.
4. It shall be lawful for the Governor to appoint a Town Clerk, Treasurer and Town Engineer for the said Municipality : and the Council may, subject to the approval of the Governor, appoint such other fit and proper officers not being members of the Council as they shall think necessary, for enabling them to carry into execution the provisions of this Proclamation, and may pay all the officers appointed under this section such salaries as they shall deem reasonable from and out of the funds of the Municipality, and as shall be approved of by the Governor ; and unless it shall be otherwise stipulated in the contract of service, the Council may remove all such officers appointed by them upon a notice of not less than one month, or in case of misconduct without any notice. Officers.

MEETINGS.

- Ordinary meetings. 5. An ordinary meeting of the Council shall take place at least once in every week and all meetings of the Council shall be open to the public.
- Quorum. *6. Save where it is otherwise specially provided in this Proclamation, all acts, matters, or things hereby authorised or required to be done by the Council, and all questions that may come before it, shall be done and decided by the majority of Councillors who shall be present at any meeting at which not less than one-half of the members of the Council shall attend.
- Absence of Chairman. 7. At every meeting of the Council the Chairman of the Municipality, if present, shall preside, and in case of his absence the Councillors present shall elect a Chairman from among themselves, who shall have the power and authority of the Chairman of the Municipality until he is again present and acting, or until another Chairman is appointed.
- Casting vote of Chairman. 8. In case of equality of votes, the Chairman of the meeting shall have a second or casting vote.
- Minutes of proceedings. 9. Minutes of the proceedings of every meeting of the Council shall be regularly entered in a book to be kept for that purpose, and it shall be read at the next succeeding meeting, and signed by the person presiding thereat. Such book shall at all reasonable times be open to the inspection of any of the Councillors or ratepayers, and of any creditor of the Municipality, and any such person may at all reasonable times, on payment of a fee of one shilling per folio, obtain any copy or any extract therefrom.
- Adjournment of meeting. 10. The Councillors present at any meeting may from time to time adjourn such meeting; and if at any meeting of the Council a sufficient number of members be not present to exercise the powers vested in the Council, the Councillors present shall adjourn the meeting.
- Special meetings. 11. The Chairman of the Municipality or any three Councillors may at any time call a special meeting of the Council, provided that he or they cause a notice of the time and place of such intended meeting, specifying the object thereof, and signed by him or them or by the Town Clerk, to be served on every Councillor either personally or by leaving the same at his usual place of abode twenty-four hours at least before such meeting.
- Pecuniary interest of Councillor. 12. No Councillor shall vote or take part in the discussion of any matter in or before the Council in which he has directly or indirectly any pecuniary interest. Every Councillor contravening the provisions of this section shall on conviction vacate his seat, and be liable to a penalty not exceeding fifty pounds.
- Committees. 13. It shall be lawful for the Council to appoint out of their own body such and so many Committees, either of a general or special nature, and consisting of such number of members as to the Council may seem fit for any purpose

* The quorum originally provided for in this section was "two-thirds." This proportion was amended to "one-half" by Ord. 31 of 1902, sect. 1.

which in the judgment of the Council would be better managed by means of a Committee, and to fix the quorum of any such Committee, provided always that the proceedings of the Committee shall be regularly entered in a minute book to be kept for that purpose and reported to the Council. Each Committee shall elect its own Chairman and the Chairman of the Municipality shall be *ex-officio* a member of all such Committees.

14. The Council shall from time to time appoint a Finance Committee for regulating and controlling the finance of the Municipality; and an order for the payment of a sum out of the funds of the Municipality shall not be made by the Treasurer of the Municipality, except in pursuance of a resolution of the Council passed on the recommendation of the Finance Committee, and no cost, debt, or liability exceeding fifty pounds shall be incurred, except upon a resolution of the Council passed on an estimate submitted by the Finance Committee.

Finance Committee.

15. Every committee appointed by the Council may meet from time to time and may adjourn from place to place as they may think proper, and no business shall be transacted at any meeting of the Committee, unless the quorum of members (if any) fixed by the Council, and if no quorum be fixed two members, be present, and at all meetings of the committee if the Chairman of the Committee be not present, one of the members present shall be appointed Chairman, and all questions shall be determined by a majority of votes of the members present, and in case of an equal division of votes the Chairman shall have a casting vote in addition to his vote as a member of the Committee.

Adjournment and quorum of committees.

ACCOUNTS AND AUDIT.

16. The Council shall cause proper books to be provided and true and regular accounts to be entered therein of all sums of money received and paid on account of and for the Municipality, and of the several purposes for which such sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of any Councillor or ratepayer or creditor of the Municipality, and any such person may take copies of or extract from the said books on payment of a fee of one shilling for each folio or part thereof.

Books of accounts to be kept and open to inspection.

17. The Governor may appoint one or more persons to examine once in every month the accounts of the Municipality, and the Council shall by the Town Clerk produce and lay before the person so appointed all books and accounts of the Municipality with all vouchers in support of the same, and all books, papers and writings in their power relating thereto; provided that seven days' notice in writing shall be given to the Town Clerk of any such intended examination.

Monthly audit.

18. For the purpose of any audit under the provisions of the last preceding section it shall be lawful for the Auditor to hear, receive and examine evidence upon oath (which oath such

Powers of Auditor

Auditor is hereby empowered to administer) and by summons under his hand to require such persons as he may think fit to appear personally before him, at a time and place to be stated in such summons, and to produce all such books and papers as may be necessary for such audit.

Any person so required who shall without lawful excuse refuse to attend in obedience to such summons, or who having appeared shall refuse to be examined on oath or affirmation or to take such oath or affirmation, or having taken such oath or affirmation to answer such questions as shall be put to him, shall be liable to a penalty not exceeding twenty pounds for every such act or offence, and in default of payment to be imprisoned with or without hard labour for any period not exceeding three months, unless such fine be sooner paid: Provided that no conviction under this section shall be taken to exempt the person convicted from liability to do or perform the act, matter or thing required to be done or performed by him, or from being successively convicted and punished for every distinct commission of the same act or offence.

BYE-LAWS OR REGULATIONS.

Powers of Council
to make bye-laws.

19. The Council may from time to time make, alter, and revoke bye-laws or regulations for all or any of the following purposes :—

Proceedings.

(1) For regulating the proceedings of the Council and the duties of their officers and servants and preserving order at Council meetings.

Fire prevention, &c.

(2) For preventing and extinguishing fires and compensating the owners of buildings removed to prevent the spread of fires.

Markets.

(3) For establishing and regulating public markets and market dues, and regulating public sales.

Nuisances.

(4) For suppressing nuisances, houses of ill fame and gaming houses.

Offensive trades.

(5) For restraining noisome and offensive trades, and compelling residents to keep their premises free from offensive or unwholesome matters.

Water supply.

(6) For regulating the supply and distribution of any water under the control or management of the Council and the rates to be paid for such supply by the inhabitants of the Municipality.

Sewerage and
drainage.

(7) For regulating sewerage or drainage and for compelling the connection at the owner's expense of private drains with public drains, sewers or pipes, and for regulating the construction by the Council at the owner's expense of all house drains, in so far as they connect with and extend from the main sewer to the kerb of the street.

Lighting.

(8) For regulating lighting with gas, electricity, or otherwise.

- | | | |
|------|---|----------------------------------|
| (9) | For prohibiting brothels and for preserving public decency. | Disorderly house. |
| (10) | For preventing the spread of contagious or infectious diseases and for preserving the public health. | Infectious disease. |
| (11) | For regulating, supervising, and licensing porters public carriers, carters, cabs, jinrickshas, and vehicles plying for hire and the drivers thereof, and for fixing the amount of licence fees to be paid, the charges and fares to be made, and the number of passengers to be carried. | Licensing of cabs, &c. |
| (12) | For regulating and restricting the use of bicycles, tricycles, motor cars, and velocipedes within the Municipality. | Regulation of cycles. |
| (13) | For regulating the killing of cattle and other animals and sale of butchers' meat, and the establishment and locality of slaughter-houses and meat-shops, and their maintenance in a cleanly and proper state. | Slaughter-houses. |
| (14) | For regulating the removal of night soil, stable litter, filth and refuse from private premises and from all streets, roads and public places and for fixing the charges for such removal. | Night soil. |
| (15) | For regulating water-closets, earth-closets, privies, ash-pits and cesspools in connection with buildings, and to prohibit the use of such of them as the Council consider ought not to be allowed to continue. | Privies, &c. |
| (16) | For regulating the closing of buildings or parts of buildings unfit for human habitations and the prohibition of their use for such habitation. | Unhealthy dwellings. |
| (17) | For preventing the dangerous use of gunpowder, fireworks, or other combustibles, and for regulating the storage or removal of petroleum, gunpowder, dynamite, or other explosive or inflammable material. | Explosives. |
| (18) | For imposing a tax upon the keeping of dogs, and for providing for the seizure, sale and destruction of ownerless dogs and of those in respect of which the tax has not been paid. | Dogs. |
| (19) | For preventing the pollution of water. | Water pollution. |
| (20) | For establishing and maintaining cemeteries. | Cemeteries. |
| (21) | For planting and preserving trees and shrubs. | Trees, &c. |
| (22) | For regulating the width, curbing, paving, guttering, gravelling, cleansing and protection of roads and streets. | Paving, &c., of streets. |
| (23) | For granting licences or permits for the making of bricks, or for digging or removing clay or gravel, or for quarrying stone, or for cutting firewood, brushwood or grass upon Municipal lands, and to prescribe the fees (if any) to be paid for the same. | Brickfields and quarries. |
| (24) | To provide for the due and proper care of the common pasture and other Municipal lands, and therein to | Town common and Municipal lands. |

- specify and regulate the quantity and kinds of live stock which each inhabitant shall be allowed to keep and depasture on the said lands.
- Public libraries and museums. (25) For establishing, maintaining and regulating public libraries, museums, botanical gardens, parks, open spaces, public baths, wash-houses, and locations for aboriginal natives, and for establishing and licensing public places of recreation.
- Public processions. (26) For regulating and controlling public processions and gatherings in public places.
- Abatement of nuisances. (27) For the abatement of nuisances and causing vehicles to be kept under proper control, for preventing and removing obstructions in the streets, roads, public thoroughfares, squares, foot pavements and sidewalks of the town, for dealing with diseased animals and the burial of dead animals, and the driving of live stock through the streets, and as to live stock found straying in the streets.
- Street obstruction. (28) For preventing any person from carrying any board, basket or burden so as to obstruct or incommode passengers on any sidewalk or foot pavement, and for preventing the wheeling of perambulators, wheelbarrows and similar vehicles on any sidewalk or foot pavement, except for the purpose of crossing the same to or from any house or building.
- (29) For preventing persons from congregating with others and thus causing an obstruction in any footpath, foot pavement, sidewalk or crossing, and for preventing the flying of kites, the use of catapults, and playing of games in public streets, thoroughfares and open spaces, and for preventing the obstruction of public streets, thoroughfares and open spaces.
- Projections from buildings. (30) For regulating the lines and level and architecture of buildings and the removal, alteration and prevention of projections in front of buildings.
- Unightly buildings. (31) For enabling the Council to prevent the alteration, erection or use of buildings, the class or character of which are either in themselves or from the circumstances or nature of the locality in which they are placed a disfigurement to the town or an annoyance to the inhabitants thereof, also for preventing the owners of property which have been sub-divided and sold in building lots from closing any roads or streets shown upon any plan which has been approved of by the Council.
- Dangerous structures. (32) For compelling the pulling down, removing or rendering safe all buildings, walls, bridges, earthworks and stoeps of an unsafe or dangerous character, or which has been allowed to fall into a dilapidated or ruinous condition, and for doing so at the cost of the owner.

- (33) For regulating the inspection of buildings and structures by the Council and its officers and for regulating the erection of scaffolding and hoarding during the construction or alteration of any building. Inspection of buildings and hoardings.
- (34) For establishing one or more pounds within the Municipality and for providing for the collection of pound fees and the management of pounds, the appointment of pound-masters, and for making such pound regulations as may seem necessary or expedient. Pounds.
- (35) Generally for maintaining the good rule and government of the Municipality. Good rule, &c.

But no such bye-law or regulation shall be contrary to the provisions of this Proclamation.

20. No bye-law or regulation* shall be made or amended by the Council until a copy of such proposed bye-law or amendment be deposited at the office of the Council for inspection by any person at all reasonable times and a notice be published in the *Gazette* seven days prior to the meeting of the Council held for the purpose of making such bye-law or amendment, setting forth the general purport of the proposed bye-law or regulation and amendment and stating that a copy is open for inspection as aforesaid. Making an amendment of bye-laws and notice thereof.

21. After any bye-law or regulation has been passed by the Council it shall be submitted for the approval of the Governor, and if approved shall be published in the *Gazette*, and thereupon such bye-law shall have the force of law in the Municipality. Approval and publication of bye-laws.

22. Every bye-law or regulation in force in the Municipality may be repealed by the Governor by notice in the *Gazette*. Repeal of bye-laws.

23. The Council may by regulation or bye-law impose a penalty for any breach of any bye-law or regulation made under this Proclamation, and may also impose different penalties in case of successive breaches, but no penalty shall exceed fifty pounds, and any bye-law or regulation may provide that in addition to any such penalty any expense incurred by the Council in consequence of any breach of such bye-law or regulation or in the execution of any work directed by any such bye-law or regulation to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work. Penalties for contravention of bye-laws.

24. A copy of the *Gazette* containing any bye-law or regulation of the Council shall be evidence of the due making of such bye-law or regulation and of the contents thereof. Proof of bye-laws.

25. It shall be lawful for the Governor to advance to the said Council from time to time such moneys as he may think fit for the proper carrying out of the provisions of this Proclamation as well as for liquidating the debts incurred for Municipal purposes between the 5th day of June, 1900, and the taking Loan from Government.

* Such bye-laws and regulations have been made, approved by the Governor, and published by Government Notice No. 296 of 1902 in *Gazette* (11th July, 1902), p. 1047; by Government Notice No. 349 of 1902 (*Gazette*, 1st August, p. 1226), and Government Notice No. 593 of 1902 (*Gazette*, 14th November, p. 1628).

effect of this Proclamation by the Military Governor or the Provisional Town Council for Pretoria appointed by him to take charge of Municipal affairs during that period, and to charge the said Council interest thereon at a rate not less than 4 per cent. per annum and on such terms and conditions as to repayments as to the Governor may seem proper. The moneys so advanced as aforesaid with interest thereon, and all moneys advanced by the Treasury prior to the taking effect of this Proclamation to the said Military Governor or Provisional Town Council for the erection of the Sunnyside Bridge, the maintenance of the cemetery, and for general expenditure on the town of Pretoria, shall constitute a liability, of the said Council and their successors in office, whether appointed under this Proclamation or appointed or elected under any law hereafter to be promulgated for providing for a Municipality for Pretoria, and shall be a charge on the revenue of the Council and on all future rates levied on the rateable property within the Municipality, whether such rates be made by the Council appointed under this Proclamation or by any future Council of the Municipality.

Approval of Governor to application of loan for permanent works.

26. No such moneys as are referred to in the last preceding section shall be advanced by the Governor for expenditure in connection with the construction of permanent works and undertakings or for the purchase of any lands or buildings unless such construction or purchase has been approved of by him. The Council shall submit to him plans and specifications and an estimate of the cost of any permanent works or undertakings.

POWERS AND DUTIES OF COUNCIL.

Powers of Council.

27. The Council shall have power and authority to do any of the following things:—

Construction of sewers.

(1) To make, construct, alter, keep clean and in repair, roads, streets, dams, furrows, sewers, drains, culverts and bridges within the Municipality.

Construction of watercourses.

(2) To excavate, construct and lay down within or beyond the limits of the Municipality, watercourses, water-pipes, conduits, sluices, dams, reservoirs, aqueducts, wells and other works for supplying the inhabitants of the Municipality with water, and to keep the same in repair or to grant leave to any person or company of persons to lay down pipes or to execute any other like works.

Construction of sewers, &c.

(3) From time to time to cause such sewers, drains and pipes to be made, laid, altered, deepened, covered over and maintained within the Municipality as shall be necessary for its effectual draining or any portion thereof, and from time to time to cause to be made and maintained all such reservoirs, sluices, engines, ventilating shafts and other works as shall be necessary for cleansing and ventilating such sewers, drains and pipes, and needful to carry such sewers, drains, pipes, and ventilating shafts through and across private lands or beneath or against private buildings, making compensation for any damage done, which compensation

shall, if not mutually agreed upon, be settled by arbitration. The Council or any persons duly authorised by them shall have right of access for maintenance of such sewers and drains.

- (4) To lay out within the Municipality such locations for aboriginal natives as may be deemed desirable and to compel all aboriginal natives, except such as are employed in domestic service and are lodged on the premises of their employers, to reside within such locations, and to make regulations for the proper carrying out of the powers herein conferred* and for the issue of passes to and the carrying of such passes by natives within the Municipality; and to charge for each pass a fee of one shilling per month payable in advance by the employer of any native, either for one month or for any period not exceeding six months. Laying out of native locations.
- (5) To acquire tramways, tramcars, and all animals and machinery necessary for the propulsion of such cars by animal, mechanical, or electrical power. Tramways.
- (6) To lease or purchase any land, to acquire any water-right, water pipes, engines, or other machinery for the purpose of supplying the inhabitants of the Municipality with water, and to erect lease, or purchase, maintain and keep in repair any building or buildings for any Municipal requirements or purpose. Waterworks.

28. The Council shall in addition to the powers above enumerated have the power to light in a suitable manner the streets, squares, and thoroughfares in the Municipality, and to supply on such terms and conditions as may be fixed by the Council, electricity and gas for the purpose of lighting, heating, or applying power to public buildings, places of worship, places of entertainment, private residences, and grounds, shops, warehouses, offices and such like, and for domestic and industrial purposes. Lighting of public and private places.

29. The said Council shall have full power and authority to do all things necessary for the laying of main and branch wires and lines of pipes to convey the electric current or gas to be used for the purposes hereinbefore set forth underneath and over the streets of the Municipality, and to connect the said wires, lines or pipes with any premises at the request of the owners or occupiers thereof. Laying of pipes and wires.

30. The said Council shall have full power and authority to enter into agreements with any person, company, or public body for lighting in a suitable manner the streets, squares and thoroughfares and the supplying of electricity or gas to such places or premises and for such purposes as are hereinbefore set forth, and shall make charges for the said supply in accordance with a tariff to be framed by the said Council with the approval of the Governor. Agreements for public lighting.

* The latter part of this sub-section as to the issue of passes is due to the Amending Ordinance (Ord. 31 of 1902, sect. 2) : originally the sub-section only gave power to make regulations for the carrying of passes.

Recovery of lighting charges.

31. If any person or Company neglect to pay any charge for electricity or gas or any other sum due to the said Council in respect of the supply thereof the Council may cut off such supply, and for that purpose may cut or disconnect any pipe, electric wire, line, or other work through which the electricity or gas may be supplied, and may until such charge or other sum, together with any expenses incurred by the Council in cutting off such supply of electricity or gas, are fully paid but no longer, discontinue the supply thereof to such Company or person.

Penalty for wilful injury to property used for lighting purposes.

32. Any person who unlawfully and maliciously destroys or injures any property of the Municipality or who cuts or injures any wire, line, pipe, or other work used for the conveyance of electricity or gas as aforesaid, shall be guilty of an offence against this Proclamation and shall be liable upon conviction to a fine not exceeding one hundred pounds or to be imprisoned with or without hard labour for any period not exceeding two years.

Power to enter and inspect pipes, wires, &c.

33. Any officer appointed for that purpose by the Council may at all reasonable times enter any premises to which electricity or gas is or has been supplied by the Council in order to inspect the pipes, electric wires, lines, meters, accumulators, fittings, work and apparatus for the supply of electricity or gas belonging to the Council, and for the purpose of ascertaining the quantity of electricity or gas consumed or supplied, or where a supply of electricity or gas is no longer required, or where the Council is authorised to take away and cut off the supply of electricity or gas from any premises, for the purpose of removing any pipes, electric wires, lines, accumulators, fittings, works or apparatus belonging to the Council, repairing all damage caused by such entry or removal.

Streets, &c., vested in Council.

MUNICIPAL PROPERTY.

34. All public streets, roads, squares, and thoroughfares now in existence over land the property of His Majesty, either in His Imperial or Colonial Government, or of private persons or companies within the limits of the Municipality, and all public streets, roads, squares and thoroughfares which may hereafter be established over such property with the approval of the Council, shall be vested in the said Council in trust to keep the same open, and as far as may be consistent with the funds at their disposal in repair for the use and benefit of the inhabitants.

Execution of contracts.

CONTRACTS.

35. The Council may in the name and on behalf of the Municipality enter into contracts for the purposes of this Proclamation, and all such contracts lawfully made shall be effectual and binding on the Council and all the other parties thereto, their successors, heirs, executors or administrators as the case may be. Every contract shall be deemed to be duly executed by or on behalf of the Council if signed by the Chairman of the Municipality, or if signed by any one or more Councillors thereto authorised by resolution of the Council.

Advertisement of contracts and invitation to tender in cases of contracts of £50.

36. Except in cases of emergency, before any contract for the execution of any work or the furnishing of any goods to the amount of Fifty Pounds or upwards is entered into by the Council, fourteen days' clear notice at the least shall be given in some newspaper circulating in the Municipality, expressing the purpose of such contract and inviting any person willing to undertake the same to make proposals for that purpose to the Council. The Council shall accept the proposal which on a view of all the circumstances appears to them to be the most advantageous; and may take security for the due and faithful performance of every such contract or the Council may decline to accept any such proposal. *The provisions of this section shall not apply to goods imported from oversea through the duly appointed Agents of the Council.

REVENUE

37. The revenue of the Municipality shall consist of—

- (1) All rates levied by the Council ; Rates.
- (2) All fines imposed by a competent Court for the contravention of Municipal Regulations, Fines.
- (3) All licence moneys on licences issued by the Council, and all Market Dues, Tolls, Pound Fees, and Taxes on Dogs ; Licence moneys and market dues, &c.
- (4) All charges made by the Council for the supply of Electricity, Gas, Water, and Sanitary Services. Sanitary and other charges.
- (5) All fees charged by the Council for passes issued to natives.

†All moneys due for sanitary services shall be recoverable, either from the occupier for the time being, or failing him from the owner of the premises in respect of which the services were rendered.

MAKING VALUATIONS.

38. The Council shall forthwith on the taking effect of this Proclamation cause to be made by a competent person or persons as valuer or valuers a valuation of all rateable property within the Municipality. Valuation of rateable property.

39. It shall be lawful for the Council at any time to direct that a valuation be made of any rateable property discovered to have been omitted from the valuation roll, and of any such property sub-divided or of any buildings erected subsequent to the valuation made under the last preceding section, and to appoint a valuer or valuers for that purpose. Appointment of valuers.

40. Every valuer shall before entering upon the valuation entrusted to him make before some Justice of the Peace a solemn declaration in the following terms :— Declaration by valuers.

I.....do solemnly and sincerely declare that I will to the best of my skill and knowledge and without fear, favour, or prejudice, truly and

* The last paragraph of this section is due to Ord. 31 of 1902, sect. 5.

† The 5th class of revenue is given by Ord. 31 of 1902, sect. 3.

impartially appraise and value all such property as I shall be required to value in the Municipality of Pretoria for the purpose of assessment, and that I shall conscientiously value the same at and for the full and fair price or sum which such property would in my judgment be likely to realise if brought at the time of valuation to voluntary sale and sold upon the usual terms and conditions. And I make this solemn declaration conscientiously intending to fulfil the same.

Declared at.....this.....day of.....
19... before me.....

and every such declaration shall be lodged with and preserved by the Council.

Valuation roll.

41. The valuer or valuers shall frame the valuation roll in such a manner as to show :—

- (1) The name and address of the owner.
- (2) The name of the occupier (or if unoccupied to be stated).
- (3) Description of the property valued.
- (4) Name and situation of property.
- (5) Rateable value.

Powers of entry.

42. Every valuer shall for the purpose of making the valuation aforesaid have power to enter at all reasonable hours in the day time into and upon any rateable property within the Municipality without being liable to any action or other proceedings on account thereof.

Examination of
owners and occupiers
for purpose of valua-
tions.

43. It shall be lawful for any valuer to put to any person in occupation or charge or being the owner of any rateable property which such valuer shall have been authorised under the provisions of this Proclamation to value questions upon all such matters as may be necessary to enable such valuer to correctly value such property; and if after being informed by such valuer of his purpose in putting such questions and of his authority under this Proclamation to put the same any such person in occupation or charge, or any owner shall refuse or wilfully omit to answer the same to the best of his knowledge and belief, or shall wilfully make any false answer or statement in reply to such questions such person shall for every such offence be liable to a penalty not exceeding ten pounds.

Revision of valua-
tion.

44. As soon as any valuation as aforesaid shall be completed by the valuer it shall be revised by a Committee appointed by the Council and consisting of not less than five Councillors. The said Committee shall have authority to increase or reduce any valuation made by the valuer, and the valuation roll when revised as aforesaid shall lie in the office of the Municipality for the inspection of every owner or occupier of any property included therein, who may upon all lawful days and at reasonable times inspect the same and take extracts therefrom, and the Council shall by public notice announce for general information that upon some day and at some hour and

place to be fixed by such notice a Court will be held by them, at which at least a quorum of members shall be present, for the purpose of hearing and determining objections to such valuations: Provided that the notice shall be published fourteen days at least before the day appointed therein for the holding of such Court.

45. Upon the day and at the place and hour mentioned in such notice the Council shall hold a Court and shall hear all objections which may be urged to any valuation by any owner or occupier or other person on his behalf and of which at least forty-eight hours' notice in writing shall have been given to the Town Clerk, and shall enquire into the merits of such objections, and shall confirm, increase, or reduce any valuation objected to: Provided that the said Court may be adjourned from time to time upon the application of any person objecting who shall show reasonable grounds for not being ready with proofs, or for the purpose of obtaining further evidence in regard to any case which shall have been partly heard: And provided further that it shall be competent for the owner or occupier of any property to the valuation of which no objections were urged before the said Court, to object to such valuation on satisfying the Town Clerk that the said property was not beneficially occupied at the time of the holding of the said Court, and that the owner thereof was absent from this Colony and had no person residing therein empowered to represent such owner before the said Court; and thereupon, upon a day and hour notice of which shall be given to the objector, the Council shall hold a Court constituted as aforesaid to hear all objections urged by him or other person on his behalf, and shall exercise in respect of such objections the powers conferred on it by this section.

Objections to valuation.

46. It shall be lawful for any person who feels himself aggrieved by the value put upon any property owned or occupied by him to appeal, within one month, against such valuation from the decision of the Court in the last preceding section mentioned to the Court of the Resident Magistrate, and such last-mentioned Court shall enquire into such valuation and its decision shall be final and conclusive: Provided, however, that if any question of law shall arise as to the principle upon which any valuation has been or should be made it shall be lawful for such Resident Magistrate, instead of himself deciding such question, at the request of the Council or party objecting, to record such question of law for decision by some superior Court, and such question shall be stated in the form of a special case, and may be argued before and determined by the Supreme Court of this Colony when established, and until the establishment of such Supreme Court by the Special Criminal Court at Pretoria and the Court adjudicating upon such special case, may make such order as to costs as to the Court shall seem fit.

Appeal against valuation to Resident Magistrate.

Questions of law to be determined by Supreme Court.

47. All rates made or levied by the Council under the provisions of this Proclamation shall be made or levied upon the valuation of property framed in terms of this Proclamation.

Rates to be levied on valuation.

RATEABLE PROPERTY.

- Rateable property. 48. All land within the Municipality shall be rateable property within the meaning of this Proclamation, save as hereinafter excepted, that is to say:—
- Exemptions. (1) Land the property of His Majesty in His Imperial or Colonial Government which is unoccupied or used for public purposes.
- (2) Land in the occupation of Government or land used for public purposes and not for the purpose of profit and gain.
- (3) Places used exclusively for public worship or for public worship and educational purposes.
- Limit of rate. 49. It shall be lawful for the Council to make and levy a rate once in every half-year, of not more than three halfpence in the pound on the value of all rateable property in the Municipality: Provided always, that if any such property is occupied during the existence of Martial Law by any Officer of His Majesty's Forces or used for Military purposes, free of rent, the owner of such property shall not be liable for so much of the rate levied thereon as would be proportionate to the period during which the said property was occupied or used as aforesaid.
- Rates payable by owner. 50. The person or persons in whom shall be vested the legal title to any immovable property on the day a rate becomes due and payable, shall be the person or persons primarily liable for the payment of such rate.
- Application of rates. 51. The rate in the last preceding section mentioned shall be voted and levied for all Municipal objects, purposes and services, including water supply and waterworks, sewerage, drainage, improving, cleaning, repairing and maintaining streets and squares, the construction and repair of Municipal buildings, payment of Municipal servants, and all and every other Municipal object or purpose necessary, in such manner as the Council shall deem advisable and expedient.
- When rates due and payable. 52. The half-yearly rate assessed by the Council shall become due and payable on the first day of the half-year for which such rate is assessed; the first rate assessed under this Proclamation becoming due and payable on the first day of July next. Thirty days at least prior to the day on which a rate shall have become due, the Council shall give notice of the amount of the rate assessed by notice in the *Gazette*, and in such other mode as the Council may by resolution direct.
- Place of payment. 53. It shall be the duty of all persons liable for any rate to pay the amount thereof on the day on which it shall become due and payable to the Town Clerk, or any Collector duly authorised by the Council to collect and receive the same; and on non-payment thereof such rate shall be recoverable at the suit of any such Collector upon production of a written authority, to collect, signed by the Town Clerk in the Court of the Resi-
- Recovery of rates.

dent Magistrate ; Provided that, as often as any ratepayer not resident within the Municipality shall be proceeded against in such Court as aforesaid, the summons directed to such ratepayer shall be served upon the person in occupation of the premises in regard to which the rate alleged to be due is claimed ; and each Collector shall give security to the Council for the due execution of his office to such amount as the Council may deem sufficient.

54. If the amount of any rate which under the provisions of this Proclamation shall have been assessed on any immovable property liable to be rated or portion thereof shall not be paid by the owner thereof, it shall be lawful for the Council to sue either the occupier thereof or the owner separately, or both of them in one and the same action each for the whole before any competent Court, and to obtain the judgment and process of such Court for the recovery of the same, reserving to such occupier such relief against the owner as he may be lawfully entitled to ; Provided that any and every rate assessed under the provisions of this Proclamation shall in so far as the owner of any property is concerned be and be deemed to be a charge upon the property rated, and recoverable against the owner at the time such rate was levied or any future owner ; Provided always that no future owner of property shall be liable for any rates which become due and payable at any period more than two years prior to the date upon which he became owner of the said property.

Recovery from occupier on non-payment by owner.

Limitation of liability of subsequent owners.

55. In any proceeding to levy or recover rates or consequent on the levying or recovering of any rate as well as in all other legal proceedings under the provisions of this Proclamation, the Valuation Rolls Rate Books and Records of the Council and all entries made therein and extracts or certified copies thereof signed by the Town Clerk and sealed with the seal of the Council and also a copy of the *Gazette* containing any notice necessary to be proved, shall upon production thereof alone be *prima facie* evidence of such rate and of the contents thereof without any evidence that the notices required by, or other requirements of this Proclamation have been complied with : Provided that it shall be competent for any party to any such proceeding to offer evidence to prove the contrary.

Evidence of rate.

56. For the purpose of the preceding sections of this Proclamation, the lessee of any land vested in the Crown shall be deemed and taken to be the owner of such stand or land as the case may be.

Lessee of Crown land to be deemed owner.

EXPROPRIATION OF PRIVATE LANDS.

57. For the purposes of this part of the Proclamation, the term "Land" shall extend to all land whether held under freehold or quit-rent title or under lease and to any water-right.

Definition of land for purposes of expropriation.

58. It shall be lawful for the Council, with the approval of the Governor, to acquire by voluntary or compulsory purchase, any land within or without the Municipality the property of private persons for any purpose connected with the drainage or

Purchase by agreement or compulsorily for municipal purposes.

sewerage of the Municipality, or the supply of water to the inhabitants thereof, or the improvement of the town of Pretoria, and from time to time to sell, let, lease, or otherwise deal with any property acquired for the last-mentioned purpose.

Provisions of Pr.
Tr. 5 of 1902 to
apply.

59. The provisions of the "Expropriation of Lands and Arbitration Clauses Proclamation, 1902," shall *mutatis mutandis* apply to the acquisition by the Council of any such land as aforesaid, and to any arbitration proceedings in respect of the purchase price thereof.

MISCELLANEOUS.

Powers of entry
and inspection.

60. The Council and any person duly authorised by them shall, for the purposes of this Proclamation, have power to enter at all reasonable hours in the daytime into, and upon any building or land within the Municipality for the purpose of executing any work, or making any inspection authorised to be executed or made by them under this Proclamation without being liable to any legal proceedings on account thereof.

Authentication of
notices, &c.

61. Every order, notice, or other document requiring authentication by the Council may be sufficiently authenticated without the Common Seal of the Municipality if signed by two Councillors or by the Town Clerk.

Penalty for ob-
struction of officials.

62. Every person who shall at any time obstruct the Council or any person employed by them, or any person appointed by the Governor in the performance of anything which they are respectively empowered or required to do by this Proclamation shall be liable to a penalty not exceeding five pounds.

Cost of proceedings
for penalties to be
borne by Municipal
Fund.

63. The Council may order proceedings to be taken for recovery of any penalties, and for the punishment of any person offending against the provisions of the Proclamation, or of any bye-law made thereunder and may order the expense of such prosecution or other proceedings to be paid out of the Municipal Fund.

Offences not other-
wise provided for.

64. Where any matter or thing is by this Proclamation, or by any order or notice made and published under the authority hereof, directed or forbidden to be done, or where any authority is given by this Proclamation to any person to direct any matter or thing to be done, or to forbid any matter or thing to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done, in every such case every person offending against such direction or prohibition, shall be deemed guilty of an offence against this Proclamation.

Penalties not other-
wise provided for.

65. Every person guilty of an offence against this Proclamation or any bye-law in force in the Municipality, shall for every such offence be liable to the penalty expressly imposed by this Proclamation or by the bye-law, and if no penalty be imposed then to a penalty not exceeding ten pounds.

Recovery of pen-
alties.

66. All penalties or other moneys payable in respect of any offence against this Proclamation or by any bye-law made

thereunder may be recovered before the Court of the Resident Magistrate of Pretoria.

67. All offences against any bye-law or regulation in force in the Municipality, shall be deemed to be offences against this Proclamation, and in any prosecution for contravening the provisions of any such bye-law or regulation, it shall be sufficient to allege that the accused is guilty of contravening or offending against a bye-law or regulation in force in the Municipality, and alleging the act complained of without describing the bye-law or regulation by number or otherwise.

Form of summons for contravention of bye-laws.

68. Whenever any penalty shall have been imposed under the provisions of this Proclamation or of any bye-law made thereunder, and the person convicted shall not forthwith pay the same, the Court may direct that such person be imprisoned with or without hard labour for a period not exceeding one month if the penalty imposed do not exceed five pounds, or not exceeding six months if the penalty be above five pounds, and such person shall be detained and kept to hard labour if so ordered, unless he shall sooner pay the penalty.

Imprisonment in default of payment of penalties.

69. All penalties recovered for offences against the bye-laws of the Municipality, or for offences against this Proclamation committed in the Municipality or in any way in respect of the Municipality shall be paid into the Municipal Fund.

Penalties to be paid into Municipal Fund.

70. All actions brought by or against the Council of the Municipality shall be brought or defended in the name of the Chairman of the Municipality, and all such costs, charges and expenses as the Council shall be put to or become chargeable with by reason of the bringing or defending any such action or under any judgment of the Court shall be paid out of the funds of the Municipality.

Form of Actions by and against the Council.

71. Notwithstanding anything in this Proclamation contained it shall be lawful for the Governor (by notice to be published in the *Gazette*) from time to time to alter the boundaries of the Municipality.

Alteration of Boundaries by Governor.

72. This Proclamation may be cited as the "Pretoria Municipal Proclamation, 1902."

Title.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 5TH FEBRUARY, 1902.)

To amend Law No. 20 of 1895, regulating the payment
of Transfer Duty.

Preamble.

WHEREAS it is necessary to make better provision for the payment of transfer duty on the sale and alienation of fixed property and of leases of fixed property situated in this Colony :

Now therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

Laws Repealed.

1. (1) Law No. 20 of 1895, and so much of any other Law as may be inconsistent with or repugnant to this Proclamation shall be and is hereby repealed except as to the recovery of any duty, interest or penalty due or incurred, or any act done before the taking effect of this Proclamation.
- (2) So much of Law No. 2 of 1871, or of any other Law which requires a stamp duty to be paid on the value of fixed property on the transfer thereof, shall be and is hereby repealed.

Terms Defined.

2. The term "fixed property" in this Proclamation shall include—

- (1) Land or the usufruct thereof or any other limited interest therein other than a lease.
- (2) Mynpachts Claims and Stands.
- (3) Any right to minerals or precious stones on any land.

The term "Governor" shall mean the officer for the time being administering the Government of the Transvaal.

The term "Registration Officer" shall mean and include any public official appointed by the Governor to register titles to fixed property according to law.

The term "Registration Office" shall mean and include any public office where title to fixed property is registered according to law.

The term "Lease" shall include "Sub-lease" and the term "Sale" shall include "Cession."

Until the Supreme Court of this Colony is established the Special Criminal Courts in Pretoria and Johannesburg shall

have, each within its own jurisdiction, the powers and jurisdiction by this Proclamation vested in the Supreme Court, or any Judge thereof.

3. Save as in this Proclamation excepted, a duty (hereinafter called "Transfer Duty") of one pound five shillings per centum on the value of any fixed property and on the value of any such lease thereof as is hereinafter mentioned shall, after the taking effect of this Proclamation, be payable and paid:—

Persons chargeable
with Transfer Duty.

- (1) By the person becoming entitled to any such property by way of purchase, exchange, donation, or in any manner otherwise than by way of legacy, testamentary, or other inheritance.
- (2) By the person entering into a lease of any fixed property, in case the lease be for not less than twenty-five years, or for the term of the natural life of any person mentioned therein, or in case it be renewable from time to time at the will of the lessee, indefinitely, or for periods which together with the first period of the lease amount in all to not less than twenty-five years.
- (3) By the person entering into a lease of any mynpacht claim, or any right to minerals for any period.
- (4) By the person becoming entitled by way of purchase, exchange, or donation to any lease of fixed property which, under Section twenty-nine of this Proclamation, requires to be registered in order to be of any effect as against creditors, or subsequent *bonâ fide* purchasers or lessees of such property.

VALUATIONS FOR PAYMENT OF TRANSFER DUTY.

4. For the purpose of ascertaining the value of fixed property or a lease thereof chargeable with transfer duty under the provisions of this Proclamation, the following provisions shall apply:—

Value of Fixed
Property—how as-
certained.

- (1) In any case of a sale and purchase of such property or lease the full and true consideration shall be set forth by the seller and purchaser respectively in the Forms A and B in the schedule hereto, and duty shall be charged on the amount of such consideration: Provided always that if it shall appear to the Receiver of Revenue empowered to receive transfer dues that the consideration so stated is considerably less than the just and fair value of such property, it shall be competent for him to cause a valuation of the said property to be made in manner and form as is provided in the next succeeding sub-section, and the amount of such valuation shall be deemed and taken to be the amount on which duty shall be paid.

- (2) In case of such property changing proprietors otherwise than by, through the medium, or by means of purchase and sale, it shall be the duty of the Receiver of Revenue empowered to receive transfer duty in respect of such property, to require the parties concerned to set forth the value of such property in as nearly as possible the Forms E, F and G in the Schedule hereto, according to the nature of the transaction, and if he be not satisfied with the valuation placed thereon by the person chargeable with the payment of transfer duty, to appoint some one competent and disinterested person to ascertain upon solemn declaration the just and fair value of such property, and the amount at which such valuator shall value the said property shall be deemed and taken to be the amount on which duty shall be paid.
- (3) In the case of any such lease as is mentioned in sub-section (2) of the last preceding section, transfer duty shall be paid on the full value of the property leased, ascertained as provided in the last preceding sub-section.
- (4) In the case of a lease of any mynpacht claim or right to minerals not falling under sub-section (2) of the last preceding section, the total amount of rent for the whole period for which the lease has been entered into, including the periods for which the lessee has the right of renewal (if any), and in addition any other consideration which may be given for such lease shall be deemed and taken to be the value on which transfer duty shall be paid in respect thereof. Such rent and other consideration if any shall be fully set out by the lessor and lessee in Forms C and D in the Schedule :
- (5) Provided always that where the consideration stated as above appears to the Receiver of Revenue to be considerably less than what is just and fair, it shall be the duty of the said Receiver of Revenue to cause a valuation to be made of such lease in manner and form as is provided in sub-section (2) of this section, and the amount of such valuation shall be deemed and taken to be the amount on which duty shall be paid.
- (6) If the purchase price or other consideration for any such property consists wholly or partly of shares or other securities, such shares or securities shall be taken at their true market value on the day of sale, where it can be ascertained ; otherwise the provisions of sub-section (2) of this section shall apply.
- (7) In every case in which the Receiver of Revenue being dissatisfied with the value placed on any property or lease by the person chargeable with the payment of transfer duty shall have appointed some competent

and disinterested person to ascertain upon solemn declaration the just and fair value of such property or lease, the reasonable expenses of such valuation shall, in case the value so ascertained exceeds by one-third the value placed on such property or lease by the person chargeable with the payment of transfer duty, be paid by him and shall be added to and be recoverable as part of the duty, but otherwise shall be borne by the Colonial Treasury.

- (8) Nothing in this or any other section of this Proclamation contained shall prevent any person who shall be dissatisfied with any valuation made as aforesaid from bringing in review by way of motion before the Supreme Court or any Judge thereof the valuation upon which transfer duty has been claimed.

5. If in any case some additional valuable consideration shall be given or promised or agreed to be given by the party to any sale or exchange or lease who is chargeable with the payment of transfer duty to the other party to the contract, or to any third person for or in respect of or in connection with such sale, exchange or lease, then such additional consideration, if in money, shall be taken into account in estimating the amount on which transfer duty is to be paid, and if such additional consideration be other than money, then the said party shall be at liberty to put by way of solemn declaration a value in money upon such additional consideration, and such value shall be taken into account in estimating the amount on which transfer duty is to be paid: Provided that the provisions of sub-sections (1) (2) (7) and (8) of the last preceding section shall apply to the value so put in case it shall appear to the Receiver of Revenue to be considerably less than the just and fair value of such additional consideration, or in case the said party shall not have put a value thereon.

Any additional consideration passing to be taken into account in ascertaining value of property.

6. As often as by any transaction in connection with the alienation of any fixed property or lease liable to the payment of transfer duty, the person acquiring such property or lease shall become liable to pay over and above the sum payable to the person from whom such property or lease is acquired all or any of the following charges or expenses arising out of or connected with the said transaction: that is to say—

Costs and charges not forming part of valuation on which duty is payable.

- (1) The cost of any survey of the property which shall have been made prior to and for the purposes of the said transaction, and of any survey of such property which may be made after the transaction, and the cost of all diagrams and sub-divisions, and of the plan of the property exhibited at the time of the transaction;
- (2) The charge made by any auctioneer for conditions of sale;
- (3) The commission (if any) paid by the person acquiring the property or lease to any auctioneer, broker, or agent by or through whom the transaction may have

been effected not exceeding five pounds per centum upon the amount of the consideration ;

- (4) The auction duty payable upon any sale ;
- (5) The transfer duty payable thereon ;
- (6) The cost of all deeds necessary for effecting transfer of such property or lease, and of the mortgage deed (if any), and of all necessary stamps ;
- (7) The charges of conveyancers and agents incurred in effecting the transfer of the said property or lease ;
- (8) The rent or tax (if any) payable to Government upon the property ;

then such charges or expenses shall not, nor shall any of them, be deemed or taken to form part of the consideration given for such property or lease so as to be liable to the payment of transfer duty.

When duty is payable.

7. The transfer duty upon or in respect of every sale, lease, exchange or donation shall be payable within six months from the date of the sale, lease, exchange, or donation as the case may be, and from and after the expiration of such six months and until payment or *deposit of the amount of such duty, interest thereupon at the rate of twelve pounds per centum per annum shall be payable and shall be recoverable as part of the duty.

When payable in cases of deferred possession.

8. As often as any such contract of sale, lease, exchange or donation shall be entered into, by which contract it is stipulated that possession of such property shall not be given, or that the said sale, lease, exchange or donation shall not take effect until some future date, the date at which the contract was entered into, and not such future date, shall be the date from which the space or term of six months mentioned in the last preceding section shall be reckoned.

When duty payable in cases of conditional sale, &c.

9. As often as any sale, lease, exchange or donation of fixed property shall be conditional, then the said space or term of six months shall begin to be reckoned from the day on which the contract was first entered into : Provided that in case any such contract shall become dissolved by reason of the happening of any dissolutive condition after the payment of transfer duty, then upon proof given of such dissolution such duty shall be returned.

Liability to duty in cases of joint ownership.

10. Whenever any fixed property or lease shall be registered in the name of more persons than one as joint owners, all the said persons shall be deemed and taken for the purposes of the payment of duty upon or in respect of any sale, alienation, or lease, by any of them to any other or others of them, to have equal shares and interest in the said property or lease, unless the particular share or interest shall be declared and set forth in the

* By Pr. Tr. 27 of 1902, sect. 2, no interest is to be deemed to accrue under this section in respect of the period from 1st Oct., 1899, to the 20th May, 1902—the date of the opening of the Registration Offices.

title deed or other instrument recorded in the Deeds or other Registration Office.

EXEMPTION FROM TRANSFER DUTY.

11. No transfer duty shall be remitted upon any transaction on which such duty is required to be paid under this Proclamation except as specially therein provided and except upon transactions with regard to which the transfer duty, if paid, would be paid directly from out of the Imperial or Colonial Revenue.

Remission of duty
forbidden.

12. As often as any contract of sale, lease, exchange, or donation upon which transfer duty shall be payable, shall be set aside, or cancelled, or declared or made void by the judgment of any competent Court, the transfer duty upon such sale, lease, exchange, or donation, if unpaid shall not be payable, and if paid shall be returned.

Return of duty if
sale, &c., declared
void.

13. Exemption from transfer duty shall be allowed in the cases and to the extent hereinafter set forth : that is to say :

Exemptions from
obligation to pay
duty.

- (1) When any person, being by law or appearing upon the records of the Deeds or other Registration Office to be a joint owner of any fixed property or lease, shall purchase or acquire that property, or lease, or any portion thereof, he shall not be charged with transfer duty upon that proportion of the value of such property or lease which represents his individual share or interest.
- (2) In every case of voluntary or compulsory partition between joint owners of fixed property, or any lease, all changes in the records of the Deeds or other Registration Office required for the due registration of the separate shares to be held by each in severalty, shall be made without payment of transfer duty, in case the person claiming exemption from such payment shall make and deposit with the officer authorised to receive transfer duty, or with the Registration Officer a solemn declaration as nearly as is material in the Form H in the schedule to this Proclamation, that he has not given, nor is to give any money or other valuable consideration to his late co-proprietors or any of them for or in regard to the share assigned to him, and which he desires to have registered in his name : Provided that if for the equalising of partition, or for any other reason, such person shall give, or shall have agreed to give to his late co-proprietors or any of them any money or other valuable consideration for the said share so assigned to him, he shall by solemn declaration as aforesaid state the amount or value given or to be given by him, and transfer duty shall be payable upon such value or amount : Provided further that the provisions of sub-sections (1), (2), (7), and (8) of section 4 of this Proclamation shall apply

- to the amount or value so stated in case it shall appear to the Receiver of Revenue who is to receive the transfer duty that such amount or value is considerably less than the just and fair difference in value of the separate shares.
- (3) The provisions of the preceding sub-sections shall apply *mutatis mutandis* to any division of fixed property, or of any lease between spouses married in community, whether such division arises in consequence of the death of one of the spouses, or of divorce, or of an Order of Court.
 - (4) The husband of any woman to whom he shall be married in community of property may have any property or lease standing in the Deeds or other Registration Office in her name removed into his own name without the payment of transfer duty.
 - (5) As often as the trustee of any insolvent estate, in the exercise of the powers by law conferred on him as such trustee, shall refuse to fulfil any contract for the sale, lease, exchange or donation of fixed property belonging to the estate made by the insolvent before sequestration, no transfer duty upon such sale, lease, exchange or donation shall be payable, and such duty if paid before the sequestration shall be returned; and in case of the subsequent sale, lease or exchange of such property by the trustee of the insolvent estate, the declaration of the said trustee may be altered so as to set forth the fact of the previous sale, lease, exchange or donation, and his repudiation thereof.
 - (6) As often as the trustee of any insolvent estate shall elect to abandon any agreement which shall have been entered into by the insolvent for the purchase, lease or exchange of any fixed property, no transfer duty shall be payable upon such sale, lease or exchange: Provided that such duty, if it has been paid by the insolvent, shall not be returned; and provided that the solemn declaration to be made in case of any second or subsequent sale, lease or exchange shall be as nearly as is material in the form marked "J" in the schedule to this Proclamation.
 - (7) As often as any insolvent shall by agreement with his creditors be permitted to retain or take over any of the fixed property or any lease which belonged to such insolvent at the date of the order for sequestration and still remaining unregistered in the name of such insolvent, no transfer duty shall be payable upon such transaction.
 - (8) It shall be lawful for the Governor, upon proof made to his satisfaction that any person acting *bonâ fide* has made a mistake in regard to the enregisterment of any transfer, to permit such transfers as may be necessary

for the correction in the Deeds or other Registration Office of the said mistake to be passed free of transfer duty.

- (9) If in any case any person who, having become surety for the payment by the purchaser of the purchase money of any property or lease, shall have paid such purchase money, and by reason of insolvency, absence from the Colony or other cause, such surety shall be unable to recover the money so paid, and shall be willing or desirous of taking transfer of the property or lease into his own name, the Governor may, if he shall see fit, upon proof by solemn declaration of the facts, authorise the passing of transfer of the property or lease direct from the vendor to such surety upon payment of single duty, whether paid by the purchaser or by the surety, as if the sale had been made *ab initio* to such surety: Provided that nothing herein contained shall affect the respective rights and remedies of such vendor and such purchaser in regard to such first or original sale.

14. As often as any transaction upon which transfer duty shall be payable shall be cancelled and rescinded by mutual consent of the parties thereto before transfer made, without any part of the consideration therefor having been paid or any valuable consideration given or promised for the purpose of obtaining the consent to such cancellation, the transfer duty upon such transaction shall be remitted in case such transaction shall have been so cancelled and rescinded within six months from the date thereof, but not otherwise: Provided

Remission of duty when transaction cancelled.

- (1) That the parties thereto shall make in reference to such cancellation solemn declarations which shall be in substance in the forms marked "K" and "L" in the schedule to this Proclamation with the necessary alterations in respect to each class of transaction.
- (2) That the Governor may in case any such party shall from any cause be unable to make such declaration, dispense with his declaration and may, should he see fit, require or accept the declaration of any agent or person acquainted with the circumstances.

15. As often as any transaction upon which transfer duty shall be payable shall be by mutual consent of the parties thereto cancelled and rescinded before transfer made, then in case any part of the consideration shall have been paid or any valuable consideration shall have been given or promised by either party to the other for or in respect of such cancellation, transfer duty shall be payable only upon the sum so paid, or the value of any consideration other than money so given, such value to be ascertained in manner in sub-section (2) of section 4 of this Proclamation provided; and the owner may on a second alienation of the said property amend the declaration to

Partial remission when transaction cancelled after part consideration paid.

be made by him by setting forth the circumstances of such previous transaction and of the cancellation thereof.

Enquiry by Registration Officer when exemption sought.

16. Whenever any person requiring to have any transfer or change of name effected in the Deeds or other Registration Office shall claim to be exempted from the payment of transfer duty by virtue of any of the exemptions mentioned and contained in this Proclamation, it shall be the duty of the Registration Officer to require due proof by solemn declaration if need be of all facts and circumstances by reason or on account of which such exemption is demanded, and he may also require the production of any deeds or instruments connected with the case and tending to show whether or not such exemption ought by law to be allowed.

Hearing by Supreme Court of dispute between Registration Officer and claimant for exemption.

17. As often as any question shall arise between any Registration Officer and any person claiming to be entitled to any such exemption as aforesaid, regarding the right to such exemption or the extent of that right, it shall and may be lawful for the Supreme Court or any Judge thereof to hear the said Registration Officer and the said person (or any person or persons representing each respectively) as to the matter in question, and to examine the proofs (if any) which shall have been offered in support of the claim to exemption, and to call for such further proofs as may be necessary, and in a summary manner to make such order in the premises as shall to justice appertain.

RECEIPTS FOR TRANSFER DUTY AND DECLARATIONS.

To whom duty payable.

18. All duties and interest under the provisions of this Proclamation shall be paid to the Receiver of Revenue for the district in which the fixed property to be transferred or leased is situate, or to the Receiver of Revenue at the place where the title to such fixed property or lease is registered. The Receiver of Revenue shall give a receipt for such duties and interest, and no transfer of any such property, and no registration of a lease or cession thereof in respect of which duty is payable shall be made unless such receipt shall have been produced to and deposited with the Registration Officer.

Solemn declaration of sale, &c.

19. No Receiver of Revenue shall grant a receipt for the amount of any such duty as aforesaid payable upon or in respect of any sale and purchase, lease, exchange, or donation, until the parties shall have taken and subscribed appropriate forms of solemn declaration as nearly as the circumstances permit, as set out in the schedule to the Proclamation. The Receiver of Revenue may if he think fit require the production of any deeds or instruments connected with the case, and tending to show what amount of transfer duty is payable.

Solemn declaration by agent or broker.

20. As often as it shall appear to the Receiver of Revenue that any agent, auctioneer, broker, or other person acting for or on behalf of any party to a transaction in respect of which transfer duty is payable has himself in his said capacity made

and entered into such transaction then it shall be lawful for such Receiver of Revenue to demand and receive the solemn declaration of such agent, auctioneer, broker, or other person as aforesaid either in lieu of or in addition to that of his principal according as such Receiver of Revenue shall in the circumstances of the case deem fit; and the solemn declaration to be taken as aforesaid shall as nearly as may be in the form I in the schedule to this Proclamation.

21. If in any case it shall be made to appear that one of the parties to any such transaction as aforesaid has died or has become mentally incapacitated or has departed from the Colony without having taken and subscribed the necessary solemn declaration, the Receiver of Revenue may either dispense with such solemn declaration altogether or receive in lieu thereof the solemn declaration of such other person as may under the circumstances of the case be in a position to testify to the particular matters to be set forth in such declaration.

Solemn declaration in case of death, &c., of one of the parties.

AS TO SALES TO AGENTS FOR ALLEGED PRINCIPALS.

22. As often as any fixed property or lease shall be sold by public sale the auctioneer shall before or at or forthwith after the closing of the bidding ascertain from the bidder for whom he purchases, and if such bidder shall profess to purchase for some person other than himself then the auctioneer or his assistant shall, in case the purchaser so disclosed shall be approved of, take down in writing the name of such bidder and of the principal for whom he purchases, and until the name of the purchaser, whether the bidder himself or someone else for whom he purchases, shall have been taken down in writing there shall be no sale to any person and the property or lease may be again put up to competition: Provided that it shall not be necessary that the name of the person for whom any bidder shall be purchasing shall be announced publicly to the bystanders if it be made known to the auctioneer and be by him or his assistant taken down in writing as aforesaid.

Person bidding as agent to disclose name of principal.

23. Should any bidder whose bid shall have been accepted by the auctioneer refuse to declare when called upon to do so by the auctioneer for whom such bidder purchases it shall be lawful for the auctioneer to treat and consider such bidder as being himself the purchaser, and such bidder shall in such case be deemed and taken to be to all intents and purposes the purchaser, or the auctioneer at his election may treat such bidding as null and void and proceed afresh as if it had never been made: Provided that the auctioneer having once made his election either to treat such bidder as the purchaser or to proceed to sell afresh shall not be at liberty afterwards to alter such election.

Proceeding where bidder refuses to disclose name of principal.

24. If in any case any bidder should declare as aforesaid the name of some person as his principal who shall be taken down as the purchaser and who shall afterwards refuse to accept the property purchased in his name then unless the bidder shall

Proceeding where principal repudiates purchase.

produce a sufficient authority in writing from such alleged principal authorizing such bidder to make such purchase for such principal the bidder shall himself (without prejudice to other questions between the parties) be liable to pay transfer duty: Provided that such bidder paying transfer duty shall be entitled to recover the same from his principal in case he shall succeed in proving that such principal did in fact give him authority to make the purchase in dispute.

Provisions of section 24 to apply to private sale and to leases, &c., by agent.

25. The provisions of the last preceding section relative to agents bidding at public sales shall extend and apply *mutatis mutandis* to persons purchasing fixed property or leases as agents for alleged principals otherwise than at public auction; and also to persons acquiring by way of lease fixed property for alleged principals where such lease comes within the provisions of sub-sections (2) and (3) of section 3 of this Proclamation.

Auctioneer, broker, &c., forbidden to sell, &c., to undisclosed principal.

26. No auctioneer, broker or agent shall take down or receive in regard to any purchase or lease of fixed property on which transfer duty is payable the name of any person as purchasing or leasing such property in the manner commonly called and written "q.q." or receive in any other form the name of any person as purchasing or leasing such property for an unnamed principal; and any auctioneer, broker, or agent contravening this section of this Proclamation shall incur and be liable to any penalty not exceeding fifty pounds. The provisions of this section shall also apply to the purchase of any lease where transfer duty is payable on such purchase.

Payment of duty when sale or lease taken over by agent.

27. If in any case of purchase or lease the person whose name shall have been declared and taken down as purchaser or lessee of such property shall deny that he gave authority for the making of such purchase or lease, or if for any other reason such person shall decline to accept such purchase, lease or exchange, and the agent or alleged agent shall be willing to take such property for his own individual account, and the vendor or lessor shall consent thereto, no transfer duty shall be payable upon the sale or lease or alleged sale or lease to the alleged principal; but only a single transfer duty as if the sale or lease had been made *ab initio* to the alleged agent in his individual capacity, and the solemn declarations by law required to be made shall be altered in the manner indicated in the forms marked M and N in the schedule to this Proclamation.

Private sales and leases to undisclosed principals declared null and void.

28. Every sale of fixed property made otherwise than by auction, and every lease falling under the provisions of sub-sections (2) and (3) of section 3 of this Proclamation in regard to which the purchaser or lessee shall not profess to purchase or lease for himself in his individual capacity, shall be wholly null and void unless at the time of making and completion thereof the name of the principal for whom the purchase or lease is made shall be disclosed and inserted in the contract which may be made in regard to such sale or lease.

Lease of land for ten years and more to be notarial.

29. (1.) No lease of any mynypacht, claim or right to minerals, and no lease of any land or any stand for a period

not less than ten years or for the natural life of any person mentioned therein, or which is renewable from time to time at the will of the lessee indefinitely, or for periods which together with the first period thereof amount in all to not less than ten years, shall be of any force or effect if executed after the taking effect of this Proclamation unless executed before a Notary Public, nor shall it be of any force or effect against creditors or any subsequent *bonâ-fide* purchaser or lessee of the property leased or any portion thereof unless it be registered against the title deeds of such property.

* (2). No cession of any such lease as is mentioned in the preceding sub-section made after the taking effect of this Proclamation shall be of any force or effect against creditors or against any subsequent *bonâ-fide* purchasers thereof unless such cession be registered in the registration office in which such lease is registered.

† (3.) (a.) Every owner or lessee of land who has subdivided such land into a number of lots not being stands, and has leased such lots on leases which had they been executed after the taking effect of this Proclamation would under the provisions of sub-section (1) of the section require to be registered, shall within six months after the publication of this Proclamation cause a duly approved general plan of the land so subdivided to be lodged with the Registrar of Deeds together with his title or lease to such land, and shall also furnish such officer with full information of the terms of the leases affecting such lots and the names of the present holders thereof according to the books kept by him for registering such leases and the cessions thereof.

Any such owner or lessee who shall fail to comply with the terms of this sub-section shall be liable to a penalty of one hundred pounds.

(b) It shall be competent for the Receiver of Revenue of the district in which any land so sub-divided as in the last preceding sub-section mentioned is situated, or any person authorized by him, to inspect at all reasonable times the books kept by the owner or lessee of such land in connection with the leases of such lots.

(c) No such owner or lessee shall cause any cession of any lease of any such lot to be registered or entered in any of his books or registers unless such cession shall bear an endorsement upon it showing that it has already been registered at the proper Registration Office. Any person contravening this sub-section shall be liable to a penalty of one hundred pounds for each contravention.

(4.) For the proper carrying out of the provisions of this section the Governor may make regulations prescribing the

* The present form of sub-section (2) of section 29 is in substitution for that originally contained here; such substitution is inserted by virtue of Pr. Tr. 27 of 1902, sect. 1.

† See Pr. Tr. 35 of 1902, sect. 4 (d) as to how this sub-section is to be construed for the purpose of registration of leases and cessions or leases of lots in mining districts.

manner in which leases and sales or cessions thereof shall be registered, and such regulations shall be published in the *Gazette*.

Contract of sale to be in writing.

30. No contract of sale of fixed property shall be of any force or effect unless it be in writing and signed by the parties thereto or by their agents duly authorized in writing.

Resale when vendor unable to enforce contract of purchase.

31. As often as it shall be made to appear to the Governor by any person who shall have sold any fixed property upon which sale transfer duty shall be payable that the purchaser of such property cannot be discovered within the Colony, or has left the Colony without taking transfer and without paying any part of the purchase money, and that such vendor is unable to obtain or enforce the fulfilment of the contract, it shall be lawful for the Governor to permit the vendor aforesaid, in case he shall sell the said property again, to make the necessary alteration in the form of solemn declaration to be made by him in reference to such second sale: Provided that nothing herein contained shall alter or affect the law in reference to the respective rights or remedies of such vendor and such purchaser in regard to such first or original sale.

Declarations in case transaction concluded before taking effect of Proclamation.

32. In case any sale and purchase or other transaction upon which transfer duty is chargeable shall have been concluded before the taking effect of this Proclamation, and the solemn declarations required by the law existing at the time of the completion of such sale and purchase or other transaction shall have been made, no further declarations under the provisions of this Proclamation shall be necessary, but in all cases where no such declarations shall have yet been made the declarations to be made and subscribed shall be those directed by this Proclamation and none other.

Before whom declarations are to be made.

33. The several declarations mentioned in or required by this Proclamation shall be made before such persons respectively as are or shall by law be entitled to administer oaths, and any person who shall wilfully and corruptly make and subscribe any such declaration knowing the same to be untrue in any material particular shall be deemed to be guilty of the crime of perjury; and any person who by reason of the non-disclosure of material facts in respect of the value of property has paid a less sum as transfer duty than that which should have been paid, shall be liable to make good to the Treasury the difference between the duty actually paid and that which should have been paid, and shall further be liable to a fine equal to the amount of such difference or one hundred pounds, whichever sum is greater.

34. Transfer duty and any fine or penalty imposed by this Proclamation shall be a debt due to His Majesty in His Colonial Government, and may be recovered by action in any competent Court.

Short title.

35. This Proclamation may be cited for all purposes as the Transfer Duty Proclamation, 1902.

SCHEDULE.

FORM "A."

Declaration of Seller.

I, A.B., do solemnly and sincerely declare that on the.....day of19.....and not before I sold to C.D. the property herein described, that is to say [here describe the property] and that the full and true consideration passing to me for such sale is £.....and I further declare that there is not any agreement, condition or understanding between me and the said C.D. whereby he has paid or is to pay to me or to any other person whomsoever for or in respect of or in connection with the purchase by him of the said property any sum of money over and above the said sum of £.....save and except certain charges or payments which fall under or come within one or more of the heads or items of charges or payments mentioned in section 6 of the Transfer Duty Proclamation 1902.

And I further declare that I have not received, and that I am not to receive, nor has any other person received, nor is any other person to receive for my use or benefit or at my instance or request any valuable consideration besides the said sum of £.....save and except in so far as any of the charges above mentioned and to be paid by the said C.D., might be held or taken to be payable for me or on my behalf.

And I further declare that the said C.D. is the only person who has ever purchased the said property from me, and I never sold the same to any other person. And I make this solemn declaration conscientiously believing the same to be true.

A.B.

Declared before me this.....day of.....
19.....

FORM "B."

Declaration of Purchaser.

I, C.D., do solemnly and sincerely declare that on the..... day of.....19..... and not before I bought from A.B. the property herein described [here describe the property] and that the full and true consideration given by me for such property whether to the said A.B. or any other person in connection with such sale is £..... and I further declare that I have not nor has any person to my knowledge on my account given nor is there by me or on my behalf to be given any other valuable consideration for or in respect of or in connection with the alienation to me of the said property save and except certain charges or payments which fall under or come within some one or more of the heads or items of charges or payments mentioned in section 6 of the Transfer Duty Proclamation 1902. And I make this solemn declaration conscientiously believing the same to be true.

C.D.

Declared before me this.....day of.....
19.....

FORM "C."

By Lessor of Fixed Property.

I, A.B., do solemnly and sincerely declare that on the..... day..... I leased to C.D. for a (1) period of the property herein described [here set forth the property] and that the full consideration passing to me for such lease is :

- (a.) A yearly rental of £
- (b.) By way of further consideration £.....

I further declare that there is not any agreement, condition or understanding between me and the said C.D., whereby he has paid, or is to pay, to me or to any other person whomsoever for, or in respect of, or in connection with, the lease to him of the said property any sum of money or other valuable consideration over and above the said sum of £.....save and except certain charges or payments which fall under or come within some one or more of the heads or items of charges or payments mentioned in section 6 of the Transfer Duty Proclamation 1902.

And I make this solemn declaration conscientiously believing the same to be true.

Declared before me at this day of 19.....

Justice of the Peace.

(1) The period of the lease including the periods of renewal if any should here be stated.

FORM "D."

Declaration of Lessee.

I, C.D., do solemnly and sincerely declare that on the..... day of I hired from A.B. for a period of the property herein described [here set forth the property] and that the full consideration given by me for the said lease is :

- (a) A yearly rental of £
- (b) By way of further consideration £.....

I further declare that there is not any agreement or understanding between me and the said A.B., whereby I have paid, or am to pay, to the said A.B., or to any other person whomsoever for, or in respect of, or in connection with, the lease to me of the said property any sum of money or other valuable consideration over and above the said sum of £.....save and except certain charges or payments which fall under or come within some one or more of the heads or items of charges or payments mentioned in section 6 of the Transfer Duty Proclamation 1902.

And I make this solemn declaration conscientiously believing the same to be true.

Declared before me at this day of 19.....

Justice of the Peace.

FORM "E."

Declaration of Exchange.

We, the undersigned.....proprietors respectively of the following properties, that is to say:—

I, the saidproprietor of.....and I, the said..... proprietor of.....do severally, solemnly, and sincerely declare that we have mutually agreed with each other to the following exchange, namely:—

[Particulars of the exchange and value of the properties exchanged.] (1)

And we declare that we have not, nor has any person to our knowledge on our account given or received, nor is there by use or on our behalf to be given or received by the one to or from the other of us any money or other valuable consideration other than as above stated, for, or in respect of, the exchange and the mutual transfer of the aforesaid properties.

And we make this solemn declaration conscientiously believing the same to be true.

.....
.....
Declared before me at.....this.....day of.....19.....
.....
Justice of the Peace.

(1) If any money or other valuable consideration is given in respect of the exchange it should be stated here.

FORM "F."

Declaration of Donor.

I, A.B., declare solemnly that in consideration of the special affection and love which I feel and cherish for C.D., and by reason of the good and valid consideration which specially prompts me thereto, I, by way of *donatio inter vivos* or gift between living persons have irrevocably presented, given and bestowed on, and for the benefit of, the said C.D. certain property.

[Here describe the property]

And I declare that the value of the said property is to the best of my knowledge and belief £.....

And I, the said A.B., do further declare that I presented the said property as a gift to the said C.D., on the day of 19..... and not before that date, and I neither have nor shall receive any valuable consideration for, or on account of, the alienation of the said property.

And I make this solemn declaration conscientiously believing the same to be true.

.....
.....
Declared before me at..... this.....day of.....19.....
.....
Justice of the Peace.

FORM "G."

Declaration of Donee.

I, C.D., declare solemnly that I accept the present by way of *donatio inter vivos* or gift between living persons made and given to me by A.B. of certain property.

[Here describe the property.]

And I, the said C.D., declare that the value of the said property is..... and that the said A.B. made the gift on the.....day of..... 19.....and not before that date; and that neither I nor anyone else on my behalf, or for my account, has given, or promised, or intends to give, or pay any valuable consideration whatever for, or on account of, the alienation of the said property.

And I make this solemn declaration conscientiously believing the same to be true.

.....
.....
Declared before me at.....this.....day of.....19.....
.....
Justice of the Peace.

FORM "H."

Declaration on Partition of Fixed Property.

We, the undersigned.....
joint proprietors of the farm (or erf) called.....
.....in extent.....morgen and.....square
roods No.....situated in the district of.....do severally,
solemnly and sincerely declare that we have mutually agreed each with the
other to the following partition of the said land, so as to give to each party a
defined portion as his separate and exclusive property, namely:—

[Here set out particulars of sub-division.]

And we declare that we have not, nor has any person to our knowledge on
our account, given or received, nor is there by us, or on our behalf, to be given
or received by the one to or from the other of us any money or other
valuable consideration for, or in respect of, the partition and mutual transfer
of the aforesaid land.

And we make this solemn declaration conscientiously believing the same
to be true.

.....
.....

Declared before me at..... this.....day of.....19.....

Justice of the Peace.

FORM "I."

Declaration of Sale by an Agent.

I,.....do solemnly and sincerely declare
that I have acted as the agent (auctioneer or broker as the case may be) in
making the sale (1) (or purchase) of certain.....sold by.....to
.....and that I know of my own knowledge the amount of
the consideration given therefor; And I do further declare that the said sale
was made on the.....and not before; and that the sum
of.....is to the best of my knowledge and belief the full and
entire consideration to be given in regard to the alienation of the said
property, and that to the best of my knowledge and belief no further or
other valuable consideration has been given or is to be given by or on behalf
of the said.....for or in respect of the said property, save and
except certain charges and payments mentioned in section 6 of the Transfer
Duty Proclamation 1902.

And I make this solemn declaration conscientiously believing the same
to be true.

.....
.....

Declared before me at..... this.....day of.....19.....

Justice of the Peace.

(1) Where the transaction is a lease, exchange or donation, the form may
be altered accordingly.

FORM "J."

Declaration of Seller.

When there has been a former sale to a purchaser subsequently declared insolvent whose trustee has elected to abandon the sale.

I, A.B., do solemnly and sincerely declare that the sum of £.....is the full and entire consideration for which I have sold to C.D. the following property, that is to say :—

[Here describe the property.]

And I declare that I sold the same to the said C.D. on the.....day of19.....and not before, and that there is not any agreement, condition, or understanding between me and the said C.D. whereby he has paid or is to pay to me or to any other person whomsoever for or in respect of or in connection with the purchase by him of the said property any sum of money over and above the said sum of £.....save and except certain charges or payments which fall under or come within one or more of the heads or items of charges or payments mentioned in section 6 of Transfer Duty Proclamation 1902. And I further declare that I have not received, and that I am not to receive, nor has any other person received, nor is any other person to receive, for my use or benefit, or at my instance or request any valuable consideration besides the said sum of £.....save and except in so far as any of the charges above specified, and to be paid by the said C.D., might be held or taken to be payable for me or on my behalf. And I further declare that the only person other than the said C.D. to whom I ever sold the said property, or who at any time purchased the said property from me, was E.F., to whom I sold the same on the.....day of.....19.....for the sum of £..... And I further declare that since the said sale to the said E.F. he has become insolvent, and that the trustee of his insolvent estate has elected to abandon the said sale. And I make this solemn declaration conscientiously believing the same to be true.

.....
Declared before me.....at
.....this.....day of
.....19.....

.....
Justice of the Peace.

FORM "K."

Declaration by Seller of Cancellation.

I, A.B., do solemnly and sincerely declare that I sold to C.D. on theday of.....19.....the property following, namely :—

[Here describe the property.]

for the sum of £.....and I declare that I have never received any sum of money or other valuable consideration on account of the said purchase other than

And I further declare that I have consented and agreed with the said C.D. to cancel by mutual consent the said sale, which sale was on the.....day of19.....cancelled accordingly.

And I further declare that I have not received, nor am I to receive from nor have I given, nor am I to give to the said C.D., or any other person, any money or other valuable consideration for or in reference to the cancellation of the said sale other than as above stated.

And I make this solemn declaration conscientiously believing the same to be true.

.....
Declared before me at.....this.....day
of.....19.....

.....
Justice of the Peace.

FORM "L."

Declaration by Purchaser of Cancellation.

I, C.D., do solemnly and sincerely declare that I bought from A.B. on theday of19..... the following property, namely— [here describe the property]—for the sum of £.....and I declare that I have never given to the said A.B. any sum of money or other valuable consideration on account of the said purchase other than

And I further declare that I have applied to the said A.B. to consent to cancel the sale, which sale has accordingly been cancelled by mutual consent.

And I further declare that I have not given or received, nor am I to give or receive, nor has any person on my behalf to my knowledge given or received, nor is any person to my knowledge to give or receive any money or other valuable consideration for or in reference to the cancellation of the said sale other than as above stated.

And I make this solemn declaration conscientiously believing the same to be true.

Declared before me at.....this.....day of.....
19.....

Justice of the Peace.

FORM "M."

Declaration of Seller when Agent accepts Sale for Himself.

I, A.B., do solemnly and sincerely declare that I sold to C.D. as the agent or alleged agent of E.F. on the.....day of.....19..... and not before, the property following, namely :—[here describe the property]— for the sum of £..... And I declare that the said E.F. has declined to accept the property, and that the said C.D. has signified his willingness to take the same to and for his own individual account for the said sum of £..... neither more nor less. And I further declare that there is not any agreement, condition, or understanding between me and the said C.D. whereby he has paid or is to pay to me, or to any other person whomsoever for, or in respect of, or in connection with the purchase by him of the said property, any sum of money over and above the said sum of £.....save and except certain charges or payments which fall under or come within one or more of the heads or items of charges or payments mentioned in section 6 of the Transfer Duty Proclamation 1902. And I further declare that I have not received and that I am not to receive, nor has any other person received, nor is any other person to receive for my use or benefit or at my instance, or request, any valuable consideration besides the said sum of £.....save and except in so far as any of the charges above specified, and to be paid by the said C.D., might be held or taken to be payable for me or in my behalf. And I further declare that the said C.D. as the agent or alleged agent of the said E.F. is the only person who has ever purchased the said property, and that I never sold the same to any other person than in manner aforesaid to the said C.D., who with my consent and by virtue of the Proclamation in that behalf provided takes over the property aforesaid as his own.

And I make this solemn declaration conscientiously believing the same to be true.

A.B.....

Declared before me at.....this.....day of.....
19.....

Justice of the Peace.

(Where the agent has accepted a lease the form may be altered accordingly.)

FORM "N."

Declaration of Purchaser ⁽¹⁾ by Agent who accepts the Sale for Himself.

I, C.D., do solemnly and sincerely declare that I did in the name of E.F. purchase from A.B. on the.....day of.....19.....and not before, the property following, namely:—[here describe the property] for the sum of £..... And I further declare that the said E.F. has declined to accept the said property and that the said A.B. has consented and agreed that I shall take over the said property as the purchaser thereof for the sum of £..... And I further declare that I have not, nor has any person to my knowledge on my account, given nor is there, by me or on my behalf, to be given any other valuable consideration of any kind whatever for or in respect of, the alienation to me of the said property, save and except certain charges or payments which fall under or come within some one or more of the heads or items of charges or payments mentioned in section 6 of the Transfer Duty Proclamation 1902.

And I make this solemn declaration conscientiously believing the same to be true.

C.D.....

Declared before me atthis
day of.....19.....

.....
Justice of the Peace.

⁽¹⁾ Where the agent has accepted a lease the form may be altered accordingly.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 8TH FEBRUARY, 1902.)

School Committees.

Preamble.

WHEREAS owing to the change in the Government of this Colony the provisions of the Law in respect of the constitution of Committees of Management of Schools subsidized by the late Government of the Transvaal cannot be complied with :

And whereas it is desirable to bring all such schools under the control of the Director of Education :

Now, therefore, by virtue of the authority in me vested, I do hereby proclaim, declare, and make known as follows :—

Abolition of former Committees of Management.

1. All Committees of Management of Schools subsidized by the late Government of the Transvaal and hereinafter described as “School Committees” established under Law No. 8 of 1892, or any amending law, shall from and after the taking effect of this Proclamation cease to exist.

Vesting of immovable property in Director of Education.

2. All immovable property vested in any such School Committee whether registered in the name of the Committee or the members thereof, or in the name of the chairman or any other official or officials of the committee, shall from and after this date become vested in the Director of Education for the Transvaal subject to all existing conventional or tacit mortgages thereon in trust for educational purposes in connection with the town, village or district in which such immovable property is situate.

Transfer in Deeds Registry, free of duty, &c.

3. The Registrar of Deeds shall after the taking effect of this Proclamation cause all such property as aforesaid to be transferred free of transfer duty, stamps and any other charges to the Director of Education for the Transvaal in trust as aforesaid, and without requiring the consent of any mortgagee to whom any such property is mortgaged.

Powers of sale and transfer.

4. It shall be lawful for the Director of Education with the approval of the Administrator of the Transvaal to sell, transfer, exchange or otherwise deal with such property in any manner whatsoever : Provided only that such property or the proceeds of sale thereof shall be held upon trust as above mentioned.

Vesting of movables in Director of Education.

5. All movable property vested in any such committee as aforesaid shall from and after the taking effect of this Proclamation vest in the said Director of Education upon trust for educational purposes in connection with the school or schools

formerly under the management or control of such committee and the said Director of Education is hereby authorized to do all things and to bring all such actions-at-law as may be necessary to obtain possession of such movable property.

6. All debts incurred by any such School Committee as aforesaid within the scope of their authority and for which they are liable in law shall be paid out of the Colonial Treasury.

Debts to be paid by
Treasury.

7. Any person who has contributed towards the purchase of any land or towards the cost of erecting or repairing school buildings vested in any such committee as aforesaid shall be entitled, on giving proof to the satisfaction of the Controller of the Treasury of the amount of his contribution, to have the same refunded to him out of the Colonial Treasury.

Refund of private
contributions.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 7TH MARCH, 1902.)

**To regulate the Deeds Office and to Amend the Law
relating to the Registration of Deeds.**

Preamble.

WHEREAS it is desirable to make provisions regulating the Deeds Office and to amend the law relating to the Registration of Deeds:

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

Repeal of laws.

1. The laws mentioned in Schedule "A" of this Proclamation and so much of any other law as may be inconsistent with this Proclamation are hereby repealed.

Creation of Deeds Office.

2. There shall be, and there is, hereby created and established at Pretoria an office for the registration of Deeds to be styled "The Deeds Office."

Registrar of Deeds.

3. It shall be lawful for the Governor to appoint an officer to be styled "The Registrar of Deeds," who shall be in charge of the Deeds Office, and whose duties, subject to the special provisions of this Proclamation and the regulations framed thereunder, or of the Gold Law or any other law, shall be:—

Duties of.

- (a) To take charge of and preserve the records of the Registrar of Deeds of the late South African Republic and of the present acting Registrar of Deeds, which records shall be and form part of the records of the Deeds Office by this Proclamation created.
- (b) To register grants or original titles to immovable property issued by lawful authority.
- (c) To certify, sign and register deeds of transfer of immovable property, and of any other property, the transfer of which may be required by any special law in force in this Colony to be made before the Registrar of Deeds.
- (d) To certify, sign and register mortgage bonds specially hypothecating immovable or other property as aforesaid.
- (e) To register ante-nuptial contracts, kinderbewijzen, notarial bonds and other notarial deeds having reference to persons or property within this Colony.

- (f) To register cessions of registered bonds.
- (g) To cancel or partially cancel any registered bond or deed other than a deed of transfer of any immovable property, or to release from the operations of any such bond the whole or any part of the property or things thereby specially hypothecated or bound.
- (h) To register all concessions, mynpachts and other Government grants and contracts proper for registration according to the law, practice and usage of this Colony.
- (i) To register against any property registered in the Deeds Office any lease, servitude or encumbrance contained in a deed of transfer or other duly registered deed, or authorized by order of Court.
- (j) In the registration of any deed to make all such endorsements on any registered title or other deed or instrument filed of record in his office as may be necessary to give effect to such registration.
- (k) To keep all such land, debt and other registers as may be requisite for the due performance by him of any of his duties aforesaid, and the establishment of an efficient system of registration calculated to furnish an increased security of title and an easy reference thereto.
- (l) To keep a register of all interdicts and orders of Court served upon him and affecting the transfer of rights registered in the Deeds Office, and of all notices relating to estates furnished to him by the Master of the Supreme Court.
- (m) Generally to exercise all such powers and discharge all such duties as are by general law and custom in South Africa exercised by and required of and from the Registrar of Deeds; and to permit the public upon payment of the prescribed fees to have such inspection of records and to obtain from the Deeds Office such information concerning deeds filed of record as may be usual and customary.

4. It shall be lawful for the Governor to appoint an Acting Registrar when and so often as occasion shall require in case of the absence, sickness or other disability of the Registrar, and such Acting Registrar shall have power and authority to do any act or thing which may lawfully be done by the Registrar.

Acting Registrar.

5. It shall be lawful for the Governor to appoint an officer to be styled "Assistant Registrar of Deeds" who shall, subject to such directions as the Attorney-General may from time to time issue, have power and authority to do any act or thing which may lawfully be done by the Registrar.

Assistant Registrar.

Rules.

*6. It shall be lawful for the Governor from time to time to frame rules and regulations for the good order and management of the Deeds Office and for better carrying into effect the object with which that Office is established, and generally for the working of the said Office and preservation of the records therein, and more especially to prescribe:—

- (a) The fees (if any) to be taken in respect of any act, matter or thing required to be done in the said office.
- (b) The manner and form in which deeds and documents required to be registered or preserved of record in the said office shall be prepared and executed.
- (c) The manner and form in which any information required by law to be furnished to the Registrar shall be recorded or noted in his office.
- (d) The conditions under which copies of lost deeds or bonds may be issued.
- (e) The manner and form in which consent to the cancellation of bonds or other deeds shall be signified.
- (f) The manner and form in which powers of attorney executed outside this Colony are to be authenticated.

But no rules framed under this section shall be of any force or effect unless and until published in the *Gazette*.

Sworn proof in support of acts to be performed in Deeds Office.

7. The Registrar may require, and any person may tender, proof under oath of any fact which he may consider necessary to be established in connection with any matter or thing sought to be done in the Deeds Office.

Government taxes and transfer duty to be paid before registration of deed.

8. No deed of transfer, bond or other document affecting the title to land shall or may be registered unless the same shall be accompanied by a certificate from some competent revenue officer that the Government taxes on the property to be transferred, mortgaged or burdened have been paid, and in cases in which any duty is payable by a receipt for such duty.

Cancellation of transfer deeds only by Supreme Court.

9. It shall not be lawful for the Registrar to cancel any deed of transfer except upon an order of the Supreme Court or any Judge thereof.

Registrar may rectify errors.

10. In all cases in which in consequence of an error in any grant, deed of transfer, mortgage bond or other deed, whether in the name or names of a person or persons therein mentioned, or in the description of the property thereby granted, transferred or bonded, it shall be found necessary to amend such grant, deed or bond it shall be lawful for the Registrar upon consent in writing of the persons interested to amend such error, provided that where such error is common to two or more interdependent deeds one deed shall not be amended without the others. Should any interested person refuse to consent to

* Such rules and regulations were framed and published by Government Notice No. 80 of 1902, in *Gazette* of 7th March, 1902, page 259, and additional rules have been framed and published by Government Notice No. 333 of 1902.

such amendment no alteration shall be made except by order of the Supreme Court or any Judge thereof.

11. The Registrar shall give notice of all deeds of transfer, mortgage bonds or other deeds having reference to or affecting the ownership of land and registered by him to the Resident Magistrate of the district in which such land is situated, and such Resident Magistrate shall upon receipt of such notice make the necessary entry in the Land Register of his district.

Registrar to notify passing of transfers, &c., to Resident Magistrate of district.

12. Any person being the registered owner of two or more pieces of land contiguous to each other, not being erven or portions of erven, and not together comprising the whole of any two or more pieces of land registered as separate farms, may apply in writing to the Registrar for a certificate of registered title stating that such person is the registered owner of the land to be therein described according to a diagram to be annexed framed by a surveyor, which diagram shall include and indicate the aggregate extent of the several pieces of land so held by such person.

Application for certificate of registered title.

13. The applicant shall with such application submit the several deeds of grant or transfer under which he holds, together with the documents belonging thereto, and a diagram in triplicate framed by a qualified Government surveyor showing the extent of the land held by the applicant under separate diagrams which he desires to have consolidated and registered under one title.

Deeds and diagrams to be submitted in support of application.

14. The Registrar receiving such application shall cause the diagram accompanying it proposed to be registered to be examined by the Surveyor-General, and if it shall appear to the Surveyor-General that such diagram correctly represents the land held by the applicant under two or more separate titles he shall approve the same and the Registrar may then grant and issue to the applicant the certificate of registered title which shall be as nearly as is material in the form contained in Schedule "B" to the Proclamation.

Diagrams to be submitted to Surveyor-General and on his approval certificate issued.

15. In case the Registrar shall refuse or decline to issue such certificate of registered title as aforesaid, the applicant may apply to the Supreme Court or a Judge in Chambers for an order authorizing or directing the Registrar to issue such certificate, and the said Court or Judge shall upon the hearing of any such application make such order therein as may be deemed fitting.

If Registrar refuses certificate application may be made to the Supreme Court.

16. The Registrar upon receiving any such order of Court as aforesaid shall issue a certificate of registered title to the applicant in obedience thereto.

Issue of certificate on order of Court.

17. At the time of granting such certificate as aforesaid the Registrar issuing the same shall cause all necessary endorsements or entries to be made upon the existing deeds of transfer and in the registers in the Deeds Office showing the consolidation of the applicant's title, and shall retain the deeds previously in the possession of the applicant.

Endorsements to be made on existing titles and in register.

Certificate to stand in place of grants, deeds of transfer and diagrams previously held by applicant.

18. The certificate of registered title when issued by the Registrar under the provisions of this Proclamation and the diagram annexed thereto shall stand in the place of the grants, deeds of transfer and diagrams previously held by the applicant in respect of the land therein mentioned or described; but no such certificate or diagram shall be deemed to confer upon such applicant any greater or other right than such as he had or possessed under such grants, deeds or diagrams.

Two or more persons cannot hold by one transfer unless they are partners.

19. It shall not henceforth be lawful to convey land to two or more persons by one and the same deed of transfer unless such persons be partners carrying on business under some particular name, firm or style. In all other cases where land is acquired by two or more persons in undivided shares, a separate deed of transfer shall be necessary in order to convey the share of each owner.

Separate transfer for each farm, erf or lot.

20. It shall not be lawful to convey more than one piece of land registered as a separate farm or erf or to convey portions of different farms or erven by one and the same deed of transfer, and no deed of transfer shall have more than one diagram annexed to it. Where land has been divided into a number of lots for residential, agricultural or other purposes it shall be competent for the Registrar before accepting for registration the transfer or lease of any such lot to require the registered owner of such land to lodge with him a duly approved general plan of the land so divided, together with his title deed to such land. The Registrar shall thereupon cause such general plan to be registered, and an endorsement shall be made upon the title deed notifying that the land shown on such general plan has been divided into lots. A new register shall then be opened wherein the transfers or leases of such lots shall be registered in the same manner as if the said lots were erven in a duly proclaimed township.

Separate transfer from each owner.

21. It shall not be lawful to convey land from more than one registered owner by one and the same deed of transfer, except—

- (a) Where the land is owned by two or more persons constituting a firm;
- (b) Where the same purchaser acquires undivided shares in the same piece of land.

If undivided share of property is hypothecated transfer of divided share can on partition be passed under certain conditions.

22. If it shall happen in any case of the partition of immovable property held in undivided shares that the total share of any owner in such property is hypothecated under a mortgage bond, it shall be lawful for the Registrar upon production of such bond and of the consent in writing of the legal holder of such bond (which consent shall state that it is given under the provisions of this section) to allow transfer to be passed to such owner of the divided share awarded to him on partition, notwithstanding that such bond remains uncanceled.

But in every such case the Registrar shall at the time of allowing such transfer to be passed:—

- (a) Endorse on such bond that such divided share is in terms of this section substituted for the undivided share previously held by such owner.
- (b) Make an entry of such substitution in the Debt Register.
- (c) Endorse on the transfer of such divided share that in terms of this section it is mortgaged by such bond.

23. From and after the completion of the entry and endorsements aforesaid the divided share of such immovable property so transferred shall be deemed to be hypothecated as fully and effectually as if such divided share, and not an undivided share, had been originally hypothecated by such bond.

When conditions fulfilled divided share regarded as originally hypothecated.

24. When and as often as it shall appear from the liquidation account of any insolvent estate and from the vouchers annexed thereto that a payment has been made to any creditor on account of a registered obligation of debt, the Master of the Supreme Court shall notify such payment to the Registrar, who shall thereupon write off the same in the Debt Register and also if possible on such obligation of debt.

Master to notify payments on account of registered debts to Registrar, who shall write off same.

25. The Master of the Supreme Court shall furnish the Registrar with returns of all insolvents who may from time to time obtain their discharge or rehabilitation, and such returns shall specify the landed property and registered obligations of debt appearing in the insolvent's schedules or in the liquidation account of his estate; and the Registrar shall on receipt of such returns write off in the Debt Register all debts registered against any such insolvent prior to his insolvency and, if possible, endorse upon the obligation of debt that it has been cancelled in terms of this section.

Master to notify rehabilitation to Registrar, who shall thereupon write off debts registered against insolvent.

26. No deed or instrument of hypothecation executed at any time after the commencement of the taking effect of this Proclamation shall be of any force or effect to give any preference or priority to the payment of any advances, debts or demands made or accruing after the date of such deed or instrument unless it shall be expressed in such deed or instrument that the same is meant or intended to cover or secure future advances, debts or demands generally or some proper description thereof to be in the said deed or instrument described, and unless also some certain sum shall be expressed in such deed or instrument as a sum beyond which such future advances, debts or demands shall not be deemed to be covered or secured by the hypothecation made or created by such deed or instrument.

When hypothecation for future debts this must be expressly stated and maximum amount fixed.

*27. Any person who shall by prescription or by virtue of any contract or transaction or in any other manner have acquired

Persons having acquired title to derelict lands may petition Supreme Court to order registration of such title.

* Sects. 27-36 are, by virtue of Pr. Tr. 35 of 1902 sect. 25, to apply *mutatis mutandis* to the acquisition of title to any property registered in the Registration of Mining Rights Office which has become derelict or expropriated.

the just and lawful right to the ownership of any immovable property in this Colony registered in the name of any other person, and who shall not be able to procure the enregistration of such property in his name by reason of the death, mental incapacity, insolvency or absence from the Colony of the person in whose name such property stands registered as aforesaid, or of any person or persons through or from whom such rights shall have been mediately or immediately derived, or owing to any other cause, may apply to the Supreme Court or a Judge in Chambers by petition to order the registration of the title to such property in his name.

Also persons entitled to expropriate land and unable to obtain title in ordinary way.

28. As often as any person shall acquire the right to any immovable property by expropriation, and shall be entitled to obtain registration of title to such property, but cannot from any cause obtain such registration in the ordinary manner and according to the usual forms, such person may apply to the Supreme Court or a Judge in Chambers to order registration of title in his name.

Rule *nisi* to be granted by Court.

29. Upon considering any petition for registration of title the Court or Judge may refer such petition for report to the Registrar, and may grant a rule setting forth the description of the property mentioned in such petition and calling upon all persons having or claiming to have any right or title to such property to appear and establish their claims to the same upon some day to be named in the rule, or be for ever barred therefrom, and may direct the mode of service or publication of such rule.

In case of objection Court may direct trial of issue without summons.

30. In case any person appears to show cause against any rule so granted as in the last preceding section mentioned, the Court or Judge may without the issue of any summons require any issue of fact to be tried upon pleadings or may make such order as will in the most speedy and inexpensive manner determine the matter in controversy.

Power of Court to order registration of title as prayed.

31. Upon considering any such petition for registration of title or upon the receipt of the report of the Registrar or upon the return of any such rule granted as aforesaid, and no good cause being shown to the contrary, the Court or Judge may order the Registrar to enregister the property mentioned in such order as the property of the person therein named, subject to such terms and conditions as may be therein mentioned.

Subject to such order conventional mortgages not to be affected.

32. Subject to the terms of any such order for registration of title as aforesaid any conventional hypothecation over any immovable property so registered which shall be in existence at the date of such registry shall attach to and upon the said property precisely as it then exists, and all usual and proper entries and endorsements upon or in regard to any deed of transfer issued by the Registrar in obedience to such order shall be made in the Deeds Register before such deed shall be delivered to the person entitled thereto.

Effect of such registration of title.

33. Every registration of immovable property made in favour of any person in pursuance of any order granted under

section *thirty-one* of this Proclamation shall have the effect of vesting such person with a title and right to such property which shall and shall not respectively be liable to be annulled, set aside, limited and affected on every ground and by reason of every and any cause, matter or thing by reason of which the title and right of such person to such property would or would not have been liable to be annulled, set aside, limited or affected if such property had been regularly transferred to and in favour of such person and to and in favour successively of every person through or from whom his right was derived or acquired.

34. When any order shall have been made under the provisions of section *thirty-one* of this Proclamation directing the Registrar to enregister any property in the name of any person, such person shall be liable to pay such taxes and duties in respect of such registration as he would have been liable to pay if such property had been transferred to him directly from the person last enregistered as the proprietor thereof in due form or law, and shall not be liable or required to pay nor shall the registration directed to be made in his favour be suspended or stayed by reason of the non-payment of any tax, duty, quit-rent or fine which the person last enregistered as such proprietor or any other person through or from whom he has mediately or immediately derived his right to such property may have become liable for or incurred, unless he shall by some contract of agreement have specially bound himself to pay such tax, duty, quit-rent or fine : Provided that any person who may have become liable for or incurred such tax, duty, quit-rent or fine shall be and continue personally liable for the same notwithstanding that such property shall by virtue of such order have been registered as the property of the person therein named.

Liability of persons to whom title is given to pay taxes.

35. Upon production to the Registrar of any order granted under the provisions of section *thirty-one* of this Proclamation and of a certificate from the proper officer of the due payment of the transfer duty (if any) which the person named in the order is liable to pay, the said Registrar shall enregister the immovable property as by the said order may be directed, in the form as nearly as is material contained in schedule "C" to this Proclamation, subject to such conditions and stipulations as would have been contained in a deed of transfer passed in due and customary form to such person last enregistered as the proprietor of such property and to such other conditions as the said order may direct.

Registrar of Deeds to comply with order.

36. Any sum of money which the Court making any order under the provisions of section *thirty-one* of this Proclamation shall find to be due to any person by the person in whose favour such order is made shall, in case the person to whom such money shall be payable shall be absent from the Colony, unknown, or a minor, be paid to the Master of the Supreme Court to the credit of such person as may be entitled to the same or otherwise as may be ordered by such Court.

Surplus of proceeds to be paid to Master of Supreme Court.

37. No ante-nuptial contract executed in this Colony shall be capable of being registered unless the same shall have been

Ante-nuptial contracts to be executed before notary.

executed before a notary public, but any such contract if executed elsewhere than within this Colony shall, whether notarial or not, be capable of being so registered if executed in accordance with the law and practice relating to such instruments of the country in which the same is executed, and shall, if registered and if a duplicate, original or copy thereof attested by a notary public in this Colony be deposited as aforesaid, have in this Colony the same force and effect in regard to creditors in insolvencies as if it had been executed before a notary public in this Colony.

Definition of terms.

38. The expression "Governor" in this Proclamation shall mean the officer for the time being administering the Government of the Transvaal.

Until the establishment of the Supreme Court of this Colony the powers and jurisdiction conferred on such Court by this Proclamation shall be vested in the Special Criminal Court at Pretoria, and the powers and jurisdiction conferred on the Attorney-General and the Master of the Supreme Court shall be vested respectively in the Legal Adviser to the Transvaal Administration and the Orphan Master.

Short title.

This Proclamation may be cited for all purposes as "The Deeds Proclamation 1902" and shall take effect from and after the fifteenth day of April next.

SCHEDULE "A."

Law, Volksraad Resolution, &c.	Extent of Repeal.	Page in Statute Book.
Ordinance No. 4, 1866	The whole	265
Law No. 3, 1874	"	565
Law No. 5, 1882	"	1113
Volksraad Resolution, 3rd June, 1885	Art. 278	1331
Volksraad Resolution, 1st August, 1885	Art. 1108	1376
Law No. 22, 1894	Secs. 10 & 12	242 & 243
Volksraad Resolution, 21st September, 1894	Art. 1810	332
Law No. 8, of 1895	The whole	45
Volksraad Resolution, 25th June, 1895	Art. 463	270

SCHEDULE "B."

CERTIFICATE OF REGISTERED TITLE.

Know all men whom it may concern,

That.....having applied for the issue to him of a certificate of registered title under section twelve of the Deeds Proclamation, 1902, and it appearing that he is the registered owner of the land hereinafter described held under certain (here describe the deeds of grant or transfer under which the applicant holds).

Now therefore in pursuance of the provisions of the aforesaid Proclamation I, the Registrar of Deeds, do hereby certify that the said..... is registered as the owner of (describe the property) as will more fully appear by the annexed diagram subject to such conditions as are mentioned or referred to in the said (describe the deeds of grant or transfer)

And that by virtue of these presents the said.....his heirs, executors, administrators and assigns, now is and henceforth shall be entitled thereto conformably to local custom, Government however reserving its rights.

In witness whereof I, the said Registrar have subscribed to these presents and caused my seal of office to be affixed hereto.

Thus done and executed at the office of the Registrar of Deeds, Pretoria, on this the.....day of.....in the year of Our Lord one thousand nine hundred and.....

.....
Registrar of Deeds.

NOTE.—When the certificate is issued under an order of Court the necessary recital of the order is to be made.

SCHEDULE "C."
DEED OF TRANSFER.

No.....
190.....

Know all men whom it may concern,

That in obedience to an order of the Supreme Court under the provisions of section thirty-one of the Deeds Proclamation, 1902,

I, the Registrar of Deeds, do hereby cede and transfer in full and free property to and on behalf of.....his heirs, executors, administrators and assigns certain (here describe the property) and that by virtue of these presents the said.....his heirs, executors, administrators and assigns now is and henceforth shall be entitled thereto conformably to local custom, Government however reserving its rights.

In witness whereof I, the said Registrar, have subscribed to these presents and have caused my seal of office to be affixed hereto.

Thus done and executed at the office of the Registrar of Deeds, Pretoria, on this the.....day of.....in the year of Our Lord one thousand nine hundred and.....

.....
Registrar of Deeds.

PROCLAMATION

By His Excellency the Administrator.

(DATED 14TH MARCH, 1902.)

To Consolidate, Amend and Declare the Law relating
to Bills of Exchange, Cheques and Promissory Notes.

Interpretation of
terms.

BY VIRTUE OF THE AUTHORITY in me vested I
do hereby declare, proclaim and make known as follows:—

PART I.

PRELIMINARY.

1. In this Proclamation unless the context otherwise
requires—

“Acceptance” means an acceptance completed by delivery
or notification.

“Action” includes a counter claim, claim in reconvention
and set off.

“Banker” includes a body of persons, whether incorporated
or not, who carry on the business of banking.

“Bearer” means the person in possession of a bill or note
which is payable to bearer.

“Bill” means bill of exchange; and

“Note” means promissory note.

“To note” is to make a notarial minute in accustomed form
of the circumstances of dishonour and at the time of
dishonour of a bill or note.

“Delivery” means transfer of possession, actual or con-
structive, from one person to another.

“Holder” means the payee or endorsee of a bill or note who
is in possession of it or the bearer thereof.

“Indorsement” means an indorsement completed by
delivery.

“Issue” means the first delivery of a bill or note complete
in form to a person who takes it as a holder.

“Person” includes a body of persons whether incorporated
or not.

“Value” means valuable consideration.

“Written” includes printed; and

“Writing” includes print.

“Non-business days” include—

- (a) Sunday, New Year's Day, Good Friday, Easter Monday, Whit Monday, Ascension Day, King's Birthday and Christmas Day.
- (b) Any day appointed by the Governor under the authority of any law as a solemn fast or day of thanksgiving or as a public holiday.

“Payment in due course” means payment made at or after the maturity of a bill to the holder thereof in good faith and without notice that his title to the bill is defective.

“Month” means calendar month.

PART II.

BILLS OF EXCHANGE.—FORM AND INTERPRETATION.

2. (1) A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum certain in money to, or to the order of, a specified person, or to bearer. Bill of exchange defined.

(2) An instrument which does not comply with these conditions or which orders any act to be done in addition to the payment of money is not a bill of exchange.

(3) An order to pay out of a particular fund is not unconditional within the meaning of this section, but an unqualified order to pay coupled with—

- (a) An indication of a particular fund out of which the drawee is to reimburse himself or a particular account to be debited with the amount; or
- (b) A statement of the transaction which gives rise to the bill; or
- (c) A statement on the bill that it is drawn against specified documents attached thereto for delivery or acceptance or on payment of the bill as the case may be; or
- (d) A statement on the bill that it is drawn under or against a specified letter of credit or other similar authority

is unconditional.

(4) A bill is not invalid by reason—

- (a) That it is not dated;
- (b) That it does not specify the value given or that any value has been given therefor;
- (c) That it does not specify the place where it is drawn or the place where it is payable.

Effect where different parties to the bill are the same person.

3. (1) A bill may be drawn payable to or to the order of the drawer; or it may be drawn payable to or to the order of the drawee.

(2) Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument at his option either as a bill of exchange or as a promissory note.

Address to drawee.

4. (1) The drawee must be named or otherwise indicated in a bill with reasonable certainty.

(2) A bill may be addressed to two or more drawees whether they are partners or not, but an order addressed to drawees in the alternative or to two or more drawees in succession is not a bill of exchange.

Certainty required as to payee.

5. (1) Where a bill is not payable to bearer the payee must be named or otherwise indicated therein with reasonable certainty.

(2) A bill may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two or one or some of several payees. A bill may also be made payable to the holder of an office for the time being.

(3) Where the payee is a fictitious or non-existing person, or a person not having capacity to contract, the bill may be treated as payable to bearer.

What bills are negotiable.

6. (1) When a bill contains words prohibiting transfer or indicating an intention that it should not be transferable it is valid as between the parties thereto, but is not negotiable.

(2) A negotiable bill may be payable either to order or to bearer.

(3) A bill is payable to bearer which is expressed to be so payable or on which the only or last indorsement is an indorsement in blank.

(4) A bill is payable to order which is expressed to be so payable or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it should not be transferable.

(5) Where a bill either originally or by indorsement is expressed to be payable to the order of a specified person and not to him or his order it is nevertheless payable to him or his order at his option.

Sum payable.

7. (1) The sum payable by a bill is a sum certain within the meaning of this Proclamation although it is required to be paid—

(a) With interest;

(b) By stated instalments;

(c) By stated instalments with a provision that upon default in payment of any instalment the whole shall become due;

(d) According to an indicated rate of exchange to be ascertained as directed by the bill.

(2) Where the sum payable is expressed in words and also in figures and there is a discrepancy between the two the sum denoted by the words is the amount payable.

(3) Where a bill is expressed to be payable with interest unless the instrument otherwise provides interest runs from the date of the bill, and if the bill is undated from the issue thereof—

8. (1) A bill is payable on demand—

Bill payable on demand.

(a) Which is expressed to be payable on demand or at sight, or on presentation; or

(b) In which no time for payment is expressed.

(2) Where a bill is accepted or indorsed when it is overdue it shall, as regards the acceptor who so accepts or any indorser who so indorses it, be deemed a bill payable on demand.

9. A bill is payable at a determinable future time within the meaning of this Proclamation, which is expressed to be payable—

Bill payable at a future time.

(1) At a fixed period after date or sight.

(2) On or at a fixed period after the occurrence of a specified event which is certain to happen though the time of happening may be uncertain. An instrument expressed to be payable on or after the occurrence of a specified event which may or may not happen is not a bill, and the happening of the event does not cure the defect.

10. Where a bill expressed to be payable at a fixed period after date is issued undated, or where the acceptance of a bill, payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the bill shall be payable accordingly: Provided that—

Omission of date in bill payable after date.

(1) Where the holder in good faith and by mistake inserts a wrong date; and

(2) In every case where a wrong date is inserted if the bill subsequently comes into the hands of a holder in due course

the bill shall not be avoided thereby, but shall operate and be payable as if the date so inserted had been the true date.

11. (1) Where a bill or an acceptance or any indorsement on a bill is dated the date shall, unless the contrary be proved, be deemed to be the true date of the drawing, acceptance or indorsement as the case may be.

Antedating and postdating.

(2) A bill is not invalid by reason only that it is antedated or postdated, or that it bears date on a Sunday.

12. Where a bill is not payable on demand the day on which it falls due is determined as follows:—

Computation of time of payment.

(1) If the date on which any bill would fall due shall be a non-business day the due date of the bill shall be the next business day.

- * (2) There are no days of grace in this Colony.
- (3) Where a bill is payable at a fixed period after date after sight or after the happening of a specified event the time of payment is determined by excluding the day from which the time is to begin to run and by including the day of payment.
- (4) Where a bill is payable at a fixed period after sight the time begins to run from the date of the acceptance if the bill be accepted and from the date of noting or protest if the bill be noted or protested for non-acceptance or for non-delivery.

Case of need.

13. The drawer of a bill or any indorser may insert therein the name of a person to whom the holder may resort in case of need; that is to say, in case the bill is dishonoured by non-acceptance or non-payment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not as he may think fit.

Optional stipulations by drawer or indorser.

14. The drawer of a bill and any indorser may insert therein an express stipulation—

- (1) Negating or limiting his own liability to the holder;
- (2) Waiving as regards himself some or all of the holder's duties.

Definition and requisites of acceptance.

15. (1) The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer.

(2) An acceptance is invalid unless it complies with the following conditions, namely:—

- (a) It must be written on the bill and be signed by the drawee. The mere signature of the drawee without additional words is sufficient.
- (b) It must not express that the drawee will perform his promise by any other means than the payment of money.

Time for acceptance.

16. A bill may be accepted—

- (1) Before it has been signed by the drawer or while otherwise incomplete;
- (2) When it is overdue or after it has been dishonoured by a previous refusal to accept, or by non-payment;
- (3) When a bill payable after sight is dishonoured by non-acceptance and the drawee subsequently accepts it the holder in the absence of any different agreement is entitled to have the bill accepted as of the date of first presentment to the drawee for acceptance.

General and qualified acceptances.

17. (1) An acceptance is either—

- (a) General; or (b) Qualified.

* By Pr. Tr. 13 of 1902, this sub-section is only to apply to Bills of Exchange and Promissory Notes drawn or made on and after the 15th April, 1902.

(2) A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn. In particular an acceptance is qualified which is—

- (a) Conditional: that is to say, which makes payment by the acceptor dependent on the fulfilment of a condition therein stated;
- (b) Partial: that is to say, an acceptance to pay part only of the amount for which the bill is drawn;
- (c) Local: that is to say, an acceptance to pay only at a particular specified place;
An acceptance to pay at a particular place is a general acceptance unless it expressly states that the bill is to be paid there only and not elsewhere;
- (d) Qualified as to time;
- (e) The acceptance of some one or more of the drawees but not of all.

18. (1) Where a simple signature on a blank paper to which a stamp has been affixed by the signer is delivered by him in order that it may be converted into a bill it operates as a *prima facie* authority to fill it up as a complete bill for any amount, such stamp will cover using the signature for that of the drawer or the acceptor or an indorser; and in like manner when a bill is wanting in any material particular the person in possession of it has a *prima facie* authority to fill up the omission in any way he thinks fit.

Inchoate instru-
ments.

(2) In order that any such instrument when completed may be enforceable against any person who became a party thereto prior to its completion, it must be filled up within the time agreed on, or if no time be agreed on then within a reasonable time and strictly in accordance with the authority given. Reasonable time for the purpose is a question of fact:

Provided that if any such instrument after completion is negotiated to a holder in due course it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time and strictly in accordance with the authority given.

19. (1) Every contract on a bill whether it be the drawer's, the acceptor's or an indorser's, is incomplete and revocable until delivery of the instrument in order to give effect thereto:

Delivery.

Provided that where an acceptance is written on a bill and the drawee gives notice to or according to the directions of the person entitled to the bill that he has accepted it the acceptance then becomes complete and irrevocable.

(2) As between immediate parties and as regards a remote party other than a holder in due course the delivery—

- (a) In order to be effectual must be made either by or under the authority of the party drawing, accepting or indorsing, as the case may be;

(b) May be shown to have been conditional or for a special purpose only and not for the purpose of transferring the property in the bill. But if the bill be in the hands of a holder in due course a valid delivery of the bill by all parties prior to him so as to make them liable to him is conclusively presumed.

(3) Where a bill is no longer in the possession of a party who has signed it as a drawer, acceptor or indorser, a valid and unconditional delivery by him is presumed until the contrary is proved.

CAPACITY AND AUTHORITY OF PARTIES.

Capacity of parties.

20. (1) Capacity to incur liability as a party to a bill is co-extensive with capacity to contract: Provided that to the validity of a bill accepted or indorsed by a woman the renunciation of the benefits *senatus consultum velleianum* and *authentica si qua mulier* shall not be requisite.

(2) Where a bill is drawn or indorsed by an infant or minor or corporation having no capacity or power to incur liability on a bill the drawing or indorsement entitles the holder to receive payment of the bill and to enforce it against any other party thereto.

Signature essential to liability.

21. No person is liable as drawer, indorser or acceptor of a bill who has not signed it as such: Provided that—

(1) Where a person signs a bill in a trade or assumed name he is liable thereon as if he had signed it in his own name.

(2) The signature of the name of a firm is equivalent to the signature by the person so signing of the names of all persons liable as partners of that firm.

Forged and unauthorized signatures.

22. Subject to the provisions of this Proclamation where a signature on a bill is forged or placed thereon without the authority of the person whose signature it purports to be the forged or unauthorised signature is wholly inoperative, and no right to retain the bill, or to give a discharge therefor, or to enforce payment thereof against any party thereto can be acquired through or under that signature unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or want of authority: Provided that nothing in this section shall affect the ratification of an unauthorised signature not amounting to forgery.

Procurator signature.

23. A signature by procurator operates as notice that the agent has but a limited authority to sign, and the principal is only bound by such signature if the agent in so signing was acting within the actual limits of his authority.

As agent or in representative capacity.

24. (1) Where a person signs a bill as drawer, indorser or acceptor and adds words to his signature indicating that he signs for or on behalf of a principal, or in a representative character, he he not personally liable thereon: Provided that if

such person had no authority to sign for and on behalf of such principal or in a representative character he shall be personally liable on the said bill.

(2) In determining whether a signature on a bill is that of a principal or that of the agent by whose hand it is written the construction most favourable to the validity of the instrument shall be adopted.

THE CONSIDERATION OF A BILL.

25. (1) Valuable consideration for a bill may be constituted by—

Value and holder
for value.

- (a) Any cause sufficient to support an action founded on contract or agreement;
- (b) An antecedent debt or liability. Such a debt or liability is deemed valuable consideration whether the bill is payable on demand or at a future time.

(2) Where value has at any time been given for a bill the holder is deemed to be a holder for value as regards the acceptor and all parties to the bill who became parties prior to such time.

(3) Where the holder of a bill has a lien on it arising either from contract or by implication of law he is deemed to be a holder for value to the extent of the sum for which he has a lien.

26. (1) An accommodation party to a bill is a person who has signed a bill as drawer, acceptor or indorser without receiving value therefor, and for the purpose of lending his name to some other person.

Accommodation
bill or party.

(2) An accommodation party is liable on the bill to a holder for value; and it is immaterial whether when such holder took the bill he knew such party to be an accommodation party or not.

27. (1) A holder in due course is a holder who has taken a bill complete and regular on the face of it under the following conditions, namely:—

Holder in due
course.

- (a) That he became the holder of it before it was overdue, and without notice that it had previously been dishonoured if such was the fact.
- (b) That he took the bill in good faith and for value, and that at the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it.

(2) In particular the title of a person who negotiates a bill is defective within the meaning of this Proclamation when he obtained the bill or the acceptance thereof by fraud or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to fraud.

(3) A holder, whether for value or not, who derives his title to a bill through a holder in due course, and who is not himself a party to any fraud or illegality affecting it has all the rights of that holder in due course as regards the acceptor and all parties to the bill prior to that holder.

Presumption of
value and good faith.

28. (1) Every party whose signature appears on a bill is *primâ facie* deemed to have become a party thereto for value.

(2) Every holder of a bill is *primâ facie* deemed to be a holder in due course; but if in an action on a bill it is admitted or proved that the acceptance, issue or subsequent negotiation, of the bill is affected with fraud or illegality the burden of proof is shifted unless and until the holder proves that subsequent to the alleged fraud or illegality value has in good faith been given for the bill.

NEGOTIATION OF BILLS.

Negotiation of bill.

29. (1) A bill is negotiated when it is transferred from one person to another in such a manner as to constitute the transferee the holder of the bill.

(2) A bill payable to bearer is negotiated by delivery.

(3) A bill payable to order is negotiated by the indorsement of the holder completed by delivery.

(4) When the holder of a bill payable to his order transfers it for value without indorsing it the transfer gives the transferee such title as the transferor had in the bill, and the transferee in addition acquires the right to have the indorsement of the transferor.

(5) When any person is under obligation to indorse a bill in a representative capacity he may indorse the bill in such terms as to negative personal liability.

Requisites of a
valid indorsement.

30. An indorsement in order to operate as a negotiation must comply with the following conditions, namely:—

(1) It must be written on the bill itself and be signed by the indorser. The simple signature of the indorser on the bill without additional words is sufficient.

An indorsement written on the allonge or on a "copy" of bill issued or negotiated in a country where copies are recognised is deemed to be written on the bill itself.

(2) It must be an indorsement of the entire bill. A partial indorsement (that is to say, an indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the bill to two or more indorsees severally) does not operate as a negotiation of the bill.

(3) Where a bill is payable to the order of two or more payees or indorsees who are not partners all must indorse unless the one indorsing has authority to indorse for the others.

- (4) Where in a bill payable to order the payee or indorsee is wrongly designated or his name is mis-spelt, he shall indorse the bill as therein described, adding his proper signature.
- (5) Where there are two or more indorsements on a bill, each indorsement is deemed to have been made in the order in which it appears on the bill until the contrary is proved.
- (6) An indorsement may be made in blank or special. It may also contain terms making it restrictive.

31. Where a bill purports to be indorsed conditionally, the condition may be disregarded by the payer, and payment to the indorsee is valid whether the condition has been fulfilled or not.

Conditional indorsement.

32. (1) An indorsement in blank specifies no indorsee and a bill so indorsed becomes payable to bearer.

Indorsement in blank and special indorsement.

(2) A special indorsement specifies the person to whom or to whose order the bill is to be payable.

(3) The provisions of this Proclamation relating to a payee apply with the necessary modifications to an indorsee under a special indorsement.

(4) When a bill has been indorsed in blank, any holder may convert the blank indorsement into a special indorsement by writing above the indorser's signature a direction to pay the bill to or to the order of himself or some other person.

33. (1) An indorsement is restrictive which prohibits the further negotiation of the bill, or which expresses that it is a mere authority to deal with the bill as thereby directed and not a transfer of the ownership thereof, as for example, if a bill be indorsed "Pay D. only," or "Pay D. for the account of X." or "Pay D. or order for collection."

Restrictive indorsement.

(2) A restrictive indorsement gives the indorsee the right to receive payment of the bill and to sue any party thereto that his indorser could have sued, but gives him no power to transfer his rights as indorsee unless it expressly authorise him to do so.

(3) Where a restrictive indorsement authorises further transfer, all subsequent indorsees take the bill with the same rights and subject to the same liabilities as the first indorsee under the restrictive indorsement.

34. (1) Where a bill is negotiable in its origin it continues to be negotiable until it has been—

Negotiation of overdue or dishonoured bill.

(a) Restrictively indorsed; or

(b) Discharged by payment or otherwise.

(2) Where an overdue bill is negotiated it can only be negotiated subject to any defect of title affecting it at its maturity, and thenceforward no person who takes it can acquire or give a better title than that which the person from whom he took it had.

(3) A bill payable on demand is deemed to be overdue within the meaning and for the purposes of this section when it appears on the face of it to have been in circulation for an unreasonable length of time. What is an unreasonable length of time for this purpose is a question of fact.

(4) Except where an indorsement bears date after the maturity of the bill, every negotiation is *prima facie* deemed to have been effected before the bill was overdue.

(5) Where a bill which is not overdue has been dishonoured, any person who takes it with notice of the dishonour takes it subject to any defect of title attaching thereto at the time of dishonour: but nothing in this sub-section shall affect the rights of a holder in due course.

Negotiation of bill
to party already lia-
ble thereon.

35. Where a bill is negotiated back to the drawer, or to a prior endorser, or to the acceptor, such party may, subject to the provisions of this Proclamation, re-issue and further negotiate the bill, but he is not entitled to enforce payment of the bill against any intervening party to whom he was previously liable.

Rights of the
holder.

36. The rights and powers of the holder of the bill are as follows:—

- (1) He may sue on the bill in his own name.
- (2) Where he is a holder in due course he holds the bill free from any defect of title of prior parties, as well as from mere personal defences available to prior parties among themselves, and may enforce payment against all parties liable on the bill.
- (3) Where the title is defective—
 - (a) If he negotiates the bill to a holder in due course that holder obtains a good and complete title to the bill; and
 - (b) If he obtains payment of the bill the person who pays him in due course gets a valid discharge for the bill.

GENERAL DUTIES OF THE HOLDER.

When presentment
for acceptance is
necessary.

37. (1) Where a bill is payable after sight, presentment for acceptance is necessary in order to fix the maturity of the instrument.

(2) Where a bill expressly stipulates that it shall be presented for acceptance, or where a bill is drawn payable elsewhere than at the residence or place of business of the drawee, it must be presented for acceptance before it can be presented for payment.

(3) In no other case is presentment for acceptance necessary in order to render liable any party to the bill.

(4) Where the holder of a bill drawn payable elsewhere than at the place of business or residence of the drawee has not time with the exercise of reasonable diligence to present the

bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused, and does not discharge the drawer and indorsers.

38. (1) Subject to the provisions of this Proclamation, when a bill payable after sight is negotiated, the holder must either present it for acceptance or negotiate it within a reasonable time.

Time for presenting bill payable after sight.

(2) If he do not do so the drawer and all indorsers prior to that holder are discharged.

(3) In determining what is a reasonable time within the meaning of this section, regard shall be had to the nature of the bill, the usage of trade with respect to similar bills and the facts of the particular case.

39. (1) A bill is duly presented for acceptance which is presented in accordance with the following rules:—

Rules as to presentment for acceptance and excuses for non-presentment.

- (a) The presentment must be made by or on behalf of the holder to the drawee, or to some person authorised to accept or refuse acceptance on his behalf, at a reasonable hour on a business day, and before the bill is overdue.
- (b) Where a bill is addressed to two or more drawees who are not partners, presentment must be made to them all unless one has authority to accept for all, then presentment may be made to him only.
- (c) Where the drawee is dead presentment may be made to his executor.
- (d) Where the drawee is insolvent or has assigned his estate, presentment may be made to him or his trustee or assignee.
- (e) A presentment through the post office, if in due course, is sufficient.

(2) Presentment in accordance with these rules is excused, and a bill may be treated as dishonoured by non-acceptance:—

- (a) Where the drawee is dead, or insolvent, or is a fictitious person, or a person not having capacity to contract by bill;
 - (b) Where after the exercise of reasonable diligence such presentment cannot be effected;
 - (c) Where although the presentment has been irregular acceptance has been refused on some other ground;
- (3) The fact that the holder has reason to believe that the bill on presentment will be dishonoured does not excuse presentment.

40. When a bill is duly presented for acceptance and it is not accepted within the customary time, the person presenting it must treat it as dishonoured by non-acceptance. If he do

Non-acceptance.

not the holder shall lose his right of recourse against the drawer and indorsers.

41. (1) A bill is dishonoured by non-acceptance :—

- (a) When it is duly presented for acceptance and such an acceptance as is prescribed by this Proclamation is refused or cannot be obtained ; or
- (b) When presentment for acceptance is excused and the bill is not accepted.

(2) Subject to the provisions of this Proclamation, when a bill is dishonoured by non-acceptance, an immediate right of recourse against the drawer and indorsers accrues to the holder, and no presentment for payment is necessary.

42. (1) The holder of a bill may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance may treat the bill as dishonoured by non-acceptance.

(2) Where a qualified acceptance is taken and the drawer or an indorser has not expressly or impliedly authorised the holder to take a qualified acceptance, or does not subsequently assent thereto, such drawer or indorser is discharged from his liability on the bill.

The provisions of this sub-section do not apply to a partial acceptance whereof due notice has been given. Where a bill has been accepted as to part, it must be protested as to the balance.

(3) When a drawer or indorser of a bill receives notice of a qualified acceptance, and does not within a reasonable time express his dissent to the holder, he shall be deemed to have assented thereto.

43. Subject to the provisions of this Proclamation, a bill must be duly presented for payment. If it be not so presented the drawer and indorsers shall be discharged. A bill is duly presented for payment which is presented in accordance with the following rules :—

- (1) Where the bill is not payable on demand presentment must be made on the day it falls due.
- (2) Where the bill is payable on demand, then subject to the provisions of this Proclamation presentment must be made within a reasonable time after its issue in order to render the drawer liable, and within a reasonable time after its indorsement in order to render an indorser liable. In determining what is a reasonable time regard shall be had to the nature of the bill, the usage of trade with regard to similar bills, and the facts of the particular case.
- (3) Presentment must be made by the holder, or by some person authorised to receive payment on his behalf at a reasonable hour on a business day, at the proper place as hereinafter defined, either to the person designated by the bill as payer or to some person authorised to pay or refuse payment on his behalf, if

Dishonour by non-acceptance and its consequences.

Duties as to qualified acceptances.

Rules as to presentment for payment.

with the exercise of reasonable diligence such person can there be found.

- (4) A bill is presented at the proper place :—
- (a) Where a place of payment is specified in the bill and the bill is there presented.
 - (b) Where no place of payment is specified, but the address of the drawee or acceptor is given in the bill and the bill is there presented.
 - (c) Where no place of payment is specified, and no address given, and the bill is presented at the drawee's or acceptor's place of business if known, and if not at his ordinary residence if known.
 - (d) In any other case, if presented to the drawee or acceptor whenever he can be found, or if presented at his last known place of business or residence.
- (5) Where a bill is presented at the proper place, and after the exercise of reasonable diligence no person authorised to pay or refuse payment can be found there, no further presentment to the drawee or acceptor is required.
- (6) Where a bill is drawn upon or accepted by two or more persons who are not partners, and no place of payment is specified, presentment must be made to them all.
- (7) Where the drawee or acceptor of a bill is dead and no place of payment is specified, presentment must be made to his executor if such there be, and with the exercise of reasonable diligence he can be found.
- (8) A presentment through the Post Office, if in due course, is sufficient.

44. (1) Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate presentment must be made with reasonable diligence.

Excuses for delay
or non-presentment
for payment.

- (2) Presentment for payment is dispensed with—
- (a) Where after the exercise of reasonable diligence presentment as required by this Proclamation cannot be effected. The fact that the holder has reason to believe that the bill will on presentment be dishonoured does not dispense with the necessity for presentment.
 - (b) Where the drawee is a fictitious person.
 - (c) As regards the drawer where the drawee or acceptor is not bound as between himself and the drawer to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented.
 - (d) As regards an indorser where the bill was accepted or made for the accommodation of that indorser and he

has no reason to expect that the bill would be paid if presented.

- (e) By waiver of presentment, express or implied.
- (f) Where the drawee or acceptor is insolvent, or has assigned his estate.

Dishonour by non-payment.

45. (1) A bill is dishonoured by non-payment—

- (a) When it is duly presented for payment and payment is refused or cannot be obtained ; or
- (b) When presentment is excused and the bill is overdue and unpaid.

(2) Subject to the provisions of this Proclamation, when a bill is dishonoured by non-payment, an immediate right of recourse against the drawer and endorsers accrues to the holder.

Notice of dishonour and effect of non-notice.

46. Subject to the provisions of this Proclamation, when a bill has been dishonoured by non-acceptance or by non-payment, notice of dishonour must be given to the drawer and each indorser, and any drawer or indorser to whom such notice is not given is discharged ; provided that

- (1) Where a bill is dishonoured by non-acceptance and notice of dishonour is not given, the rights of a holder in due course, subsequent to the omission, shall not be prejudiced by the omission.
- (2) Where a bill is dishonoured by non-acceptance and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment, unless the bill shall in the meantime have been accepted.

Rules as to notice of dishonour.

47. Notice of dishonour, in order to be valid and effectual, must be given in accordance with the following rules :—

- (1) The notice must be given by or on behalf of the holder, or by or on behalf of the indorser, who at the time of giving it is himself liable on the bill.
- (2) Notice of dishonour may be given by an agent, either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.
- (3) Where the notice is given by or on behalf of the holder, it enures for the benefit of all subsequent holders and all prior indorsers who have a right of recourse against the party to whom it is given.
- (4) Where notice is given by or on behalf of an indorser entitled to give notice, as hereinbefore provided, it enures for the benefit of the holder and all indorsers subsequent to the party to whom notice is given.
- (5) The notice may be given in writing, or by personal communication, and may be given in any terms which sufficiently identify the bill and intimate that the bill has been dishonoured by non-acceptance or non-payment.

- (6) The return of a dishonoured bill to the drawer or an indorser is in point of form deemed a sufficient notice of dishonour.
- (7) A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A mis-description of the bill shall not vitiate the notice unless the party to whom the notice is given is in fact misled thereby.
- (8) Where notice of dishonour is required to be given to any person, it may be given either to the party himself or to his agent in that behalf.
- (9) Where the drawer or indorser is dead and the party giving notice knows it, the notice must be given to an executor, if such there be, and with the exercise of reasonable diligence he can be found.
- (10) Where the drawer or indorser is insolvent, notice may be given either to the person himself or to the person in whom his estate is by law vested.
- (11) Where there are two or more drawers or indorsers who are not partners, notice must be given to each of them unless one of them has authority to receive such notice for the others.
- (12) The notice may be given as soon as the bill is dishonoured, and must be given within a reasonable time thereafter. In the absence of special circumstances notice is not deemed to have been given within a reasonable time unless—
 - (a) Where the person giving and the person to receive notice reside in different places, the notice is given or sent off in time to reach the latter on the day after the dishonour of the bill.
 - (b) Where the person giving and the person to receive notice reside in different places, the notice is sent off on the business day next after the dishonour of the bill if there be a post at a convenient hour on that day; and if there be no such post on that day then by the next post thereafter.
- (43) Where a bill when dishonoured is in the hands of an agent, he may either himself give notice to the parties liable on the bill or he may give notice to his principal. If he give notice to his principal he must do so within the same time as if he were the holder, and the principal upon receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder.
- (44) Where a party to a bill receives due notice of dishonour, he has after the receipt of such notice the same period of time for giving notice to antecedent parties that the holder has after dishonour.

(15) Where a notice of dishonour is duly addressed and posted, the sender is deemed to have given due notice of dishonour notwithstanding any miscarriage by the Post Office.

Excuses for non-notice and delay.

48. (1) Delay in giving notice of dishonour is excused where the delay is caused by circumstances beyond the control of the party giving notice and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate the notice must be given with reasonable diligence.

(2) Notice of dishonour is dispensed with—

(a) When after the exercise of reasonable diligence notice as required by this Proclamation cannot be given to or does not reach the drawer or indorser sought to be charged.

(b) By waiver expressed or implied. Notice of dishonour may be waived before the time of giving notice has arrived, or after the omission to give due notice.

(c) As regards the drawer in the following cases namely—

(1) Where drawer and drawee are the same person.

(2) Where the drawee is a fictitious person or a person not having capacity to contract.

(3) Where the drawer is the person to whom the bill is presented for payment.

(4) Where the drawee or acceptor is as between himself and the drawer under no obligation to accept or pay the bill.

(5) Where the drawer has countermanded payment.

(d) As regards the indorser in the following cases, namely—

(1) Where the drawee is a fictitious person or a person not having capacity to contract and the indorser was aware of the fact at the time he indorsed the bill.

(2) Where the indorser is the person to whom the bill is presented for payment.

(3) Where the bill was accepted or made for his accommodation.

Noting or protest of bill.

49. (1) Where a bill has been dishonoured by non-acceptance, it must be duly protested for non-acceptance, and where a bill which has not been previously dishonoured by non-acceptance is dishonoured by non-payment, it must be duly protested for non-payment. If it be not so protested the drawer and indorsers are discharged, with the exception of the drawer or payee of a cheque on a banker as hereinafter defined.

(2) A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

(3) Subject to the provisions of this Proclamation, when a bill is noted or protested it must be noted on the day of its dishonour. When a bill has been duly noted the protest may be subsequently extended as of the date of the noting.

(4) Where the acceptor of a bill becomes insolvent or assigns his estate or suspends payment before it matures the holder may cause the bill to be protested for better security against the drawer and indorsers.

(5) A bill must be protested at the place where it is dishonoured: Provided that—

(a) When a bill is protested through the post office and returned by post dishonoured it may be protested* at the place to which it is returned and on the day of its return if received during business hours, and if not received during business hours then not later than the next business day.

(b) When a bill drawn payable at the place of business or residence of some person other than the drawee has been dishonoured by non-acceptance it must, if protested, be protested for non-payment at the place where it is expressed to be payable, and no further presentment for payment to or demand on the drawee is necessary.

(6) A protest must contain a copy of the bill and must be signed by the Notary making it, and must specify:—

(a) The person at whose request the bill is protested;

(b) The place and date of protest, the cause or reason for protesting the bill, the demand made and the answer given (if any), or the fact that the drawee or acceptor could not be found.

(7) Where a bill is lost or destroyed or is wrongly detained from the person entitled to hold it protest may be made on a copy or written particulars thereof.

(8) Protest is dispensed with by any circumstance which would dispense with notice of dishonour. Delay in noting or protesting is excused when the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate the bill must be noted or protested, when necessary, with reasonable diligence.

50. (1) When a bill is accepted generally presentment for payment is not necessary in order to render the acceptor liable.

(2) When by the terms of a qualified acceptance presentment for payment is required the acceptor, in the absence of an express stipulation to that effect, is not discharged by the omission to present the bill for payment on the day that it matures.

(3) In order to render the acceptor of a bill liable it is not necessary to protest it or that notice of dishonour should be given to him.

(4) Where a holder of a bill presents it for payment he shall exhibit the bill to the person from whom he demands payment, and when a bill is paid the holder shall forthwith deliver it up to the party paying it.

Duties of holder
as regards drawee or
acceptor.

* The word "protested" where it occurs the second time in this sub-section is a clerical error in the Proclamation as originally gazetted. It should read "presented."

LIABILITIES OF PARTIES.

- Funds in hand of drawee.
51. A bill of itself does not operate as an assignment of funds in the hands of the drawee available for the payment thereof, and the drawee of a bill who does not accept as required by this Proclamation is not liable on the instrument.
- Liability of acceptor.
52. The acceptor of a bill by accepting it—
- (1) Engages that he will pay it according to the tenor of his acceptance ;
 - (2) Is precluded from denying to a holder in due course—
 - (a) The existence of the drawer, the genuineness of his signature and his capacity and authority to draw the bill ;
 - (b) In the case of a bill payable to drawer's order the then capacity of the drawer to indorse, but not the genuineness or validity of his indorsement ;
 - (c) In the case of a bill payable to the order of a third person the existence of the payee and his then capacity to indorse, but not the genuineness or the validity of his endorsement.
- Liability of drawer or indorser.
53. (1) The drawer of a bill by drawing it—
- (a) Engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder or any indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken ;
 - (b) Is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.
- (2) The indorser of a bill by indorsing it—
- (a) Engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder or a subsequent indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken ;
 - (b) Is precluded from denying to a holder in due course the genuineness and regularity in all respects of the drawer's signature and all previous indorsements ;
 - (c) Is precluded from denying to his immediate or a subsequent indorsee that the bill was at the time of his indorsement a valid and subsisting bill, and that he had then a good title thereto.
- Stranger signing a bill liable as indorser.
54. Where a person signs a bill otherwise than as drawer or acceptor he or she thereby incurs the liabilities of an indorser to a holder in due course.

55. Where a bill is dishonoured the measure of damages, which shall be deemed to be liquidated damages, shall be as follows:—

Measure of damages
against parties to dis-
honoured bill.

- (1) The holder may recover from any party liable on the bill, and the drawer who has been compelled to pay the bill may recover from the acceptor, and an indorser who has been compelled to pay the bill may recover from the acceptor or from the drawer or from a prior indorser—
 - (a) The amount of the bill;
 - (b) Interest thereon in accordance with the stipulation (if any) in the bill, or from the time of presentment for payment if the bill is payable on demand, or from the maturity of the bill in any other case.
 - (c) The expenses of noting, and where the protest has been extended the expenses of the protest.
- (2) In the case of a bill which has been dishonoured abroad in lieu of the above damages the holder may recover from the drawer or an indorser, and the drawer or an indorser who has been compelled to pay the bill may recover from any party liable to him, the amount of the re-exchange, with interest thereon until the time of payment.
- (3) Where by this Proclamation interest may be recovered as damages such interest may, if justice require it, be withheld wholly or in part, and where a bill is expressed to be payable with interest at a given rate interest as damages may or may not be given at the same rate as interest proper.

56. (1) Where the holder of a bill payable to bearer negotiates it by delivery without indorsing it he is called a transferor by delivery.

Transferor by de-
livery and transferee.

(2) A transferor by delivery is not liable on the instrument.

(3) A transferor by delivery who negotiates a bill thereby warrants to his immediate transferee, being a holder for value, that the bill is what it purports to be, that he has a right to transfer it and that at the time of transfer he is not aware of any fact which renders it valueless.

DISCHARGE OF BILL.

57. (1) A bill is discharged by payment in due course or *pro tanto* by payment of part notified by indorsement on the bill if such payment be made by or on behalf of the drawee or acceptor.

Payment in due
course.

(2) Subject to the provisions hereinafter contained, when a bill is paid by the drawer or an indorser it is not discharged; but—

(a) Where a bill payable to or to the order of a third party is paid by the drawer, the drawer may enforce payment thereof against the acceptor, but may not re-issue the bill;

(b) Where a bill is paid by an indorser, or where a bill payable to drawer's order is paid by the drawer, the party paying it is remitted to his former rights as regards the acceptor or antecedent parties, and he may, if he thinks fit, strike out his own and subsequent indorsements and again negotiate the bill.

(3) Where an accommodation bill is paid in due course by the party accommodated the bill is discharged.

Banker paying demand draft where indorsement is forged.

58. When a bill payable to order on demand is drawn on a banker and the banker pays the bill in good faith and in the ordinary course of business, it is not incumbent on the banker to show that the indorsement of the payee or any subsequent indorsement was made by or under the authority of the person whose indorsement it purports to be, and the banker is deemed to have paid the bill in due course, although such indorsement has been forged or made without authority: Provided such indorsement does not purport to be that of a person who is a customer of the banker at the branch on which the said bill is drawn.

Acceptor the holder at maturity.

59. When the acceptor of a bill is or becomes the holder of it at or after its maturity in his own right the bill is discharged.

Express waiver.

60. (1) When the holder of a bill at or after its maturity absolutely and unconditionally renounces his rights against the acceptor the bill is discharged. The renunciation must be in writing on the bill unless the bill is delivered up to the acceptor.

(2) The liabilities of any party to a bill may in like manner be renounced by the holder before, at or after its maturity; but nothing in this section shall affect the rights of a holder in due course without notice of the renunciation.

Cancellation.

61. (1) Where a bill is intentionally cancelled by the holder or his agent, and the cancellation is apparent thereon, the bill is discharged.

(2) In like manner any party liable on a bill may be discharged by the intentional cancellation of his signature by the holder or his agent. In such case any indorser who would have had a right of recourse against the party whose signature is cancelled is also discharged.

(3) A cancellation made unintentionally or under a mistake or without the authority of the holder is inoperative; but where a bill or any signature thereon appears to have been cancelled the burden of proof lies on the party who

alleges that the cancellation was made unintentionally or under a mistake or without authority.

62. (1) Where a bill or acceptance is materially altered then the liability of all parties who were parties to the bill at the date of alteration and who did not assent to it must be regarded as if the alteration had not been made; but any party who has himself made, authorised or assented to the alteration and all subsequent indorsers are liable on the bill as altered.

Alteration of bill.

(2) Amongst material alterations are the following: Any alteration of the date, the sum payable, the time of payment, the place of payment, and where a bill has been accepted generally the addition of a place of payment, without the acceptor's assent.

ACCEPTANCE AND PAYMENT FOR HONOUR.

63. (1) Where a bill of exchange has been protested for dishonour by non-acceptance or protested for better security and is not overdue, any person, not being a party already liable thereon, may with the consent of the holder intervene and accept the bill *supra* protest for the honour of any party liable thereon or for the honour of the person for whose account the bill is drawn.

Acceptance for
honour *supra* protest.

(2) A bill may be accepted for honour for part only of the sum for which it is drawn.

(3) An acceptance for honour *supra* protest in order to be valid must—

(a) Be written on the bill and indicate that it is an acceptance for honour;

(b) Be signed by the acceptor for honour.

(4) Where an acceptance for honour does not expressly state for whose honour it is made it is deemed to be an acceptance for the honour of the drawer.

(5) Where a bill payable after sight is accepted for honour its maturity is calculated from the date of noting for non-acceptance and not from the date of acceptance for honour.

64. (1) The acceptor for honour of a bill by accepting it engages that he will on due presentment pay the bill according to the tenor of his acceptance if it is not paid by the drawee, provided it has been duly presented for payment and protested for non-payment and that he receives notice of these facts.

Liability of
acceptor for honour.

(2) The acceptor for honour is liable to the holder and to all parties to the bill subsequent to the party for whose honour he has accepted.

65. (1) Where a dishonoured bill has been accepted for honour *supra* protest or contains a reference in case of need it must be protested for non-payment before it is presented for payment to the acceptor for honour or referee in case of need.

Presentment to
acceptor for honour.

(2) Where the address of the acceptor for honour is in the same place where the bill is protested for non-payment the bill must be presented to him not later than the day following its maturity; and where the address of the acceptor for honour is in some place other than the place where it was protested for non-payment the bill must be posted or forwarded for presentment not later than the business day next following its maturity for presentment to him.

(3) Delay in presentment or non-presentment is excused by any circumstances which would excuse delay in presentment for payment or non-presentment for payment.

(4) When a bill of exchange is dishonoured by the acceptor for honour it must be protested for non-payment by him.

Payment for
honour *supra* protest.

66. (1) Where a bill has been protested for non-payment any person, not being a party already liable thereon, may intervene and pay it *supra* protest for the honour of any party liable thereon or for the honour of the person for whose account the bill is drawn.

(2) Where two or more persons offer to pay a bill for the honour of different parties the person whose payment will discharge most parties to the bill shall have the preference.

(3) Payment for honour *supra* protest in order to operate as such and not as a mere voluntary payment must be attested by a notarial act of honour, which may be appended to the protest or form an extension of it.

(4) The notarial act of honour must be founded on a declaration made by the payer for honour or his agent in that behalf, declaring his intention to pay the bill for honour and for whose honour he pays.

(5) Where a bill has been paid for honour all parties subsequent to the party for whose honour it is paid are discharged, but the payer for honour is substituted for and succeeds to both the rights and duties of the holder as regards the party for whose honour he pays and all parties liable to that party.

(6) The payer for honour on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonour is entitled to receive both the bill itself and the protest. If the holder do not on demand deliver them up he shall be liable to the payer for honour in damages.

(7) Where the holder of a bill refuses to receive payment *supra* protest he shall lose his right of recourse against any party who would have been discharged by such payment.

LOST INSTRUMENTS.

Holder's rights to
duplicate of lost bill.

67. Where a bill has been lost before it is overdue the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving adequate security to the drawer if required to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

If the drawer on request as aforesaid refuses to give such duplicate bill he may be compelled to do so.

68. In any action or proceeding upon a bill other than a proceeding for provisional sentence the Court or a Judge may order that the loss or non-production of the instrument shall not be set up by way of defence, provided an indemnity be given to the satisfaction of the Court or Judge against the claims of any other person upon the instrument in question.

Action on lost bill.

BILL IN A SET.

69. (1) Where a bill is drawn in a set, each part of a set being numbered and containing a reference to the other parts, the whole of the parts constitutes one bill.

Rules as to set.

(2) Where a holder of a set indorses two or more parts to different persons, he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed as if the said parts were separate bills.

(3) Where two or more parts of a set are negotiated to different holders, in due course the holder whose title first accrues is as between such holders deemed the true owner of the bill; but nothing in this sub-section shall affect the rights of a person who in due course accepts or pays the part first presented to him.

(4) The acceptance may be written on any part, and it must be written on one part only.

If the drawee accepts more than one part, and such accepted parts get into the hands of different holders, in due course he is liable on every such part as if it were a separate bill.

(5) When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder, in due course he is liable to the holder thereof.

(6) Subject to the preceding rules, where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged.

CONFLICT OF LAWS.

70. Where a bill drawn in one country, colony or state is negotiated, accepted or payable in another the rights, duties, and liabilities of the parties thereto are determined as follows:—

Rules where laws
conflict.

(1) The validity of a bill as regards requisites in form is determined by the law of the place of issue, and the validity as regards requisites in form of every supervening contract sued as acceptance or indorsement or acceptance *supra* protest is determined by the law of the place where such contract was made. Provided—

(a) Where a bill is issued out of this Colony it is not invalid by reason only that it is not stamped in accordance with the law of the place of issue.

- (b) Where a bill issued out of this Colony conforms as regards requisites in form to the law of the Colony it may for purpose of enforcing payment thereof be treated as valid as between all persons who negotiate, hold or become parties to it in this Colony.
- (2) Subject to the provisions of this Proclamation the interpretation of the contract of the drawer, indorser, acceptor or acceptor *supra* protest of a bill is determined by the law of the place where such contract is made:
- Provided that where a bill drawn and payable in this Colony is indorsed elsewhere the indorsement shall as regards the payer be interpreted according to the law of this Colony.
- (3) The duties of the holder with respect to presentment for acceptance or payment and the necessity for or sufficiency of a protest or notice of dishonour or otherwise are determined by the law of the place where the act is done or the bill is dishonoured.
- (4) Where a bill is drawn out of but payable in this Colony and the sum payable is not expressed in currency of this Colony the amount shall, in the absence of some express stipulation, be calculated according to the rate of exchange for sight drafts at the place of payment on the day the bill is payable.
- (5) Where a bill is drawn in one country, colony or state and is payable in another the due date thereof is determined according to the law of the place where it is payable.

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PART III.

CHEQUES ON A BANKER.

Cheque defined. 71. A cheque is a bill of exchange drawn on a banker payable on demand. Except as otherwise provided in this part the provisions of this Proclamation applicable to a bill of exchange payable on demand apply to a cheque.

72. Subject to the provisions of this Proclamation—

- (1) Where a cheque is not presented for payment within a reasonable time of its issue and the drawer or person on whose account it is drawn had the right at the time of such presentment as between him and the banker to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage; that is to say, to the extent to which such drawer or person is a creditor of such banker to a larger amount than he would have been had such cheque been paid.

Presentment of
cheque for payment.

- (2) In determining what is a reasonable time regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.
- (3) The holder of such cheque as to which such drawer or person is discharged shall be a creditor in lieu of such drawer or person of such banker to the extent of such discharge and entitled to recover the amount from him.

73. The duty and authority of a banker to pay a cheque on him by his customer are determined by—

Revocation of
banker's authority.

- (1) Countermand of payment ;
- (2) Notice of the customer's death :
- (3) Notice of the customer having become insolvent.

CROSSED CHEQUES.

74. (1) Where a cheque bears across its face an addition of—

General and special
crossings defined.

- (a) The words "and Company" or any abbreviation thereof between two parallel transverse lines, either with or without the words "not negotiable" ; or
- (b) Two parallel transverse lines simply, either with or without the words "not negotiable"

that addition constitutes a crossing and the cheque is crossed generally.

(2) Where a cheque bears across its face an addition of the name of a banker either with or without the words "not negotiable" that addition constitutes a crossing and the cheque is crossed specially and to that banker.

75. (1) A cheque may be crossed generally or specially by the drawer.

Crossings by drawer
or after issue.

(2) Where a cheque is uncrossed the holder may cross it generally or specially.

(3) Where a cheque is crossed generally the holder may cross it specially.

(4) Where a cheque is crossed specially or generally the holder may add the words "not negotiable."

(5) Where the cheque is crossed specially the banker to whom it is crossed may again cross it specially to another banker for collection.

(6) Where an uncrossed cheque or a cheque crossed generally is sent to a banker for collection he may cross it specially to himself.

76. A crossing authorised by this Proclamation is a material part of the cheque ; it shall not be lawful for any person to obliterate or except as authorised by this Proclamation to add to or alter the crossing.

Crossing a material
part of cheque.

Duties of bankers
as to crossed cheques.

77. (1) Where a cheque is crossed generally the banker on whom it is drawn shall not pay it otherwise than to a banker.

(2) Where a cheque is crossed specially the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed or to his agent for collection being a banker.

(3) Where a cheque is crossed specially to more than one banker except when crossed to an agent for collection being a banker the banker on whom it is drawn shall refuse payment thereof.

(4) Where the banker on whom the cheque is drawn which is so crossed nevertheless pays the same or pays a cheque crossed generally otherwise than to a banker, or if crossed specially otherwise than to the banker to whom it is crossed or his agent for collection being a banker, he is liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid :

Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed or to have had a crossing which has been obliterated or to have been added to or altered otherwise than as authorised by this Proclamation, the banker paying the cheque in good faith and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned by reason of the cheque having been crossed or of the crossing having been obliterated or having been added to or altered otherwise than as authorised by this Proclamation, and of payment having been made otherwise than to a banker or to the banker to whom the cheque is or was crossed or to his agent for collection being a banker, as the case may be.

Protection to
banker and drawer
where cheque is
crossed.

78. Where the banker on whom a crossed cheque is drawn in good faith and without negligence pays it if crossed generally to a banker and if crossed specially to the banker to whom it is crossed or his agent for collection being a banker, the banker paying the cheque, and if the cheque has come into the hands of the payee the drawer, shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof.

Effect of crossing
on holder.

79. Where a person takes a crossed cheque which bears on it the words "not negotiable," he shall not have and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

Protection to col-
lecting banker.

80. Where a banker in good faith and without negligence receives payment for a customer of a cheque crossed generally or specially to himself and the customer has no title or a defective title thereto, the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment.

Sections 74 to 80
to extend to docu-
ments other than
cheques crossed for
like object.

81. Sections seventy-four to eighty of this Proclamation shall extend to any document issued by a customer of any banker and intended to enable any person to obtain payment

on demand from such banker of the sum mentioned in such document, and shall so extend in like manner as if the said document were a cheque.

Provided that nothing herein contained shall be deemed to render any such document a negotiable instrument.

PART IV.

PROMISSORY NOTES.

82. (1) A note is an unconditional promise in writing made by one person to another signed by the maker, engaging to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person or to bearer. Promissory note defined.

(2) An instrument in the form of a note payable to maker's order is not a note within the meaning of this section unless and until it is endorsed by the maker.

(3) A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof.

83. A note is inchoate and incomplete until delivery thereof to the payee or bearer. Delivery necessary.

84. (1) A note may be made by two or more makers and they may be liable thereon jointly or jointly and severally according to its tenour. Joint and several notes.

(2) Where a note runs "I promise to pay" and is signed by two or more persons it is deemed to be their joint and several note, and any note signed by two or more persons is deemed to be their joint and several note in the absence of a contrary intention appearing upon the face of it.

85. (1) Where a note payable on demand has been indorsed it must be presented for payment within a reasonable time of the indorsement. If it be not so presented the indorser is discharged. Note payable on demand.

(2) In determining what is a reasonable time regard shall be had to the nature of the instrument the usage of trade and the facts of the particular case.

(3) Where a note payable on demand is negotiated it is not deemed to be overdue for the purpose of affecting the holder with defects of title of which he had no notice by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue.

86. (1) Where a note is in the body of it made payable at a particular place it must be presented for payment at that place in order to render the maker liable unless the particular place mentioned is the place of business of the payee and the note remains in his hands. In any other case presentment for payment is not necessary in order to render the maker liable. Presentment of note for payment.

(2) Presentment for payment is necessary in order to render the indorser of a note liable.

(3) Where a note is in the body of it made payable at a particular place presentment at that place is necessary in order to render an indorser liable; but when a place of payment is indicated by way of memorandum only presentment at that place is sufficient to render the indorser liable; but a presentment to the maker elsewhere if sufficient in other respects shall also suffice.

Liability of maker.

87. The maker of a note by making it—

- (1) Engages that he will pay it according to its tenour;
- (2) Is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

Application of
Part II. to notes.

88. (1) Subject to the provisions in this part and except as by this section provided the provisions of this Proclamation relating to bills of exchange apply with the necessary modifications to notes.

(2) In applying those provisions the maker of a note shall be deemed to correspond with the acceptor of a bill and the first indorser of a note shall be deemed to correspond with the drawer of an accepted bill payable to drawer's order.

(3) The following provisions as to bills do not apply to notes, namely, the provisions relating to—

- (a) Presentment for acceptance;
- (b) Acceptance;
- (c) Acceptance *supra* protest;
- (d) Bills in a set.

PART V.

SUPPLEMENTARY.

Good faith.

89. A thing is deemed to be done in good faith within the meaning of this Proclamation where it is in fact done honestly whether it is done negligently or not.

Signature.

90. Where by this Proclamation any instrument or writing is required to be signed by any person it is not necessary that he should sign it with his own hand but it is sufficient if his signature is written thereon by some other person by or under his authority, and the authorised sealing with a corporate seal of a corporation or the authorised stamping with an official stamp of any bank or company shall be deemed to be sufficient and equivalent to signature or endorsement of any such instrument or writing.

Computation of
time.

91. Where by this Proclamation the reasonable or other time limited for doing any act or thing is less than four days, in reckoning such time non-business days are excluded.

92. For the purposes of this Proclamation where a bill or note is required to be protested within a specified time or before some further proceeding is taken it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding, and the formal protest may be extended at any time thereafter as of the date of the noting.

When noting equivalent to protest.

93. Where a dishonoured bill or note is authorised or required to be protested and the services of a notary cannot be obtained at the place where the bill is dishonoured, any landowner or householder of the place may in the presence of two witnesses give a certificate signed by them attesting the dishonour of the bill, and the certificate shall in all respects operate as if it were a formal protest of the bill. The form given in the schedule to this Proclamation may be used with necessary modifications and if used shall be sufficient.

Protest when notary not accessible.

94. The provisions of this Proclamation as to crossed cheques shall apply to a warrant for payment of a dividend to a coupon for payment of interest and to postal or money orders.

Dividend warrants and coupon for interest may be crossed.

95. Nothing in this Proclamation shall affect the provisions of or in any way restrict:—

Laws not to be affected by this Proclamation.

- (1) The Stamp Laws or any law for the time being in force relating to the revenue.
- (2) Law No. 2 of 1893 relating to banks and any amendment thereof.
- (3) The Laws relating to companies.
- (4) The procedure and practice in regard to the granting of provisional sentence in judicial proceedings.

But all other laws inconsistent with the provisions of this Proclamation shall be repealed from and after the taking effect of this Proclamation.

96. This Proclamation shall be known and cited as “The Bills of Exchange Proclamation 1902” and shall take effect from and after the fifteenth April next.

Short title.

SCHEDULE.

FORM OF PROTEST WHICH MAY BE USED WHEN THE SERVICES OF A NOTARY CANNOT BE OBTAINED.

Know all men that I, A. B., landowner, or householder of..... in the district of.....Transvaal at the request of C. D. there being no notary public available did on the.....day of..... 190.....at.....demand payment (or acceptance) of the bill of exchange hereunder written from E. F., to which demand he made answer (state answer if any) wherefore I now in the presence of G. H. and J. K. do protest the said bill of exchange.

A. B.....

Witnesses—

G. H.....

J. K.....

N.B.—The bill itself should be annexed or a copy of the bill and all that there is thereon should be underwritten.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 19TH MARCH, 1902.)

(To Amend the Law Relating to Stamp Duties.)

Preamble.

WHEREAS it is desirable to amend the Law relating to Stamp Duties.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

Definition of terms.

1. In this Proclamation, unless the context otherwise requires, the following expressions in inverted commas shall bear the meanings assigned to them:—

- “Governor” means the Officer for the time being administering the Government of the Transvaal.
- “Material” includes every sort of material upon which words or figures can be expressed.
- “Instrument” includes every written document.
- “Writing” or “Written” includes printing, typewriting, or any process of producing printing or writing.
- “Stamp” means as well a stamp impressed by means of a die as an adhesive stamp.
- “Stamped,” with reference to instruments and material, applies as well to instruments and material impressed with stamps by means of a die as to instruments and material having adhesive stamps affixed thereto.
- “Executed” and “Execution,” with reference to instruments not under seal, mean signed and signature.
- “Money” includes all sums expressed in British or in any foreign or Colonial currency.
- “Forge” and “Forged” include counterfeit and counterfeited.
- “Duty” means any stamp duty for the time being chargeable by law.
- “Die” includes any plate, type, tool or implement whatever used in terms of this Proclamation for expressing or denoting any duty or rate of duty or the fact that any duty or rate of duty or penalty has been paid or that an instrument is duly stamped or is not chargeable with any duty, or for denoting any fee, and also any part of any such plate, type, tool, or instrument.

“Marketable Security” includes any stock, debenture, security, share, or the like, of such description as to be capable of being sold in any share market or exchange in South Africa.

2. The laws specified in the first Schedule of this Proclamation and so much of any other law as may be repugnant to or inconsistent with the provisions thereof are hereby repealed: Provided that

Repeal of Laws.

- (a) All offences against the provisions of such repealed laws may be prosecuted and all fines and penalties incurred or chargeable thereunder may be recovered, in the same way as if there had been no such repeal in any case in which such offence was committed or liability to such fine or penalty incurred prior to the taking effect of this Proclamation.
- (b) Nothing herein contained shall affect the stamping of any instrument executed prior to the taking effect of this Proclamation.

3. It shall and may be lawful for the Governor from time to time to nominate and appoint such persons as he may think fit, who shall be charged with any or all of the following duties:

Appointment of Officers.

- (a) The providing, custody, and management of proper and sufficient dies and materials for impressing or denoting stamp duties;
- (b) The making, custody, and management, supply, sale and distribution, of stamps required for the purposes of this Proclamation;
- (c) The stamping of deeds and the defacing of stamps in accordance with the provisions of this Proclamation.

4. It shall and may be lawful for the Governor from time to time to make regulations for the due discharge of the duties imposed on Distributors of stamps, and for the due accounting for all stamps or moneys received therefor, and from time to time to vary or revoke the same.

Regulations for guidance of Officers.

5. Subject to such regulations as may from time to time be made by the Governor and to the production of such evidence as the Controller of the Treasury may require, the said Controller may in his discretion make an allowance in the following cases to any person tendering stamps that may have been spoilt or rendered unserviceable, namely:—

Power to make allowance for spoilt stamps.

- (a) Where a stamp has been inadvertently and undesignedly spoilt, obliterated, or rendered unserviceable, either before it has been affixed to any instrument, or before any material or instrument on which the stamp has been placed has been executed by any party;
- (b) Where a stamp has been affixed to any material or instrument which for any reason is not executed by any person or used for the purpose intended.

- (c) Where a bill of exchange or promissory note signed by or on behalf of the drawer or maker has not been made use of in any manner whatever or delivered out of his hands or tendered for acceptance or endorsement ;
- (d) Where an instrument executed by any party thereto has been afterwards found either to be void *ab initio* or to be unfit by reason of any error therein for the purpose originally intended ;
- (e) Where an instrument executed by any party thereto has not been made use of and is insufficient for the purpose for which it was intended, or becomes void either by reason of the inability or the refusal of some necessary party to execute the same or to complete the transaction according to the instrument ;
- (f) Where an instrument executed by any party thereto has been inadvertently and undesignedly spoiled, obliterated, or rendered unserviceable, and in lieu thereof another instrument duly stamped giving effect to the same transaction has been executed.

Provided always :—

- (1) That the application for relief shall be made within six months after the stamp has been spoilt, obliterated or rendered unserviceable, or within such further period as may be prescribed by regulations made from time to time by the Governor.
- (2) That the stamp in respect of which allowance is claimed and any instrument or material to which it may have been affixed is given up to the Controller of the Treasury to be destroyed.
- (3) That the allowance shall be by giving to the claimant therefor either other stamps or money to the same value as the Controller of the Treasury thinks fit.

Allowance in case
of an instrument
being over-stamped.

6. Where any person inadvertently and undesignedly has used for an instrument liable to duty a stamp of a greater value than was necessary, or has used a stamp for an instrument not liable to any duty, the Controller of the Treasury may upon application, and subject to such instrument (if liable to duty) being duly stamped, make an allowance in respect of such excess or unnecessary stamps, in the same manner and subject to the same provisions as set forth in the preceding section, on the instrument in question being produced to him and such allowance being denoted thereon.

Charge of duties
in schedule.

7. From and after the commencement of this Proclamation, the stamp duties to be charged for the use of His Majesty in His Colonial Government upon the several instruments specified in the second Schedule to this Proclamation, whether executed in this Colony or relating to the transfer of any property situated in this Colony, or to any matter or thing to be done in this Colony, shall be the several duties in the said Schedule

specified, which duties shall be in substitution for the duties theretofore chargeable under the Laws repealed by this Proclamation, and shall be subject to the exemptions contained in this Proclamation, and in any other Law for the time being in force.

8. All stamp duties for the time being chargeable by law upon any instruments are to be denoted by adhesive stamps except where other provision is made, and no adhesive stamp shall be available which does not bear on the face of it that it is a revenue stamp.

How duties to be denoted.

9. (1) Every instrument written upon stamped material is to be written in such manner and every instrument partly or wholly written before being stamped is to be so stamped that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument written upon the same piece of material.

How instruments are to be written and stamped.

(2) If more than one instrument be written upon the same piece of material every one of the instruments is to be separately and distinctly stamped with the duty with which it is chargeable.

10. Except where express provision to the contrary is made by this or any other Proclamation, an instrument containing or relating to several distinct matters is to be separately and distinctly charged as if it were a separate instrument with duty in respect of each of the matters.

Instruments to be separately charged with duty in certain cases.

11. All the facts and circumstances affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable, are to be fully and truly set forth in the instrument; and every person who with intent to defraud the revenue—

Facts and circumstances affecting duty to be set forth in instruments.

(a) Executes any instrument in which all the said facts and circumstances are not fully and truly set forth; or

(b) Being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all the said facts and circumstances;

shall incur a fine of fifty pounds.

12. (1) Where an instrument is chargeable with *ad valorem* duty in respect of—

Mode of calculating *ad valorem* duty in certain cases.

(a) Any money in any foreign or colonial currency; or

(b) Any stock or marketable security;

the duty shall be calculated on the value on the day of the date of the instrument of the money in British currency according to the current rate of exchange, or of the stock or security according to the average price thereof on such day.

(2) Where an instrument contains a statement of current rate of exchange or average price, as the case may require, and is stamped in accordance with that statement, it is, so far as regards the subject matter of the statement, to be deemed duly

stamped, unless or until it is shown that the statement is untrue and that the instrument is in fact insufficiently stamped.

General directions
as to the cancellation
of adhesive stamps.

12. (1) An instrument the duty upon which is denoted by an adhesive stamp is not to be deemed duly stamped unless the person required by law to deface the adhesive stamp defaces the same by writing on or across the stamp his name or initials, or the name or initials of his firm, together with the true date of his so writing, so as effectively to deface the stamp and render the same incapable of being used for any other instrument or for any postal purpose.

(2) Where two or more adhesive stamps are used to denote the stamp duty upon an instrument each and every stamp is to be defaced in manner aforesaid.

(3) Every person who, being required by law to deface an adhesive stamp, neglects or refuses duly and effectually to do so in the manner aforesaid shall incur a fine of ten pounds.

* Defacement by
the Registrar of
Deeds, by Notaries
and other persons.

14. Where the duty is denoted by adhesive stamps, the following provisions shall apply:—

(1) The stamps on all instruments registered in the Registry of Deeds or other Registration Office, or which are executed by or before the Registrar of Deeds or other Registration Officer, shall be defaced by the Registrar of Deeds or other Registration Officer.

(2) The stamps on Notarial Instruments, other than such as are included in the last preceding sub-section, shall be defaced by the Notary by or before whom they are passed.

(3) * The stamps on all other instruments, unless otherwise provided for by any law, shall be defaced at the time of execution by the party who is liable under this Proclamation to stamp such instrument.

(4) Any person, being a party to any instrument liable to stamp duty, or entitled to act thereunder, who, having accepted such instrument without its being duly stamped, thereafter affixes, or causes to be affixed, any stamp to the same with intent to make it appear that such instrument was duly stamped as required by this Proclamation, shall be liable to a fine of one hundred pounds.

15. (1) A stamp which by any word or words on the face of it is appropriated to any particular description of instrument is not to be used, or if used is not to be available, for an instrument of any other description.

Appropriated
stamps.

(2) An instrument falling under the particular description to which any stamp is so appropriated as aforesaid is not to be deemed duly stamped unless it is stamped with the stamp so appropriated.

* See Ord. 14 of 1902, sect. 1, where the duty of defacing adhesive stamps on documents not stamped on execution but subsequently stamped is imposed on the Receiver of Revenue.

16. No instrument which is required by this Proclamation to be stamped shall be available for any purpose whatever, saving express provision to the contrary, unless the same is duly stamped as provided in this Proclamation, and in particular no such instrument which is not so stamped shall be produced or given in evidence or be made available in any Court in this Colony except:—

Terms upon which instruments not duly stamped may be received in evidence.

- (a) In criminal proceedings ;
- (b) In any proceeding by, or on behalf of, the Government for the recovery of any stamp duties on such instruments, or any penalties alleged to have been incurred by reason of such instrument not being duly stamped.
- (c) In other proceedings, upon payment by the party producing or tendering such instrument in evidence, by way of penalty of such sum as the Court may direct, not being less than three times the original stamp duty, and subject to the instrument being stamped with the stamps which ought to have been originally affixed. The stamps shall be defaced, and the payment of such penalty shall be recorded on the instrument by the Registrar or other officer of the Court.

Provided always that :

- (1) When any such instrument is produced or given in evidence by or on behalf of the Crown, or any officer of the Government acting as such, no penalty or fine or stamp duty shall be deemed to be imposed upon or payable by the Crown or by such officer.
- (2) The foregoing proviso shall not exempt any other person from any liability in respect of such instrument.
- (3) Save where other express provision is made in this Proclamation, it shall be lawful for the Controller of the Treasury to cause to be stamped after the execution thereof any instrument which through inadvertence and without intent to evade payment of the proper duty has not been duly stamped on payment of the unpaid duty and a penalty not less than three times the amount of such unpaid duty. Such penalty shall be denoted by means of stamps, to be affixed by the officer who stamps the instrument, and to be defaced by him, together with the stamps denoting the duty in the manner prescribed by this Proclamation.

17. The persons liable to stamp the several instruments mentioned shall be the persons respectively designated in this section, and any person, being liable to stamp any such instrument, who executes and delivers the same without duly stamping it shall, except in cases where other express provision is made in this Proclamation, be liable to a penalty not exceeding fifty pounds.

By whom instruments are to be stamped.

- (1) *Bill of Exchange and Promissory Note.*—The drawer or maker thereof.
- (2) *Bond.*—The person who makes or passes the same.
- (3) *Lease.*—The lessor.

(4) *Policy of Life Insurance.*—The person or company issuing the same.

(5) *Receipt.*—The person giving it.

(6) In the case of other instruments, the person executing same.

18. Save where other express provision is made by this Proclamation in relation to any particular instrument—

(a) Any instrument which has been first executed at any place out of this Colony may be stamped at any time within 21 days after it has been first received in this Colony by the person receiving it, being one of the parties thereto, or entitled to act thereunder.

(b) In such case as above a note shall be made on the instrument by the party stamping it of the true date of receiving it, and he shall forthwith deface such stamps in manner provided by this Proclamation, unless the instrument is one on which the stamps should be defaced by a Notary or Registration Officer.

* Provision for stamping instruments executed out of the Colony.

Penalty for enrolling, &c., instrument not duly stamped.

19. No instrument requiring to be stamped before registration shall be registered unless it is duly stamped, and if any person whose office it is to enrol, register or enter in or upon any rolls, books or records any instrument chargeable with duty enrolls, registers or enters any such instrument not being duly stamped, he shall incur a fine of ten pounds.

Meaning of "Bill of Exchange."

20. (1) For the purposes of this Proclamation the expression "bill of exchange" includes—

An unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed determinable future time a sum certain in money to or to the order of a specified person or to bearer.

An unqualified order to pay coupled with—

(a) An indication of a particular fund out of which the drawee is to reimburse himself, or a particular account to be debited with the amount; or

(b) A statement of the transaction which gives rise to the bill; or

(c) A statement on the bill that it is drawn against specified documents attached thereto for delivery on acceptance or on payment of the bill, as the case may be; or

(d) A statement on the bill that it is drawn under or against a specified letter of credit or other similar authority;

is to be deemed an unconditional order.

* The time within which instruments executed out of the Colony were to be stamped was 10 days after it had been received within the Colony. The period of 21 days was substituted by Ord. 14 of 1902, sect. 2.

(2) A cheque is a bill of exchange drawn on a banker payable on demand.

The duty of one penny upon a bill of exchange payable on demand or at sight or presentation may be denoted by an impressed stamp.

21. (1) For the purposes of this Proclamation the expression "promissory note" includes any document or writing (except a bank note) containing a promise to pay any sum of money. Meaning of "Promissory Note."

(2) A note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, is to be deemed a promissory note for that sum of money.

22. Every person into whose hands any bill of exchange or promissory note drawn or made out of this Colony comes in this Colony before it is stamped shall before he presents for payment or indorses, transfers or in any manner negotiates or pays the bill or note affix thereto a proper adhesive stamp or proper adhesive stamps of sufficient amount and deface every stamp so affixed thereto in manner required by this Proclamation. Provisions as to stamping foreign bills and notes.

Provided as follows :—

(a) If at the time when any such bill or note comes into the hands of any *bonâ fide* holder there is affixed thereto an adhesive stamp effectually defaced, the stamp shall, as far as relates to the holder, be deemed to be duly defaced, although it may not appear to have been affixed or defaced by the proper person.

(b) If at the time when any such bill or note comes into the hands of any *bonâ fide* holder there is affixed thereto an adhesive stamp not duly defaced, it shall be competent for the holder to deface the stamp as if he were the person by whom it was affixed, and upon his so doing the bill or note shall be deemed duly stamped and as valid and available as if the stamp had been defaced by the person by whom it was affixed.

But neither of the foregoing provisos is to relieve any person from any fine or penalty incurred by him for not defacing an adhesive stamp.

23. A bill of exchange or promissory note which purports to be drawn or made out of this Colony is for the purpose of determining the mode in which the stamp duty thereon is to be denoted to be deemed to have been so drawn or made although it may in fact have been drawn or made within this Colony. As to bills and notes purporting to be drawn abroad.

24. (1) Every person who issues, indorses, transfers, negotiates, presents for payment or pays any bill of exchange or promissory note liable to duty and not being duly stamped shall incur a fine of fifty pounds, and the person who takes or receives from any other person any such bill or note, either in Penalty for issuing &c., any unstamped bill or note.

payment or as a security or by purchase or otherwise, shall not be entitled to recover thereon or to make the same available for any purpose whatever.

(2) Provided that if any bill of exchange payable on demand or at sight or on presentation is presented for payment unstamped, the person to whom it is presented may affix thereto an adhesive stamp of one penny and deface the same as if he had been the drawer of the bill, and may thereupon pay the sum in the bill mentioned and charge the duty in account against the person by whom the bill was drawn or deduct the duty from the said sum, and the bill, in so far as respects the duty, is to be deemed valid and available.

(3) But the foregoing proviso is not to relieve any person from any fine or penalty incurred by him in relation to such bill.

One bill only of a set need be stamped.

25. When a bill of exchange is drawn in a set according to the custom of merchants, and one of the set is duly stamped, the other or others of the set shall, unless issued or in some manner negotiated apart from the stamped bill, be exempt from duty; and upon proof of the loss or destruction of a duly stamped bill forming one of a set any other bill of the set which has not been issued or in any manner negotiated apart from the lost or destroyed bill may, although unstamped, be admitted in evidence to prove the contents of the lost or destroyed bill.

Provisions as to Broker's Note.

26. (1) For the purposes of this Proclamation the expression "Broker's Note" means a note sent by a broker or agent to his principal advising him of the sale or purchase of any marketable security.

(2) Where a note advises the sale or purchase of more than one description of marketable security the note shall be deemed to be as many broker's notes as there are descriptions of stock or security sold or purchased.

(3) Every adhesive stamp on a broker's note is to be defaced in manner prescribed by this Proclamation by the person by whom the note is executed.

Penalty for a person not making stamped broker's note.

27. (1) Any person who affects any sale or purchase of any marketable security as a broker or agent shall forthwith make and execute a broker's note and transmit the same to his principal, and in default of so doing shall incur a fine of twenty pounds.

(2) Every person who makes or executes any broker's note chargeable with duty and not being duly stamped shall incur a fine of twenty pounds.

(3) No broker, agent or other person shall have any legal claim to any charge for brokerage, commission or agency with reference to the sale or purchase of any stock or marketable security mentioned or referred to in any broker's note unless the note is duly stamped.

(4) The duty of one shilling upon a broker's note may be added to the charge for brokerage or agency.

Provisions as to proxies and voting papers.

28. (1) Every letter or power of attorney for the purpose of appointing a proxy to vote at a meeting is to specify the day upon which the meeting at which it is intended to be used is to

be held and is to be available only at the meeting so specified and any adjournment thereof.

** (2) The duty of one penny may be denoted by an impressed stamp, and a letter or power of attorney charged with the duty of one penny is not to be stamped after the execution thereof by any person.*

(3) Every person who makes or executes or votes or attempts to vote under or by means of any such letter or power of attorney, not being duly stamped, shall incur a fine of fifty pounds, and every vote given or tendered under the authority or by means of the letter or power of attorney shall be void.

29. (1) For the purposes of this Proclamation the expression "policy of life insurance" means a policy upon any life or lives, or upon any event or contingency relating to or depending upon any life or lives, except a policy of insurance against accident.

Meaning of "Policy of life insurance."

30. Every person who—

(1) Receives or takes credit for any premium or consideration for any life insurance and does not within one month after receiving or taking credit for the premium or consideration make out and execute a duly stamped policy of insurance ; or

Penalty for not making out policy or making, etc., any policy not duly stamped.

(2) Pays or allows in account, or agrees to pay or allow in account, any money upon or in respect of any policy of life insurance which is not duly stamped ;

shall incur a fine of twenty pounds.

31. (1) For the purposes of this Proclamation the expression "receipt" includes any note, memorandum, or writing whereby any money or any bill of exchange or promissory note for money is acknowledged or expressed to have been received or deposited or paid, or whereby any debt or demand or any part of a debt or demand is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person.

Receipts.

(2) The duty upon a receipt may be denoted by an impressed stamp.

32. If any person—

(1) Gives a receipt liable to duty and not duly stamped ;
or

(2) In any case where a receipt would be liable to duty refuses to give a receipt duly stamped ; or

(3) Upon a payment to the amount of one pound or upwards gives a receipt for a sum not amounting to one pound, or separates or divides the amount paid with intent to evade the duty ;

Penalty for offences in reference to receipts.

he shall incur a fine of ten pounds.

* The words in italics are repealed by Ord. 14 of 1902, sect. 3, and the subsection is to be read and construed as if these words had never appeared therein.

Charge of duty on
capital of Limited
Liability Companies.

33. (1) * A statement of the amount which is to form the nominal share capital of any company to be registered with limited liability shall be delivered to the Registrar of Companies, and a statement of the amount of any increase of registered capital of any company now registered or to be registered with limited liability shall be delivered to the said Registrar, and every such statement shall be charged with an *ad valorem* duty of seven shillings and sixpence for every hundred pounds and any fraction of one hundred pounds over any multiple of one hundred pounds of the amount of such capital or increase of capital, as the case may be.

(2) In the case of neglect to deliver such a statement as is hereby required to be delivered, the company shall be required to pay to His Majesty in His Colonial Government, in addition to the duty, a sum equal to ten pounds per centum upon the amount of duty payable, and a like penalty for every month after the first month, during which the neglect shall continue.

(3) The provisions of this section shall also apply to any company which has registered any capital or increase of capital since the first day of September, 1900, under Government Notice No. 129 of 1901. Provided that where any such company has been registered, or where any increase of capital has been registered in terms of the said notice, on a date prior to the taking effect of this part of this Proclamation, the provisions of this section shall be deemed to have been complied with by payment of the amount for which security has been given or required by the said notice.

† Duty on loan
capital.

34. (1) When any joint stock company, formed or established in this Colony, propose to issue any loan capital, they shall before the issue thereof deliver to the Controller of the Treasury a statement of the amount proposed to be raised.

(2) Subject to the provisions of this section every such statement shall be charged with an *ad valorem* duty of seven shillings and sixpence for every hundred pounds and any fraction of a hundred pounds over any multiple of a hundred pounds of the amount proposed to be raised.

(3) On its being shown to the satisfaction of the Controller of the Treasury that the stamp duty payable in respect of a mortgage has been paid on any document securing the loan capital proposed to be issued, the amount of such stamp duty shall be deducted from the sum payable under this section.

(4) If any company neglect to deliver a statement, or fail to pay the duty in compliance with this section, they shall be liable to pay to His Majesty in His Colonial Government, in addition to the duty, a sum equal to ten per centum upon the amount of the duty payable, and a like penalty for every month after the first month, during which the neglect or failure continues.

(5) In this section the expression "loan capital" means any

*This section and sect. 34 took effect from date of publication of the Proclamation *i.c.*, 21st March, 1902 (see *Government Gazette* of that date); see sect. 43 *post*.

† See note to sect. 33 as to date when this section took effect.

debenture stock, or any capital raised by any company which is borrowed, or has the character of borrowed, money whether in the form of stock, or in any other form, but does not include an overdraft at a bank, or other loan raised for merely a temporary purpose, for a period not exceeding twelve months.

35. In lieu of the stamp duty of one penny on bank notes imposed by Article 10 of Law No. 2 of 1893, there shall be paid on or before the fifteenth of January of every year, by every bank issuing notes in this Colony, a duty of five shillings for every hundred pounds or fraction thereof of the average amount of the notes circulated by such bank during the preceding year, which amount shall be estimated at the average circulation throughout such year as shown by the returns rendered by such bank in accordance with the aforesaid Law No. 2 of 1893.

Duty on Bank
Notes.

36. Every person who does, or causes, or procures to be done, or knowingly aids, abets, or assists in doing any of the acts following: that is to say

Certain offences in
relation to dies and
stamps.

- (1) Forges a die or stamp;
- (2) Prints or makes an impression upon any material with a forged die;
- (3) Fraudulently prints or makes an impression upon any material from a genuine die;
- (4) Fraudulently cuts, tears, or in any way removes from any material, any stamp with intent that any use should be made of such stamp or of any part thereof;
- (5) Fraudulently mutilates any stamp with intent that any use should be made of any part of such stamp;
- (6) Fraudulently fixes, or places upon any material, or upon any stamp, any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn, or in any way removed from any other material, or out of or from any other stamp;
- (7) Fraudulently erases, or otherwise, either really or apparently, removes from any stamped material any name, sum, date or other matter, or thing whatsoever thereon written with the intent that any use should be made of the stamp upon such material;
- (8) Knowingly sells, or exposes for sale, or utters or uses any forged stamp or any stamp which has been fraudulently printed or impressed from a genuine die;
- (9) Knowingly and without lawful excuse (the proof whereof shall lie on the person accused) has in his possession any forged die or stamp, or any stamp which has been fraudulently printed or impressed from a genuine die, or any stamp, or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material, out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise either really or apparently removed;

- (10) Fraudulently removes, or causes to be removed from any instrument any adhesive stamp, or affixes to any other instrument or uses for any postal purposes any adhesive stamp which has been so removed with intent that the stamp may be used again ;
- (11) Sells, or offers for sale, or utters any adhesive stamp, which has been so removed, or utters any instrument having thereon any adhesive stamp which has to his knowledge been so removed as aforesaid ;

shall be guilty of an offence against this Proclamation, and shall on conviction be liable to be imprisoned for any term not exceeding seven years.

Offences relative to the unlawful possession of stamp paper, dies, &c.

37. Every person who without lawful authority or excuse (the proof whereof shall lie on the person accused) purchases or receives or knowingly has in his possession or custody—

- (a) Any paper manufactured or provided for the purpose of making or impressing stamps by or for the proper authorities before the same shall have been duly stamped and issued for public uses ; or
- (b) Any plate, die, dandy-roller, mould, or other implement ;

shall be guilty of an offence, and shall be liable on conviction to be imprisoned with or without hard labour for any term not exceeding two years.

Search warrants.

38. On sworn information that there is just cause to suspect any person of being guilty of any of the offences contained in the two preceding sections, or to suspect that any stamps either forged, stolen, or fraudulently obtained, are in any place or in the possession or custody of any person, any Magistrate or Justice of the Peace, or any other officer who may be authorised to issue a search warrant, shall be entitled to issue a search warrant authorising any police constable or proper officer to search any such suspected person or any place belonging to or occupied by the suspected person, or where he is suspected of being or having been in any way engaged or concerned in the commission of any such offence, or of secreting any machinery, implements or utensils applicable to the commission of any such offence, or where such machinery, implements or utensils, or any stamps stolen, forged or fraudulently obtained may be, and if upon such search any of the said several matters and things are found the same may be seized and carried away, and shall afterwards be delivered to the Magistrate of the district, who shall have custody thereof until the same be dealt with otherwise by law.

Seizure of incriminating articles.

Forfeiture of articles seized.

39. Any matters or things so seized shall be adjudged to be forfeited to the Crown by the Court or the Magistrate having jurisdiction as to such offences, and thereafter shall be dealt with as the Controller of the Treasury may direct :—

- (a) If they be forged or fraudulently imprinted stamps, or if they be any die, stamp, implement or material which it is one of the said offences to make or possess or use ;

(b) If they be stamps stolen or improperly obtained, or are reasonably suspected of having been stolen or improperly obtained, unless the person who has possession or custody of them shall satisfactorily account for such possession or custody : Provided, however, that nothing herein contained shall affect the rights of any person otherwise entitled in law to such stamps, or the possession or custody thereof.

40. If any forged stamps are found in the possession of any person appointed to sell and distribute stamps, or being or having been licensed to deal in stamps, that person shall be deemed and taken, unless the contrary is satisfactorily proved, to have had the same in his possession knowing them to be forged, and with intent to sell, use or utter them, and shall be liable to the punishment imposed by law upon a person selling, using, uttering, or having in possession forged stamps knowing the same to be forged.

Improper possession of forged stamps by persons appointed to sell or deal in stamps.

41. Where stamps are seized under a warrant the person authorized by the warrant shall, if required, give to the person in whose custody or possession the stamps are found an acknowledgment of the number, particulars and amount of the stamps, and permit the stamps to be marked on the back before the removal thereof.

Acknowledgment to be given by person seizing stamps.

42. Any duty or fine or penalty imposed by this Proclamation shall be a debt due to His Majesty in his Colonial Government, and may be recovered by action in any competent Court.

Recovery of penalties and fines.

43. This Proclamation shall be cited as "The Stamp Duties Amendment Proclamation, 1902," and shall except as regards Sections 33 and 34 take effect from and after the fifteenth of April next. The aforesaid sections shall take effect on the publication of this Proclamation.

Title of Proclamation and date of taking effect thereof.

FIRST SCHEDULE.

LAWS REPEALED.

<i>Law.</i>	...	...	...	<i>Extent of Repeal.</i>
Law No. 2 of 1871	...	...	...	Article 7.
*Law 5 of 1874	...	...	...	So much of Article 12 as required payment of sums of £10, £20, £30 as the case may be, on the registration of companies with limited liability.
Volksraad Resolution No. 114, 22nd May, 1875	...	...	...	The whole, with the exception of such portion thereof as relates to the stamps on the appointment of surveyors and the admission of doctors and apothecaries.
Law No. 5 of 1891	...	...	...	The whole.
Law No. 7 of 1892	...	...	...	The whole.
Law No. 13 of 1898	...	...	...	The whole.
Proclamation Transvaal No 39 of 1901	...	...	...	The whole.

* This partial repeal of Law 5 of 1874. Article 12, is by virtue of Pr. Tr. 26 of 1902, sect. 1.

SECOND SCHEDULE.

STAMP DUTIES ON INSTRUMENTS.

AFFIDAVIT AND SWORN DECLARATION.....	£0 2 6
ANTENUPTIAL CONTRACT	£1 0 0
BILL OF EXCHANGE Payable on demand or at sight on presentation	£0 0 1
BILL OF EXCHANGE of any other kind whatsoever (except a Bank Note) and Promissory Note of any kind whatsoever (except a Bank Note) drawn or expressed to be payable or actually paid or endorsed, or in any manner negotiated in this Colony—	
When the amount or value of the money for which the Bill or Note is drawn or made does not exceed £10	£0 0 1
Exceeds £10 but does not exceed £50	0 0 6
" £50 " " " £100.....	0 1 0
" £100	
For every £100 and also for every fractional part of £100 of such amount or value	0 1 0
BOND, including Mortgage Bond, Deed of Security passed before a Notary, Deed of Kinderbewys—	
Where the amount does not exceed £20	£0 1 0
Exceeds £20 but does not exceed £50	0 2 6
" £50 " " " £100	0 5 0
" £100	
For every £100 and also for every fractional part of £100 of such amount or value	0 5 0
BROKER'S NOTE for or relating to the sale or purchase of any stock or marketable security	0 1 0
<i>* Copy of any instrument passed before a Notary Public</i>	<i>0 2 6</i>
CHEQUE. See Bill of Exchange.	
LEASE of any land, building or stand	
(a). When the lease is for a period not exceeding one year or is renewable indefinitely, but terminable at the will of the lessor—	
When the rent does not exceed £10 per annum	£0 1 0
Exceeds £10 but does not exceed £20 per annum	0 2 0
" £20 " " " £50 " 	0 5 0
" £50 " " " £100 " 	0 10 0
" £100 per annum, for every complete £100	0 10 0
(b) When the lease is for a period exceeding one year, but not exceeding ten years, duty shall be charged at the same rate as in (a) on a sum equal to the rent multiplied by half the number of years for which the lease extends; and for this purpose every broken portion of a year shall be deemed to be an entire year.	
(c) When the lease is for a period exceeding ten years, but not exceeding twenty-five years, duty shall be charged at the same rate as in (a) on the whole amount of the rent payable during the period of the lease.	
(d) When in any of the cases mentioned above a sum of money is paid as further consideration for the lease not being by way of rent, an additional duty of one per cent. shall be payable on the value of such further consideration.	
NOTARIAL PROTEST OF A BILL OR NOTE	£0 5 0
NOTARIAL CERTIFICATE of the presentation of a Bill or Note	0 2 6
† Notarial instrument or grosse or notarial attestation of any instrument, or of any duplicate or copy of any instrument...	0 2 6
POLICY OF LIFE INSURANCE—	
Where the sum insured does not exceed £1,000, then for every £100 and any fractional part of £100 of the amount insured	0 1 0
Exceeds £1,000, for every £100 and any fractional part of £100 of the amount insured	0 2 6

* The words in italics were repealed by Ordinance 14 of 1902, sect 4 (a).

† These words are an amendment of the Schedule as it was originally enacted, and are inserted by virtue of Ordinance 14 of 1902, sect. 4 (6).

POWER OF ATTORNEY—

(1) For the sole purpose of appointing or authorising a proxy to vote at any meeting, poll, ballot, or the like, at which votes may be given by proxy whether the persons named in such instrument be one or more	£0 0 1
* (2) For any special purpose or thing	0 1 0
(3) To act generally for the grantor.....	1 0 0
(4) Of any kind whatsoever not hereinbefore described.....	0 5 0
RECEIPT given for or upon the payment of money amounting to £1 or upwards.....	0 0 1

EXEMPTIONS FROM STAMP DUTY.

AFFIDAVIT AND SWORN DECLARATION.

Any affidavit or sworn declaration required by law, or by any public official authorised thereto, for purposes connected with the payment of any tax or duty to the Colonial Treasury.

BILLS OF EXCHANGE—

- (1) Bill of Exchange drawn by any banker in this Colony upon any other banker therein, not payable to bearer or to order, and used solely for the purpose of settling or clearing any account between such bankers.
- (2) Bill of Exchange drawn by or upon the Colonial Treasury, or upon any sub-accountant of the Colonial Treasury, or upon any public account.
- (3) Coupons or warrants for interest or dividends attached to and issued with any security or share certificate.
- (4) Order addressed by any banker to another banker with whom is kept any account into which public revenue is paid, authorising the transfer of money from the account of such first-named banker to such revenue account.

BONDS—

- (1) Bond given by or on behalf of any officer in the employment of the Colonial Government in respect of the discharge of his official duties.
- (2) Bond given in respect of the payment of Customs Duty or for public revenue.

RECEIPTS—

- (1) Receipt given by any Receiver of Revenue, or other public officer, in respect of any tax or duty paid to him, or in respect of any money received by him in the course of his official duties.
- (2) Receipt on Post Office Orders or Money Orders issued under the Regulations made by the Government in that behalf.
- (3) Receipt for wages or salary paid by any department of the public service of the Colony to any official, or for witnesses' expenses in a criminal trial.
- † (4) Receipts given for money deposited in a bank or with any banker to be accounted for, and expressed to be received of the person to whom the same is to be accounted for.
- (5) Acknowledgment by any banker of the receipt of any Bill of Exchange or Promissory Note for the purpose of being presented for acceptance or payment.

* The stamp duty on this was originally five shillings; the present duty is by virtue of Ordinance 14 of 1902, sect. 4 (c).

† Paragraphs (4) and (5) under "Receipts" (supra) are inserted by virtue of Pr. Tr. 26 of 1902, sect. 2.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 15TH APRIL, 1902.)

Days of Grace.

Preamble.

WHEREAS doubts have arisen as to the operation of the provision of "The Bills of Exchange Proclamation, 1902," abolishing Days of Grace in this Colony, and it is expedient to remove such doubts:

Now, therefore, by virtue of the authority in me vested, I do hereby proclaim, declare, and make known as follows:—

Interpretation of
clause as to Days of
Grace in Pr. Tr 11
of 1902.

Clause 2 of section 12 of "The Bills of Exchange Proclamation, 1902," declaring that there are no Days of Grace in this Colony shall only apply to Bills of Exchange and Promissory Notes drawn or made on or after the fifteenth April, 1902.

PROCLAMATION

By His Excellency the Administrator.

(DATED 10TH APRIL, 1902.)

Providing for Administration of Justice within the Colony of the Transvaal pending the establishment of the Supreme Court of the Transvaal.

* **W**HEREAS it is expedient to make provision for the due and effectual Administration of Justice within this Colony pending the establishment of the Supreme Court of the Transvaal :

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

1. There shall be and there is hereby created, erected, and constituted within this Colony a Court, which shall be called "The High Court of the Transvaal," and shall be a Court of Record.

High Court to be established in Colony.

† 2. The said Court shall consist of and be holden by and before so many members as the Governor may appoint, not being less than four, one of whom shall be the President thereof, and shall be called and known as the Judge President of the High Court of the Transvaal; and he and the other members of the said Court, who shall be called and known as Judges, shall be respectively Advocates admitted or entitled to be admitted to practise in the said Court, or Judges of the Supreme Court of any British Colony, and shall be appointed by the Governor of this Colony by commission under his hand and seal.

Constitution of Court; qualification and appointment of the members thereof.

The Judge President and each of the Judges of the said Court shall on appointment be required before exercising the functions of his office to take the oaths set forth in Schedule A hereto annexed before the Governor, who is hereby authorised to administer the same.

3. Upon the death, resignation, sickness or incapacity of the Judge President or any Judge of the said Court, or in case of the absence of any of them from their duties on leave, or in

How vacancy to be filled in case of death, etc., of any member of the High Court.

* This Proclamation is to form part of and be read as one with Ordinance 2 of 1902, and apply to the Courts established by it; and the following expressions are to be substituted in this Proclamation wherever they occur :—

- (a) "Supreme Court" for "High Court."
- (b) "Witwatersrand High Court" for "Witwatersrand District Court."
- (c) "Chief Justice" for "Judge President."

† For appointments see Government Notice 119 of 1902, published in *Government Gazette*, 15th April, 1902, p. 442.

case of any such suspension from office as hereinafter mentioned of such Judge President or Judge it shall and may be lawful for the Governor, by commission under his hand and seal, to nominate and appoint some fit and proper person or persons to act as, and in the place and stead of, any such Judge President or Judge so dying, or resigning, or labouring under such sickness or incapacity as aforesaid, or being so absent as aforesaid from this Colony, or being so suspended until the vacancy or vacancies so created by any such death or resignation or sickness, or incapacity, or absence, or suspension, shall be supplied by a new appointment to be made in manner aforesaid by the Governor; or until the Judge President or Judge so becoming sick or incapable, or being absent, or suspended, as aforesaid, shall resume such his office and enter into the discharge of the duties thereof.

How members of the Court are to hold or be suspended from office.

4. The Judge President and other Judges of the said Court shall hold such their offices during good behaviour: provided, nevertheless, that it shall and may be lawful for the Governor by any order or orders to be by him for that purpose made and issued under his hand and seal upon proof of the misconduct of any such Judge President or Judge as aforesaid, to suspend him from such his office, and from the discharge of the duties thereof: provided that in every such case the said Governor shall immediately report for the information of His Majesty, through one of his principal Secretaries of State, the ground and causes of such suspension, and His Majesty in Council shall have full power and authority to confirm or disallow such suspension, or upon sufficient proof to his satisfaction of any such misconduct to remove and displace any such Judge President or Judge from such office.

The seal of the Court.

The custody of the seal.

5. The said High Court shall have and use as occasion may require a seal bearing a device and impression of the Royal Arms of the United Kingdom of Great Britain and Ireland, within an exergue or label surrounding the same with this inscription, "The Seal of the High Court of the Transvaal." The said seal shall be delivered to, and shall be kept in the custody of, the Registrar of the said Court or the Officer for the time being acting as such.

Salaries of members of Court.

6. The Judge President and Judges of the said Court so long as they shall hold their offices respectively, shall be entitled to have and receive such salaries as shall be granted to them by the Governor, which shall be in lieu of all fees of office, perquisites, emoluments and advantages whatsoever; and no fees of office, perquisites, emoluments or advantages other than and except the said salaries shall be accepted, received or taken by any such Judge President or Judge on any account or any pretence whatsoever.

As to the member of the Court taking any other office, &c.

7. No member of the said Court shall accept, take, or perform any other office, place of profit or emolument within this Colony without the consent of the Governor; and the acceptance of any such other office or place as aforesaid, without the con-

sent of the Governor, shall vacate and avoid such his office of member of the said Court, and the salary thereof shall cease accordingly from the time of the acceptance of any such other office or place.

8. There shall be attached and belong to the said Court one officer to be styled the Registrar, and one other officer to be styled the Master thereof, together with so many other officers as to the Judge President of the said Court for the time being shall, from time to time appear to be necessary for the administration of justice and the due execution of the powers and authorities which are granted to the said Court by this Proclamation, who shall all hold office during His Majesty's pleasure: Provided, nevertheless, that no new office shall be created in the said Court unless the Governor shall first signify his approbation thereof to the said Judge President in writing under his hand; and, provided further, that each of the aforesaid officers shall, before exercising the functions of his office, take the oath set forth in Schedule B annexed hereto before any of the members of the said Court.

What Officers to belong to Court: Registrar; Master.

9. All persons who shall and may be appointed to the offices of Registrar or Master of the said Court, shall be appointed by the Governor by commission under his hand and seal.

How Officers of Court to be appointed.

10. The said Court may approve, admit to practise, and enrol as an Advocate of the said Court therein:—

Admission of advocates to practise in the said Court.

- (a.) Any person who shall have been admitted as a Barrister in England or Ireland, or as an Advocate in the Court of Session of Scotland, or as an Advocate in the Supreme Court of the Colony of the Cape of Good Hope.
- (b.) Any person who shall have passed the necessary examination, entitling him to be admitted as an Advocate of the High Court of the late South African Republic, or who shall have been admitted as an Advocate of the said Court. Such last mentioned person shall be admitted without being required to pay any fresh or additional stamp duty.
- (c.) Any person who shall have been admitted to practise as an Advocate in the Supreme Court of any British Colony, and who, at the date of his application for admission to practise in this Colony, remains enrolled as an Advocate of such Supreme Court as aforesaid; provided that such person—
 - (1) Shall have passed an examination in law, which at the date of his application for admission as aforesaid, is covered by a notice issued in terms of sub-section (a.) of Section twelve of this Proclamation; or
 - (2) Shall for a period of seven years successively have practised in such Supreme Court as aforesaid exclusively as an Advocate, and not in partnership with any Attorney of such Court.

- (d) Any person who, not being entitled to be admitted under any of the previous sub-sections, shall have been admitted to practise as an Advocate in the Supreme Court of any Colony or State now forming part of British South Africa, and who at the date of the taking effect of this Proclamation shall have practised as such Advocate for a period of seven years successively.
- (e) Any person who shall pass an examination in this Colony to be hereafter, by notice in the *Gazette*, declared to be an examination entitling the person who passes it to be admitted as an Advocate of the said Court.

Provided always that no person shall be admitted to practise as an Advocate of the High Court of the Transvaal, or after having been so admitted shall continue to practise as aforesaid, who shall either himself be carrying on directly or indirectly the business of an Attorney, or be directly or indirectly interested in the business of any Attorney or firm of Attorneys practising within this Colony or any other British Colony; and provided further that no person shall be admitted to practise as aforesaid until he shall have taken in open Court the oaths set forth in Schedule C hereto annexed.

Admission of Attorneys to practise in the said Court.

11. The said Court may approve, admit to practise, and enrol as an Attorney of the said Court:

- (a) Any person who, being an Attorney or Solicitor of any of the Courts of Record in London or Dublin, or being a Writer to the Signet, or a Solicitor or Law Agent admitted to practise in the Supreme Courts in Scotland, or an Attorney of the Supreme Court of the Colony of the Cape of Good Hope, is not under any order of suspension in any of such Courts respectively.
- (b) Any person of full age who has passed the necessary examination and served the necessary time with an Attorney, entitling him to be admitted as an Attorney of the High Court of the late South African Republic, or having been an Attorney of the said High Court, is not under any order of suspension in such Court. Such last mentioned person shall be admitted without being required to pay any fresh or additional stamp duty.
- (c) Any person of full age who produces satisfactory proof that he has actually served with a practising Attorney in this Colony, either before or since, or partly before and partly since the annexation of the South African Republic, to His Majesty's Dominions under a contract in writing registered at the Office of the Registrar of the High Court of the late South African Republic, or of the High Court of this Colony, as the case may be, for a period of three years subsequent to the date of the registration of such contract, and that he has passed the examination in Law and Jurisprudence of the University of the Cape of Good Hope, or an

PROCLAMATION

By His Excellency the Administrator.

(DATED 10TH APRIL, 1902.)

Providing for Administration of Justice within the Colony of the Transvaal pending the establishment of the Supreme Court of the Transvaal.

WHEREAS it is expedient to make provision for the due and effectual Administration of Justice within this Colony pending the establishment of the Supreme Court of the Transvaal :

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

1. There shall be and there is hereby created, erected, and constituted within this Colony a Court, which shall be called "The High Court of the Transvaal," and shall be a Court of Record.

High Court to be established in Colony.

† 2. The said Court shall consist of and be holden by and before so many members as the Governor may appoint, not being less than four, one of whom shall be the President thereof, and shall be called and known as the Judge President of the High Court of the Transvaal; and he and the other members of the said Court, who shall be called and known as Judges, shall be respectively Advocates admitted or entitled to be admitted to practise in the said Court, or Judges of the Supreme Court of any British Colony, and shall be appointed by the Governor of this Colony by commission under his hand and seal.

Constitution of Court; qualification and appointment of the members thereof.

The Judge President and each of the Judges of the said Court shall on appointment be required before exercising the functions of his office to take the oaths set forth in Schedule A hereto annexed before the Governor, who is hereby authorised to administer the same.

3. Upon the death, resignation, sickness or incapacity of the Judge President or any Judge of the said Court, or in case of the absence of any of them from their duties on leave, or in

How vacancy to be filled in case of death, etc., of any member of the High Court.

* This Proclamation is to form part of and be read as one with Ordinance 2 of 1902, and apply to the Courts established by it; and the following expressions are to be substituted in this Proclamation wherever they occur :—

(a) "Supreme Court" for "High Court."

(b) "Witwatersrand High Court" for "Witwatersrand District Court."

(c) "Chief Justice" for "Judge President."

† For appointments see Government Notice 119 of 1902, published in *Government Gazette*, 15th April, 1902, p. 442.

case of any such suspension from office as hereinafter mentioned of such Judge President or Judge it shall and may be lawful for the Governor, by commission under his hand and seal, to nominate and appoint some fit and proper person or persons to act as, and in the place and stead of, any such Judge President or Judge so dying, or resigning, or labouring under such sickness or incapacity as aforesaid, or being so absent as aforesaid from this Colony, or being so suspended until the vacancy or vacancies so created by any such death or resignation or sickness, or incapacity, or absence, or suspension, shall be supplied by a new appointment to be made in manner aforesaid by the Governor; or until the Judge President or Judge so becoming sick or incapable, or being absent, or suspended, as aforesaid, shall resume such his office and enter into the discharge of the duties thereof.

How members of the Court are to hold or be suspended from office.

4. The Judge President and other Judges of the said Court shall hold such their offices during good behaviour: provided, nevertheless, that it shall and may be lawful for the Governor by any order or orders to be by him for that purpose made and issued under his hand and seal upon proof of the misconduct of any such Judge President or Judge as aforesaid, to suspend him from such his office, and from the discharge of the duties thereof: provided that in every such case the said Governor shall immediately report for the information of His Majesty, through one of his principal Secretaries of State, the ground and causes of such suspension, and His Majesty in Council shall have full power and authority to confirm or disallow such suspension, or upon sufficient proof to his satisfaction of any such misconduct to remove and displace any such Judge President or Judge from such office.

The seal of the Court.

5. The said High Court shall have and use as occasion may require a seal bearing a device and impression of the Royal Arms of the United Kingdom of Great Britain and Ireland, within an exergue or label surrounding the same with this inscription, "The Seal of the High Court of the Transvaal." The said seal shall be delivered to, and shall be kept in the custody of, the Registrar of the said Court or the Officer for the time being acting as such.

The custody of the seal.

Salaries of members of Court.

6. The Judge President and Judges of the said Court so long as they shall hold their offices respectively, shall be entitled to have and receive such salaries as shall be granted to them by the Governor, which shall be in lieu of all fees of office, perquisites, emoluments and advantages whatsoever; and no fees of office, perquisites, emoluments or advantages other than and except the said salaries shall be accepted, received or taken by any such Judge President or Judge on any account or any pretence whatsoever.

As to the member of the Court taking any other office, &c.

7. No member of the said Court shall accept, take, or perform any other office, place of profit or emolument within this Colony without the consent of the Governor; and the acceptance of any such other office or place as aforesaid, without the con-

sent of the Governor, shall vacate and avoid such his office of member of the said Court, and the salary thereof shall cease accordingly from the time of the acceptance of any such other office or place.

8. There shall be attached and belong to the said Court one officer to be styled the Registrar, and one other officer to be styled the Master thereof, together with so many other officers as to the Judge President of the said Court for the time being shall, from time to time appear to be necessary for the administration of justice and the due execution of the powers and authorities which are granted to the said Court by this Proclamation, who shall all hold office during His Majesty's pleasure: Provided, nevertheless, that no new office shall be created in the said Court unless the Governor shall first signify his approbation thereof to the said Judge President in writing under his hand; and, provided further, that each of the aforesaid officers shall, before exercising the functions of his office, take the oath set forth in Schedule B annexed hereto before any of the members of the said Court.

What Officers to belong to Court: Registrar; Master.

9. All persons who shall and may be appointed to the offices of Registrar or Master of the said Court, shall be appointed by the Governor by commission under his hand and seal.

How Officers of Court to be appointed.

10. The said Court may approve, admit to practise, and enrol as an Advocate of the said Court therein:—

Admission of advocates to practise in the said Court.

- (a.) Any person who shall have been admitted as a Barrister in England or Ireland, or as an Advocate in the Court of Session of Scotland, or as an Advocate in the Supreme Court of the Colony of the Cape of Good Hope.
- (b.) Any person who shall have passed the necessary examination, entitling him to be admitted as an Advocate of the High Court of the late South African Republic, or who shall have been admitted as an Advocate of the said Court. Such last mentioned person shall be admitted without being required to pay any fresh or additional stamp duty.
- (c.) Any person who shall have been admitted to practise as an Advocate in the Supreme Court of any British Colony, and who, at the date of his application for admission to practise in this Colony, remains enrolled as an Advocate of such Supreme Court as aforesaid; provided that such person—
 - (1) Shall have passed an examination in law, which at the date of his application for admission as aforesaid, is covered by a notice issued in terms of sub-section (a.) of Section twelve of this Proclamation; or
 - (2) Shall for a period of seven years successively have practised in such Supreme Court as aforesaid exclusively as an Advocate, and not in partnership with any Attorney of such Court.

- (d) Any person who, not being entitled to be admitted under any of the previous sub-sections, shall have been admitted to practise as an Advocate in the Supreme Court of any Colony or State now forming part of British South Africa, and who at the date of the taking effect of this Proclamation shall have practised as such Advocate for a period of seven years successively.
- (e) Any person who shall pass an examination in this Colony to be hereafter, by notice in the *Gazette*, declared to be an examination entitling the person who passes it to be admitted as an Advocate of the said Court.

Provided always that no person shall be admitted to practise as an Advocate of the High Court of the Transvaal, or after having been so admitted shall continue to practise as aforesaid, who shall either himself be carrying on directly or indirectly the business of an Attorney, or be directly or indirectly interested in the business of any Attorney or firm of Attorneys practising within this Colony or any other British Colony; and provided further that no person shall be admitted to practise as aforesaid until he shall have taken in open Court the oaths set forth in Schedule C hereto annexed.

Admission of Attorneys to practise in the said Court.

11. The said Court may approve, admit to practise, and enrol as an Attorney of the said Court:

- (a) Any person who, being an Attorney or Solicitor of any of the Courts of Record in London or Dublin, or being a Writer to the Signet, or a Solicitor or Law Agent admitted to practise in the Supreme Courts in Scotland, or an Attorney of the Supreme Court of the Colony of the Cape of Good Hope, is not under any order of suspension in any of such Courts respectively.
- (b) Any person of full age who has passed the necessary examination and served the necessary time with an Attorney, entitling him to be admitted as an Attorney of the High Court of the late South African Republic, or having been an Attorney of the said High Court, is not under any order of suspension in such Court. Such last mentioned person shall be admitted without being required to pay any fresh or additional stamp duty.
- (c) Any person of full age who produces satisfactory proof that he has actually served with a practising Attorney in this Colony, either before or since, or partly before and partly since the annexation of the South African Republic, to His Majesty's Dominions under a contract in writing registered at the Office of the Registrar of the High Court of the late South African Republic, or of the High Court of this Colony, as the case may be, for a period of three years subsequent to the date of the registration of such contract, and that he has passed the examination in Law and Jurisprudence of the University of the Cape of Good Hope, or an

examination in law which at the date of his application is covered by a notice issued in terms of sub-section (b.) of section *twelve* of this Proclamation, as well as the Matriculation Examination of the said University or an examination in literature and science covered by a proclamation issued in terms of sub-section (c.) of section *twelve* of this Proclamation.

- (d) Any person who shall produce satisfactory proof that he has been admitted as an Attorney or Solicitor in the Supreme Court of any British Colony, and that at the date of his application for admission in this Colony his name remains enrolled as an Attorney or Solicitor of such Supreme Court, and that he has practised as an Attorney or Solicitor of such Supreme Court for a period of seven successive years, or has passed such an examination in Law as is mentioned in the last preceding sub-section :
- (e) Any person entitled to be admitted as an Advocate, provided he satisfies the Court that he has not practised as an Advocate during the six months immediately preceding his application for admission as an Attorney :

Provided always that every person admitted by the said High Court to practise as an Attorney shall take the oaths set forth in Schedule C hereto annexed in open Court unless otherwise ordered.

12. It shall be lawful for the Governor, after having consulted with and obtained the approval of the majority of the members of the said Court, and in case the proposed notice be one under sub-sections (b) and (c) of this section, after consultation with the * President of the Law Society of this Colony (if there be one) from time to time to notify in the *Gazette* :

Governor may approve examinations qualifying for admission.

- (a) That any examination in law specified in such notice is to be deemed equivalent to the examination for the degree of Bachelor of Laws in the University of the Cape of Good Hope.
- †(b.) That any examination in law specified as aforesaid is to be deemed equivalent to the examination in Law and Jurisprudence of the University of the Cape of Good Hope.
- (c) That any examination in literature and science specified as aforesaid is to be deemed equivalent to the matriculation examination in the University of the Cape of Good Hope.

13. The persons approved, admitted and enrolled as aforesaid shall be and they are hereby authorised to appear and

Capacity and removal of persons enrolled.

* See Pr. Tr. 18 of 1902; and Government Notice 125 of 1902 (*Gazette*, 15th April, 1902, p. 443).

† See Government Notice 521 of 1902 (*Gazette*, 17th Oct., 1902, p. 1457) for syllabus of Transvaal Law Certificate Examination, which is to be deemed equivalent to the above-mentioned examination.

plead and act for the suitors of the said Court, subject always to their being suspended or removed by the said Court upon reasonable cause.

How functions of
Advocates and At-
torneys to be dis-
charged.

14. No person or persons whatsoever not so approved, admitted, and enrolled as aforesaid shall be allowed to appear, plead or act in the said Court for or on behalf of any suitors: Provided always that the functions and offices of Advocates shall not be discharged in the said Court by the Attorneys thereof and the functions and offices of such Attorneys shall not be discharged by such Advocates: Provided further that in case there shall not be a sufficient number of Advocates within this Colony competent and willing to act for the suitors of the Court, the said Court may and is hereby authorised to admit any of the Attorneys thereof to appear and act as Advocates during the time of such insufficiency only; and in case there shall not be a sufficient number of Attorneys within the said Colony competent and willing to appear and act in that capacity for the suitors of the said Court, the said Court may and is hereby authorised to admit any of such Advocates to practise and act in the capacity of Attorneys during the time of such insufficiency only.

15. The said Court may approve, admit to practise, and enrol—

Admission of
Notaries and Con-
veyancers.

(a.) As a Notary Public any person who has been admitted as an Attorney of the said Court and who has passed an examination in notarial practice prescribed by any Rule of Court; or whose name appears on the Rolls of the High Court of the late South African Republic as having been admitted to practise as a Notary Public.

(b.) As a Conveyancer any person who has been admitted as an Attorney of the said Court and who has passed an examination in conveyancing prescribed by any Rule of Court; or who has been admitted to practise as a Conveyancer in the late South African Republic.

Jurisdiction of
Court.

16. The said Court shall have cognizance of all pleas and jurisdiction in all civil causes and proceedings arising or which shall have arisen within the said Colony or which shall have arisen in the Transvaal prior to the annexation thereof to His Majesty's Dominions, with jurisdiction over His Majesty's subjects and all other persons whomsoever residing or being within the said Colony; provided always that

** (1) No action or other legal proceeding shall be maintainable in the said Court against His Excellency the Administrator of the Transvaal or the Commander-in-Chief in South Africa of His Majesty's Forces, or against any person or persons acting under them or either of them respectively in any command or capacity civil or military for or on account or in respect of any acts, matters and*

* Sub-sections 1 and 2 of the proviso to this section were repealed by Ord. 38 of 1902, which withdrew Martial Law.

things whatsoever in good faith advised, commanded, ordered, directed, or done as necessary for the suppression of hostilities in or the maintenance of good order and government or for the public safety of this Colony.

- (2) *No proceeding shall be maintainable in the said Court for the discharge from custody of any person sentenced by a Military Court or arrested under Martial Law, or for the recovery of or in respect of the use and occupation of any property movable or immovable requisitioned by proper authority for military purposes, or used or occupied by any members of His Majesty's Forces while on active service in this Colony, with the consent or ratification of the Commander-in-Chief in South Africa.*
- (3) The said Court shall not exercise jurisdiction in any civil cause, matter, or proceeding in which the cause of action arose prior to the first day of September, 1900, unless the defendant thereto has been served with the process of the said Court either personally within the jurisdiction of the Court or in such other manner as the Court may direct.

17. The said Court shall have full power, authority, and jurisdiction to apply, judge and determine upon and according to the laws now in force within this Colony, and all such other laws as shall at any time hereafter be duly made and established for the peace, order, and government thereof. The Roman-Dutch Law except in so far as it is modified by Legislative Enactments shall be the law of this Colony.

What Laws to apply, &c.

18. The said Court shall have full power, jurisdiction and authority to review the proceedings of all inferior Courts of Justice within this Colony, and to hear appeals from such Courts and from the Special Criminal Courts at Pretoria and Johannesburg in all cases in which such appeals may be allowed by law. *The pleadings and proceedings of the said Court and of the Witwatersrand District Court hereinafter mentioned shall be carried on, and the sentences, decrees, judgments and orders thereof pronounced and declared in open Court and not otherwise, and the several pleadings and proceedings of the said Courts shall be in the English language.

Review by Court of proceedings of inferior Courts.

Pleadings, language, &c., of Court.

19. The grounds upon which it is competent to bring the proceedings of the inferior Courts under the review of the High Court are :

Grounds of review.

- (1) Incompetency of the Court in respect of the cause, including all excess of the jurisdiction, whether committed by the judge in trying for an offence which, in respect of its nature or magnitude, or of its having been committed out of his jurisdiction, or of its having

Incompetency of the Court in respect of jurisdiction.

* By Ordinance 2 of 1902, sect. 7, it is competent for the Supreme Court, Witwatersrand High Court, or any Circuit Court hereafter established to allow the use of the Dutch language at the hearing of any civil or criminal suit before it, whenever it appears to such Court to be necessary for the better and more effectual administration of justice.

Incompetency in respect of interest of the Judge or his near kinsman.

Malice or corruption.

Gross irregularity.

Admission or rejection of evidence.

Conduct and decision of Civil Suits.

One member competent in vacation to exercise powers of High Court.

Right of Appeal from member to High Court.

Where Court to be holden.

Court in Johannesburg established.

been already tried or forming the subject of a pending trial in any other competent Court, was not subject to his jurisdiction, or in awarding a greater punishment than by the constitution of his Court he had power to award.

(2) Incompetency of the Court in respect of the Judge himself as that either the Judge himself or his near kinsman had an interest in the cause.

(3) Malice or corruption on the part of the Judge.

(4) Gross irregularity in the proceedings.

(5) The admission of illegal or incompetent evidence or the rejection of legal and competent evidence.

20. All actions for provisional sentence, all motions, applications and trial cases in which the defendant is in default may be heard before one member of the said Court sitting in Chambers; in all other civil proceedings any two of the members of the said Court shall form a quorum, and shall be competent to execute all and every the powers, jurisdictions and authorities hereby granted to and vested in the said Court; and in the event of any difference of opinion between such two members the case shall be re-heard before three or more members subject to such directions as to the taking of evidence or otherwise as the Court may direct, and the decision of such two members when unanimous, or of the majority of three or more members in case of any difference of opinion, shall in all cases be deemed and taken to be the decision of the whole Court.

21. During any period which shall by any law or Rule of Court be fixed as a vacation of the said Court during which the ordinary business thereof shall be suspended, one member of the said Court shall be competent to execute all and every the powers, jurisdictions and authorities vested in the said Court.

22. There shall be a right of appeal to the said Court from every final order granted or judgment pronounced by a single member sitting in Chambers.

23. The said Court shall be holden in Pretoria, and for the despatch of business it may sit in more than one division at the same time; provided that each such division shall be constituted of such a quorum at least of the members of the said Court as is required by section *twenty* of this Proclamation. Every sitting of a division so constituted shall in law be considered to be and shall have all the consequences of an ordinary sitting of the High Court.

24. There shall be and there is hereby established a Superior Court for Johannesburg: The boundaries and *limits of the area within which the said Court shall have jurisdiction, shall be defined by notice in the *Gazette* by the Governor, and may from time to time be altered as occasion may require. The said Court shall have and exercise such jurisdiction as is herein-

* The area is defined in Government Notice 117 of 1902, published in *Government Gazette*, 15 April, 1902, p. 442.

*after specified, and shall be called "The Witwatersrand District Court," hereinafter called the "District Court."

25. The said last-mentioned Court shall be holden at Johannesburg before the Judge President or any one of the Judges of the High Court of the Transvaal, and for the despatch of business it may sit in more than one division at the same time, each such division to be constituted of a single member. Every sitting of a division so constituted shall in law be considered to be and shall have all the consequences of an ordinary sitting of the said District Court.

Constitution of
District Court.

26. There shall be attached and belong to the said District Court a Registrar who shall keep the records of the said Court together with so many other officers as may be found necessary. Such officers shall be appointed in the same manner as is hereinbefore provided for the appointment of officers of the High Court of the Transvaal.

Appointment of
Registrar and other
Officers.

27. The District Court shall be a Court of Record, and shall within the district in which it may be holden, have and exercise concurrently with the High Court of the Transvaal all such and the same jurisdiction powers and authority as are by this Proclamation vested in the said last-mentioned Court, save and except appellate jurisdiction and the power of reviewing the proceedings of inferior Courts; and save and except that in proceedings in insolvency and all other proceedings in which a limited jurisdiction is conferred by the laws of the late South African Republic on Circuit Courts established therein, the said District Court shall have the same limited jurisdiction.

Jurisdiction of
District Court.

28. All Advocates and Attorneys admitted and enrolled in the High Court of the Transvaal shall be entitled, without any other enrolment, to be admitted to practise as Advocates and Attorneys in the District Court.

Advocates, &c., in
High Court of the
Transvaal admitted
to practise as such in
the District Court.

29. As often as any action, suit or other proceeding shall be brought in the High Court of the Transvaal, or in the District Court, and it shall appear to the Court before which such action, suit or other proceeding may be pending that the same may be more conveniently or more fitly heard or determined in the other of the said Courts, it shall be lawful for such Court to order such action, suit or other proceeding to be removed to such other Court; and such order shall be certified by the Court granting the same together with the process and proceedings in such action, suit or other proceeding to the Court into which such action, suit, or other proceeding shall be intended to be removed; and thereupon it shall be lawful for such last-mentioned Court and such Court is hereby required to proceed in such action, suit or other proceeding in like manner as if the same had been originally commenced and prosecuted in such last-mentioned Court.

Removal of cases
from one Court to
another.

30. In every case in which any judgment, decree, order or other record of the High Court of the Transvaal, or of the District Court, shall require to be proved, inspected or in any manner referred to in any other Court, a copy of such record

Copy of record
duly certified to be
admitted as evidence.

certified under the seal of the High Court of the Transvaal or as to any such record of the said District Court under the signature of the Registrar of such Court shall be taken and received as *prima facie* evidence of such record: Provided that it shall not be necessary in regard to any certified copy to prove the handwriting of any such Registrar to any such copy.

Rules and Orders
to be framed by High
Court.

31. It shall be lawful for the members of the High Court of the Transvaal, or the majority of them, to *frame, constitute and establish such rules, orders and regulations as to them shall seem meet touching and concerning the time and place of holding the said Court and the said District Court; the form and manner of proceeding to be observed in the said Courts respectively; the practice and pleading upon all actions, suits, and other matters of a civil nature to be therein brought: the appointing of Commissioners to take bail and examine witnesses; the examination of witnesses *de bene esse* and allowing the same as evidence; the proceedings of the Sheriff and other ministerial officers of the said Courts respectively; the process of the said Courts and the mode of executing the same; the summoning of witnesses; the procedure with regard to the admission of Advocates, Attorneys, Conveyances and Notaries Public, and other officers of the said Courts; the suspension from the right to practise, or the cancellation of admission to practise in the said Courts of Advocates, Attorneys, Notaries Public and Conveyancers; the fees to be lawfully demanded by and payable to any officers or Attorneys in the said Courts respectively; the manner of recording and noting evidence of the proceedings in the said Courts; and touching and concerning all such other matters and things necessary for the proper conduct and despatch of business in the said Courts: Provided always that no such rules, orders and regulations shall be repugnant to the provisions of this Proclamation, and that the same shall be so framed as to promote, as far as may be, economy and expedition in the despatch of the business of the aforementioned Courts respectively.

Rules to be ap-
proved by Governor
and published in
Gazette.

32. *Every rule, order and regulation, as aforesaid, shall be submitted to the Governor for his approval, and on being so approved shall be published in the *Gazette* and shall take effect from and after such publication, unless some other subsequent time shall be named therein from which the same is to take effect, in which case it will take effect from such time, and shall from such time forward respectively be of full force and effect until altered or repealed by competent authority.

Appeals from the
District Court.

33. It shall and may be lawful for any person being a party to any civil suit or proceeding in the District Court, to appeal to the High Court of the Transvaal against any judgment decree or order of the said District Court: Provided that the party appelland shall within twenty-one days next after such judgment decree or order shall have been pronounced, give

* Such rules, orders and regulations were framed by the Judges and approved by the Governor, and promulgated by Government Notice 153 of 1902, in *Gazette* of 1st May, 1902, p. 563.

notice of appeal to the party respondent, and to the Registrar of the Court from which the appeal takes place, and shall, within three months after such judgment, decree, or order has been pronounced, duly prosecute such appeal in the said High Court of the Transvaal, in case there shall be a sitting of the said Court within that period, or if there shall not be such sitting, then at the next sitting of the said Court: Provided that it shall be lawful for the High Court of the Transvaal for good and sufficient cause shewn, to extend the time within which the appellant shall prosecute his appeal.

34. In every civil suit heard or tried before the High Court of the Transvaal or District Court the presiding member of such Court shall cause the evidence if oral to be fully and clearly taken down, in writing, and the evidence so taken shall be entered upon the proceedings of the said Courts, and be of record.

Mode of hearing cases.

35. In every case in which notice of appeal shall be given to the Registrar of the District Court, such Registrar shall forthwith transmit a copy of the record certified by him as authentic, to the Registrar of the High Court of the Transvaal. Such record shall include all oral evidence taken down in writing in manner aforesaid, and all other evidence whether taken by commission or affidavit and all documents and papers which shall have been produced and given in evidence. Copies of any documents and papers which shall have been produced and tendered in evidence and rejected shall, if required by the party producing the same, be authenticated and marked by the Registrar as rejected.

Transmission of records in appeals.

36. It shall be lawful for the District Court to direct that the Judgment, decree, or order appealed against, shall be carried into execution, or that execution thereof shall be suspended pending the said appeal as to such Court may in each case appear to be most consistent with real and substantial justice. And in case such judgment, decree, or order shall be carried into execution the party respondent shall, before the execution of such judgment, decree, or order enter into good and sufficient security to be approved by the Registrar of the said District Court for the due performance of such judgment, decree, or order as the High Court of the Transvaal shall think fit to make thereon; and in case the execution of any judgment, decree or order shall be suspended, pending the said appeal, the party appellant shall enter into good and sufficient security to be approved in the manner aforesaid for the due performance of such judgment, decree or order, as the High Court of the Transvaal shall see fit to make thereon: Provided that it shall be lawful for the High Court of the Transvaal for good and sufficient cause shown, to dispense with the security by this section required from the appellant or respondent, as the case may be.

How Judgment appealed against to be dealt with pending appeal.

Security.

Security may be dispensed with.

37. No judgment, decree, or order made by the District Court by the consent of parties, or as to costs only, which by law are left to the discretion of the Court, and no interlocutory

When appeal allowed from District Court.

order shall be subject to any appeal, except by leave of such Court

Quorum of members of Court on Appeal.

38. Every appeal to the High Court of the Transvaal against any judgment, decree, or order of the District Court shall be heard before not less than three members thereof.

Appeals from High Court of Transvaal to Privy Council.

39. It shall, and may be lawful for any person or persons being a party or parties to any civil suit or action depending in the High Court of the Transvaal, or before such Court on appeal to appeal to His Majesty the King in His *Privy Council against any final judgment, decree, or sentence of the said Court, or against any rule or order made in any such civil suit or action having the effect of a final or definite sentence; which appeals shall be made subject to the rules, regulations and limitations following, that is to say:—In case any such judgment, decree, order, or sentence shall be given or pronounced for or in respect of any sum or matter at issue above the amount or value of £2,000 sterling; or in case such judgment, decree, order or sentence shall involve directly or indirectly any claim, demand, or question to or respecting property, or any civil right amounting to or of the value of £2,000 sterling, the person or persons feeling aggrieved by any such judgment, decree, order, or sentence of the said High Court may, within thirty days next after the same shall have been pronounced, made or given, apply to the said Court by petition for leave to appeal therefrom to His Majesty the King, in His Privy Council; and in case such leave to appeal shall be prayed by the party or parties who is or are adjudged to pay any sum of money, or perform any duty the said Court shall, and is hereby empowered, either to direct that the judgment, decree or sentence appealed from shall be carried into execution, or that the execution thereof shall be suspended, pending the said appeal as to the said Court may in each case appear to be most consistent with real and substantial justice. And in case the said Court shall direct such judgment, decree, order or sentence to be carried into execution, the person or persons in whose favour the same shall be given shall before the execution thereof enter into good and sufficient security to be approved by the said Court for the due performance of such judgment or order as His Majesty the King in His Privy Council shall think fit to make thereupon; or in case the said Court shall direct the execution of any judgment, decree, order or sentence to be suspended pending the said appeal, the person or persons against whom the same shall have been given shall in like manner and before any order for the suspension of any such execution is made enter into good and sufficient security to be approved by the said Court for the due performance of such judgment or order

*By Ordinance 12 of 1902, Sect. 1 the Supreme Court has appellate jurisdiction (civil and criminal) from the High Court of, or any Circuit Court of the Orange River Colony; and an appeal lies from it to the Privy Council from its judgment in such appeals, but in such cases the appealable amount is £500 instead of the £2,000 provided by this Section for Transvaal appeals.

as His Majesty the King shall think fit to make thereupon; and in all cases security shall be given by the party or parties appellant to the satisfaction of the said High Court in term time or one of the members thereof in vacation for the prosecution of the appeal and for the payment of all such costs as may be awarded by His Majesty to the party or parties respondent: and if such last-mentioned security shall be completed within two months from the date of such petition for leave to appeal then and not otherwise the said High Court shall allow the appeal and the party or parties appellant shall be at liberty to prefer and prosecute his her or their appeal to His Majesty in His Privy Council in such manner and under such rules as are observed in appeals made to His Majesty from his Colonies.

40. In all cases of appeal allowed by the said High Court or by His Majesty, the Registrar of the said Court shall certify and transmit to His Majesty in His Privy Council a true and exact copy of all evidence proceedings judgments decrees and orders had or made in such cases so far as the same have relation to the matter of appeal such copies to be certified under the seal of the said Court.

Copies of records
to be transmitted to
Privy Council.

41. The High Court shall in all cases of appeal to His Majesty conform to and execute such judgments or orders as they shall think fit to make in the premises in such manner as any original judgment decree or order or rule by the said High Court could or might have been executed.

How Judgments of
the Privy Council on
appeals to be exe-
cuted.

42. All and singular the rules and orders relating to the practice and procedure in the High Court of the late South African Republic in force at the date of the annexation of the said Republic to His Majesty's Dominions shall govern the practice and procedure in the High Court of the Transvaal and * the District Court until repealed altered or amended by the members of the said Court in so far as the same are not inconsistent with the provisions of this Proclamation; subject however to such changes and adaptations as may be necessary for the purpose of this Proclamation.

Rules and orders of
High Court of the
late South African
Republic to be in
force until repealed
or amended.

43. The Governor shall by notice in the *Gazette* notify to the inhabitants of this Colony the time when the Courts hereby established will be open and then and from thenceforth the jurisdiction in all civil matters and proceedings vested in the Special Criminal Courts at Pretoria and Johannesburg shall be absolutely abolished cease and determine: Provided nevertheless that all decrees judgments and sentences heretofore made by the said Courts shall to all intents and purposes be as binding conclusive good valid and effectual as if this Proclamation had not been passed; and every civil suit action complaint matter or thing which shall be depending in such last-mentioned Courts or in the High Court of the late South African Republic shall and may be proceeded upon in the High

Abolition of civil
jurisdiction of
Special Criminal
Courts at Pretoria
and Johannesburg.

* Such rules were framed by the Judges and approved by the Governor and promulgated by Government Notice 153 of 1902 in Gazette of 1st May 1902 p. 563.

Court of the Transvaal instituted under and by virtue of this Proclamation; and all proceedings which shall thereafter be had in such action or suit or other matter shall be conducted in like manner as if such action or suit or other matter had been originally commenced in the said High Court instituted under these presents. And all the records minutes and proceedings whatsoever of and belonging to the said High Court established in the late South African Republic shall from and immediately after the opening of the said High Court of the Transvaal established by this Proclamation be delivered over and deposited for safe custody in the said Court; and all parties concerned shall and may have recourse to the said records and proceedings and to any other records or proceedings of the said Court.

Jurisdiction of High Court and District Court in respect of certain existing laws.

44. Subject to the provisions of this Proclamation whenever in any law of the late South African Republic which is in force in this Colony the Chief Justice or a Judge of the High Court of the South African Republic is required or empowered to do any act the Judge President or a Judge of the High Court of the Transvaal established by this Proclamation shall respectively be required or empowered to do the like; and whenever in any such law the aforesaid High Court of the South African Republic is required or empowered to do any act the High Court of the Transvaal established under this Proclamation shall be required and empowered to do the like.

Jurisdiction conferred on future Supreme Court conferred on High Court of Transvaal.

45. Wherever by any Proclamation heretofore issued jurisdiction is conferred on the Supreme Court of the Transvaal to be established or on any Judge thereof in chambers such jurisdiction shall be exercised by the High Court of the Transvaal established under this Proclamation or any member thereof in chambers respectively; provided that the jurisdiction conferred as aforesaid on the said Supreme Court may be exercised by the District Court in all matters within its jurisdiction.

46. Notwithstanding anything to the contrary in Sections *Ten* and *Eleven* or any other provisions in this Proclamation it shall be lawful for any person who is entitled under this Proclamation to be admitted to practise as an Advocate or Attorney of the High Court of the Transvaal to practise as such Advocate or Attorney before and up to the date of the first day of sitting of the said Court, pending and subject to his admission hereafter as such Advocate or Attorney as the case may be.

Repeal of laws.

47. All laws inconsistent with the provisions of this Proclamation are hereby repealed.

Title of Proclamation.

This Proclamation may for all purposes be cited as the "Administration of Justice Proclamation, 1902."

SCHEDULE "A."

I.....
do swear that I will be faithful and bear true allegiance to His Majesty King Edward VII. His Heirs and Successors according to law

So help me God.

I.....
do swear that I will well and truly serve His Majesty King Edward VII. in the Office of Judge President of the High Court of the Transvaal (or Judge thereof as the case may be) and that I will do right to all manner of people after the Laws and Usages of this Colony without fear, affection, favour or ill-will.

So help me God.

SCHEDULE "B."

In the High Court of the Transvaal.

I.....
do swear that I will be faithful and bear true allegiance to His Majesty King Edward VII. His Heirs and Successors according to law.

So help me God.

Sworn before me at
my Chambers this

(Name of Member of Court before whom oath is taken).

I.....
do swear that I will well and truly serve His Majesty King Edward VII. in the Office of [Registrar] of the High Court of the Transvaal.

So help me God.

Sworn before me at
my Chambers this

(Name of Member of Court before whom oath is taken).

SCHEDULE "C."

In the High Court of the Transvaal.

I.....
do swear that I will truly and honestly demean myself in the practice of an (Advocate or Attorney as the case may be) according to the best of my knowledge and ability.

So help me God.

Sworn in open Court

this.....day of.....

Registrar.

I.....
do swear that I will be faithful and bear true allegiance to His Majesty King Edward VII. His Heirs and Successors according to law.

So help me God.

Sworn in open Court

this.....day of.....

PROCLAMATION

By His Excellency the Administrator.

(DATED 10TH APRIL, 1902.)

To Interpret and Shorten the Language of Proclamations, Laws, etc., in force in the Transvaal.

Preamble.

WHEREAS it is desirable to interpret and shorten the language of Laws now or hereafter in force in this Colony :

Now therefore in virtue of the authority in me vested I do hereby declare, proclaim and make known as follows :—

All Laws to be interpreted according to definitions in this Proclamation.

1. In the interpretation of all laws as the expression is defined in the next succeeding section made since the annexation of the Transvaal to the Crown, and hereafter to be made and of all bye-laws, rules, regulations or orders made under the authority of any such law the definitions and other provisions in this Proclamation contained shall, unless the contrary intention appears, be adopted and applied.

Definition of terms.

2. The terms following between *inverted commas* shall be read and taken to mean as follows :—

“Governor” shall mean the officer for the time being administering the Government of this Colony.

“Christian name” any name prefixed to the surname whether received at Christian baptism or not.

“District” the area subject to the jurisdiction of the Court of any Resident Magistrate.

“Month” a calendar month.

“Gazette” the *Government Gazette* for the Transvaal.

The expression “Oath” and “Affidavit” shall in the case of persons for the time being allowed by law to affirm or declare instead of swearing include affirmation and declaration, and the expression “Swear” shall in the like case include affirm and declare.

“Law” shall mean and include any Proclamation, ordinance or enactment duly made and published by the person or body of persons having for the time being authority to make laws for the Transvaal, and any law or resolution of the Volksraad of the late South African Republic.

“Person” shall include Joint Stock Company, Municipal Corporation, or any body of persons whether incorporated or not.

3. When any act matter or thing is by any law directed to be done by the Governor the notification that such act, matter or thing has been done may be by notice in the *Gazette*.

Notice in *Gazette*.

4. In every law expressions relating to writing shall, unless the contrary intention appears, be construed as including references to typewriting, printing, lithography, photography, and other modes of representing or reproducing words in a visible form.

Writing or printing.

5. When any particular number of days is prescribed for the doing of any act or for any other purpose the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day should happen to fall on a Sunday, Christmas Day, the day after Christmas Day, New Year's Day, Good Friday, Easter Monday, Ascension Day, Whit Monday, the day appointed to be observed as His Majesty's birthday, or any other day appointed by any law or by the Governor under the authority of any law as a public holiday or as a Solemn Fast or Day of Thanksgiving, in which case the time shall be reckoned exclusively of the first and of every other such day also.

How number of days to be reckoned.

6. When any bye-laws, regulations, rules or orders are authorised by any law to be made by the Governor or any local authority, public body or person, with the approval of the Governor, such bye-laws, regulations, rules or orders shall be published in the *Gazette*, and production of a copy of the *Gazette* containing a notice of the making or approval thereof (as the case may be) by the Governor shall be sufficient evidence of such making or approval.

Copy of *Gazette* proof of bye-laws, &c.

7. (1) Where a law repeals and re-enacts with or without modifications any provisions of a former law references in any other law to the provisions so repealed shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.

Effect of repeal.

(2) Where any law repeals any other law then, unless the contrary intention appears, the repeal shall not—

- (a) Revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) Affect the previous operation of any law so repealed or anything duly done or suffered under the law so repealed; or
- (c) Affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any law so repealed; or
- (d) Affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any law so repealed; or

- (e) Affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

And any such investigation, legal proceeding or remedy, may be instituted, contained or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing law had not been passed.

When repeal takes effect.

8. When a law repeals wholly or partially any former law and substitutes provisions for the law so repealed, the repealed law shall remain in force until the substituted provisions come into operation.

Construction of provisions as to exercise of powers and duties.

9.—(1) Where a law confers a power, or imposes a duty then unless the contrary intention appears the power may be exercised, and the duty shall be performed from time to time as occasion requires.

(2) Where a law confers a power or imposes a duty on the holder of a public office as such, then, unless the contrary intention appears the power may be exercised, and the duty shall be performed from time to time by the holder for the time being of the office.

(3) Where a law confers a power to make any rules, regulations or bye-laws, the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner, and subject to the like consent and conditions, if any, to rescind, revoke, amend, or vary the rules, regulations or bye-laws.

Singular and plural Male and Female.

10. Words in the singular number, shall include the plural number and words in the plural number, shall include the singular number and words of the masculine gender shall include females.

Meaning of " Rules of Court."

11. In every law, unless the contrary intention appears the expression " Rules of Court," when used in relation to any Court shall mean rules made by the authority having for the time being, power to make rules, or orders regulating the practice and procedure of such Court. The power of the said authority to make Rules of Court as above defined, shall include a power to make Rules of Court for the purpose of any law, directing or authorising anything to be done by Rules of Court.

Meaning of " Service by Post."

12. Where any law authorises or requires any document to be served by post, whether the expression " serve," or the expression " give," or " send," or any other expression is used, then, unless the contrary intention appears, the service shall be deemed to be effected by properly addressing pre-paying and posting a registered letter containing the document, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.

References to the Crown.

13. In every law, references to the Sovereign reigning at the time of the passing of the law, or to the Crown, shall, unless

the contrary intention appears, be construed as references to the Sovereign for the time being.

14. In the measurement of any distance for the purpose of any law that distance shall unless the contrary intention appears, be measured in a straight line on a horizontal plane. Measurement of distances.

15. Where any law or any order, warrant, scheme, letters patent, rules, regulations or bye-laws, made, granted, or issued under a power granted by any such law, is expressed to come into operation on a particular day, the same shall be construed as coming into operation immediately on the expiration of the previous day. Commencement of law, &c.

16. Where a law is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant, or issue any instrument, that is to say, any order, warrant, scheme, letters patent, rules, regulations, or bye-laws to give notices, to prescribe forms, or to do any other thing for the purposes of the law, that power may, unless the contrary intention appears, be exercised at any time after the passing of the law, so far as may be necessary or expedient, for the purpose of bringing the act into operation at the date of the coming into operation thereof, subject to this restriction that any instrument made under the power, shall not, unless the contrary intention appears in the law, or the contrary is necessary for bringing the law into operation until the law comes into operation. Exercise of statutory powers between passing and commencement of law.

17. The terms hereinafter set forth when they occur in any Law (as defined by Section 2 of this Proclamation) of the late South African Republic in force in this Colony, shall, unless otherwise expressly provided, be read and taken to mean as follows:— Definition of terms in laws of the late South African Republic in force in this Colony.

“Zuid Afrikansche Republiek,” “Republiek,” “Staat,” or any like expression shall be read and taken to mean “this Colony.”

“Staats Procureur ” or any like expression shall mean the Legal Adviser to the Transvaal Administration.

“Staats Secretaris ” or any like expression shall mean the Secretary to the Transvaal Administration.

“Staats President ” or any expression denoting the Head of the late South African Republic shall be taken to include the Governor of this Colony.

“Landdrost ” shall mean Resident Magistrate.

“*Staatscourant* ” shall mean the *Government Gazette* in this Colony.

“Publieke Aanklager ” shall mean and include the Legal Adviser to the Transvaal Administration or any person appointed to prosecute for and on behalf of the Crown.

When any act is required or authorised to be done by any of the said laws, or whenever any process of Court is required to be taken out "in the name and on behalf of the people of the South African Republic" it shall be deemed to be required or authorised to be done or taken out in the name and on behalf of His Majesty King Edward VII.

Governor to have powers of late President Executive and Government.

18. All powers, authorities and functions, which by any law of the late South African Republic were required to be exercised by the President of the said State, either individually or in conjunction with the Executive Council thereof, or which were required to be exercised by the said Executive Council independently, or by the Government, may as far as the same are capable of being exercised under the change of Government in the Transvaal be exercised by the Governor.

Short title.

19. This Proclamation may be cited for all purposes as "The Interpretation of Laws Proclamation, 1902."

PROCLAMATION

By His Excellency the Administrator.

(DATED 10TH APRIL, 1902).

For Altering, Amending and Declaring in certain respects
the Law of Evidence within this Colony.

WHEREAS it is expedient to alter, amend, and declare in certain respects the law of evidence within this Colony:

Preamble.

Now therefore by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows:—

1. From the taking effect of this Proclamation every person not expressly excluded by this Proclamation from giving evidence shall be competent and compellable to give evidence in any Court in this Colony.

No person to be excluded from giving evidence except under this Proclamation.

2. It shall be competent for the Court alone in which any case may be depending to decide upon all questions concerning the competency of any witness or the admissibility of any evidence; and in all cases which shall be tried by a Jury it shall be competent for such Jury alone to determine as to the effect of any evidence admitted by the Court and as to the degree of credit to be attached thereto.

The Court to decide on admissibility of evidence.

3. No person appearing or proved to be afflicted with idiocy, lunacy, or insanity, or labouring under any imbecility of mind arising from intoxication or otherwise whereby he is deprived of the proper use of reason, shall in any case be competent to give evidence while under the influence of any such malady or disability.

Incompetency from insanity and intoxication.

4. It shall not in any case be competent to examine any person other than such as are mentioned in Sections *six* and *seven* of this Proclamation as a witness except upon oath.

Witnesses to be examined on oath.

5. In all cases the oath to be administered to any person as a witness, shall be administered in the form which shall most clearly convey to him the meaning of the oath, and which he shall consider to be binding on his conscience.

Form of oath or affirmation.

6. In all cases where any person who is or may be required to take an oath shall object to do so, it shall be lawful for such person to make an affirmation in the words following:—“ I do truly affirm and declare that ” (*here insert the matter to be affirmed or declared*) which affirmation or declaration shall be of the same

Affirmation substituted for oath in case any person objects to taking oath.

force and effect as if such person had taken such oath. And every person authorised, required, or qualified by law to take or administer an oath, shall accept in lieu thereof, an affirmation or declaration as aforesaid.

Penalties for making false affirmation.

The same penalties, punishments, and disabilities which are respectively in force and are attached to any neglect, refusal, and false or corrupt taking or subscribing of any such oath as aforesaid, shall apply and attach in like manner in respect of the neglect, refusal, and false or corrupt making or subscribing respectively, of any such affirmation or declaration as in this section mentioned.

When unsworn testimony admissible.

7. Persons produced for the purpose of giving evidence, who, from ignorance arising from youth, defective education, or other cause shall be found not to understand the nature, or recognise the religious obligation of an oath, shall, and may be admitted to give evidence in any Court within this Colony without being sworn or being upon oath or affirmation: Provided always, that before any such person shall proceed to give evidence, the Judge or Magistrate before whom he shall be offered as a witness, shall admonish him to speak the truth the whole truth and nothing but the truth, and shall further administer, or cause to be administered to such person, any form of admonition which shall, either from his own statement, or other source of information appear to be calculated to impress his mind and bind his conscience, and which shall not as being of an inhuman, immoral, or irreligious nature be obviously unfit to be administered: And provided also, that any such person who shall wilfully and falsely state anything which, if sworn, would have amounted to the crime of perjury, shall be deemed to have committed the said crime, and shall, upon conviction, be subject to such punishment as is or shall be by law provided for in regard to the said crime.

Freedom from liability to prosecution of accomplices giving evidence.

8. Where any person who has been an accomplice either as principal or accessory in the commission of any crime or offence charged in the indictment or complaint under trial, shall be produced as a witness by and on the part of the Public Prosecutor, and shall submit to be sworn as a witness, and shall fully answer to the satisfaction of the Court all such lawful questions as shall be put to him while under examination such person shall thereby be absolutely freed and discharged from all liability to prosecution for any such crime or offence, either at the instance of the Public Prosecutor or of any private party: or when he has been produced as a witness by and on the part of any private prosecutor from all prosecution for such crime or offence at the instance of such private prosecutor. And it shall and may be lawful for the said Court thereupon to cause such discharge to be duly entered on the record of the proceedings in such trial: Provided always that no such accomplice produced as a witness by and on the part of any private prosecutor shall in any case be bound or legally compellable to answer any question whereby he may criminate himself in respect of any crime or offence charged in the

Accomplice entitled to require from prosecutor a writing under his hand discharging such accomplice from liability to prosecution.

indictment, information, or complaint under trial, unless there shall be produced to him, and put on record, a writing under the hand of the officer who by law is entitled to prosecute at the public instance in such Court, discharging such accomplice from all liability to prosecution at the instance of the Public Prosecutor for such crime or offence.

9. Where any such accomplice, as aforesaid, in any crime or offence charged in any indictment or complaint shall have been produced as a witness by and on the part of the Public Prosecutor, or of any private prosecutor (by whom there shall have been obtained from such officer, as aforesaid, a written discharge of such accomplice from liability to prosecution as aforesaid) and shall have given evidence at the trial of such indictment or complaint, it shall not be competent to give in evidence against such accomplice if he shall thereafter be tried for such crime or offence, any part of the testimony which shall have been so given by him at the said trial, as aforesaid : Provided always that nothing herein contained shall extend or be construed to free or exempt any such accomplice who shall be guilty of wilful and corrupt perjury while under examination as a witness in any such trial, as aforesaid, from any penalties or forfeitures to which persons guilty of wilful and corrupt perjury are, or shall be liable by any law of this Colony : or to render incompetent or inadmissible, any evidence which would otherwise be competent and admissible in the trial of such accomplice on a charge of wilful and corrupt perjury on his examination as a witness in any such trial as aforesaid.

Evidence of accomplice not to be used against him if he should thereafter be tried for the offence.

But accomplice is notwithstanding liable to penalties of perjury and evidence on charge of perjury not affected.

10. Any court or jury in any case which shall be tried by such Court or jury, respectively, may convict any person who shall be so tried before any such Court or jury of any crime or offence charged in the indictment or complaint under trial on the single evidence of any such accomplice as aforesaid : Provided always that such crime, or offence, shall by competent evidence, other than the single and unconfirmed evidence of such accomplice, be proved to the satisfaction of such Court or jury respectively, to have been actually committed.

Conviction on single evidence of accomplice provided the crime is proved *abundante*.

11. Every person charged with an offence, and the wife or husband as the case may be, of the person so charged, shall be a competent witness for the defence at every stage of the proceedings, whether the person so charged is charged solely or jointly with any other person : Provided as follows :

Evidence of accused and husband and wife in criminal proceedings.

- (a) A person so charged shall not be called as a witness except upon his own application :
- (b) The wife or husband of the person charged shall not, save as in the next succeeding section mentioned, be called as a witness except upon the application of the person so charged.
- (c) A person charged and being a witness in pursuance of this section may be asked any question in cross-examination notwithstanding that it would tend to criminate him as to the offence charged.

- (d) A person charged and called as a witness in pursuance of this section shall not be asked, and if asked, shall not be required to answer any question tending to show that he has committed, or been convicted of, or been charged with any offence other than that where-with he is then charged or is of bad character, unless—
- (i) He has personally, or by his advocate, asked questions of the witnesses with a view to establish his own good character or the nature or conduct of the defence is such as to involve imputation of the character of the prosecutor or the witnesses for the prosecution ; or
- (ii) He has given evidence against any other person charged with the same offence.
- (e) Every person called as a witness in pursuance of this section shall, unless otherwise ordered by the Court, give his evidence from the witness box or other place from which the other witnesses give their evidence.
- (f) Nothing in this section shall affect any right of the person charged to make a statement without being sworn. Provided that if the person charged gives evidence on his own behalf at the preparatory examination such evidence may be read and put in at the trial of such person by the prosecutor.

Evidence by hus-
band and wife.

12. The wife or husband of the person charged is competent and compellable to give evidence either for the prosecution or defence, and without the consent of the person charged, where such person is prosecuted for any offence against the person or separate property of the wife or husband of such person.

Husband and wife
not compellable to
disclose communica-
tions between them.

13. No husband shall be compelled to disclose any communication made to him by his wife during the marriage, and no wife shall be compelled to disclose any communication made to her by her husband during the marriage.

Husband and wife
privileged after di-
vorce as to matters
occurring during the
subsistence of the
marriage as to which
they would have been
privileged during the
marriage.

14. No husband or wife after the dissolution of their marriage by a competent Court shall in any civil or criminal proceeding be compelled to give evidence as to any matter or thing which occurred during the subsistence of their said marriage, and as to which such husband or wife could not have been compelled to give evidence if their said marriage had still continued to subsist at the time when such proceeding is heard.

No witness com-
pellable to answer
questions which the
witness' husband or
wife might decline.

15. No person shall in any civil or criminal proceeding be compelled to answer any question or to give any evidence, which question or evidence the husband or wife of such person if under examination as a witness, in such proceeding might lawfully refuse, and could not be compelled to answer or give.

Privilege of profes-
sional advisers.

16. No legal practitioner duly qualified to practise in any Court within this Colony or elsewhere shall in any legal proceeding be competent to give evidence against any person by whom he has been professionally employed or consulted without

the consent of such person, as to any fact, matter, or thing, as to which such legal practitioner by reason of such employment, or consultation, and without such consent would not be competent to give evidence in any similar proceeding depending in the Supreme Court of Judicature in England: Provided always that no such legal practitioner shall in any proceeding by reason of any such employment or consultation, be incompetent or not legally compellable to give evidence as to any fact, matter, or thing, relative to or connected with the commission of any crime or offence for which the person by whom such legal practitioner has been so employed or consulted, is in such case prosecuted: and which fact, matter, or thing, has come to the knowledge of such legal practitioner before he shall have been professionally employed or consulted for or with reference to the defence of such person against such prosecution.

17. Any confession of the commission of any crime or offence which shall be proved by competent evidence to have been made by any person accused of such crime or offence whether before or after his apprehension whether on a judicial examination or after commitment and whether reduced into writing or not shall in every case be admissible evidence against such person; Provided always that such confession shall be proved to have been freely and voluntarily made by such person in his sound and sober senses and without having been unduly influenced thereto; and provided also that when such confession shall have been made on a judicial examination before any Magistrate on any criminal charge such person shall previously according to law have been cautioned by the said Magistrate that he is not obliged in answer to the charge against him to make any statement which may criminate himself and that what he shall then say may be used in evidence against him: Provided always that no deposition made by any person on any judicial examination under the provisions of Sections 160 and 163 of Law No. 13, 1895 shall be admissible evidence in any prosecution of such person for any crime or offence other than perjury committed by him on such examination.

Admissibility of confessions by accused

if freely and voluntarily made without undue influence

and if judicial after due caution.

18. It shall be lawful for any Court or Jury by which any person prosecuted for any crime or offence shall and may lawfully be tried respectively to convict such persons of any crime or offence charged in the indictment or complaint under trial in respect and by reason of any such confession of the commission of such crime or offence which shall be proved to the satisfaction of such Court or Jury respectively to have been made as aforesaid although not confirmed by any other evidence: Provided always that such crime or offence shall by competent evidence other than the single and unconfirmed evidence of such confession be proved to the satisfaction of such Court or jury respectively to have been actually committed.

Conviction on confession if the crime have been proved *aliunde*.

19. It shall be lawful to admit evidence of any fact otherwise admissible in evidence notwithstanding that such fact has been discovered and come to the knowledge of the witness who

Admissibility of facts discovered by means of inadmissible confession.

shall give evidence respecting it only in consequence of information given by the person under trial in any confession or deposition which by law shall not be admissible in evidence against him in such trial.

Confession not admissible against other persons.

20. No confession which may be made by any person shall in any case be admissible as evidence against any other person.

Sufficiency of one witness in civil suits.

21. It shall be lawful for the Court or Jury by which any civil suit shall be tried to find on any issue of fact and in respect of such finding for the Court to give Judgment for or against any party to such suit on the evidence of any single competent and credible witness.

Sufficiency of one witness in criminal cases.

22. It shall be lawful for the Court or Jury by which any person prosecuted for any crime or offence shall be tried respectively to convict such person of any crime or offence charged in the indictment or complaint under trial on the single evidence of any competent and credible witness: provided always that it shall not be competent for any such Court or Jury to convict any person of the crime of perjury on the evidence of any one witness unless in addition to and independent of the testimony of such witness some other competent and credible evidence as to the guilt of such person shall be given to such Court or Jury.

Inadmissibility of irrelevant evidence.

23. No evidence as to any fact, matter, or thing shall in any case be admissible which is irrelevant or immaterial and cannot conduce to prove or disprove any point or fact in issue in such case.

Evidence of character when admissible.

24. No evidence as to the character of any of the parties to any case civil or criminal or as to the character of any woman on whose person any rape or assault with intent to commit a rape shall in any prosecution for rape or for assault with intent to commit a rape be charged to have been committed shall in any such case be admissible or inadmissible which would be inadmissible or admissible in any similar case depending in the Supreme Court of Judicature in England.

Admission of facts in issue on the record.

25. It shall not be necessary for any party in any case to give evidence to prove nor shall it be competent for any such party to give evidence to disprove any fact or facts admitted on the record of such case.

Necessity of best evidence of fact to be proved

26. Every party on whom in any case it shall be incumbent to prove any fact, matter, or thing shall be bound to give the best evidence of which from its nature such fact, matter, or thing shall be capable; and no evidence as to any such fact, matter, or thing shall be admissible in any case in which it is in the power of the party who proposes to give such evidence to produce or caused to be produced better evidence as to such fact, matter, or thing except by consent of the adverse party to the suit or when such adverse party shall by law be precluded from disputing any such fact, matter, or thing by reason of any admission proved to have been made by such party.

unless waived by consent or admission of opposite party.

Proof of appointment to public office.

27. Any evidence which would be admissible and if credible would be deemed in any case depending in the Supreme Court

of Judicature in England to be in law sufficient proof of the appointment of any person to any public office or of the authority of any person to act as a public officer shall be admissible, and if credible shall be deemed to be in law sufficient proof of such appointment or authority.

28. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, any copy thereof or extract therefrom shall be admissible in evidence in any Court of Justice or before any person now or hereafter having by law or by consent of parties authority to hear evidence, provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the officer to whose custody the original is entrusted, which officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same not exceeding one shilling for every hundred words.

Certified copies or extracts of documents admissible.

29. Any original document in the custody or under the control of any Government officer by virtue of his office shall only be produced in any proceeding before any Court :

Production of official documents.

(a) In criminal cases upon an order of the Legal Adviser to the Transvaal Administration.

(b) In all other cases upon an order of the Court or Judge before which the case is pending.

30. Except when the original is ordered to be produced as in the preceding section, provided it shall be sufficient to produce a copy of or extract from such document certified as a true copy by the Head of the Department in whose custody or under whose control such document is. Such copy or extract so certified shall be receivable in evidence before any Court, and shall be of like value and effect as the original document.

Copies of such documents sufficient.

31. In civil cases there shall be payable by the party applying for any such copy or extract a stamp duty of five shillings, together with a further duty of one shilling in respect of each hundred words or any part thereof contained in such copy or extract. The stamps shall be affixed to the copy or extract and shall be cancelled by the officer certifying the same.

Charges for copying and certifying.

32. It shall not be necessary for any head of a Government department or office to appear in person to produce any original document in his custody or under his control as such officer, but it shall be deemed sufficient if such document is produced by some person authorised by him so to do. Certified copies or extracts may be handed in to the Court by the party who desires to avail himself of the same.

Head of Department need not attend to produce.

33. If any officer authorised or required by this Proclamation to furnish any certified copies or extracts shall wilfully certify any document as being a true copy or extract knowing that the same is not a true copy or extract, as the case may be, he shall be liable upon conviction to imprisonment with or

Punishment for false certificate.

without hard labour for any term not exceeding eighteen months.

Entries in certain books admissible in evidence in certain cases.

34. The entries in ledgers, day-books, cash-books and other account books of any bank, shall be admissible in all legal proceedings as *prima facie* evidence of the matters, transactions and accounts therein recorded, on proof being given by the affidavit in writing of one of the directors, managers or officers of such bank, or by other evidence that such ledgers, day-books, cash-books or other account books are or have been the ordinary books of such bank, and that the said entries have been made in the usual and ordinary course of business, and that such books are in or come immediately from the custody or control of such bank.

Examined copies also admissible.

35. Copies of all entries in any ledgers, day-books, cash-books or other account books used by any such bank may be proved in all legal proceedings as evidence of such entries without production of the originals, by means of the affidavit of a person who has examined the same, stating the fact of the said examination and that the copies sought to be put in evidence are correct.

Notice that such evidence will be adduced must be given and liberty, given to inspect.

36. Provided always that no ledger, day-book, cash-book or other account book, of any such bank, and no copies of entries therein contained, shall be adduced or received in evidence under this Proclamation unless ten days' notice in writing or such other notice as may be ordered by the Court, containing a copy of the entries proposed to be adduced, and of the intention to adduce the same in evidence, shall have been given by the party proposing to adduce the same in evidence to the other party or parties to the said legal proceeding, and that such other party or parties is or are at liberty to inspect the original entries and the accounts of which such entries form a part.

Party receiving notice may apply to Court or a member thereof for liberty to inspect.

37. On the application of any party to any legal proceedings who has received such notice, the Court or any member thereof may order that such party be at liberty to inspect and to take copies of any entry or entries in the ledger, day-books, cash-books or other account books of any such bank relating to the matters in question in such legal proceedings, and such orders may be made by such Court or member thereof at its or his discretion, either with or without summoning before it or him such bank or the other party or parties to such legal proceedings, and shall be intimated to such bank at least three days before such copies are required.

Court may order that entries and copies shall not be admissible.

38. On the application of any party to any legal proceedings who has received notice, the Court or any member thereof may order that such entries and copies mentioned in the said notice shall not be admissible as evidence of the matters, transactions and accounts recorded in such ledgers, day-books, cash-books and other account books.

Bank not compelled to produce any books unless ordered by

39. No bank shall be compelled to produce the ledgers, day-books, cash-books or other account books of such bank in any legal proceedings unless the Court or any member thereof

especially orders that such ledgers, day-books, cash-books or other account books should be produced.

Court or a member thereof.

40. Nothing in Sections 34 to 39 inclusive contained shall apply to any legal proceedings to which any bank whose ledgers, day-books, cash-books or other account books may be required to be produced in evidence shall be a party.

Proclamation not to apply to proceedings to which bank is a party.

41. Nothing herein contained shall extend or be construed to prevent any Court from allowing the deposition of any witness who, by virtue of any rule or order of such Court, has been examined *de bene esse*, to be admitted as evidence at the trial of any civil case in which such rule or order shall have been made.

Examination of witnesses *de bene esse*.

42. The testimony of a deceased or absent witness who has been examined on oath on the trial of any former civil action between the same parties shall be admissible in every case in which, and may be proved and given in evidence in the same manner in which, the testimony of such deceased or absent witness would be admissible, and might be proved and given in evidence in any similar case depending in the Supreme Court of Judicature in England.

Admissibility in civil cases

of testimony of absent or deceased witness.

43. The declaration made by any deceased person upon the apprehension of death shall be admissible in evidence in every case, and shall not be admissible in evidence in any case in which such declaration would be admissible or inadmissible in any similar case depending in the Supreme Court of Judicature in England.

Admissibility of dying declarations.

44. No evidence which is of the nature of hearsay evidence shall be admissible in any case in which such evidence would be inadmissible in any similar case depending in the Supreme Court of Judicature in England.

Hearsay evidence.

45. No witness, except as provided in this Proclamation, shall be compellable to answer any question which such witness, if he were under examination in any similar case depending in the Supreme Court of Judicature in England, would not be compellable to answer by reason that the answer of such witness might have a tendency to expose him to any pains, penalty, punishment or forfeiture, or to a criminal charge, or to degrade the character of such witness.

Witness excused from answering questions the answers to which would expose him to penalties or degrade his character.

46. It shall not be lawful for a witness to refuse to answer a question relevant to the issue the answering of which has no tendency to accuse himself or to expose him to penalty or forfeiture of any nature whatsoever, by reason only or on the sole ground that the answering of such question may establish or tend to establish that he owes a debt or is otherwise subject to a civil suit.

Witness not excused from answering question by reason that the answer would establish a civil claim against him.

47. No witness shall, except as in this Proclamation provided, be compellable or permitted to give evidence as to any fact, matter or thing, or as to any communication made to or by such witness as to which, if the case were depending in the Supreme Court of Judicature in England, such witness would

Privilege from disclosure of facts on the ground of

public policy or from regard to the public interest.

not be compellable or permitted to give evidence by reason that such fact, matter or thing, or communication, on grounds of public policy and from regard to public interest, ought not to be disclosed and is privileged from disclosure.

Impeachment and support of witness' credibility.

48. It shall in every case be competent for any party to impeach or support the credibility of any witness produced against or for such party in any manner and by any evidence in and by which, if the case were depending in the King's Bench Division of the High Court of Justice in England, the credibility of such witness might be impeached or supported by such person, and in no other manner and by no other evidence whatever.

Party to a suit not entitled to expenses when giving evidence in their own behalf.

49. No person being a party to any suit, action or proceeding, and who shall be adduced as a witness therein in his own behalf, shall (except as hereinafter excepted) be entitled in the taxation of any costs which may be awarded against the opposite party to any expenses as a witness: Provided that it shall be competent for the Court, upon the application of any such party so adduced as a witness, to direct at its discretion that such party shall be allowed his expenses in case the said Court shall be of opinion that such party was a necessary witness.

When adduced by opposite party expenses receivable.

50. Any party to any suit, action or proceeding who shall be adduced as a witness by the opposite party shall be entitled to his expenses as a witness in like manner as any other witness.

Evidence of genuineness of disputed writings.

51. Comparison of a disputed writing with any writing proved to the satisfaction of the Court to be genuine shall be permitted to be made by witnesses; and such writings and the evidence of witnesses respecting the same may be submitted to the Court or jury (as the case may be) in any case, civil or criminal, as evidence of the genuineness or otherwise of the writing in dispute.

In criminal proceedings certificate of conviction or acquittal of accused sufficient without production of record.

52. Whenever, in any proceeding whatever, it may be necessary to prove the trial and conviction or acquittal of any person charged with any indictable offence, it shall not be necessary to produce the record of the conviction or acquittal of such person, or a copy thereof, but it shall be sufficient that it be certified or purport to be certified under the hand of the Clerk of the Court or other officer having the custody of the records of the Court where such conviction or acquittal took place, or by the deputy of such clerk or other officer, that the paper produced is a copy of the record of the indictment, trial, conviction and judgment or acquittal as the case may be, omitting the formal parts thereof.

Gazette evidence in certain cases.

53. Where, in any legal proceeding, proof is required of the contents of any law, Government Notice, or of any matter required to be published in the *Gazette*, a copy of the *Gazette* or a copy of such law, notice, or other matter purporting to be printed under the superintendence or authority of the Government printer, shall, on its mere production, be evidence of the

contents of such law, notice, or other matter as the case may be.

54. Every Court, Judge, Justice of the Peace, Commissioner, Arbitrator, or other person, now or hereafter having, by law or by consent of parties, authority to hear evidence, is hereby empowered to administer an oath, affirmation, or admonition respectively as aforesaid to all such witnesses as are legally called before them respectively.

Who empowered to administer oaths.

55. In any case not provided for in this Proclamation, the law as to admissibility of evidence and the competency examination and cross-examination of witnesses in force in the Supreme Court of Judicature in England shall be followed in like cases by the Courts of this Colony.

Where not otherwise provided Law of England to be followed.

56. From the taking effect of this Proclamation, Law 5 of 1892, every other law, custom, usage and practice heretofore in force within this Colony, inconsistent with the provisions of this Proclamation, are hereby repealed.

Repeal of former laws.

57. This Proclamation may be cited as "The Law of Evidence Proclamation, 1902."

Short title.

PROCLAMATION

By His Excellency the Administrator.

(DATED 10TH APRIL, 1902.)

Creating the Office of Sheriff of the Transvaal
and regulating his duty.

BY VIRTUE of the authority in me vested, I do hereby declare, proclaim and make known as follows:—

- Laws repealed. 1. The laws mentioned in Schedule "A" to this Proclamation, and so much of any other law as is repugnant to or inconsistent with the provisions hereof, shall be and are hereby repealed.
- Definition of terms. 2. The expression "Superior Court" shall include the High Court of the Transvaal, the Witwatersrand District Court, the Special Criminal Courts at Pretoria and Johannesburg, and the Supreme Court of the Transvaal, or any Circuit thereof to be hereafter established.
The expression "immovable property" shall include all fixed property as defined by the "Transfer Duty Proclamation, 1902."
- Appointment of Sheriff. 3. It shall be lawful for the Governor, under his Hand and Seal, to appoint some fit and proper person to be Sheriff of the Transvaal.
- Appointment of Deputy Sheriffs. 4. The Sheriff shall by himself or his sufficient deputies to be by him appointed and duly authorised under his hand and seal, and for whom he shall be responsible during his continuance in such office, execute all the sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of any Superior Court, and shall make a return of the same, together with the manner of execution thereof, to such Court through the Registrar thereof, and the plaintiff or defendant or their respective attorneys may at any time have an office copy of the said process, with the return thereto, at the cost of the party applying for the same. The Sheriff shall receive and detain in prison all persons arrested by any order, writ or judgment of any Superior Court or committed to the custody of such Sheriff by any such Court, or by any Judge of the High Court of the Transvaal.
- Duties of Sheriff and his deputies. 5. The Sheriff shall upon the appointment of a deputy, transmit to the Registrar of the High Court of the Transvaal his
- Execution of process. Return of process to the Registrar's Office. Names of deputies to be sent to the Registrar of the High

name and place of abode, stating the district within which he is to act for the said Sheriff, and shall cause a like notification to be published in the *Gazette*.

Court by Sheriff, and to be published in the *Gazette*.

6. The Sheriff shall not be answerable or responsible for the rescue or escape of any person out of his custody or out of the custody of his deputy on his way to prison, or after being lodged therein, where such rescue or escape shall happen without the default or connivance of the Sheriff or his deputy: Provided however that in case of any such rescue or escape the said Sheriff or his deputy shall use all lawful means for the pursuit, apprehension and safe custody of any such person without any further warrant or authority whatever.

Sheriff not responsible for rescue or escape without his default.

Sheriff's duty in case of escape of arrested person.

7. Whenever any Superior Court shall direct or award any process against the Sheriff or award any process in any cause, matter or thing wherein the Sheriff, on account of his being related to the parties or any of them, or by reason of any good cause or challenge which would be allowed against any Sheriff in England, cannot or ought not by law to execute the same, in every such case the said Superior Court shall name and appoint some other fit person to execute and return the same, and the said process shall be directed to the person so to be named for that purpose, and the cause of such special proceedings shall be registered and entered on the records of the said Court respectively.

When Sheriff interested who to execute process.

8. All officials and inhabitants generally in this Colony shall aid the said Sheriff in the execution of his duty when called upon and shall carry out his directions.

Who to aid Sheriff in execution of his duty.

9. The Sheriff or his deputy shall not take or seize in execution of any process:—

What not to be seized.

- (a) The necessary bed or beds and bedding or wearing apparel of the person against whom the execution is levied and of his family.
- (b) The supply of food and drink in the house sufficient for the needs of the family during one month.
- (c) Tools and implements of trade and the tools necessarily used in the cultivation of land in so far as the same do not exceed the value of £25.
- (d) Professional books, documents or instruments in so far as the same do not exceed the value of £25.

10. No creditor lodging any writ of execution with the Sheriff or his deputy shall be entitled to share in, or receive any part of, the proceeds levied under any writ previously lodged, unless such creditor shall have lodged his writ at least ten days prior to the day of sale of the property attached under such previous writ.

What creditors entitled to benefit of executions already levied.

11. All process issued from the Witwatersrand District Court may be transmitted or delivered by the attorney or party taking out the same to the Deputy Sheriff of the district or area in which such process is to be executed, and shall be made returnable to the said Court, and shall be returned by such Deputy Sheriff to the Registrar thereof.

Process of Witwatersrand District Court may be sent to Deputy Sheriff.

Action against the Sheriff to be brought within six months.

12. No action shall be brought against the Sheriff or any Deputy Sheriff for anything done or omitted to be done in the execution of his office, unless commenced within six calendar months after the act committed or omitted to be done.

Governor may direct sentence of death to be carried out within walls of gaol.

13. In every case in which any prisoner shall be sentenced to death, it shall be lawful for the Governor, if he shall be satisfied that fitting arrangements for the same can be made within the gaol in which such prisoner shall for the time being be confined, to order by warrant under his hand that the sentence of death shall be carried into effect within the walls of such gaol.

Who required to be present at such execution and who may be admitted to witness execution.

14. The Sheriff or Deputy Sheriff charged with the execution, and the Surgeon Gaoler and such other officers of such gaol as the Sheriff or Deputy Sheriff may require, shall be present at such execution, and any Justice of the Peace for the division in which such gaol may be situated, and any Minister of religion residing therein, and such relatives of the prisoner or other persons as the Sheriff or Deputy Sheriff may deem proper, may be admitted within such gaol for the purpose of being present at such execution.

Surgeon to certify death and declaration to be signed by all persons present at execution.

15. As soon as may be after judgment of death has been executed on the offender, the Surgeon of the gaol shall examine the body and shall ascertain the fact of death, and shall sign a certificate thereof and deliver the same to the Sheriff or Deputy Sheriff; and all other officers who shall be present under the provisions of the preceding section, together with the Sheriff or Deputy Sheriff, shall sign a declaration to the effect that judgment of death has been executed on the offender, and such certificate and declaration shall be forthwith transmitted to the Secretary to the Transvaal Administration to be filed of record in his office.

Judges of High Court may frame Rules of Court.

16. The Judges of the High Court of the Transvaal shall have the power from time to time to frame such rules and regulations for the guidance of the Sheriff and his deputies as may be deemed necessary, and to repeal, amend, and supplement any tariff of fees to be charged by Deputy Sheriffs.

Fees to Government.

17. The Sheriff shall receive on behalf of the Government, in stamps to be affixed to the documents named therein, the fees set forth in Schedule "B" to this Proclamation.

Fees to Deputy Sheriff.

18. Deputy Sheriffs shall receive the fees allowed to them and specified in Section 10 of Law No. 12 of 1899.

Short title.

19. This Proclamation shall be styled for all purposes "The Sheriff's Proclamation, 1902," and shall take effect from and after the fifteenth day of April, 1902.

SCHEDULE A.

Law and Year.	Extent of repeal.	Page in statute book.
Law No. 5, 1881	So much thereof as relates to the sale in execution of fixed property .	985

SCHEDULE B.

Fees to be paid to the Sheriff, on behalf of the Government, by means of stamps:—

In proceedings in execution of real property under attachment.

	£	s.	d.
On extract of certificate from debt registry	0	5	0
On copy of writ filed.	0	5	0
On report of sale to the Court	0	10	0
On plan of distribution of proceeds of sale £2 10s. per £100 on amount received and distributed, when such amount does not exceed £250, and £1 per £100 in addition upon the excess of such amounts beyond £250			
On report of account to the Court	0	10	0

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 10TH APRIL, 1902.)

To establish a Council of the Incorporated Law Society
of the Transvaal.

Preamble.

WHEREAS it has been made to appear to me that the Council of the Society hitherto known as the "Ingelyfde Orde van Procureurs en Notarissen" has ceased to exist:

And whereas it is desirable to establish a new Council which, until such time as the members of the said Society shall meet and elect a new Council, shall have the full powers of a Council duly elected by the Members of the said Society under the Regulations governing the Society confirmed by First Volksraad Resolution of the 26th of August, 1893, Article 1227:

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

Change of title of former society.

1. The Order or Society heretofore known as the "Ingelyfde Orde van Procureurs en Notarissen in de Zuid Afrikaansche Republiek" shall hereafter be known as the "Incorporated Law Society of the Transvaal."

Nomination of members by Government.

2. *Notwithstanding anything to the contrary in the Regulations confirmed by First Volksraad Resolution of the 26th August, 1893, Article 1227, it shall be lawful for the Administrator of the Transvaal by notice in the *Gazette* to nominate and appoint such persons as he shall think fit to have and exercise all the duties, functions, and powers had and exercised by the Council of the Incorporated Law Society under the terms of the said Regulations until such time as the members of the said Society shall meet and elect a Council.

First meeting of society.

3. The persons so nominated and appointed shall call a general meeting, either in Pretoria or Johannesburg, of the members of the said Society, at such date, not being later than the thirty-first day of July next, as the said persons may fix.

*The constitution and Regulations of the Incorporated Law Society of the Transvaal, secs. 4 and 6, as confirmed and amended by the F. V. R., 26th August, 1893, Article 1227, are further amended by Ordinance 4 of 1902 (q.v.).

Right of voting not lost by non-payment of fees, &c.

4. Notwithstanding anything to the contrary in the Regulations confirmed by First Volksraad Resolution of the 26th of August, 1893, Article 1227, it shall be competent for any member of the said Society to attend the meeting called in pursuance of the provisions of the last preceding section and to vote upon all matters lawfully submitted to the said meeting, although such member shall not at the date of such meeting have paid all the fees and subscriptions then due and owing by such member to the said Society.

5. The meeting so to be called as aforesaid shall have power to decide all matters relating to the payment by the members of the said Society of arrear fees and subscriptions and also to consider and determine all matters and to do all acts and things which by the aforesaid Regulations a general meeting of the said Society is competent to consider, determine and do; and shall more especially elect a Council to act in the place of the persons to be nominated by the Administrator under this Proclamation.

First meeting to have powers of a general meeting of the Society.

6. *The Persons nominated by the Administrator under this Proclamation shall at their first meeting, which shall be held within ten days after the publication of the notice of their appointment, elect a Chairman from among their number, and shall at once announce by publication in the *Gazette* and in such newspapers as they shall think fit the name of the member so elected.

Election of Chairman.

7. All persons applying to the High Court of the Transvaal for admission as Attorneys, Notaries and Conveyancers shall give notice in writing to the Chairman so elected of their intention so to apply at least fourteen days before the day on which their application is to be heard. Such notice shall be accompanied by a copy of the petition and of all papers to be submitted by the applicant at the hearing of such application. This section shall not apply to persons who have been admitted by the High Court of the late South African Republic as Attorneys, Notaries or Conveyancers as the case may be, and whose names have never been removed from the roll of the last mentioned Court.

Notice of applications for admission as attorneys, &c., to be given to Chairman.

* See now Ordinance, 4 of 1902, sec. 1, as to the election of Chairman and Vice-Chairman by the Council of the Society.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 10TH APRIL, 1902.)

To amend Proclamation No. 6 of 1901.

Preamble.

WHEREAS it is desirable to make provision for appeals from the Special Criminal Court at Pretoria or at Johannesburg to the High Court of the Transvaal.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

Repeal of Pr. No. 6 of 1901 proviso to sect. 8.

1. The last proviso of Section 8 of Proclamation No. 6 of 1901 shall be and is hereby repealed and the following provisions shall be substituted in lieu thereof:—

When appeal in criminal cases to be applied for.

- (1) If any defendant who shall be tried upon any indictment in the Special Criminal Court at Pretoria or at Johannesburg shall think that any of the proceedings of the Court before which the trial takes place are irregular or not according to law, it shall be lawful for him either during his trial or after his conviction to apply to such Court to direct a special entry to be made on the record showing the nature of the proceedings alleged to be irregular or illegal. If such special entry be directed to be made it shall be drawn up by the Registrar of the Court and the defendant and the prosecutor or their counsel and attorney shall be permitted to see it and to copy it, and if either of them shall object to its terms it shall be settled by the President of the Court before which the case is tried.

Leave to be applied for to appeal to High Court.

- (2) If any defendant who shall be convicted of any indictable crime or offence shall obtain leave to make and shall cause to be made such a special entry on the record as hereinbefore provided for, it shall be lawful for him by leave of the Court before which the case shall have been tried to appeal to the High Court of the Transvaal constituted of any three or more members thereof against his conviction on the ground of the irregularity or illegality of such proceedings as aforesaid, stated in such special entry as aforesaid: Provided that within fourteen days after verdict notice of such appeal shall be given to the Registrar of the Court appealed from: and such Registrar shall forthwith after receiving such notice,

give notice of such appeal to the Legal Adviser to the Transvaal Administration, and transmit to the Registrar of the said High Court an authenticated copy of the record, including copies of the evidence, whether oral or in writing, taken or admitted at the trial, and of the special entry made on the record in manner aforesaid.

- (3) If any question of law shall arise in the trial of any person for an indictable crime or offence in the Special Criminal Court at Pretoria or at Johannesburg, it shall be lawful for such Court to reserve such question for consideration of the High Court of the Transvaal. If the Court shall determine to reserve any such question and the defendant shall be convicted the Court shall state the question or questions reserved, and shall direct such case to be specially entered in the record and a copy thereof to be transmitted to the said High Court.
- Questions of law reserved.
- (4) The execution of a sentence shall not be suspended by reason of any appeal against a conviction, or by reason of a question having been reserved for consideration of the said High Court :—
- Cases in which execution of the sentence may be suspended.
- (a) Unless the sentence shall be that the defendant suffer death or be flogged or whipped, in either of which cases the sentence shall not be executed until the appeal or question shall have been heard or decided.
- (b) Unless the Court from which the appeal is made or by which the question is reserved shall think fit to order either that the defendant be admitted to bail, or if he is sentenced to any punishment other than simple imprisonment that he be treated as an unconvicted prisoner till the appeal or the question reserved shall have been heard and decided.
- (5) In cases of any appeal against a conviction or any question being reserved as aforesaid it shall be lawful for the High Court :—
- Powers of High Court when question of Law is reserved.
- (a) To confirm the judgment of the Court below ; in which case, if the defendant having been admitted to bail is in Court the Court may forthwith commit him to custody for the purpose of undergoing any term of imprisonment to which he may have been sentenced.
- (b) Or direct that the judgment shall be set aside notwithstanding the verdict, which order shall have for all purposes the same effect as if the defendant had been acquitted.
- (c) Or direct that the judgment of the Court below shall be set aside, and that instead thereof such judgment shall be given by the Court before

which trial took place as ought to have been given at the trial :

- (d) Or if the Court below has not delivered judgment, remit the case to it in order that it may deliver judgment :
- (e) Or give such judgment as ought to have been given at the trial :
- (f) Or make such other order as justice may require :
Provided that no conviction shall be set aside by reason only of some irregularity or illegality whereby the defendant was not prejudiced in his defence, or because evidence was improperly admitted or rejected by which no substantial wrong was, in the opinion of the said High Court, done to the defendant.

- (6) The order or direction of the High Court coming before it on appeal as aforesaid, shall be certified by the Registrar to the Registrar of the Court before which the case was tried, and such order or direction shall be carried into effect and shall authorise every person affected by it to do whatever is necessary to carry it into effect.
- (7) Nothing herein contained shall in any way affect or limit the powers and jurisdiction of the High Court, as a Court, either of review or appeal in criminal cases in relation to Courts of Resident Magistrates.

2. This Proclamation shall take effect from and after the first day of May, 1902.

How order of High Court is to be certified.

What powers of High Court not affected.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 11TH APRIL, 1902.)

WHEREAS it is desirable to provide for the expropriation of Land for the purpose of Burial Grounds for certain of His Majesty's Imperial and Colonial Forces and certain of the forces belonging to the late Orange Free State and South African Republic who have died either from wounds or otherwise during the recent campaign in South Africa.

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

1. It shall be lawful for the Administrator, for the purpose of setting aside, enclosing and maintaining as a burial ground any land in which officers, non-commissioned officers or men, whether belonging to His Majesty's Imperial or Colonial Forces or to the forces of the late Orange Free State and South African Republic, who have died from the effects of wounds or otherwise during the recent campaign in South Africa have been buried, to take, use and expropriate so much of such land as may be necessary for the said purpose: Provided that hereafter no such ground shall be used for the burial of any body without the consent of the Administrator.

Expropriation of
land for burial
grounds authorised.

2. For the purpose of access to any land so expropriated, in case there shall exist no public access, it shall be lawful for the Administrator to acquire and establish a right of way to any such land from the nearest or most convenient public road, and to that end to use so much land belonging to the different owners of property through which such right of way shall pass as shall be necessary.

Acquisition of
rights of way

3. There shall be paid for the expropriation of such land and such rights of way such compensation as may be agreed to between the Administrator and the respective owners, and in the absence of any such agreement the amount of such compensation shall be determined by arbitration in manner provided by "The Expropriation of Lands and Arbitration Clause Proclamation, 1902."

Compensation.

4. Any land or right of way acquired under the provisions of this Proclamation may be transferred by the Administrator, free of transfer duty, to His Majesty's Secretary of State for War upon payment to the Administrator of so much of the total cost incurred in the expropriation of the said land and

Transfer to War
Department.

rights of way as may be agreed upon between the Administrator and the said Secretary of State. The balance of the said cost shall be paid out of the public revenue.

Enclosing, &c. of
land.

5. It shall be lawful for the Administrator, at the request of, and upon such conditions as to the cost thereof as he may arrange with the said Secretary of State, to cause any land expropriated for the purposes of this Proclamation to be enclosed with proper and sufficient walls, rails, or fences with suitable gates and entrances, and to be maintained, preserved and kept in a cleanly and orderly condition, and to make rules and regulations in that behalf.

Clause.

6. Any person who shall contravene any regulation duly made by the Administrator under the provisions of the last preceding section of this Proclamation, and any person who shall wantonly or wilfully destroy, or do, or cause to be done, any damage to any monument, vault, tombstone, building, erection, railing, fence, tree, shrub or plant in or belonging to any land so enclosed as aforesaid, shall, upon conviction before any Magistrate having jurisdiction, be liable for every such offence to a penalty not exceeding £20, and in default of payment to imprisonment with or without hard labour for any period not exceeding three months, or to both such penalty and such imprisonment.

Appropriation of
fines.

7. All moneys arising from fines and penalties imposed by this Proclamation shall, when recovered, be paid to the Administrator and shall be appropriated to the preservation, maintenance and improvement of the land set aside as a burial place as provided by this Proclamation.

Short title.

8. This Proclamation may be cited for all purposes as "The Imperial, Colonial, and Republican Forces, Burial Grounds Proclamation, 1902."

PROCLAMATION

By His Excellency the Administrator.

(DATED 10TH APRIL, 1902.)

For Establishing Courts of Resident Magistrates.

WHEREAS it is expedient to establish Courts of Resident Magistrates and to define the jurisdiction, powers and duties of the Resident Magistrates within this Colony :

Preamble.

Now, therefore, by virtue of the authority in me vested, I do hereby proclaim, declare, and make known as follows :—

1.*Courts of Resident Magistrates shall be and the same are hereby declared to be erected, constituted and established for and within each of the following Districts, that is to say :—

Districts in which
Courts are estab-
lished.

The District of Pretoria at Pretoria.
The District of Witwatersrand at Johannesburg.
The District of Potchefstroom at Potchefstroom.
The District of Heidelberg at Heidelberg.
The District of Barberton at Barberton.
The District of Middleburg at Middleburg.
The District of Standerton at Standerton.
The District of Utrecht at Utrecht.
The District of Vryheid at Vryheid.
The District of Wakkerstroom at Volksrust :

to be holden before such persons as shall respectively be appointed to be Resident Magistrates of such Districts : Provided however that no person already appointed a Magistrate for any of the above districts shall require to be re-appointed to such office.

2.*It shall be lawful for the Governor by any notice, to be by him from time to time issued for that purpose and published in the *Gazette*, to erect, constitute and establish Courts of Resident Magistrates to be held for and within such other districts respectively and at such places as the Governor shall think fit, which Courts shall respectively be holden before such persons as shall respectively be appointed to be Resident Magistrates of such districts.

Establishment of
Courts by notice in
Gazette.

3. †It shall be lawful for the Governor by notice in the *Gazette* to authorise and appoint the Resident Magistrate for

Courts held at
other than ordinary
places.

* Courts of Resident Magistrates have also been constituted and established for the Districts of Ermelo, Waterberg, Zoutpansberg, Rustenburg, Marico, Lydenburg, Lichtenburg.

† Under this section, Periodical Courts have been established at Kaapsche Hoop, in the District of Barberton ; Pilgrim's Rest, in the District of Lydenburg, and Belfast, in the District of Lydenburg ; and Amsterdam, Carolina and Waterval Boven, in the District of Ermelo. (See *Gazette*, 28th November, 1902, pp. 1702-3.)

Jurisdiction of.

any district to hold a Court at such place or places other than the stated and ordinary place for holding the Court of Resident Magistrate, in such district and at such times as the Governor may in such notice direct. The Courts of Resident Magistrate so held, elsewhere than at the places fixed and appointed as the stated and ordinary places for holding such Courts, shall have and exercise the same jurisdiction in civil and criminal cases as that possessed by the said Courts when held at the stated and ordinary places so fixed and appointed as aforesaid.

Resident Magistrate may be appointed to act elsewhere than in his district.

4. It shall be lawful for the Governor to appoint the Resident Magistrate of any district to hold a Court at any place in any district other than that in which such Resident Magistrate shall have been appointed to act, and such Court held before such Magistrate, and all proceedings had therein, shall be of the same force and effect as if such Court had been held by or before the Resident Magistrate of the district within which such Court shall hold its sitting.

Fixing limits of Magistracy.

5. *It shall be lawful for the Governor by any notice to be by him issued for that purpose and published in the *Gazette*, on the taking effect of this Proclamation, and thereafter from time to time as occasion may seem to him to require, to define, fix, and appoint the local limits of the territory which shall be comprehended and included in any of the aforesaid districts, whether in the *first* section mentioned or such as shall hereafter be created, and within which the Resident Magistrate for such district shall have and exercise jurisdiction and authority: And whenever the Governor shall deem it to be inexpedient or unnecessary that any of the said Courts shall continue to be holden for and within any of the districts aforesaid, then and in every such case it shall be lawful for the Governor by any notice to be by him issued for that purpose and published as aforesaid, to abolish such Court and the office of Resident Magistrate for such district or any part thereof, as also to annex any such district or any part thereof to any other district or districts; and every district or part thereof which shall be so annexed as aforesaid to any other district shall thereby become and be within and subject to the jurisdiction and authority of the Resident Magistrate for the district to which it shall be so annexed: And whenever any Court shall be erected under or by virtue of the power and authority in that behalf in the *second* section of this Proclamation mentioned, and the district assigned for the exercise of the jurisdiction of such Court shall comprise territory which was before then either wholly or in part within the jurisdiction of some other Court or Courts of Resident Magistrate, then and thereupon such territory shall wholly cease to be within or subject to the jurisdiction of such other Court or Courts.

Alteration of districts.

Revival of abolished Magistracies.

6. Whenever the Governor shall, by any notice to be by

* Under this section, Courts of Resident Magistrates have been erected at Carolina, in District of Ermelo, and Bethal, in District of Standerton. (See *Gazette*, 28th November 1902, and 16th December 1902.) Digitisation Programme, University of Pretoria, 2016

him issued for that purpose, repeal any such notice by which the Court or the office of the Resident Magistrate for any district was abolished, thereupon and by virtue of such repeal, such Court or such office shall of new become and be created, constituted and established in like manner, and to all intents and purposes as if the same had never been abolished in manner aforesaid.

7. Every person who shall hereafter be appointed the Resident Magistrate for any district shall be so appointed by the Governor under his Hand and Seal; and it shall be lawful for the Governor, when, and so often as, by reason of the death, sickness, absence from his office on duty or leave, or other incapacity of any Resident Magistrate, it shall appear to him to be necessary or expedient so to do, to appoint some fit and proper person to act as, and in the stead of, such Resident Magistrate within his district; and all deeds, acts, matters and things which shall be done and performed by or before any person so appointed to act as aforesaid, under and by virtue of such, his appointment shall be as legal, valid and effectual, to all intents and purposes, as if the same had been done and performed by or before the Resident Magistrate instead of whom such person shall have been so appointed to act.

Appointment of
Magistrates.

Acting Magis-
trates.

8. The Governor may from time to time appoint for any district one or more fit and proper persons to be styled Assistant Resident Magistrates, and every Assistant Resident Magistrate shall, subject to the provisions of this Proclamation, have and exercise all the powers and jurisdictions of a Resident Magistrate in and for the district or within the local limits for which he shall be appointed to act in all cases, civil or criminal, and with regard to marriages solemnized under Law No. 3, 1871.

Assistant Resident
Magistrates.

The Assistant Resident Magistrate at the seat of Magistracy may also in the absence of the Resident Magistrate exercise all the powers and authorities and discharge all the duties conferred or imposed on the Resident Magistrate by any other law.

Duties of Assistant
Resident Magistrate.

9. Every Assistant Resident Magistrate shall be subordinate to the Resident Magistrate of the district and shall act as such Assistant Resident Magistrate:—

- (1) When so required to act at the stated and ordinary place of holding the Court of Resident Magistrate by the Governor or by the Resident Magistrate, whether the Resident Magistrate be present or not, and such Assistant Resident Magistrate may act in the disposal of any cases assigned to him for disposal by the Governor or by such Resident Magistrate while the Resident Magistrate shall be acting in other cases.
- (2) During the absence of the Resident Magistrate on leave, duty or from illness or other unavoidable cause.
- (3) At such place or within such local limits as may be assigned by the Governor; who may, whenever the

place at which any Assistant Magistrate for any district is appointed to act is so near the boundary of such district that the inhabitants of any adjoining district can with ease and convenience resort thereto, define any portion of such adjoining district as an area over which such Assistant Magistrate shall have and exercise jurisdiction, and thereupon all persons within the area so defined shall for all proceedings, civil and criminal, be subject to the jurisdiction of such Assistant Magistrate as aforesaid as well as to the Court of Resident Magistrate of the District of which such area is a portion.

Oath to be taken
by Magistrates.

10. Every person who shall in manner aforesaid be appointed to a Resident Magistrate, Assistant Resident Magistrate, or to act as or in the stead of any Resident Magistrate, shall, before exercising any of the functions of his office, take the oath of allegiance and oath of office set forth in the Schedule hereunto annexed marked "A" before any Justice of the Peace who is hereby empowered and required to administer the same: and every such person shall, as soon as he shall have duly taken the oaths aforesaid, cause such oaths to be recorded and shall subscribe the same in the record book of the proceedings of his Court or the Court in which he shall so have been appointed to act as the case may be.

Courts of Record.

Judgments in open
Court.
Proceedings to be
in English.

Bystanders.

Closed doors.

11. The Courts of Resident Magistrates aforesaid shall be respectively Courts of Record, and the pleadings and proceedings of the said Courts shall be carried on and the sentences, decrees, judgments and orders thereof pronounced and declared in open Court and not otherwise; and the several proceedings and pleadings of the said Courts shall be in the English language: And in all criminal cases the witnesses against and for any accused person or persons shall deliver their evidence *vivâ voce* and in open Court; provided that if any of the bystanders disturb the order or peace of the Court the Resident Magistrate may order the Court room to be cleared and the doors thereof closed to the public; and provided further, that the Court may in any special case in the interests of good order and public morals direct that the trial is to be held with closed doors and that the public or females or those of the public who are under the age of sixteen years are not to be admitted.

Jurisdiction in
Civil Cases.

12. Every Resident Magistrate shall have in all civil cases the jurisdiction following, that is to say:—

- (a) With regard to persons in respect of matters falling within the terms of Sub-Section (b) of this Section.
- (1) In actions instituted against any person residing or carrying on business within the district for which such Resident Magistrate shall have been appointed.
 - (2) In actions instituted against any person resident elsewhere, but in such case with reference only to landed property situate within such district.

(b) With regard to things—

- (1) In all cases founded upon any Bill of Exchange, Promissory Note, Good-for-Bond or other written acknowledgment of debt commonly called a "liquid document" to an amount of five hundred pounds and any interest due thereon.
- (2) In all other cases where the claim or the value of the matter in dispute does not exceed the sum of one hundred pounds.
- (3) In actions of ejection against the occupier of any lands, tenements or premises situate within the local limits of his district: Provided that where the right of ownership is in dispute between the parties the value of the property shall not exceed one hundred pounds; and provided that where the right to the occupation of any such lands, tenements or premises is in dispute between the parties such right shall not exceed one hundred pounds in clear value to the occupier.

Provided that as often as any action or suit shall be brought upon any liquid document for any sum exceeding one hundred pounds as aforesaid the Resident Magistrate shall have jurisdiction to try any plea of set-off or compensation not exceeding the amount demanded by the plaintiff in the summons.

13. It shall be lawful for a Resident Magistrate to grant orders for arrests and interdicts against persons and things, but where the debt or matter in dispute is above the ordinary jurisdiction of the Court of Resident Magistrate, such orders shall only be provisional, and shall be returnable in the High Court of the Transvaal; the Resident Magistrate shall grant such provisional orders only in circumstances of such urgency as not to allow of an application to a Superior Court for such order, and the Clerk of the Court shall in every such case forthwith transmit duly certified copies of such provisional order and of the documents whereon the same has been granted to the Registrar of the said High Court. Such copies shall be supplied to the Clerk of the Court by the applicant or his agent who has obtained the said provisional arrest or interdict.

Arrest and interdicts.

14. Whenever any Court of Resident Magistrate shall give judgment for the payment of money the amount shall be recoverable in case of default or failure of payment thereof forthwith or at the time or times and in the manner ordered by the said Court by execution against the movable property, and if there be no movable property or not sufficient to satisfy the judgment then against the immovable property of the party against whom such judgment shall be given which execution shall be sued out and executed in manner and form as in that behalf directed by the rules and regulations of the Courts of Resident Magistrates: Provided always, that were it is required that immovable property be sold in execution in satisfaction of the judgment of any Court of Resident Magistrate such property

Execution of judgments.

shall be sold only through the Sheriff after process in aid shall to that end have been applied for on an *ex parte* application to and granted by the High Court of the Transvaal; And provided further, that no writ of execution shall be issued after the lapse of Twelve Months calculated from the day on which judgment is pronounced unless the said judgment shall first have been revived, but writs of execution once issued shall remain of force until such time as the judgment shall have been satisfied.

No writ after
twelve months.

Execution in other
districts.

15. Whenever there shall not be found within the district of the Resident Magistrate from out of whose Court such execution shall issue against any person sufficient property of such person from which the debt or costs can be levied by virtue of any writ issued by such Magistrate, or whenever it shall be found necessary by reason of the defendant's removal from the district of the Resident Magistrate out of whose Court a warrant for civil imprisonment shall have issued under the provisions of Section *eighteen*, to have such warrant executed elsewhere, such writ or warrant, when endorsed by the Resident Magistrate of any other district (and every Resident Magistrate is hereby authorised and required, on production to him of any such writ or warrant, to endorse the same), shall have the like force and effect, and may be executed by the officer or person to whom such writ or warrant shall be directed within the district of the Magistrate by whom it has been endorsed as if it had been issued by such last-mentioned Magistrate for execution of any sentence or judgment of his Court.

What property may
not be attached.

16. In respect of any process of execution issued against any person out of any Court of Resident Magistrate the following property shall be protected from seizure and shall not be attached or sold, to wit:—

- (a) The necessary bed or beds and bedding or wearing apparel of the person against whom the execution is levied and his family.
- (b) The supply of food and drink in the house sufficient for the needs of the family during one month.
- (c) Tools and implements of trade or the tools necessarily used in the cultivation of land in so far as the same do not exceed the value of twenty-five pounds.
- (d) Professional books, documents or instruments in so far as the same do not exceed the value of twenty-five pounds.

Decree of civil im-
prisonment.

17. Whenever it shall appear from or by the return of the messenger of any Court of Resident Magistrate to any process of execution, whereby such messenger was required to cause to be levied and raised of the movable property of any defendant the amount of any debt and costs recovered by the judgment of the said Court by any plaintiff, that such messenger had not found any such movable property or had found sufficient of the same wherewith to satisfy only some part or portion of such debt or costs as aforesaid, then and in that case it shall and may be lawful for the Clerk of the Court and he is hereby required upon the application of the said plaintiff or his lawful agent to

issue and deliver to the messenger of the said Court a summons for the said defendant calling upon him to appear and show cause why a decree of civil imprisonment should not be pronounced against him, which summons shall in substance and effect be in the form in that behalf in Schedule B to this Proclamation contained.

18. When and as often as any such Court as aforesaid shall make a decree of civil imprisonment against any defendant the process for the execution of the same shall be by warrant which shall in substance and effect be in the form in that behalf in Schedule B to this Proclamation contained.

Warrant of imprisonment.

19. The keeper of whatever prison who shall in any such warrant be mentioned and referred to shall receive into his custody and retain therein according to the tenor of such warrant the person against whom the same shall have been sued out: Provided always that the plaintiff suing out the same shall pay and satisfy the charges for the maintenance of the defendant precisely as if such defendant had been committed under or by virtue of a decree of civil imprisonment made and granted by the High Court of the Transvaal: And provided also, that it shall be lawful for such keeper as aforesaid in case any such charges shall remain unsatisfied to discharge the debtor from custody forthwith: And provided further, that such charges as aforesaid for maintenance shall be such an amount not exceeding two shillings and sixpence per diem as the Magistrate shall determine and shall be paid weekly in advance by the keeper of the prison into the hands of the imprisoned debtor.

Imprisonment and maintenance during.

20. When and as often as any defendant summoned as aforesaid to show why a decree of civil imprisonment shall not be made against him shall propose terms of settlement to the plaintiff which the said plaintiff shall agree to accept or shall propose terms of settlement which, although the said plaintiff shall refuse to accept the same, shall yet be deemed by the said Court to be fair and reasonable, it shall and may be lawful for the said Court either to withhold the said decree or to grant the same with such certain stay of execution or other equitable condition as shall best tend to carry into effect or secure the performance of the terms of settlement agreed upon between the parties when there are such terms or when there are none such then as shall best tend to carry into effect and secure the performance of any terms proposed by the defendant which by the said Court shall be deemed fair and reasonable and as such be approved and adopted or otherwise as shall best tend to meet the merits of the case: Provided always, that no writ of civil imprisonment for non-payment or non-satisfaction of any judgment or decree shall be granted or issued in cases in which the party against whom such writ of civil imprisonment is sought to be issued shall prove to the satisfaction of the Court that he has not property or means sufficient to satisfy in whole or in part the said judgment or decree.

Circumstances under which decree of imprisonment may be withheld

Proof that defendant has property must be given before civil imprisonment decreed.

Period of imprisonment and effect of liberation.

21. No defendant shall be detained in prison under any such warrant as aforesaid in any case in which the debt and costs mentioned in such warrant shall together amount to less than Five Pounds for any period longer than one month; nor in any case whatever for any period longer than six months; and no defendant once discharged shall ever be again arrested for the same debt or cause of action: Provided always, that when any defendant shall be discharged from prison by reason merely that any such period as aforesaid has expired or by reason of any charges for maintenance remaining unsatisfied such imprisonment and discharge shall not be deemed to be a satisfaction of the debt, damages or costs for which he was taken in execution so as to prevent the plaintiff from having further execution against the property of such defendant: And provided also, that every defendant imprisoned under any such warrant shall be discharged forthwith upon payment of the amount of debt and costs mentioned in the said warrant.

Costs of proceedings for imprisonment by whom payable.

22. All and singular the costs and charges incurred in any proceedings for civil imprisonment shall be payable and paid by the plaintiff who shall not (except as hereinafter accepted) recover or have the same or any of them from the defendant: Provided always, that if in any case in which any such decree of civil imprisonment shall be made or granted it shall be made to appear to the Court at the time of granting the same that the non-payment by the said defendant of the debt and costs due by him and then in question is vexatious it shall be lawful for such Court to allow against such defendant the costs and charges aforesaid or any part thereof which to the Court may seem fit: And provided also, that nothing in this section contained shall be construed so as to affect any settlements by means of terms offered by the defendant and accepted by the plaintiff or to prevent the Court from taking such costs and charges into its consideration in any case in which terms are proposed by the defendant as fair and reasonable for the purpose of being sanctioned by the said Court and carried into effect by its authority.

Proceedings for recovery of possession of a house, &c., upon return of *nulla bona* in action for rent.

23. Whenever a judgment of any Court of Resident Magistrate shall have been obtained for the amount of any rent of any house, land or premises and it shall appear by the messenger's return that no movable property has been found wherewith to satisfy the judgment it shall be lawful for the plaintiff to serve upon the defendant a notice in writing informing him that application will be made to such Court for an order condemning him to deliver up possession of the house, land or premises in respect of which the said rent shall be due: Provided that no claim or demand for the delivery up of possession as aforesaid shall be entertained in any case in which the lease or contract of hire or the term thereof yet to come and unexpired shall be of a value which is above the jurisdiction of any Court of Resident Magistrate under the *twelfth* section of this Proclamation.

24. It shall be lawful for the Court of Resident Magistrate, upon proof of such return, as aforesaid, and of the due service of such notice, as aforesaid, and after hearing the plaintiff, and also the defendant if he appear, to condemn the defendant forthwith to deliver up possession of the house, land, or premises in question, and thereupon the Clerk of the Court shall, upon the application of the plaintiff, issue a warrant authorizing and requiring the messenger of the said Court to put the plaintiff into possession of the said house, land, or premises; which warrant shall in substance and effect be in the form in that behalf in the rules and regulations of the Courts of Resident Magistrates contained, and which warrant it shall and may be lawful for such messenger to execute as against the defendant and all persons claiming from, through, or under him; and thereupon every previous contract or agreement for the hire or use of such house, land, or premises by the said defendant from the said plaintiff shall become, and be wholly avoided, and from thenceforth absolutely determined: Provided always, that the execution of such warrant shall not operate as a satisfaction or extinguishment of the rent recovered by such judgment.

Decree for delivery up of possession and its effects.

25. If it shall be made to appear to any such Court, as aforesaid, at the time of the hearing of any action brought for the recovery of any such rent, as aforesaid, either by the admission of the defendant or otherwise, and whether such defendant shall personally appear at any such hearing or not, that there is no property to be found against which to execute any process of execution, the said Court may then and without the issue of any such process or any fresh summons condemn the defendant to deliver up possession, as aforesaid, in like manner as if he had been duly served with a notice in manner and form as in the *twenty-third* section of this Proclamation mentioned.

Court in a certain case may in an action for rent decree delivery up of possession.

26. It shall be lawful for any person being a party to any civil suit or action depending in any Court of Resident Magistrate to appeal against any final judgment decree or sentence of such Court, or against any rule or order made by such Court in any such civil suit or action having the effect of a final or definitive sentence to the High Court of the Transvaal; and in every such case in which any such appeal shall be made, the Resident Magistrates shall, and are hereby respectively empowered, either to direct that the judgment, decree, rule, order, or sentence appealed from, shall be carried into execution, or that the execution thereof shall be suspended, pending such appeal as to the said Resident Magistrates respectively may in each case appear to be most consistent with real and substantial justice: and in case any Resident Magistrate shall direct any such judgment, decree, rule, order, or sentence, to be carried into execution, the person in whose favour the same shall have been given shall, before the execution thereof, enter into good and sufficient security, to be approved by such Resident Magistrate, for the due performance of such judgment or order, as the said High Court shall think fit to make thereupon; and in case any Resident Magistrate shall direct the execution of any such

Appeal against judgment of Magistrate.

When appeal made judgment may be either executed or suspended.

judgment, decree, rule, order, or sentence, to be suspended, pending such appeal, such Resident Magistrate shall, and may whenever it shall appear to him necessary and consistent, with real and substantial justice so to do, require the person against whom such judgment, decree, rule, order, or sentence, shall have been given, before any order for the suspension of any such execution is made, to enter into good and sufficient security to be approved by such Resident Magistrate for the due performance of such judgment or order as the said High Court shall think fit to make thereupon: Provided always, that every such appeal shall be taken, entered and made within such time and in such manner as is directed and required by the rules and regulations for the time being of the Courts of Resident Magistrates: And the said High Court may reverse or alter the judgment of the said Court of Resident Magistrate as justice shall require, and in case the record of the Resident Magistrate shall not furnish sufficient evidence or information for the due determination of the case may remit the said record to the Court of the Resident Magistrate with instructions in regard to the taking or setting out of further evidence or information: or such High Court may order the parties, or either of them, to produce at some convenient time in such Court, such further proof as shall seem necessary or desirable: or such High Court may take such other course as may lead to the just, speedy, and as much as may be inexpensive settlement of the case, making such order in regard to costs as justice shall require.

At what time
appeal to be taken.

Procedure on
appeal.

Costs where action
competent before
Magistrate is brought
in superior Court.

Costs.

Cases in which
action may be brought
in High Court of the
Transvaal.

27. If any action shall be commenced in the High Court of the Transvaal or Witwatersrand District Court for or upon any cause of action other than some one of those in the next succeeding Section mentioned, for which cause an action might have been commenced in some Court of Resident Magistrate, and judgment shall be given for the plaintiff for a sum less than five hundred pounds, exclusive of interest, if such action be founded upon a liquid document, as in the *twelfth* Section of this Proclamation mentioned, or less than one hundred pounds if such action be not founded upon a liquid document, such plaintiff shall not recover any costs exceeding the estimated amount of the costs which he would in the same case have recovered in the Court of Resident Magistrate had he brought his action therein, and if judgment shall be given in favour of the defendant he shall be entitled to his costs as between Attorney and client unless in either case the Court trying the action shall find and record that the said action from its nature or circumstances was fit to be brought into such court.

28. In all cases in which the plaintiff resides in a district other than that in which the defendant resides and no part of the cause of action arose in such last-mentioned district and in all cases where a claim or demand is founded upon any notarial or other mortgage bond or bill of exchange or promissory note or other liquid document of which the lawful holder for valuable consideration does not reside in the same district with

the defendant, and in all cases in which any action shall be brought against any officer of any such Court for or on account of anything relating to his conduct in his office the plaintiff may bring his action in the High Court of the Transvaal, although some Court of Resident Magistrate might have had jurisdiction, and in that event the question of the costs in such action shall be judged of by the said High Court in like manner as if it could not have been brought in any other Court.

29. It shall be lawful for every Court of Resident Magistrate to admit and enrol as Agents in the said Court so many persons of full age and of good fame and character as shall be desirous to be so enrolled and who have either been duly admitted to practice as Law Agents in the Courts of Landdrost of the late South African Republic or who have passed the examinations which under the laws thereof would have entitled them to be so admitted.

Enrolment of
practitioners.

30. Every such Court shall possess and exercise over or in respect of all Agents so enrolled the like powers and authorities as the High Court of the Transvaal possesses and exercises over or in respect of the Attorneys thereof, and may summarily enquire into any charge of misconduct preferred against any Agent, and should the same prove to be well-founded may remove such Agent from the roll of Agents either absolutely or conditionally or may suspend such Agent from practice in the said Court for a limited period in all cases in which under similar circumstances arising in or out of proceedings in the said High Court any Attorney thereof might lawfully have been by the said Court proceeded against and punished in the same manner: Provided always that every Resident Magistrate shall record the evidence upon which he shall have ordered any such removal or suspension and that any Agent who shall conceive himself to be aggrieved by any such removal or suspension may bring the same in review before the High Court of the Transvaal which Court may confirm or set aside the same; and when and as often as any such removal or suspension shall be set aside no costs shall be awarded against the Magistrate ordering the same in case he shall appear to have acted *bonâ fide* and upon reasonable and probable cause: Provided always that even if such removal or suspension shall not be brought in review the Magistrate so removing or suspending any Agent shall nevertheless transmit to the Registrar of the High Court of the Transvaal a certified record of the evidence upon which the said removal or suspension was grounded, and it shall be lawful for the said Court in case it should deem such removal or suspension one fit to be rescinded or reconsidered to make such order in the matter as shall to justice appertain: And provided, further, that it shall at all times be competent for the Council of the Incorporated Law Society of this Colony to bring to the notice of the High Court of the Transvaal any facts regarding the conduct of any Law Agent whether the same shall or shall not already have been adjudicated upon by a Resident

Jurisdiction of
Court over enrolled
practitioners.

Magistrate which in the opinion of the said Council ought to be brought to the notice of the High Court of the Transvaal, and such Court may thereupon remove such Agent from the roll of Law Agents or may suspend such Agent from practice for a limited period or may make such order in the matter as shall to justice appertain.

Fees recoverable
by enrolled practi-
tioners from client.

31. The costs and charges in connection with any proceedings under this Proclamation shall be payable and paid according to the scale provided by Law No. 12, 1899, for the Courts of Landdrost of the late South African Republic until such scale is altered by any rules made by the members of the High Court of the Transvaal under Section *fifty-one* of this Proclamation.

Fees recoverable
from opposite party
in regard to employ-
ment of an enrolled
agent.

32. The party, whether plaintiff or defendant, in whose favour any judgment of any Court of Resident Magistrate in any civil action or proceeding shall be pronounced shall, subject to the conditions hereinafter mentioned, be allowed in the taxation of costs against the opposite party the expense of the Agent, if any, employed by the party successful according to the scale aforesaid: Provided always, that nothing herein contained shall be construed so as to deprive any such Court of discretionary power to refuse costs to any suitor to whom it would in the judgment of such Court be inequitable to allow the same.

Advocates may
appear.

Costs.

33. Any Advocate of the High Court of the Transvaal may appear and plead in any civil action or proceeding depending in any Court of Resident Magistrate: Provided always that the fees of such Advocate shall not be charged in the taxation of costs between party and party.

Attorneys to be
deemed enrolled
Agents.

34. Every Attorney duly admitted to practise in the High Court of the Transvaal shall be entitled to practise in any Court of Resident Magistrate without payment or enrolment but shall be considered in the taxation of costs and in other respects as an enrolled agent.

Jurisdiction in
criminal cases.

Punishments.

35. Every Resident Magistrate shall have jurisdiction in all cases of crimes and offences wherein any person may be accused of any crime or offence not punishable by death, transportation or banishment from this Colony: Provided always, that it shall not be lawful for any such Resident Magistrate to punish any offender in any higher or more severe manner than by fine not exceeding the amount of seventy-five pounds sterling or by imprisonment with or without hard labour, and with or without spare diet and with or without solitary confinement or either of them for a period not exceeding six months or by a whipping privately in prison not exceeding twenty-five lashes: Provided that any offender may be punished by both such fine and such imprisonment or by both such imprisonment and such whipping or by both such fine and such whipping: And provided also that in regard to the infliction of spare diet or solitary confinement the Resident Magistrates shall observe and conform to such regulations and restrictions as shall from time to time be deemed necessary to prevent injurious consequences and be by the Governor issued for their guidance: And provided

further, that nothing herein contained shall be construed so as to prevent any Resident Magistrate from inflicting any other or greater punishment than the punishment aforesaid when and as often as he is or shall be authorised so to do by any special law now in force or hereafter to be enacted; And provided further, that nothing in this section shall make it lawful for any Court of Resident Magistrate in any case to sentence or adjudge any female to receive personal correction or to hard labour on any road, street or public place.

Females not to be liable to corporal punishment or to labour in a public place.

The punishment of whipping (except when expressly authorised upon a first conviction by some law) shall only be inflicted in the case of a second or subsequent conviction for some crime or offence within the space of three years.

36. As often as any child, male or female, not exceeding the age of fourteen years shall be convicted by or before any Court of Resident Magistrate of any crime or offence, then it shall be in the discretion of the said Court as well as in the case of a first conviction as of any subsequent conviction to sentence such offender to receive in private a moderate correction with a cane or rod not exceeding fifteen cuts, which correction shall be administered by such person and in such place as the said Magistrate shall appoint: Provided that in case the father or reputed father of any such offender shall in person express a desire to correct such offender himself in the manner adjudged by the Court it shall be lawful for the Resident Magistrate to permit him to do so in the presence of any suitable person to be selected by such Magistrate to witness the administration of such correction; and provided further, that should the age of any such offender be unknown, then it shall be lawful for the Court of Resident Magistrate before which he or she shall be tried to judge of the age of such offender by his or her appearance, or according to such other materials for forming a judgment upon the subject as shall exist; and no error which shall be *bonâ fide* made by any Magistrate in judging the age of any such offender shall vitiate or affect the sentence by which such offender shall be sentenced to receive and shall have received any such correction as aforesaid.

Juvenile offenders.

37. (1) No Resident Magistrate shall have jurisdiction to try any case of any crime or offence committed without the local limits of the district within which such Magistrate shall have been appointed to exercise jurisdiction save and except:

Local limits of jurisdiction.

(a) Where any crime or offence shall be committed on the boundary or boundaries of two or more districts or within the distance of two miles of any such boundary or boundaries or shall be begun in one district and completed in another every such crime or offence may be dealt with, inquired of, tried, determined and punished in any of the said districts in the same manner as if it had been actually and wholly committed therein.

Offences committed within two miles of the boundaries of two or more districts may be tried in any of such districts.

(b) Where any crime or offence shall be committed on any person or on or in respect of any property in or upon

Offences committed in or upon carriages employed in a journey

or on board of a vessel on any river in or forming a boundary of the Colony, may be tried in any district within two miles of the boundary of which such carriage or vessel may have passed.

Jurisdiction of Magistrates in cases of crimes committed on lines of railway.

any coach, wagon, cart or other carriage whatever employed in any journey or on board any vessel whatever employed on any voyage or journey upon any river within or forming the boundary of any part of this Colony, such crime or offence may be dealt with, inquired of, tried, determined and punished in any district through any part whereof, or on or within the distance of two miles of the boundary whereof such coach, wagon, cart or carriage or vessel shall have passed in the course of the journey or voyage during which such crime or offence shall have been committed, in the same manner as if it had been actually and wholly committed in such district.

(c) Where any crime or offence shall be committed on any person, or in respect of any property upon any line of railway, such crime or offence may be dealt with, enquired of, tried, determined, and punished by the Resident Magistrate of any district in, or through any part whereof such line of railway passes, in the same manner as if such crime or offence had been actually or wholly committed in the district of such Magistrate.

(2) A person charged with committing any offence may be tried by any Resident Magistrate within whose jurisdiction any act or omission or event, which is an element of the offence, takes place.

(3) A person charged with theft may also be tried by any Resident Magistrate within whose jurisdiction he has any part of the stolen property in his possession.

(4) A person charged with an offence which involves the receiving of any property by him may also be tried by any Resident Magistrate within whose jurisdiction he has any part of the property in his possession.

(5) A person charged with counselling or procuring the commission of an offence, or with becoming an accessory after the fact to an offence, may also be tried by any Resident Magistrate by whom the principal offender might be tried.

(6) If, on the trial of a person charged with any offence before any Court of Resident Magistrate, it appears that he is not properly triable before that Court, he shall not by reason thereof be entitled to be acquitted; but the Court shall discharge such person and direct that he be tried before some proper Court of Resident Magistrate, and shall remand him for trial accordingly; provided, however, that the Court may, upon the special request of such person to that effect, proceed with the trial, and the judgment of the Court shall, in such case, have the same effect in all respects as if the Court had originally had jurisdiction to try the accused person.

Where any Court of Resident Magistrate has remanded a prisoner for trial before any other Court of Resident Magistrate, such prisoner shall, unless liberated on bail, forthwith be transmitted to the gaol of the district for trial before such Court.

Where it is uncertain in which of several jurisdictions an

offence has been committed, it may be tried in any of such jurisdictions.

38. Every person upon trial on any criminal charge in any Court of Resident Magistrate shall be entitled to make his defence by Counsel, or by Attorney, or by an enrolled agent.

Accused entitled to
professional assist-
ance.

39. When, and as often as any Court of Resident Magistrate shall sentence any person upon conviction to be imprisoned with or without hard labour for any period exceeding three months, or to pay a fine exceeding twenty-five pounds, or to receive any number of lashes,* the Magistrate pronouncing such sentence shall forward to the Registrar of the High Court of the Transvaal, not later than one week next after the determination of the case, the record of the proceedings in the case, together with such remarks (if any) as he may desire to append; and such Registrar shall, with all convenient speed, lay the same before one of the members of the Court in Chambers for his consideration, and in case the said proceedings shall appear to such member to be in accordance with real and substantial justice, he shall endorse his certificate to that effect upon the said proceedings, and the said proceedings shall then by the Registrar aforesaid be returned to the Resident Magistrate by whom the same shall have been transmitted: Provided always that the execution of any sentence of imprisonment, with or without hard labour, shall not be suspended by the transmission of or the obligation to transmit the record aforesaid, unless the person sentenced shall give sufficient bail to surrender himself in order to undergo such imprisonment in case the proceedings in the case shall be approved as aforesaid, and in case a written notice to surrender signed by the Clerk of the Court of the convicting Magistrate shall be served upon, or for the said person at some place to be mentioned in the bail-bond or recognisance; and every such notice requiring the surrender of the person shall be served in manner and form as are prescribed and directed by the rules and regulations of the Courts of Resident Magistrates in regard to the service of the summons on a defendant in a civil case. And if in any case a person sentenced to receive any number of lashes shall not be also condemned to be imprisoned for such a period as shall allow time for the certificate of a member of the High Court to be received before inflicting the said lashes, such person, in case he shall not give sufficient bail for his appearance, after being served at some place to be mentioned in the bail-bond or recognisance with a written notice signed by such Clerk as aforesaid, requiring him so to do, shall be detained in custody until the proceedings in the case shall be returned as aforesaid: Provided always, that in every case in which any person sentenced as aforesaid shall give bail as aforesaid, it shall be lawful for the Magistrate (should he think fit) to take bail also for the cost and charge of serving such notice as aforesaid (if

Review by High
Court.

* The provisions of this section are *mutatis mutandis* to apply to the review by a Judge of sentences of lashes imposed by a Native Commissioner or Sub-Commissioner. (See Ordinance 3 of 1902, sect. 4).

necessary), which cost and charge shall be the same as that of serving a summons in a civil case against the same person at the same place.

Powers of High
Court in review.

40. If, upon considering the proceedings aforesaid, it shall appear to such member of the High Court in Chambers that the same are not in accordance with real and substantial justice, or that doubts exist whether or not they are in such accordance, then it shall be lawful for such member to lay the same before the said High Court for its consideration, and the said Court at any sitting thereof shall have full power, jurisdiction, and authority to affirm, alter or reverse the sentence of the Resident Magistrate's Court, and to set aside or correct the proceedings thereof, and when it shall appear necessary or proper so to do, to remit such case to the said Resident Magistrate's Court with such instructions relative to the further proceedings to be had in such case as the said High Court shall think fit, and to make such order touching the suspension of the execution of any sentence against the person convicted or the admitting such person to bail, or generally, any matter or thing connected with such person, or the proceedings in regard to him, as the said Court shall deem calculated to promote the ends of real and substantial justice: Provided also, that if in any case the said Court should desire to have any question of law or fact arising in such case argued at the Bar, such Court may direct the same to be argued by the Legal Adviser to the Transvaal Administration or his lawful deputy, and by any such other Advocate as the said Court may appoint.

Person convicted
may cause the case
as transmitted to be
set down for argu-
ment.

41. Every Resident Magistrate forwarding any such record as in the *thirty-ninth* section of this Proclamation mentioned, shall inform the person convicted of the day upon which such record will be forwarded, and it shall be lawful for any attorney of the High Court duly acting for such convicted person to peruse, and if need be take a copy of such record whilst in the possession of the Registrar of the said Court or of any of the members thereof; and it shall be lawful for such Attorney, should he so think fit, acting as aforesaid, to set down the case contained in such record for argument before the said Court in like manner as if such record had been returned or transmitted to such Court in obedience to any summons of such Court, issued in and for an appeal from, or review of a judgment of the Court of Resident Magistrate: Provided always that a written notice shall, in every such case whether prosecuted at the public instance or at the instance of a private party, be served upon the Legal Adviser to the Transvaal Administration at his office in Pretoria, not less than forty-eight hours before the hour appointed for the argument, setting forth that such case has been so set down for argument, as well as the grounds or reasons upon which the judgment is sought to be reversed or altered: And provided that whether the said judgment shall be confirmed, or shall be reversed or altered, no costs shall be payable by the prosecutor to the person convicted or by the person convicted to the prosecutor: Provided also, that no

sentence contained in any record of proceedings forwarded as in the *thirty-ninth* section of this Proclamation directed, which sentence shall have been pronounced in regard to what was by law an offence sufficiently charged and proved, and lawfully punishable as by the said sentence directed, shall be reversed or altered by reason merely, that the degree of punishment awarded by such sentence, may appear to the Court or member thereof, considering such record to have been unusually or unnecessarily severe. And provided, lastly, that nothing herein contained shall extend to prevent such Court or member or any other person from making such representation to the Governor respecting the mitigation of any such sentence as the circumstances of the case may appear to justify.

42. It shall be lawful for any person who shall be convicted by the judgment of any Court of Resident Magistrate to appeal against such conviction, and any sentence following thereupon to the High Court of the Transvaal; Provided always, that any such appeal shall be taken, entered, and prosecuted within such time and in such manner as is directed and required by the rules and regulations for the time being of the Courts of Resident Magistrates, and the said High Court may thereupon confirm, set aside or reduce any such conviction or sentence as justice shall require, and when any such appeal is made as aforesaid, the provisions of the *thirty-ninth* section of this Proclamation in regard to the execution of any sentence and the circumstances under which any such sentence may be suspended shall apply *mutatis mutandis* to any sentence so appealed against.

Right of appeal.

43. It shall be lawful for the Legal Adviser to the Transvaal Administration, if in any case he is dissatisfied with the finding of any Court of Resident Magistrate upon a point of law in any criminal case, to bring the same in review before the High Court of the Transvaal in order to take the opinion of the said High Court on the point involved for the future guidance of Courts of Resident Magistrates: Provided always that the ruling of the said High Court in such review shall in no way affect the finality of the finding of the Court of Resident Magistrate in the particular case so brought in review.

Legal Adviser may
bring decision on a
point of law in
review.

44. In actions and proceedings whether civil or criminal before any Court of Resident Magistrate, it shall be lawful for such Court before or at the hearing to amend any plaint or summons or other record in regard to the misdescription therein of any written instrument or paper, writing relating to such action or proceeding, or of any contract or any other particular or particulars: Provided that no such amendment be made except in some particular, which in the judgment of such Court is not material to the merits of the case, and by which the opposite party cannot be prejudiced in the conduct of his action, prosecution or defence: Provided also that in civil proceedings such amendment shall be made upon the payment of such costs to the other party if any, as such Court shall judge reasonable: And provided further that no misnomer in regard to the name of any person or any place shall vitiate any summons or other

Amendment of
plaint or summons.

Costs.

writ or plaint or proceeding in case the person or place be therein described so as to be commonly known.

Summoning of
witnesses resident in
another district.

45. Whenever any person whom it shall be necessary to examine as a witness in the course of any preparatory examination or at a trial of any cause whether civil or criminal before any of the Resident Magistrates as aforesaid shall reside or be for the time within any other district than that of such Magistrate, then, and in every such case, it shall be lawful for the said Magistrate to issue a summons for the attendance of such person before him in the like form as is by law provided in respect of summonses to be issued in like cases for procuring or compelling the attendance of witnesses residing or being within the district of the Resident Magistrate issuing the same; and every such summons when endorsed by the Resident Magistrate or any Justice of the Peace for such other district within which the person so to be summoned resides for the time or shall be found (who are hereby respectively authorised and required on production to them of any such summons to endorse the same), and being duly served and returned by any person authorised to serve such a summons in either of the said districts shall have in law the like effect in requiring the attendance of such person as aforesaid before the Magistrate by whom the same was issued, and in rendering such person if he shall fail so to attend liable to every penalty provided for the non-attendance of persons summoned as witnesses, as if such person at the time when such summons was served had resided or been within the district of such last mentioned Magistrate: Provided that as often as any witness in any civil case brought in any Court of Resident Magistrate shall reside or be in a district other than that under the jurisdiction of such Court, it shall be lawful for the Court in which such civil action shall be brought, should it appear to be for the convenience of the witness and to be consistent with the ends of justice upon the request of either party and after hearing the other party, to frame or approve of such interrogatories as either party shall desire to have put to such witnesses and to forward the same (together with the reasonable expenses of such witness which shall be advanced by the party desiring his examination) to the resident Magistrate of the district within which such witness shall reside or be, who shall summon such witness to appear in his Court, and upon his appearance shall take his evidence in manner and form as if a witness in a case pending in such last-mentioned Court and shall put to such witness the interrogatories aforesaid, and all other questions calculated to obtain full and true answers to such interrogatories, and shall take down or cause to be taken down in writing the evidence of such witness, and shall transmit the same certified as correct to the Resident Magistrate in whose Court such civil case shall be pending; and such evidence (subject to all lawful objections) shall be received as evidence in such case: Provided also that every witness so summoned by any Resident Magistrate to appear to answer any such interrogatories as aforesaid shall be summoned in like manner, and be liable to the like penalties in case of non-attendance as if such summons was a summons to give

Examination of
witnesses resident
in other districts by
interrogation.

Procedure in cases
of examination upon
interrogatories.

Penalty for failure
to appear.

evidence in the Court of such last-mentioned Resident Magistrate: And provided lastly that as often as any such witness as in this section mentioned in any case, civil or criminal, shall, after being summoned to appear in the Court of some Resident Magistrate, other than that of the district in which such witness shall reside or he fail to appear, it shall be lawful for the Resident Magistrate in whose Court he shall have been summoned to appear to certify under his hand to the Resident Magistrate of the district in which such witness shall reside, or be, that such witness after being summoned to appear, to give evidence in the case in question made default in so doing, and thereupon it shall be lawful for such last-mentioned Resident Magistrate, and he is hereby required to proceed against such witness in regard to such default in like manner precisely as if such witness had been summoned to appear as a witness in the Court of such last-mentioned Resident Magistrate, and had made default, and such last-mentioned Resident Magistrate shall certify to the Resident Magistrate in whose Court the actual default was made what shall have been done in regard to the witness so having made default.

46. It shall be lawful for any Court of Resident Magistrate in any civil case where it may be necessary or expedient and consistent with the ends of justice so to do, to appoint a fit and proper person to be a Commissioner, to take the evidence of any witness upon application of any one of the parties of which application, due notice shall have been given to the other party, and the evidence so taken (subject to all lawful exceptions) shall be received as evidence in such case.

*Commission de bene
esse.*

47. If any claim shall be made to or in respect of any movable property taken in execution under the process whether civil or criminal of any Court of Resident Magistrate, or to or in respect of the proceeds or value thereof by any person not being the party against whom such process was issued, it shall be lawful for the Clerk of the Court issuing such process upon the application of the Messenger, as well before as after any action brought against him, to issue a summons calling before the Court as well, the party suing out such process as the party making such claim, which summons shall be in the form in that behalf in the Rules and Regulations of the Courts of Resident Magistrates contained: And thereupon any action which may have been brought in any other Court in respect of such claim shall be stayed, and the Court in which action shall have been brought or any Judge thereof on proof of the issue of such summons, and that the movable property in question was so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of the summons aforesaid, and the Court of Resident Magistrate issuing such summons shall adjudicate upon such claim, and make such order between the parties in respect thereof, and of the costs of the proceedings as to such Court shall seem just and lawful, and such order shall be deemed to be a judgment of such Court and shall be enforced and may be appealed from in like manner as any other judgment.

Proceedings where
third parties claim
goods taken in
execution.

Contempts of Court
what and how
punishable.

48. If any person shall wilfully insult the Resident Magistrate during his sitting in any such Court, or any Clerk or Messenger or other Officer of any such Court during his attendance therein, or shall wilfully interrupt the proceedings of such Court or otherwise misbehave in such Court, it shall be lawful for any constable or private person by order of the said Court to take such offender into custody and to detain him until the rising of the Court, and the Resident Magistrate shall be empowered if he shall think fit by warrant under his hand to commit any person so offending to prison for any period not exceeding seven days, or to impose upon any such person a fine not exceeding five pounds for every such offence, and in default of payment thereof to commit the offender to prison for any time not exceeding seven days unless the said fine be sooner paid. But in any case in which any such Court shall commit or fine any person under the provisions of this section for contempt of Court, the Resident Magistrate shall without delay transmit to the Registrar of the High Court of the Transvaal for the consideration of a member of the said Court in Chambers a statement certified by such Magistrate to be true and correct of the grounds and reason of his proceedings, and shall also furnish to the party committed a copy of such statement so certified as aforesaid.

Former Landdrosts'
Courts abolished.

Records, &c., to be
preserved in Resident
Magistrates' Courts.

Access to records.

49. All Courts of Landdrost shall from and after the taking effect of this Proclamation be abolished, and all the records and proceedings whatsoever of and belonging to any such Court shall be kept and preserved of record in the Court of the Resident Magistrate hereby created and established having jurisdiction over a district comprising the town or village in which such former Court was holden; and all parties concerned shall and may have access and recourse to the said records and proceedings, and to the records and proceedings of any of the Courts created and established under or by this Proclamation or by Proclamation No. 6 of 1901; and every judgment and sentence of any inferior Court which heretofore existed within any district of this Colony shall and may be proceeded upon in the Court of the Resident Magistrate hereby created and established having jurisdiction over a district comprising the town or village in which such former Court was holden, precisely as if the complaint or action whereon the same was given or pronounced had been originally commenced, and the said judgment or sentence given or pronounced in such last-mentioned Court. And if at any time hereafter Courts of Resident Magistrates should be created by any such notice as in the *second* section of this Proclamation mentioned, and the district assigned for the jurisdiction of such Court by any such notice as is in the *fifth* section of this Proclamation mentioned should be composed of any territory before, then under the jurisdiction of some other Court of Resident Magistrate any judgment or sentence of such last-mentioned Court pronounced previously to the publication of such last-mentioned notice, and affecting any person or any property in such territory shall be as valid and effectual, and may be proceeded upon precisely in

the same manner as if such territory still remained under the jurisdiction of the Court by which such judgment or sentence was pronounced.

50. All proceedings, prior to judgment or sentence, which shall be pending in any Court of Resident Magistrate or in any Court of Landdrost of the late South African Republic at the time of the commencement and taking effect of this Proclamation may be proceeded with in any Court of Resident Magistrate established by this Proclamation in case such last-mentioned Court would have jurisdiction in regard to such proceeding were the same commenced *de novo*.

Proceedings now pending may be continued.

51. The rules, orders and regulations respecting the manner and form of proceeding in civil and criminal cases before the Courts, hereby established or authorised so to be, shall be the rules, orders and regulations in that behalf in the Schedule to this Proclamation contained marked "B"; and every rule, order or regulation in the said Schedule contained shall be deemed and taken to be of the same force and effect as if the same or the substance thereof had been embodied in so many enacting clauses of this Proclamation. And it shall be lawful for the members of the High Court of the Transvaal by any rule or order to be made in like manner as may from time to time be directed, as to general rules and orders of the said High Court to amend or repeal any of the rules, orders or regulations in the said Schedule to this Proclamation contained, and to frame such other or additional rules respecting the manner and form of procedure, and the fees and charges to be taken by officers and practitioners in the said Courts, as may be found necessary, and any such amendment or additional rule so made and framed shall have the same force and effect as if it had been originally inserted in the Schedule to this Proclamation.

Rules of Court as in Schedule.

52. Save as by this Proclamation or by any other law provided the Resident Magistrate of each of the said districts shall exercise all the jurisdictions and powers, discharge the duties, and enjoy all the privileges heretofore exercised and enjoyed by Landdrosts under the existing laws of the late South African Republic; and whenever in any law or resolution of the Volksraad of the late South African Republic, the term "Landdrost" is used the term shall be deemed and construed to mean the Resident Magistrate.

Resident Magistrate to have former powers of Landdrost.

SPECIAL PROVISIONS FOR THE WITWATERSRAND DISTRICT.

53. The Resident Magistrate for the District of Witwatersrand shall be officially styled "The Chief Magistrate for the District of Witwatersrand"; wherever in any Law the Court of Resident Magistrate at Johannesburg is referred to the Court of Resident Magistrate for the District of Witwatersrand shall be taken to be meant thereby.

Title of Chief Magistrate.

54. There shall be appointed for the said District, an Officer to be styled "The First Civil Magistrate at Johannes-

First and Second Civil Magistrates at Johannesburg.

burg," and another to be styled "The Second Civil Magistrate at Johannesburg," each of whom shall be subordinate to the Chief Magistrate, and shall have and exercise at Johannesburg, and within that portion of the said district over which the Special Landdrost at Johannesburg formerly exercised jurisdiction, all powers and jurisdiction conferred by this Proclamation, or by any other law on Resident Magistrates in all civil cases and proceedings, and generally in all matters not of a criminal nature; and shall hear and determine all such civil cases and proceedings as may be assigned to them by the Governor or by the Chief Magistrate. Every person so appointed to be the First or Second Civil Magistrate at Johannesburg shall before exercising any of the functions of his office take the oaths of allegiance and of office set forth in Schedule "A" to this Proclamation before any Justice of the Peace in the said Districts who is hereby empowered and required to administer the same.

Procedure before
the First and Second
Civil Magistrates.

55. All the provisions of this Proclamation relating to Courts of Resident Magistrates, and all rules, orders and regulations in Schedule "B" respecting the manner and form of proceeding in civil cases, shall *mutatis mutandis* apply to proceedings before the said First and Second Civil Magistrates at Johannesburg.

Native Court es-
tablished.

56. A Court to be called the "Native Court" shall, and the same is hereby declared to be erected, constituted and established at Johannesburg for the said District.

*Jurisdiction of
Native Court.

57. The said Court shall have jurisdiction to try all contraventions by coloured persons of the provisions of any law or regulation applicable exclusively to such persons, and all offences by such persons against any provisions of the Laws relating to Masters and Servants, and all matters of dispute of a civil nature between coloured persons falling within the jurisdiction of a Court of Resident Magistrate.

If any question arises as to whether or not any party to any proceedings, civil or criminal, is a coloured person, such question shall thereupon be decided by the presiding Magistrate whose decision shall be final; but he shall give the benefit of any doubt thereon in favour of the accused.

Procedure before
Native Court.

58. The provisions of this Proclamation relating to the proceedings of Courts of Resident Magistrates and the rules, orders and regulations in Schedule "B" thereof shall as far as possible apply to the proceedings before the said Native Court; provided that any civil suit or proceeding to which the parties are natives as hereinafter defined may be dealt with according to native law and custom, and in case of there being any conflict of law or custom by reason of the parties being natives subject to different laws and customs the suit or proceeding

* Jurisdiction extended by Pr. Tr. 40 of 1902 to contraventions of Native Passes Proclamation 1901, and of the Masters and Servants' Law where either the complainant or the accused is a coloured person.

shall be dealt with according to the laws and customs applicable to the defendant.

The expression "native" shall include every person belonging to any aboriginal race or tribe of Africa south of the equator, and every person one of whose parents belongs to any such race or tribe.

59. The said Court shall be holden before such person as may be appointed by the Governor, and such person shall be styled the "Magistrate of the Native Court for the Witwatersrand District."

Title of Presiding Magistrate.

60. It shall be lawful for the Governor by notice in the *Gazette* to authorize and appoint the Magistrate of the said Native Court to hold a Court at such place or places within the said district other than the stated and ordinary place for holding the said Court, and at such times as the Governor may in such notice direct. The Native Court, so held elsewhere than at the stated and ordinary place for holding such Court, shall have and exercise the same jurisdiction in civil and criminal cases as that possessed by the said Court when held at the stated and ordinary place so fixed and appointed as aforesaid.

Native Court held at other than ordinary place.

Jurisdiction.

61. The Governor may from time to time appoint for the said District one or more fit and proper persons as Assistant Magistrates of the said Native Court, and every person so appointed shall have and exercise all the powers and jurisdiction conferred by this Proclamation on the Magistrate of the said Court within the local limits for which he is appointed to act.

Assistant Magistrates of Native Court.

62. Every Assistant Magistrate of the said Native Court shall be subordinate to the Magistrate thereof, and shall act as such Assistant Magistrate—

Duties of Assistant Magistrates of Native Court.

- (1) When so required to act at the stated and ordinary place of holding the said Court by the Governor, or by the Magistrate thereof, whether the Magistrate be present or not, and such Assistant Magistrate may act in the disposal of any cases assigned to him for disposal by the Governor or by such Magistrate while the Magistrate shall be acting in other cases.
- (2) During the absence of the said Magistrate on leave, duty or from illness or other unavoidable cause.
- (3) At such place or within such local limits within the said district as may be assigned by the Governor.

63. Every person appointed Magistrate of the said Native Court, or an Assistant Magistrate thereof, shall, before exercising any of the functions of his office, take the oaths of allegiance and of office set forth in Schedule A to this Proclamation before any Justice of the Peace in the said district, who is hereby empowered and required to administer the same.

Magistrates of Native Court to take oath of office.

TEMPORARY PROVISIONS.

64. (1) No action shall be maintainable in any Court established under this Proclamation for the recovery of or in

respect of the use and occupation of any property, movable or immovable, requisitioned by proper military authority, or used or occupied by any members of His Majesty's forces while on active service in this Colony under the authority of the Commander-in-Chief in South Africa.

(2) Every Court established under this Proclamation shall have jurisdiction over contraventions of any Martial Law order or regulation which has been published or may hereafter be published in the *Gazette* or in any other official publication, but none of the said Courts shall, save by request of the Commander-in-Chief of His Majesty's forces in this Colony, exercise jurisdiction over any crime or offence committed by any member of His Majesty's forces on active service in this Colony, or over any crime or offence affecting military operations or endangering the safety of His Majesty's forces on active service in this Colony.

(3) No Court established under this Proclamation shall exercise jurisdiction in any civil cause, matter or proceeding in which the cause of action arose prior to the first day of September, in the year nineteen hundred, unless the defendant, being domiciled within this Colony, has been served personally within the jurisdiction of the Court with the process of the said Court.

(4) It shall be lawful for the Governor from time to time, by notice in the *Gazette*, to declare that in any district or districts any or all of the provisions of this section shall no longer be of any force or effect.

Repealing clause.

65. The laws mentioned in the annexed Schedule "E," as also so much of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation, shall, from and after the taking effect of this Proclamation, be repealed.

Short title.

66. This Proclamation may be cited as "The Magistrates' Court Proclamation, 1902," and shall take effect from and after the *eighth* day of May next.

SCHEDULE "A."

FORM OF OATH OF ALLEGIANCE.

I.....do sincerely promise and swear that I will be faithful, and bear true allegiance to His Majesty King Edward the Seventh. So help me God !
.....

FORM OF OATH OF OFFICE.

I.....do promise and swear that I will faithfully and diligently execute to the best of my abilities the several duties of the office of Resident Magistrate. So help me God!
.....

SCHEDULE "B."

1. There shall be appointed to every Court of Resident Magistrate so many Officers to be Clerks of the Court as may be found necessary, and also an officer who shall be styled Messenger of the Court, each of whom shall upon entering into his office take an oath for the faithful performance of his duty in the form following :—

Officers of Court.

FORM OF OATH OF CLERK OF THE COURT.

I, A.B., do swear that I will truly and faithfully execute the office of Clerk of this Court without fear, favour or affection for any one, and that I will not by myself or any other receive or take for my own use any fee or reward for anything done by me in my said office; and that I will not take or permit or suffer any person under me to take any other than such lawful fees, as I shall be instructed to take or to permit to be taken in my said office; and for all such I will duly and faithfully account to whomsoever and whensoever I am thereto required. So help me God!

FORM OF OATH OF MESSENGER OF THE COURT.

I, A.B., do swear that faithfully and diligently I will serve the office of Messenger of this Court, and execute all summonses and process thereof without favour or affection for any one, and that I will not by myself or any other take, receive, or demand any other than such lawful fees as I may be permitted by this Court to receive for anything done by me in my said office. So help me God!

2. The Clerk of the Court, as also the Messenger of the Court, may in addition to the duties specially imposed upon them by these Rules be charged with such further and additional duties as the Legal Adviser to the Transvaal Administration or the Resident Magistrate may deem fit.

Additional duties of officers.

3. The said Messenger shall give security to the satisfaction of the Resident Magistrate for the due fulfilment of the duties of his office, and for the due and punctual payment by him to the parties entitled thereto of all moneys which shall come into his hands by virtue of his office.

Security by Messenger.

CIVIL.

4. The Clerk of the Court shall keep a book, to be called the Civil Record Book, wherein he shall note (in the manner as shown in Schedule "C" hereunto annexed) the names of the parties, the nature of the plaint, the date of the summons, the date of appearance of parties, and by whom appearance, made, the nature of the defence, the day of hearing and the judgment or sentence of the Court.

Civil Record Book to be kept.

5. All civil process of the said Court may be sued out by any person having any demand or matter of complaint against any other person within the jurisdiction of the Court, and the said process shall be dated on the day on which it is issued, and shall be made returnable by the Messenger to the Court through the Clerk of the Court, and the said process shall be signed by the Clerk of the Court and issued by him, and shall be endorsed with the name and address of the party or Agent suing out the same.

Mode of civil process—issue.

6. The process of the Court of Resident Magistrate for summoning any person as defendant in any civil suit or action shall be by summons, and shall call upon such person to appear before the Court with his witnesses (if he have any) on a certain day; and shall contain a concise and succinct statement of the nature of the

Form of summons.

plaint and the claim. And the said summons shall be as near as may be in the form following, that is to say :—

Court of the Resident Magistrate

District of.....

To the Messenger of the Court.

Summon C.D., of (describing him so particularly that the officer of the Court may know where to find him) hereinafter called "The Defendant" that he appear before the Court of the Resident Magistrate of this district to be holden at.....on the.....day of.....next at.....of the clock in the forenoon with his witnesses if he have any to answer A.B. of.....hereinafter called "The Plaintiff" who complains and says (set out the nature of the plaint).

Wherefore the plaintiff claims (state what the claim is).

And serve on the said defendant a copy of this summons (and where the action is founded on any document or on an account a copy of the said document or account).

And return you on that day to the said Court what you have done on this summons.

Dated at.....this.....day of.....19.....

.....

Clerk of the Court

.....

Plaintiff's Attorney,

.....Street.....

Execution of sum-
mons by Deputy
Messenger.

7. Where the party against whom any summons or other process of the said Court is issued resides at a distance from the place where the said Court is holden, or where, from the number of such summonses or other process, the said Messenger cannot possibly serve or execute the same, the said summonses or other process may be served or executed by his sufficient deputy (to be first approved of as such by the Resident Magistrate) who shall be paid by the said Messenger and for whom he shall be responsible.

Documents to ac-
company summons.

8. A copy of the said summons together with copies of any documents or account upon which the said complaint or demand is founded shall be delivered to the Messenger with the said summons and shall be served either personally on the said defendant, or left for him at his dwelling house with someone of his household, or in case neither the defendant nor anyone of his household can be found after diligent search at his usual or last known dwelling house or place of business, by affixing the same to the outer or principal door of such dwelling house or place of business at least forty-eight hours before the time therein specified for his appearance, where the party summoned lives within five miles of the place of holding the said Court, three days where the said party lives at a greater distance than five miles and not exceeding ten miles, and so on one day in addition to forty-eight hours for every ten miles of distance at which the party summoned lives from the place of holding the said Court. But no case shall be dismissed for or on account of the omission to deliver the copy of any such document or account as aforesaid in case it shall appear to the Court that such omission has not in fact and in truth prejudiced the defendant in respect of his defence.

Service of sum-
mons.

9. If the person who is summoned has chosen *domicilium citandi* within the town or the village where the Court is to sit the service of the summons may be effected at the domicile so chosen.

Service on joint
defendants.

10. Where two or more persons or members of a syndicate are cited together in one summons the same shall be served on each of them in the manner hereinbefore set out, save and except in the case of married persons not separated either *a mensa et thoro* or in

respect of their goods and in the cases in the next succeeding section mentioned. When the names and addresses of the members of a syndicate are unknown to the plaintiff and the secretary, manager, or any member thereof to whom the names and addresses of the remaining members are known refuses to give the plaintiff information with reference thereto, it shall be competent for the Court to order such secretary, manager, or member to furnish the plaintiff with a list of the names and addresses of the members of such syndicate.

11. In the following cases the service of the summons shall be effected as follows :—

- (a) When directed against a corporation or incorporated company in so far as is not otherwise provided by Law, at the local office of such corporation or company.
- (b) When directed against two or more persons who are partners in trade or business at their office or place of business, or if there be none such, on any one of them personally.
- (c) When directed against two or more persons who are trustees of an insolvent estate, liquidators of a company, executors, curators, or guardians, on any one of them personally or at his office.

Service on a corporation, partnership, or trustee of insolvents, &c.

12. No service of any process, order, notice, or proceeding, or any act done in any civil action, except the case of arrest, shall be valid or effectual if performed on a Sunday. But all process returnable on a Sunday or upon a holiday shall be returned on the following day; and any act required to be done by any party in Court, at a time which would otherwise fall on a Sunday or holiday, shall be valid and effectual if done on the following day.

Service not to be effected on Sunday.

13. The Messenger of the Court shall endorse or annex to the summons the manner of his executing the same, and shall return the said summons to the Clerk of the Court.

Endorsement of summons by messenger.

14. It shall be permitted to any plaintiff or defendant in the said Court to appear and conduct his case by means of any person authorised by Power of Attorney under his hand to be filed with the Clerk of the Court; and when it shall be made to appear to the satisfaction of such Court, that, by reason of the absence from home of defendant, such Power of Attorney could not be obtained, then it shall be permitted to any one of his family, or any one having a general authority to manage his affairs in his absence and willing to conduct the said case to appear for the defendant and conduct the same. But nothing shall in the taxation of costs against either party be allowed for the attendance or services of any person not being enrolled in such Court to practise as an agent therein, and not being an Attorney of the High Court of the Transvaal. And every such Court of Resident Magistrate, upon being satisfied that any person who appears to have a right of action, is from poverty unable to sue out, the process of such Court may order all such process to issue without fee or charges, and may appoint an Attorney or Agent to act for such person. Provided always, that such person, should he recover and receive sufficient from the other party, shall be liable to pay and make good all fees and charges so remitted.

Conduct of case by any person duly appointed by plaintiff or defendant.

15. On the Court day appointed for appearance of the parties, unless the said summons shall have been withdrawn, the Clerk of the Court shall cause the said parties, plaintiff and defendant, to be

Hearing.

called, and if they, or any one duly authorised on their behalf, appear he shall record the same, and the Court shall proceed to enquire of and determine the said complaint or demand, and the defendant or his agent, whether he will confess or deny the same, or if he will make any counter-claim against the plaintiff, and his answer shall be recorded.

Denial of complaint or counter-claim.

16. If the defendant deny, or except to the said complaint, or make any counter-claim, the Court shall, when so requested by the plaintiff, postpone the hearing of the case, and order the defendant to give notice in writing to the plaintiff of the nature of his defence exception or counter claim, within such time as the Court may think reasonable. The costs of such postponement shall be in the discretion of the Magistrate.

Procedure in absence of defendant.

17. If neither the defendant, nor anyone admitted for him, appear on the Court day appointed for that purpose, then the said Court upon the request of the said plaintiff, and being satisfied by the return of the Messenger of the Court endorsed upon the summons that the same hath been duly served, shall proceed to hear the said plaintiff and his witnesses, and cause the evidence to be taken down in writing, and shall give judgment thereon against the said defendant in the full sum due by him or awarded against him by the Court, but the said judgment shall only be provisional in its nature, and no execution shall issue upon it until the plaintiff, together with some one as his surety to be approved of by the said Court, shall give security for full restitution of the amount to be levied and raised under such judgment should the same be reversed, and the form of such security shall be the same as that set forth in the *thirty-fourth* of these rules and regulations, save and except that the words "notwithstanding the said C.D. has noted an appeal against the same" shall be omitted in the body of the said form, and the word "cause" shall be substituted for the word "appeal" in the end thereof.

Provisional judgment.

Procedure for setting aside of provisional judgment by defendant, and reopening of case.

18. The defendant may at any time within three months next after the levy made under any writ of execution, issued by virtue of any such provisional judgment, take out a summons of the said Court, calling upon the plaintiff in the original action to show cause why the judgment obtained by him should not be reversed. And, if it shall be made to appear to the said Court by oath, that the defendant was absent from his home at the time when the summons of the said Court was served, and that he did not receive the same a sufficient time before the day of the return thereof to be able to obey the same, and that he did not absent himself from home for the purpose of avoiding the service of the said summons, or that having been duly summoned, he was by just and reasonable cause prevented from attending the Court in pursuance of the said summons, then the said Court shall order the said judgment to be opened, and shall permit the defendant to answer the said complaint, or demand upon the terms nevertheless of payment of the costs incurred by his default; and the evidence before given by the said plaintiff shall, on the re-hearing of the case, be read from the evidence and proceeding taken down by the Clerk of the Court, and the said plaintiff shall be at liberty to bring further evidence if he think fit: and upon the said re-hearing the case except as aforesaid shall proceed as if the defendant had appeared on the original summons.

When provisional judgment becomes final.

19. If the defendant, or someone duly authorised on his behalf, do not within three months next after such levy as aforesaid take

out such a summons as aforesaid, the provisional judgment shall become final, and the security aforesaid shall become *ipso facto* null and void. But if upon hearing of any such summons the judgment therein mentioned shall be reversed or set aside, then the defendant shall be entitled without any cession to sue upon the said security for the recovery of the sums therein mentioned, less the costs incurred by his default.

20. If any person summoned to appear on any day to answer any complaint or demand shall appear according to the said summons, and the party complaining shall make default, the Court shall adjudge the said plaintiff to be dismissed, or if he appear, and the judgment of the Court be for the defendant, the said Court shall adjudge to the said defendant his costs to be taxed by the Clerk of the Court.

Dismissal of plaint
on non-appearance of
plaintiff.

21. After judgment of the Court against the party complaining for default of appearance, the same may, upon payment of costs, be admitted to commence a new action for the same cause, and the Court may, in any case when it shall see fit, absolve the defendant from that instance instead of giving judgment in his favour, in which case the plaintiff, upon the payment of the costs awarded against him, may commence a new action for the same cause. But the judgment of the said Court given in favour of the defendant, when pronounced after hearing of the cause, is a perpetual bar to any other suit or action for the same cause.

Terms on which
action may be com-
menced *de novo*.

22. When a case is postponed *sine die*, whether at the request of the parties or by the Court, the party who wishes to place such case again on the roll shall give the other party at least forty-eight hours previous written notice thereof.

Notice of postpone-
ment of case.

23. The process of the said Court for compelling the attendance of any person to give evidence therein shall be by summons issued by the Clerk of the Court, and directed to the Messenger thereof, and shall be served and returned by him in the same manner as any other summons of the said Court, and the said summons may be sued out by either party requiring the attendance of any witness, and shall be as near as is material in the form following, that is to say :—

Process to compel
attendance of wit-
nesses.

Court of the Resident Magistrate
District of.....

To the Messenger of the Court

Summon A.B. of, &c., C.D. of, &c. and E.F. of, &c., that laying aside all and singular business and excuses they and each of them appear in person before this Court at.....on the.....day ofnext at..... of the clock in the forenoon to testify and declare all and singular those things which they or any of them know in a certain case now pending in the said Court between I.K., plaintiff, and N.O., defendant; and that they or either of them by no means omit so to do at their peril. Serve on each of them the said A.B., &c., a copy of this summons and return to the said Court what you have done thereupon.

Dated at.....this.....day of.....19.....

Clerk of the Court.

24. If any witness have in his possession or control any deed, instrument, or writing which the party requiring his attendance is desirous to show in evidence, then the said summons shall be in the form following, namely :—(as in the former case to the words "I.K.,

Subpœna *duces*
tecum.

Plaintiff, and N.O., Defendant," and proceed as follows):—" And also that they bring with them, and produce at the time and place aforesaid, a certain deed or instrument in writing, bearing date, &c. (describing very accurately the thing to be produced), and that they or either of them by no means omit to do so at their peril. Serve, &c." (as before).

Tender of travelling allowance.

25. There shall be delivered to the said Messenger together with the said summons so many copies thereof as there are witnesses to be summoned, and also such sum or sums of money as the party for whom they are to be summoned intends that the said Messenger shall pay or offer to the said witnesses respectively for their travelling expenses: And if any person being duly summoned to give evidence, and his travelling expenses being paid or offered to be paid to him, and having no sufficient excuse, shall neglect or refuse to attend or give evidence according to said summons, then the said Court shall impose upon the said person a fine for his default, not exceeding twenty-five pounds sterling, and for non-payment shall commit such person to the gaol of the said district for any time not exceeding one month. Provided that as often as any person duly summoned shall fail to appear, it shall be lawful for the Resident Magistrate, in case no lawful cause for such non-appearance shall seem to him to exist, to issue his warrant for the apprehension of the party making default in order that he may be brought up to give his evidence, and to be otherwise dealt with according to Law. The Court may on cause shown remit any such fine or punishment which it may have imposed.

Penalty for non-attendance of witness.

Postponement of case owing to non-attendance of material witness.

26. If it shall appear to the said Court upon oath that any person who is a material witness for either party to any cause having been duly summoned, doth not attend at the hearing thereof, then the Resident Magistrate shall at his discretion either postpone the hearing of the said case to another day then to be appointed by him, or else take the examination of such witnesses as appear, and suspend the further hearing of the said case to another day: which postponement or suspension, and the cause thereof, and the day appointed for the further hearing shall be recorded.

Evidence to be oral and in open Court.

27. All persons examined or giving evidence in the said Court shall be examined orally and apart and in open Court; and shall be sworn by the Resident Magistrate according to the form of the religion they respectfully profess, "to tell the truth, the whole truth, and nothing but the truth": but all persons entitled by law to affirm instead of taking an oath may so affirm.

Evidence of records of Court.

28. Where in the course of any case it may be necessary for either party to produce and show to the Court any record, entry, or document of the said Court, it shall not be required of the said party to produce any office copy of such record, entry, or document; but the Clerk of the Court shall at his request produce and show or refer to the original.

Proceedings and objections to be taken down in writing.

29. In every civil case the Clerk of the Court shall take down the evidence and proceedings in writing, and shall also note any objections made by either party to any evidence received, or to any evidence or any document tendered by either party to the Court, and shall duly mark each document put in, and note such mark in the record.

Evidence for defence.

30. The case on the part of the plaintiff having been heard, the defendant, or some one on his part, shall in like manner produce any

writing or documents he may desire to have read to the Court and any witness to be examined in support of his answer or denial.

31. Any person having an interest in any proceedings pending in any Court of Resident Magistrate between other persons, may petition such Court for leave to intervene, and the Court, after hearing the petition and also the parties, may make such order as the circumstances shall require.

Petition of interested third parties to intervene.

32. All the judgments and sentences of the said Court shall be given in open Court, and shall be recorded by the Clerk in the proper column of the Civil Record Book.

Record of judgments.

33. Any party against whom any final judgment, decree, or order of the said Court has been given in any civil case (and a decree of absolution from the instance shall be deemed to be such a final judgment or sentence), if he intend to appeal therefrom to any superior court, shall within eight days after the granting of such judgment, decree, or order, make known his intention to the Clerk of the Court, who shall note his appeal with the date thereof in the Civil Record Book; the party noting such appeal shall prosecute the same within such time as may be prescribed by any rule of the High Court of the Transvaal, and in default of such prosecution, the appeal shall be deemed to have lapsed, unless the said High Court shall see fit upon motion to make an order to the contrary. A cross appeal may be noted at any time within eight days of the noting of appeal, and shall thereupon be prosecuted in the same manner, and within the same time as in the case of an ordinary appeal.

Notice of appeal.

34. In any case where an appeal may have been duly noted, and the Court may have directed that security shall be given, the said security shall be as near as may be in the form following:—

Security directed by Court.

Court of Resident Magistrate
District of.....

A.B. of, &c.

Plaintiff.

C.D. of, &c.

against

Defendant.

Whereas the said A.B. on the.....day of..... recovered by judgment of the Court of Resident Magistrate of the district of against the said C.D. the sum of..... together with the sum of..... for costs in a certain case before the said Court, and whereas the said Court has directed the said judgment notwithstanding the said C.D. has noted an appeal against the same to be carried into execution upon security being given for restitution: Now, therefore, the said A.B. and L.M. of..... farmer, as surety for him the said A.B., hereby severally undertake and bind themselves jointly and severally to refund and make restitution of the above several sums of..... and..... should the judgment of the said Court be reversed, and further severally to conform to and execute such judgment, order or decree as shall be given and pronounced upon or in respect of such appeal.

In witness whereof the said A.B. and L.M. have hereunto set their hands at..... on this..... day of..... 19.....

A.B.
L.M.

.....
Clerk of the Court.

35. Where the judgment of any Court of Resident Magistrate in any civil or criminal case shall be appealed from the Magistrate by whom such judgment was granted shall deliver to the Clerk of the Court for transmission to the Registrar of the Court for hearing of

Magistrates in civil and criminal cases appealed against to send to Registrar of Court a statement of facts proved and reasons for judgment.

the appeal a statement of the facts which he shall find to have been proved and his reasons for the judgment pronounced.

Taxation of costs.

36. After judgment or sentence of the Court is given in any case the Clerk of the Court shall, at the request of the party in whose favour the same is given, ascertain and allow the necessary costs and expenses of the said suit against the party to be charged therewith : and in the said taxation he shall charge and allow all such necessary payments and disbursements made in the said case as are provided to be paid by the tariff of charges in force for the time being and all such other reasonable sums of money as the party in whose favour the said judgment or sentence is given has paid in bringing before the Court any necessary witnesses or evidence or otherwise : and where he shall think it reasonable to allow any expense not herein provided for the same not being prohibited by any rule of the said Court, then he shall take the direction of the said Court thereon and make his allowance accordingly. Any party who objects to the taxation of the Clerk of the Court may bring the same free of charge into revision before the Magistrate, and the latter's decision may at any time within one month (exclusive of High Court vacation time) be brought into revision by way of application before the High Court of the Transvaal after due notice to the opposite party, failing which revision the objections made shall lapse.

Suing out of process for execution of judgment.

37. The party in whose favour any judgment or sentence of the said Court shall be given in any civil case in regard to which an appeal shall not have been noted or having been noted shall have been withdrawn, may sue out of the office of the Clerk of the Court the process of the said Court for the execution thereof.

Execution of judgments in cases of appeal.

38. In all cases of appeal the said Court shall conform to and execute such judgments, orders and decrees as shall be afterwards made and pronounced thereon in like manner as any original judgment, sentence or decree by the said Court could or might have been executed.

Process for execution of judgment.

39. The process for execution of any sentence or judgment of the said Court shall be by warrant under the hand of the Clerk of the Court directed to the Messenger of the said Court as near as may be in the form following, that is to say :—

Court of the Resident Magistrate,

District of

To the Messenger of the Court.

Whereas in a certain case heard in this Court wherein A.B. of, &c., was the plaintiff and C.D. of, &c., was the defendant, the said A.B. on the..... day of last by the judgment of the Court recovered against the said C.D. the sum of..... together with the sum of for his costs (which said judgment has been duly affirmed on appeal—if the case so be—with the further sum of £.....for costs thereon) as appears in the proceedings of the said Court : this is therefore to require you that of the movable property of the said C.D. in this district you cause to be levied and raised the debt (or damages) and costs aforesaid, together with your charges about the same, and pay to the said plaintiff the debt (or damages) and costs aforesaid and return to this Court what you have done by virtue hereof for which this shall be your warrant.

Dated at..... this..... day of19.....

Clerk of the Court.

40. Where any person against whom any judgment of the Court shall have been given shall, before any warrant shall have been taken out to levy in execution of the process of the said Court, appear before such Court, and there deliver to the Clerk of the Court an inventory of goods duly proved upon oath to belong to the said person, and to exceed in value the amount to be levied under such judgment, with the costs thereof, and shall then and there undertake in writing, together with some sufficient surety, that the goods or chattels contained in the said inventory shall be brought for sale at such time and place as the Court shall appoint, unless the person in whose behalf the said process was issued be sooner satisfied in respect of his debt or damages, as the case may be, then no further proceedings shall be had in respect of such judgment of the Court until after the day so appointed for the sale of such goods or chattels; and the form of such security shall be in substance and as near as is material, according to the form prescribed in respect of the security hereinafter set forth for not making away with goods laid under legal attachment by the process of the said Court.

Inventory by person against whom judgment given, of goods not belonging to him.

41. The Messenger of the Court shall, upon receiving the said warrant, repair to the house or place of business of the defendant within twenty-four hours if he live at the town or place where the said Court is holden, or within forty-eight hours if within five miles thereof, or if at any greater distance therefrom within so many days' distance in addition thereto as the said party resides therefrom, and there demand payment of the said debt or damages and costs, or else require that so much movable property be pointed out as the said messenger may deem sufficient to satisfy the exigency of the said warrant, and if he comply therewith the said Messenger shall make inventory thereof and lay a judicial attachment on the same, but if the debtor will not point out such property, and the judgment of the Court do not declare any to be specially bound, then the said Messenger shall immediately lay an attachment under inventory on as much movable property belonging to the debtor as he may deem sufficient to satisfy the execution, and if the judgment of the Court declare any particular property to be specially bound and liable to execution for the judgment, then the said Messenger shall first take the same.

Duty of Messenger in execution of judgment.

Inventory of movable property.

42. The said Messenger shall deliver a copy of the said inventory signed by himself to the debtor, or if he will not accept of it shall leave the same on the premises, which inventory shall have subjoined thereto a notice in the following terms :—

Delivery of copy of inventory.

Court of the Resident Magistrate

District of.....

To C.D.

Take notice that I have this day seized and laid under judicial attachment the articles comprised in the above inventory in pursuance of a warrant to me directed under the hand of the Clerk of the Court for the district of..... whereby I am required to cause to be levied and raised of your movable property in this district the sum of.....and.....costs recovered against you by the judgment of the said Court in a certain case wherein A.B. was the plaintiff, and yourself the defendant (as the case may be), and also for my charges in and about the said warrant.

Dated at.....this.....day of.....19.....

.....
Messenger of the Court.

Undertaking for production of person whose movable property attached in execution.

43. Where any person whose movable property has been attached in execution of the process of the said Court will undertake in writing together with some sufficient surety that the same shall be produced on the day appointed for the sale thereof if the person in whose behalf the said process was issued shall not be sooner satisfied in respect of his debt or damages, as the case may be, then the messenger of the said Court shall leave the said property so attached and inventoried as aforesaid upon the premises where the same was found ; and the security bond shall be as near as may be, according to the form following :—

Court of the Resident Magistrate
District of.....
A.B. of, &c. Plaintiff.
against
C.D. of, &c. Defendant.

Whereas the said A.B. on the.....day of..... last by judgment of the Court of Resident Magistrate of the district of recovered against the said C.D. the sum of..... together with the sum of for costs in respect of a certain case heard in the said Court: and whereas by virtue of a certain warrant under the hand of the Clerk of the said Court, bearing date on, &c., directed to E.F., Messenger of the said Court, the said E.F. has seized and laid under attachment in respect of the said judgment, and in respect to the execution thereof the undermentioned articles, viz:—

.....
.....
.....

Now therefore the said C. D. and L. M. of.....as surety for him, the said C. D. hereby severally undertake and promise to the said E. F. that the said goods shall not be made away with or disposed of, but the same shall remain in possession of the said C. D. under effect of the said attachment, and shall be produced to the Messenger of the said Court on the.....day ofnext (the day appointed for sale) or any other day when the same may be required in order to be sold in execution of the said judgment and expenses if the same shall not be sooner satisfied to the said A. B. ; otherwise the said L. M. hereby undertakes and binds himself to pay and satisfy the said judgment, costs and expenses for and on behalf of the said C. D.

In witness whereof the said C. D. and L. M. have hereunto set their hands on this.....day of.....190.....

E. F.,
Messenger of the Court. C. D.
L. M.

Removal of goods by Messenger in case of no undertaking to produce.

44. If the defendant will not undertake together with a sufficient surety for the production of the said goods in manner provided for that purpose, then the Messenger shall either remove the same to some convenient place of security, or if the same be cattle or such property as it may be inconvenient to remove, may leave the same upon the premises in the charge and custody of some person for him until the day appointed for the sale thereof.

Inventory of specie and documents.

45. Where specie is found and attached the number and kinds thereof shall be specified in the inventory, and where any documents are attached they shall be specified, and such specie or documents shall be sealed up and conveyed to the town or village where the Court is holden.

Power to entry by force, if necessary.

46. If the Messenger finds the doors of the defendant's house locked, or if admission thereto or the opening of any room or piece

of furniture therein be refused him, or if no one can be found who represents the defendant the Messenger may, if necessary, open the door or such furniture, and may use force to that end.

47. In case any person shall in any way obstruct the Messenger in the execution of his duty such person shall be liable to a fine not exceeding fifty pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Penalty for obstruction of Messenger.

48. The custodian of attached goods may not use, let or lend the attached goods nor permit them to be used, let or lent, nor may he in any way do anything which will decrease the value of the attached goods on pain of forfeiture of his remuneration and of liability to make good the damage and loss.

Duty of custodian of attached goods.

49. If the goods attached shall have produced any profit or increase the custodian shall in like manner as is provided in the preceding rule be responsible therefor.

50. If it shall appear upon oath to the Resident Magistrate of the said Court that any person has made away with or disposed of any goods so left in his possession under security as aforesaid, the said Magistrate shall forthwith issue his warrant for the apprehension of the said person to answer for the said fraud according to law.

Warrant for apprehension in case of disposal.

51. If any movable property taken under and by virtue of any process of execution issued out of any Court of Resident Magistrate shall be claimed by any third party as his property and not liable to such execution, the Court of Resident Magistrate out of which such process issued, upon such claim being reported by the Messenger thereof shall issue a summons calling upon the plaintiff and the claimant to appear in order to enquire into and determine the question in dispute, and such summons shall be as near as may be in the form following :—

Interpleader summons.

Court of the Resident Magistrate,
District of.....

To the Messenger of the Court.

Summons A. B. of (describe the Plaintiff in the former suit) and G. H. of (describe the claimant) that they severally appear before the Court of the Resident Magistrate of this district to be holden at..... on the.....day of..... 190..... at.....o'clock in the forenoon with their respective witnesses (if they have any) then to have it determined and declared by the judgment of the said Court whether certain movable property attached on the.....day of190.....by you, the said Messenger, under and by virtue of a certain writ of execution issued out of the said Court, commanding you of the movable property of one, C.D., to levy and raise certain sums of money in the said writ mentioned, and which movable property is claimed by the said G. H. as being his property and not liable to such execution be or be not the property of the said G. H., and be or be not so liable; and serve upon the said A. B. as upon the said G. H. a copy of this summons, and return to this Court what you have done thereon.

.....
Clerk of the Court.

52. Any property sold in execution of the process of the said Court shall be sold publicly and for ready money by the Messenger or his deputy (to be approved of by the said Court) to the highest bidder at or as near to the place where the same was taken as may be convenient for the sale thereof; and the said Messenger shall publish notice of the sale in the *Gazette* and in some local paper, and shall affix notice of the said sale and of the day and place thereof on the door of the Court-house, or on some other like public building

Sale in execution of process.

in the place where the said Court is holden, as also at or as near as may be to the place where the said sale is actually to take place seven days at least before the day appointed for the said sale; which day shall be not earlier than the fourteenth day from the time of seizure or attachment.

Civil imprisonment
form of summons.

53. The form of summons in cases of civil imprisonment shall be as follows :

Court of the Resident Magistrate,
District of.....

To the Messenger of the Court.

Summon C.D. of (describe the defendant as in the former process) that he appear before the Court of Resident Magistrate of this district to be holden at on the day of next at o'clock in the forenoon to show why a decree of civil imprisonment should not be made against him at the suit of E.F. of (describe the plaintiff as in the former process) in respect of the non-payment of the sum of (insert the joint amount of debt and costs) recovered against the said C.D. by the said E.F. by a judgment of the said Court bearing date the day of 190..... and for the recovery of which sum a warrant in execution was on the day of last past duly sued out against the movable property of the said C.D., and in regard to which warrant a return has been duly made that no movable property has been found whereof could be made the amount stated in the said warrant, or any part thereof (or whereof could be made more than the sum of parcel of the amount stated in the said warrant); and serve on the said C.D. a copy of this summons, and return to this Court what you have done thereon.

Dated..... this day of 190...

.....
..... Clerk of the Court.
Plaintiff's Agent.

Warrant for civil
imprisonment.

54. As often as the Resident Magistrate shall see cause to grant a decree of civil imprisonment, the defendant shall be committed to the gaol of the district by warrant in the form following, that is to say :

Court of the Resident Magistrate,
District of.....

To the Messenger of the Court and to the
Keeper of the Public Prison of.....

These are to command you, the said Messenger, to take C.D. of (describe as in the summons in the last preceding rule), and deliver him to the Keeper of the Public Prison of the district aforesaid, together with this warrant, there to be safely kept until he shall have paid to E.F. of (describe the Plaintiff as in the summons aforesaid) the sum of..... which the said E.F. recovered for his debt and costs by judgment of this Court, bearing date the..... day of 19..... or until the expiration of months from the day on which the said C.D. shall be received into the said prison by virtue of this warrant, whichever of the two shall first happen, or until the said E.F. shall be otherwise legally discharged; and for your so doing this shall be your warrant.

Dated at..... this day of 190...

.....
Clerk of the Court.

When a decree of civil imprisonment shall be made after an insufficient levy under process of execution against property, the words "parcel of the sum of" should be inserted before the words "which the said E.F. recovered for his debt and costs," &c.

55. Every notice to a defendant that application will be made for an order condemning him to deliver up possession of any house, land or premises on the ground that the Messenger has made a return that no movable property has been found wherewith to satisfy a judgment for rent due in respect of such house, land, or premises shall be served through the Messenger upon the defendant or his agent at least twenty-four hours before the time appointed for the making of such application, and shall be as near as may be in the form following :—

Notice to deliver
up possession of
house, land or
premises.

Court of the Resident Magistrate,
District of.....

A.B. of.....
Plaintiff.
C.D. of.....
Defendant.

Take notice that whereas on the.....day of.....last, by judgment of the Court of the Resident Magistrate District of.....you were condemned to pay to A.B. ofthe sum of.....being rent due in respect of (mention here the house, land, or premises in respect of which the rent is due) :

And whereas a Writ of Execution has been sued out against your movable property for the amount of such rent on which writ a return has been made that no such property as aforesaid has been found, whereof could be made the amount stated in such writ :

Now, therefore, take notice that application will be made to the Court of Resident Magistrate for this District at.....on the.....day of.....at.....o'clock in the forenoon for an order condemning you to deliver up possession of the aforementioned (house, land or premises as the case may be) to the said A.B.

Dated at.....this.....day of.....190.....
.....
Plaintiff's Agent.

56. When a decree for the delivery up of possession of any house, land, or premises shall be made the warrant for the execution of the same shall be as near as may be in the form following :

Decree for delivery
up of possession of
house, land or
premises.

Court of the Resident Magistrate,
District of.....

To the Messenger of the Court.

It having appeared to this Court that C.D. of (describe the tenant as in the summons) holds from and under A.B. of (describe the landlord as in the summons) a certain dwelling house (or apartment or other tenement or premises according to the fact) situate (describe the local situation) and that the said A.B. who has recovered judgment and sued out execution against the property of the said C.D. for the amount of certain rent of the said (name the sort of premises) due and in arrear hath not had the said property, or otherwise the amount of the said rent, or any part thereof; and the said A.B. having afterwards, to wit, on the.....day of.....19.....by the judgment of this Court been duly decreed to be put into possession of the said (name the sort of premises); this is, therefore, to authorise and require you to put the said A.B. into possession of the same by removing therefrom the said C.D., and all other persons claiming from, through, or under him, for which this shall be your warrant; and return to the Court what you have done in pursuance thereof.

Dated at.....this.....day of.....190.....
.....
Clerk of the Court.

57. When a decree for the delivery up of possession of property or for the arrest of any person shall be made, the warrant for the execution of the same shall be directed to and executed by the

Warrant to Mes-
senger.

Messenger of the Court, and shall be as near as may be in the form following :—

Court of the Resident Magistrate,

District of.....

To the Messenger of the Court.

Whereas in a certain case heard in this Court, wherein A.B., of &c., was the Plaintiff, and C.D., of &c., was the Defendant (or

Whereas upon application made by A.B. in the matter of &c.)

the Court did decree that the said defendant should deliver to the said plaintiff a certain (describe the thing to be delivered, or state what the decree of the Court is).

This is to authorise and require you to take the said (describe the thing) from the said defendant or any person claiming from, through, or under him, and place the said plaintiff in possession thereof (or state what is to be done) for which this shall be your warrant.

And return to the Court what you have done in pursuance hereof.

Dated at.....this.....day of.....190.....

.....
Clerk of the Court.

Transmission of records to Registrar of Supreme Court in cases of appeal.

58. Where the judgment or sentence of the said Court in any case is appealed from, and the said appeal is duly prosecuted in manner provided for that purpose the Clerk of the Court shall forthwith transmit the proceedings in the said case to the Registrar of the High Court of the Transvaal, together with a certificate under his hand subjoined to the said proceedings in the following terms :—

Court of the Resident Magistrate,

District of.....

I.....Clerk of the Court of Resident Magistrate for the district of.....hereby certify and declare that the above are the true proceedings in the case A.B. against C.D. ; and that the said proceedings contain true notes of all evidence received by the said Court, objected to, or offered by either party, and rejected by the said Court on the hearing of the said case.

Dated at.....this.....day of.....190.....

.....
Clerk of the Court

Payment of fines.

59. All fines imposed by the Court in any case, civil or criminal, shall be paid to the Clerk of the Court ; and the same together with all fees of office received by him in every month shall be paid over on the first day of the following month to the Receiver of Revenue of the district ; and the said Clerk shall deliver therewith an account in such form as the Receiver of Revenue shall, from time to time direct. And the officers of the said Court shall take such fees as are allowed by law, and the same shall be taken at a time when anything is required to be done by any officer for which such fees are allowed.

Security by plaintiff in certain cases.

60. If the plaintiff is not domiciled in this Colony, or is an unrehabilitated insolvent, the defendant may require him to find security for the costs of the suit before the case is proceeded with.

Edictal citation.

61. In all cases where it may be necessary to sue anyone by edict, the plaintiff shall first apply to the Court for leave so to do, and if such leave be granted the Court taking the circumstances into consideration shall determine the manner in which the summons is to be served as also the date of appearance. In case no appearance shall be made by the defendant, judgment shall not be given against him unless a statement under oath be made or the Court be

satisfied in some other way that a reasonable and proper effort has been made to serve the summons on the defendant personally.

“CRIMINAL.”

62. Where the Public Prosecutor shall by virtue of his office have determined to prosecute any party in the said Court for any crime or offence within the jurisdiction of the said Court he shall forthwith lodge with the Clerk of the Court, a statement, in writing of the charge or complaint against the said person describing him by his name, surname, place of abode, and occupation or degree; and setting forth shortly and distinctly the nature of the said crime or offence, and the time and place at which the same was committed.

Complaint by
Public Prosecutor.

63. Any private person entitled to prosecute for any crime or offence may prosecute summarily for such crime or offence by lodging his complaint with the Clerk of any Court of Resident Magistrate having jurisdiction, nor shall any certificate of any competent Public Prosecutor to the effect, that he declines to prosecute for such crime or offence be necessary. But any competent Public Prosecutor, may at any time, before judgment intervene in any such case, and assume the management and conduct thereof, and the Clerk of the Court shall in the column of the criminal record book hereafter mentioned headed “Remarks,” &c., make an entry of such intervention.

Complaint by private party.

64. The Clerk of the Court shall keep a book ruled and divided into columns headed and entitled according to the form in the schedule hereunto annexed marked “D” which shall be called “The Criminal Record Book of the Court of the Resident Magistrate, District of.....” and the said Clerk shall enter therein in manner hereinafter set forth all criminal proceedings in the said Court and shall present the said book to the Resident Magistrate at the first sitting of the Court upon every Court day, and the Magistrate shall, before the rising of the Court sign the same.

Criminal Record Book.

65. The Clerk of the Court shall, upon such complaint being lodged with him, either by the Public Prosecutor or any private party forthwith enter into the proper columns of the Criminal Record Book, the name of the Prosecutor, the name of the party charged, the crime or offence charged or complained of the day of commitment of the party charged, and by whom committed, and any remarks which it may be proper to record.

Particulars to be kept.

66. All persons to be prosecuted upon any criminal charge in the said Court shall be brought to trial at the next possible Court day; but whenever it shall be made to appear on oath to the satisfaction of the Resident Magistrate that any criminal case cannot be proceeded with upon the day appointed for that purpose without danger of defeating the ends of justice, he shall adjourn the hearing thereof to some future Court day, which day shall be specified by him; and the said adjournment and the cause thereof shall be noted by the Clerk in the last column of the said Criminal Record Book; further adjournments may, if necessary, be made from time to time.

Trial of offenders.

67. The Clerk of the Court shall upon or after the lodging of the said complaint at the request of the prosecutor (and at his charge where the prosecution is by a private party) issue and deliver to the Messenger of the said Court, the process of the said Court

Summons by Messenger.

for compelling the appearance of the said party to answer the charge and of the witnesses in support thereof, together with so many copies of the said process as there are persons to be summoned, if there be more than one ; and the said Messenger shall serve a copy thereof on every defendant, and shall at the same time explain to him the nature and exigency of the said process ; and the said process shall be by summons, and shall be as near as may be in the form following :—

Court of the Resident Magistrate,

District of.....

To the Messenger of the Court.

You are hereby required and directed in His Majesty's name on the sight hereof to summon..... of &c., (describing him particularly) that he appears personally before the Court at..... on the..... day of..... next at..... o'clock in the forenoon, then to answer and abide the judgment of the Court upon the complaint and information of..... who prosecutes in the name and on behalf of His Majesty, or of (describing him particularly) that the said..... on or about the..... day of..... last, violently beat and assaulted the said..... of, &c. Serve on the said..... a copy of this summons and return to this Court what you have done hereon.

Dated..... this..... day of..... 190...

.....
Clerk of the said Court.

Cases where summons unnecessary.

68. It shall not be necessary to issue a summons in respect of petty cases upon complaint of the police, cases of drunkenness and contravention of the Liquor Law, breaches of the peace, petty assaults, contraventions of the Master and Servant's Law, of Town Regulations, and of Native Pass Laws ; the accused may, in any such case, be summarily prosecuted, the charge being described in the charge sheet.

The accused or his legal adviser shall be entitled at all reasonable times to inspect the charge as noted with the Clerk of the Court or filled in on the charge sheet.

Compelling attendance of witnesses.

69. Either, party desiring to compel the attendance of any person to give evidence in any criminal case, may take out of the office of the said Clerk of the Court the process of the Court for that purpose ; and in like manner when the party charged with any offence is unable to pay the costs of such process, the Clerk of the Court shall summon on his behalf such witnesses as he shall desire to have summoned, and shall satisfy the said Clerk to be material and necessary for his defence ; and the said process shall be as near as may be in one or other of the following forms.

Court of the Resident Magistrate,

District of.....

To the Messenger of the Court.

You are hereby required in His Majesty's name to summon..... of &c..... of &c. and..... of &c. (describing them particularly) that they and each of them appear personally before this Court at..... on the..... day of..... next at..... o'clock in the forenoon to testify and declare all they and each of them know concerning a certain charge preferred by the Public Prosecutor against..... of (describing particularly the person charged). Serve on each of them a copy of this summons and return to this Court what you have done hereon.

Dated..... this..... day of..... 190...

.....
Clerk of the Court.

Court of the Resident Magistrate,
District of.....

To the Messenger of the Court.

You are hereby required and directed to summon.....
of, &c. (describing them particularly) that they and each of them appear personally before this Court at..... on the..... day of..... next at..... o'clock in the forenoon to testify and declare all they and each of them know concerning a certain complaint preferred by..... of, &c., against..... of, &c., and serve on each of them a copy of this summons, and return to this Court what you have done hereon.

Dated at..... this..... day of..... 190...

.....
Clerk of the Court.

70. If upon the day appointed for the appearance of any party to answer any charge he shall neglect to appear, and the Court shall be satisfied, upon the return of the Messenger, that he was duly summoned, then the Resident Magistrate shall, on the request of the prosecutor, issue his warrant for the apprehension of the said party, and shall also, if he think fit, impose on the said party for his default a fine not exceeding five pounds sterling, and in default of payment of such fine may sentence him to imprisonment with or without hard labour for a period not exceeding one month, and may further declare the bail (if any) forfeited.

Non-appearance of
accused.

71. If the prosecutor, being a private party, do not appear on the Court day appointed for appearance, the charge or complaint shall be dismissed; and where the Court, upon hearing the charge or complaint, shall pronounce the same unfounded and vexatious, the Resident Magistrate shall award to the defendant, on his request, such costs as the said Magistrate may think fit; Provided always that such dismissal shall not prevent the Public Prosecutor from afterwards, should he see fit, taking up the case.

Non-appearance of
private party prosecuting.

72. In case of the non-attendance of any person duly summoned to give evidence, and not having any lawful excuse allowed by the Court, the Resident Magistrate shall impose upon him the same fine as is provided for such default in civil cases before the said Court.

Non-appearance of
witness.

73. Where any person shall upon any Court day appear before the said Court to prefer any complaint against another who shall also appear thereto, and the said parties shall both be desirous of proceeding therein, the Court may after the other business of the day has been concluded cause the complaint to be recorded; and may forthwith hear and determine the same or adjourn the hearing thereof to some following day if the same be necessary as the Resident Magistrate shall see fit.

Summary determination of complaints.

74. On the day of hearing the Court shall enquire of the accused his name and surname, and thereafter cause the charge or summons as the case may be to be read out to him and require him to plead thereto; and upon the plea being recorded the Court shall enquire into such charge or complaint by hearing such witnesses as may be produced in support thereof, and in like manner shall hear any evidence offered on behalf of the defendant. If the accused shall refuse to plead, the Court shall order a plea of "not guilty" to be entered and the trial shall proceed accordingly.

Procedure at trial.

Accused may take exceptions before pleading to the charge.

75. It shall be lawful for the accused before pleading to take any exception in law to the charge or summons. And the Court shall thereupon proceed to decide such exception: If the exception be overruled the case shall proceed in the ordinary way: If the exception be allowed and the charge or summons dismissed the accused may be re-charged on a new complaint for the same offence.

Evidence as in civil cases.

76. All persons examined or giving evidence in the said Court in criminal cases shall be examined and give evidence in the same manner and form as is provided in civil cases before the said Court.

Order of Addresses to Court.

77. After the hearing of the evidence on both sides has been concluded the Prosecutor may address the Court on behalf of the prosecution and thereafter the accused or his Agent may address the Court.

Record of judgments and sentences.

78. All the judgments and sentences shall be pronounced in open Court and recorded by the Clerk of the Court in the proper column of the Criminal Book.

Orders as to *corpora delicti*.

79. The Court may, upon or after passing sentence, give a special order as to the return of the *corpora delicti* to the person thereto entitled or may order that the same are to be forfeited to the Court.

Noting in record book of higher degrees of punishment than prescribed by Proclamation.

80. If the sentence of the Court be for any higher degree of punishment than is prescribed by the "Magistrates' Courts Proclamation, 1902," the Clerk of the Court shall also note in the last column of the Criminal Record Book the particular law authorising the said punishment and giving jurisdiction to the said Court.

Discharge of accused in case of acquittal.

81. Any person acquitted upon any charge or complaint or where the same shall be dismissed for want of prosecution thereof shall forthwith be discharged out of custody. And any person who shall once have been called upon to any charge and who shall once have pleaded "Not Guilty" thereto shall be entitled to demand that he either be acquitted or found guilty: Provided, however, that the Court may after a case has been partially heard adjourn the further hearing thereof until some future time in case it should be made to appear by either the prosecutor or the party accused that some witness material to the case and who without neglect or default of the party applying for the adjournment is not present will probably be present in case an adjournment be granted.

Committal to gaol of persons sentenced.

82. All persons sentenced by the Court of the Resident Magistrate in any district to undergo the punishment of imprisonment shall be committed to the gaol of the said district for the purpose aforesaid by warrant under the hand of the said Magistrate in the form following that is to say:—

Court of the Resident Magistrate,

District of.....

To the Gaoler or Keeper of His Majesty's Gaol
for the District of.....

Whereas the undermentioned prisoners were this day respectively and duly convicted before me of the several offences undermentioned, and were for the said offences sentenced by me to undergo the several punishments respectively affixed to their names; this is therefore to require you, in His Majesty's name to receive the said several prisoners into your custody, and there safely keep them, until they

shall have undergone the said punishment, or shall be otherwise lawfully discharged or removed therefrom.

Prisoner's names.	Sentence.	Of what offence convicted.
J.T.	One month's imprisonment with hard labour	Theft.
C.D.	Finéd twenty shillings and to be imprisoned one week if fine is not paid	Assault.
E.F.	To be imprisoned one week and to receive private whipping of 24 lashes	Theft.

Given under my hand at.....this.....day of
.....19.....

Resident Magistrate.

Clerk of the Court.

83. The service of all summonses in criminal cases in the said Court shall be made by the Messenger of the Court or his lawful deputy in the same manner as is provided to be done in civil cases before the said Court.

Service of summons
as in civil cases.

84. An accused person wishing to appeal to the High Court of the Transvaal against any sentence in a criminal case pronounced against him by the Court of any Resident Magistrate, shall proceed with his appeal within fourteen days after conviction by filing a written statement, setting out the grounds on which the appeal is based with the Clerk of the Court which has passed the sentence.

Appeal against
conviction to Su-
preme Court.

85. The Clerk of the Court, with whom such statement as aforesaid, is filed, shall within three days after the receipt thereof transmit the same together with the records of the case to the Registrar of the High Court of the Transvaal. The appeal shall thereafter be heard on a day to be fixed by the said High Court of which due notice shall be given by the Registrar of the said High Court to the Legal Adviser, to the Transvaal Administration, and to the appellant or his attorney.

Notice to appeal
and transmission of
records.

MISCELLANEOUS.

86. The process of any such Court for summoning any person, whether as a party or as a witness, to appear before that Court when holden at any place other than the ordinary, and stated place for holding of the same, may be issued by any person who shall be thereto appointed by the Governor by notice in the *Gazette*; and such process shall in substance correspond with the forms prescribed for process issued by the Clerk of the Court, and shall state the place where the said Court is intended to be holden, and shall be directed to, and be executed by such person as the issuer of the process shall nominate and appoint, and such person so nominated and appointed, shall have and possess in regard to the execution and return of such process the like powers and authorities, and be entitled to the like fees as the Messenger of the said Court would have possessed or been entitled to, had the same been directed to, and executed by, and returned by him, and such process shall at the foot be signed thus —

Form of process of
Court, when held at
other than ordinary
place.

.....
duly authorised.

and the same need not be signed by either the Resident Magistrate or the Clerk of the Court.

Valuation of proceedings in such cases.

87. All such process as in the last preceding section mentioned shall have the like force and effect in all respects as if the same had been directed to the officer appointed to execute ordinarily the process of the said Court and had been issued by the Clerk of the said Court: Provided always that nothing in this rule contained shall be construed so as to prevent the issue in common form by such Clerk of any process for requiring the appearance of any person before the said Court at any place where such Court shall be appointed to be held.

Such proceedings invalid, unless parties reside nearer that place than to ordinary place.

88. No person shall be summoned to appear as a party before any such Court as aforesaid, at any place other than the ordinary and stated place for the holding of the said Court to answer any plaint or charge unless such person shall reside nearer to such place than to the ordinary and stated place aforesaid; and any summons issued in contravention of the provisions of this rule shall be null and void.

Resident Magistrate may do what Clerk of Court may do.

89. Any act, which by any law or these rules is required to be done by the Clerk of the Court of Resident Magistrate, may be done by such Resident Magistrate himself or by such Clerk.

SCHEDULE "E."

REPEALS.

LAW AND YEAR.	EXTENT OF REPEAL.	PAGE IN LOCAL LAWS.
No. 1, 1874.	The whole.	541
No. 6, 1885.	The whole.	1371
No. 7, 1887.	The whole.	128
No. 11, 1892.	The whole.	444
Proclamation No. 6 of 1901.	So much thereof as applies to Courts of Resident Magistrate.	(<i>Gazette</i>) 857
Proclamation No. 12 of 1901.	Sections 1 and 2.	(<i>Gazette</i>) 891
Proclamation T'vaal No. 31 of 1901.	The whole.	1663

PROCLAMATION

By His Excellency The Administrator.

(DATED 10TH APRIL, 1902.)

To Alter and Amend the Law relating to Letters
Patent for Inventions.

- W**HEREAS it is desirable to alter and amend the law relating to Letters Patent for Inventions : Preamble.
- Now, therefore, by virtue of the authority in me vested, I do hereby proclaim, declare and make known as follows :—
1. This proclamation shall come into operation on the 1st day of May, 1902, and such date is hereinafter referred to as the commencement of this Proclamation. Commencement of Proclamation.
2. Subject to the provisions of section *sixty* of this Proclamation Law No. 10 of 1898, and any other Law inconsistent with or repugnant to the provisions of this Proclamation shall be and are hereby repealed. Repeal.
3. It shall be lawful for the Governor to appoint a Commissioner of Patents (hereinafter called the "Commissioner") whose office shall be called the "Patent Office," and shall be established at Pretoria. Commissioner of Patents.
Office at Pretoria.
4. There shall be a seal for the Patent Office and impressions thereof shall be judicially noticed and admitted in evidence. Seal for Patent office.
5. Every person who is the true and first inventor or the legal representative of a true and first inventor of an invention, as hereinafter defined, may obtain, either alone or jointly with one or more person or persons, the exclusive right and privilege to make, use, exercise and sell the same within this Colony for his own benefit in such manner and for such period, and under such conditions as are hereinafter prescribed. Inventor to have exclusive right to his invention.
- This right and privilege (hereinafter referred to as a patent) shall be granted by Letters Patent, to be issued by the Commissioner in manner hereinafter prescribed. Letters Patent to be issued.
- * Save as provided by sects. 23 and 53 respectively of this Proclamation the expression "invention" means any new and useful art process machine manufacture or composition of matter or any new and useful improvement thereof capable of being used or applied in trade or industry and not known or used by Definition of invention.

* The words "save as provided.....Proclamation" in this section are inserted by virtue of the Patents (Amendment) Proclamation—Transvaal No. 29 of 1902, Sec. 1—instead of after the word Colony when it first appears.

others in this Colony and not patented or described in any printed publication in this Colony or any foreign country before the application for a patent in respect of the same and not in public use or on sale in this Colony or any foreign country for more than two years prior to such application unless the same is proved to have been abandoned.

6. An application for a patent shall be as nearly as possible in the form given in Schedule "A" or in such other form as may from time to time be prescribed and addressed to the Commissioner.

An application for a patent must be signed by the applicant but all other communications between the applicant and the Commissioner and all attendances by the applicant before the Commissioner may be made by or through an attorney of the Court or patent agent duly authorised to the satisfaction of the Commissioner.

7. (1) An application for a patent must contain a declaration to the effect that the applicant is in possession of an invention whereof he or in the case of a joint application one or more of the applicants claims or claim to be or to be the legal representative of the true and first inventor or inventors and for which he or they desires or desire to obtain a patent; and must be accompanied by either a provisional or complete specification.

(2) Every application must contain an address in this Colony to which all notices requisitions and communications of every kind may be made.

(3) A provisional specification must describe the nature of the invention and be accompanied by drawings if required.

(4) A complete specification whether left on application or subsequently must particularly describe and ascertain the nature of the invention and in what manner it is to be performed and must be accompanied by drawings if required.

(5) If a provisional specification is accompanied by drawings to the satisfaction of the Commissioner the complete specification need not be accompanied by drawings but may refer to the drawings accompanying such provisional specification.

(6) A specification whether provisional or complete must commence with the title and in the case of a complete specification must end with a distinct statement of the invention claimed.

(7) As far as possible the provisional and complete specifications shall be in the form given in Schedules "B" and "C" and shall be in the English language.

8. The Commissioner shall examine every application to ascertain whether the nature of the invention has been fairly described and the application specification and drawings if any have been prepared in the prescribed manner and the title sufficiently indicates the subject matter of the invention.

Form of application.

Contents of application.

Provisional specification.

Complete specification.

Form of specification.

Commissioner to examine application.

9. (1) If the Commissioner on such examination finds that the nature of the invention is not fairly described or that the application or drawings has not or have not been prepared in the prescribed manner or that the title does not sufficiently indicate the subject matter of the invention he may refuse to accept the application or require that the application specification or drawings be amended before he proceeds with the application; and in the latter case the application shall if the Commissioner so directs bear date as from the time the requirement is complied with.

Commissioner may refuse to accept or require amendment of application.

(2) Where the Commissioner refuses to accept an application or requires an amendment the applicant may appeal from his decision to the Attorney-General.

Appeal to Attorney-General.

(3) The Attorney-General shall if required hear the applicant and the Commissioner and may make an order determining whether and subject to what conditions (if any) the application shall be accepted.

Who shall hear parties.

(4) The Commissioner shall when an application has been accepted give notice thereof to the applicant.

Notice of acceptance of application.

(5) If after an application for a patent has been made but before the patent thereon has been sealed another application for a patent is made accompanied by a specification bearing the same or a similar title the Commissioner may determine subject to an appeal to the *Attorney-General whether the invention comprised in both applications is the same and if so he may refuse to seal a patent on the application of the second applicant.

Second application for same invention.

10. (1) The Commissioner shall keep at his office proper books and registers in which shall be entered the names of all patents which have been applied for together with the dates on which the applications and the provisional and complete specifications have been lodged with him.

Commissioner to keep books and registers,

(2) On payment of the amount mentioned in Schedule "H" the Commissioner shall give a receipt to the applicant or his attorney proving that such entries have been made.

and give receipts for payments.

(3) Where an application for a patent in respect of an invention has been accepted the invention may during the period between the date of the application and the date of sealing such patent be used and published without prejudice to the patent to be granted for the same and such protection from the consequences of use and publication is in this Proclamation referred to as provisional protection.

Provisional protection.

(4) No one but the Commissioner or someone acting on his behalf shall be allowed to inspect any specification until the advertisement mentioned in Section *thirteen* has been published.

No inspection of specifications until advertisement.

* See Patents (Amendment) Proclamation—Tr. 29 of 1905, Sec. 5—as to power of Attorney-General on such appeals to examine witnesses upon oath and to administer oaths for that purpose; and Sec. 6 as to his power to make, alter and rescind rules regulating such appeals and the practice and procedure before him; and to making orders as to costs.

Complete specification to be sent in within nine months of date of application.

11. (1) If an applicant supplies only a provisional specification with his application he shall be obliged to send in a complete specification within nine months from the date of his application; and if he fails to do so he shall be considered to have abandoned his application. The applicant may however within such period of nine months notify to the Commissioner that he desires his provisional specification to be regarded as a complete specification and if such provisional specification complies with the conditions hereinbefore provided with reference to complete specifications to the satisfaction of the Commissioner subject to appeal to the * Attorney-General the same shall be treated as a complete specification.

Effect of acceptance of complete specification.

(2) After a complete specification shall have been accepted by the Commissioner or after a provisional specification shall have been accepted as a complete specification as hereinbefore provided and until such time as the patent shall be sealed or until the period shall have elapsed within which such sealing must take place the applicant shall enjoy the same rights and privileges as if a patent had been granted to him for his invention on the date of the acceptance of such complete specification; Provided that an applicant shall not be entitled to institute any proceedings for infringement until a patent for the invention has been granted to him.

Commissioner must compare provisional and complete specifications.

12. (1) Where a complete specification is left after a provisional specification the Commissioner shall examine both the provisional and complete specifications for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification.

and may refuse or accept the complete specification.

(2) If the Commissioner finds that the conditions hereinbefore contained have not been complied with, he may refuse to accept the complete specification, unless and until the same shall have been amended to his satisfaction; but any such refusal shall be subject to appeal to the Attorney-General.

Right of appeal to Attorney-General.

* (3) The Attorney-General shall, if required, hear the applicant and the Commissioner, and may make an order determining whether and subject to what conditions, if any, the complete specification shall be accepted.

If complete specification not accepted within twelve months of application it becomes void.

(4) Unless a complete specification is accepted within twelve months from the date of application, then (save in the case of appeal having been lodged against the refusal to accept) the application shall at the expiration of those twelve months become void: Provided always that the Commissioner may extend the said period of twelve months by a period not exceeding three months on payment of the prescribed fee.

* See Patents (Amendment) Proclamation, Tr. 29 of 1902, sect. 5, as to the power of the Attorney-General on such appeals, to examine witnesses upon oath, and administer oaths for that purpose; and sect. 6, as to his power to make, alter, and rescind rules regulating such appeals, and the practice and procedure before him, and to making orders as to costs.

13. On the acceptance of the complete specification the Commissioner shall issue a notice to the applicant to that effect, which the applicant shall forthwith advertise in three issues of the *Gazette*, and in such other newspaper or newspapers as the Commissioner may require, and thereupon the application and specification or specifications with the drawings, if any, shall be open to public inspection. The applicant shall, within the period mentioned in the next succeeding section file with the Commissioner a copy of the *Gazette* in which the notice of the acceptance of the specification aforesaid has been published.

On acceptance applicant to publish notice in *Gazette*.

14. (1) Any person may at any time within two months from the date of the latest advertisement of the acceptance of a complete specification, give notice in writing at the Patent Office of objection to the grant of a patent on any one or more of the following grounds:—

Opposition to grant of patent.

- (a) That the invention has been fraudulently obtained to the prejudice of another's rights;
- (b) That the person represented as being the true and first inventor is not such;
- (c) That the invention is not new;
- (d) That the invention is not capable of being patented in terms of section *five* of this Proclamation;
- (e) That the complete specification, or the provisional specification accepted as such, as hereinbefore provided, has reference to the theoretical principles, hypotheses, methods, systems, discoveries or conceptions, the manner of applying or using which is not set out;
- (f) That the complete specification, or the provisional specification accepted as such, as hereinbefore provided, is not sufficient, *i.e.*, that mention of a part of the invention has been omitted, or that it has been insufficiently explained;
- (g) That the invention, or the application of the same, is contrary to law, public order, or good morals;
- (h) That the title of the invention fraudulently sets forth another than the true subject matter of the invention;
- (i) That the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention forms the subject of an application made by the objector in the interval between the leaving of the provisional and the leaving of the complete specification.

(2) A notice of opposition to the grant of a patent shall be in the form given in Schedule D, and shall state the ground or grounds on which the person giving such notice (hereinafter referred to as the objector) intends to oppose the grant, and must be signed by him. Such notice shall state his address for service in this Colony.

Form of notice of opposition.

(3) The Commissioner shall give notice to the applicant of the objection to his application and the grounds on which it is based, and shall give notice to both the applicant and the

Commissioner to give notice of objections to applicant.

objector of the place where and the day and the hour when he will consider the application and the objections thereto.

Commissioner to
decide on objections.

15 (1) At the time and place stated in the last-mentioned notice the Commissioner shall hear the applicant and the objector either personally, or by their attorneys or counsel, and their respective witnesses, if any;

May require sworn
evidence.

(2) The Commissioner shall have power to determine whether any evidence in support of or in opposition to the application shall be by means of affidavit, or *vivâ voce* on oath, or partly affidavit and partly *vivâ voce*, and may at the request of either party direct cross-examination of any witness upon his affidavit.

Powers of Com-
missioner.

(3) In any proceeding under this section the Commissioner shall have power to issue subpoenas for the attendance of witnesses, to administer oaths, to issue commissions *de bene esse* for the taking of evidence in this Colony or any foreign country, to commit for contempt of court, or to grant discovery of documents or inspection.

May call in ex-
perts.

(4) The Commissioner may call in the assistance of experts and other persons, and may decide whether any, and what, remuneration shall be paid to them for such assistance, either by the applicant or by the objector.

Costs.

(5) The Commissioner shall have power to order that the costs of any proceeding under this section shall be paid by either party thereto, in all respects as if the Commissioner were a Judge of the Court, and such costs shall be taxed by the taxing officer and paid, and the payment thereof may be enforced in the same manner as if the same were costs allowed by a Judge of the Court.

Appeal to the
Court.

(6) Either party shall have the right to appeal to the High Court of the Transvaal, from the decision of the Commissioner, and such appeal shall be dealt with by the said Court in all respects as if it were an appeal from a Court of inferior jurisdiction.

When security may
be required.

(7) In case the objector or the applicant is residing abroad, or has no fixed property within this Colony, then the applicant or the objector prior to the hearing of the application or objection or any appeal, as the case may be, shall have the right to require that security to the satisfaction of the Commissioner or the said Court, as the case may be, be lodged by the applicant or objector for the costs, and if such security is not lodged or given, the application or objection or appeal, as the case may be, shall not be taken into consideration by the Commissioner or the said Court.

Sealing of patent.

16. If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, the Commissioner shall cause a patent to be sealed with the seal of the Patent Office, and a patent so sealed shall have the same effect as if it were sealed with the seal of the Governor.

When a patent
may be refused.

17. The issue of a patent for an invention, the use of which is contrary to law, public order, or good morals, may be refused.

18. The sealing of a patent shall take place as soon as possible, but not later than fifteen months after the date of the application, except in the following instances :—

Time within which a patent is to be sealed.

- (a) In case the sealing is delayed on account of an appeal or on account of objections being lodged against the granting of the patent, the sealing may take place at such time as the Commissioner shall determine.
- (b) In case the applicant dies before the expiration of the period of fifteen months aforesaid, the letters patent may be granted to his legal representative and may be sealed at any time within twelve months after the decease of the applicant.

Provided always that where an extension of time is allowed by the Commissioner for the acceptance of a complete specification under Sub-section *four* of Section *twelve* of this Proclamation, the Commissioner shall allow an extension of a period not exceeding four months after the said fifteen months for the sealing of the letters patent.

19. Every patent granted under this Proclamation shall be drawn up as nearly as possible in the form given in Schedule "E," and shall be dated and sealed as of the day of the application. Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification. Provided also that in case of more than one application for a patent for the same invention, the sealing of a patent on one of those applications shall not prevent the sealing of a patent on an earlier application.

Form and date of patent.

20. Where an application for a patent has been abandoned or become void before the publication of the complete specification, the specification or specifications and drawings (if any) accompanying or left in connection with such application shall not at any time be open to public inspection or be published by the Commissioner.

Specifications, &c., of abandoned applications not open to inspection.

21. (1) The term limited in every patent for the duration thereof shall be fourteen years from its date.

Term of patent.

(2) But every patent shall, notwithstanding anything therein or in this Proclamation, cease if the patentee fails to make the payments prescribed in Schedule "H" within the prescribed times.

(3) If, nevertheless, in any case by accident, mistake, or inadvertence, a patentee fails to make any prescribed payment within the prescribed time, he may apply to the Commissioner for an enlargement of time for making the payment.

(4) Thereupon the Commissioner shall, if satisfied that the failure has arisen from any of the above-mentioned causes, on receipt of the prescribed fee for enlargement, enlarge the time accordingly for such period as he shall think just, subject only that if any proceeding shall be taken in respect of an infringement of the patent, committed after a failure to make any payment within the prescribed time and before the enlarge-

ment thereof, the Court, before which the proceeding is proposed to be taken, may, if it shall think fit, refuse to award or give any damages in respect of such infringement.

Lost patent.

22. If a patent has been lost or destroyed, or if it has been proved to the satisfaction of the Commissioner that the document cannot be produced, a duplicate may be issued on a sworn declaration to that effect being made, after four publications during three months in the *Gazette* and such other newspaper or newspapers as the Commissioner may direct, and on payment of the fee prescribed by Schedule "H."

Grant of foreign patent no bar if application made within twelve months.

23. (1) The grant of a patent or similar exclusive privilege for an invention in a foreign country to any person, shall not be a bar to the grant of a patent for the same invention, or any part thereof, in this Colony to the same person, provided that the application for the grant of a patent in this Colony shall be made within twelve months of the date of the grant of such foreign patent, or similar exclusive privilege.

* (2) The publication in this Colony, or any foreign country, during the aforesaid period of any description of the invention or the use therein during such period of the invention, shall not invalidate the patent which may be granted for the invention in this Colony.

Specifications to be in custody of Commissioner.

24. All specifications, with the drawings if any, appertaining thereto deposited at the office of the Commissioner in manner aforesaid shall remain in his custody at the Patent Office.

Amendment of specification.

25. (1) An applicant or a patentee may from time to time, by request in writing left at the Patent Office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reasons for the same.

(2) The request and the nature of such proposed amendment shall be advertised by publication in the *Gazette* and such other newspaper or newspapers as the Commissioner may require, in the form prescribed by schedule "F" to this Proclamation, and at any time within three months from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(3) Where such notice is given, the Commissioner shall give notice of the opposition to the person making the request and shall hear and decide the case, subject to an appeal to the Attorney-General.

† (4) The Attorney-General shall, if required, hear the person making the request and the person so giving notice and being in the opinion of the Attorney-General entitled to be

* The words "or any foreign country" are inserted by virtue of the Patents (Amendment) Proclamation (Tr. 29 of 1902, Sect. 2).

† See Patents (Amdmt.) Proclamation—Tr. 29 of 1902—as to the power of the Attorney-General on such appeals to examine witnesses upon oath and to administer oaths for that purpose: also section 6 as to his power to make, alter and rescind rules regulating such appeals and the practice and procedure before him, and to make orders as to costs.

heard in opposition to the request, and shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(5) When no notice of opposition is given, or the person so giving notice does not appear, the Commissioner shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

* (6) When leave to amend is refused by the Commissioner the person making the request may appeal from his decision to the Attorney-General.

(7) The Attorney-General shall, if required, hear the person making the request and the Commissioner, and may make an order determining whether and subject to what conditions, if any, the amendment ought to be allowed.

(8) No amendment shall be allowed that would make the specification as amended claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before the amendment.

(9) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed except in case of fraud; and the amendment shall in all Courts and for all purposes be deemed to form part of the specification.

(10) The foregoing provisions of this section do not apply when and so long as any action for infringement or proceeding for revocation of a patent is pending.

26. In any action for infringement of a patent and in a proceeding for revocation of a patent the Court or a Judge in Chambers may at any time order that the patentee shall, subject to such terms as to costs and otherwise as the Court or a Judge in Chambers may impose, be at liberty to apply at the Patent Office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

Power to disclaim
part of invention
during action.

27. Where an amendment by way of disclaimer, correction, or explanation has been allowed under this Proclamation, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

Restriction on re-
covery of damages.

28. Every amendment of a specification shall be advertised in manner prescribed by the Commissioner.

Advertisement of
amendment.

29. If on the petition of an interested party it is proved to the satisfaction of the Governor that in consequence of the

Power of Governor
to order grant of li-
cences.

* See Patents (Amendment) Proclamation—Tr. 29 of 1902, as to the power of the Attorney-General on such appeals, to examine witnesses upon oath, and administer oaths for that purpose; also sect. 6 as to his powers to make, alter, and rescind rules regulating such appeals, and the practice and procedure before him; and to make orders as to costs.

refusal of a patentee to grant licences to use his invention on reasonable terms—

- (a) The patent is not being made use of in this Colony ; or
- (b) The reasonable demands of the public in connection with the invention cannot be met ; or
- (c) Anyone is prevented from making use of or deriving the full benefit from an invention of which he is possessed—

the Governor may order the patentee to grant licences for the use of the said invention under such conditions as to the amount of royalties, security for payment, or otherwise as the Governor, regard being had to the nature of the invention and the circumstances of the case, may deem just, and any such order may be made an order of the Court.

Fees in schedule.

30. There shall be paid to the Commissioner in respect of the several instruments described in Schedule "H" to this Proclamation the fees in that schedule mentioned, and there shall likewise be paid in respect of any other matters under this Proclamation such fees as may from time to time be prescribed by the Commissioner with the consent of the Governor.

Extension of term
of patent on applica-
tion to Governor.

31. (1) Every patentee may address an application to the Governor asking for an extension of the terms of his patent. Such an application must be sent in at least six months previous to the expiration of such term.

(2) The Governor shall refer such application to the High Court of the Transvaal for consideration and report.

(3) The Court shall on such reference being made by the Governor appoint a day for hearing such application, and, at least two months before the day appointed for such hearing, the applicant shall publish, in manner prescribed by the Court, a notice of the contents of his application as nearly as possible in the form prescribed in Schedule "G."

(4) Everyone interested in making objection to the application may lodge his objections in writing with the Registrar of the Court; provided that such be done at least one month before the day appointed for the hearing of the application.

(5) The applicant and everyone who has lodged any objection in writing in the manner prescribed by law may appear in person or by counsel to plead his case.

(6) The Court in its report shall take into consideration the nature and the merits of the invention and the value thereof to the public, the profit derived therefrom by the patentee, and the further circumstances of the case. The report shall further state whether in the opinion of the Court it is advisable to grant an extension and, if so, for how long and under what conditions or restrictions. The Court shall further direct by whom the costs of the case between the parties shall be borne, and an order as to the costs made or granted by the Court may be legally enforced.

Governor may
grant extension of
patent.

32. The Governor shall have the right, after considering the application for an extension and the report of the said Court thereon, to grant an extension of the term of the patent under such conditions and restrictions and for such a length of time (in no case longer than fourteen years) as he may think desirable. The extension of the term of the patent shall date from the day of the expiration of the original term thereof.

33. (1) There shall be kept at the Patent Office a register called "The Register of Patents," wherein shall be entered the dates of applications for patents, the names and addresses of grantees of patents, notifications of assignments and transfers, and of transmission of patents, of licences under patents, and of amendments, extensions and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed, provided that there shall not be entered in the register, or be receivable by the Commissioner, any notice of any trust express, implied or constructive.

Register of patents.

(2) The register of patents shall at all convenient times be open to the inspection of the public on payment of the fee prescribed in Schedule "H."

(3) Any person may, on payment of the fee prescribed in Schedule "H," obtain a certified copy or extract from the register of patents, sealed with the Seal of the Patent Office.

(4) The register of patents shall be *prima facie* evidence of any matters by this Proclamation directed or authorized to be inserted therein.

(5) Copies of deeds, licences and any other document affecting the proprietorship of any patent, or in any licence thereunder, must be supplied to the Commissioner in the prescribed manner for filing in the Patent Office.

34. Printed or written copies or extracts, purporting to be certified by the Commissioner and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office, and of and from registers and other books kept there, shall be admitted in evidence in all Courts in this Colony and in all proceedings without further proof or production of the originals.

Proof of patents,
specifications, &c.

35. Any person who makes, or causes to be made, a false entry in a register kept in terms of this Proclamation, or produces or tenders or causes to be produced or tendered in evidence any such false entry or false copy or extract, knowing the same to be false, shall be punished with imprisonment, with or without hard labour, for a period not exceeding five years.

Penalty for making
false entry.

36. (1) The Court may, on application by any person who complains of an unjustifiable entry or unjustifiable omission of an entry, or of any other particulars in such register, make such order for the striking out, insertion, or amendment of such entry as the Court shall deem necessary: The Court may also dismiss the application, and make an order as to costs in either case.

Register may be
amended on order of
Court.

(2) The Court may, in any proceeding under this section, decide any question that it may be necessary or expedient to decide for the rectification of a register, may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3) Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the Commissioner.

Correction of clerical errors.

37. The Commissioner may, on request in writing, accompanied by the fee prescribed in Schedule "H"—

- (a) Correct any clerical error in, or in connection with, an application for a patent; or
- (b) Correct any clerical error in the name, style, or address of the registered proprietor of a patent, or any licence thereunder.

Revocation of patent.

38. An application may be made to the Court by petition for the revocation of a patent on one or more of the following grounds:—

- (a) That the patent has been fraudulently obtained to the prejudice of another's rights;
- (b) That the person represented as being the true and first inventor was not such;
- (c) That the invention was not new.
- (d) That the invention is not capable of being patented in terms of Section 5 of this Proclamation;
- (e) That the complete specification, or the provisional specification accepted as such, as hereinbefore provided, has reference to theoretical principles, hypotheses, methods, systems, discoveries or conceptions, the manner of applying or using which is not set out;
- (f) That the complete specification, or the provisional specification accepted as such, as hereinbefore provided, is not sufficient, *i.e.*, that mention of a part of the invention has been omitted, or that it has been omitted or that it has been insufficiently explained;
- (g) That the invention, or the application of the same, is contrary to law, public order, or good morals;
- (h) That the title of the invention fraudulently sets forth another than the true subject matter of the invention;
- (i) That the prescribed payments have not been duly made.

Who may apply for revocation.

39. A petition for revocation of a patent may be presented by the following persons only, that is to say:—

- (a) The Attorney-General.
- (b) Any person expressly authorized thereto by the Attorney-General.

- (c) Any person who alleges that the patent has been obtained in fraud of his rights, or of the rights of any person under or through whom he claims.
- (d) Any person who alleges that he or any person under or through whom he claims was the true inventor of any invention included in the claim of the patentee.
- (e) Any person who alleges that he, his partner, or any person under or through whom he claims had publicly manufactured, used, or sold before the date of the patent, anything which the patentee claims as his invention.

40. In a proceeding for the revocation of a patent the following provisions shall be observed :— Procedure in petition for revocation.

- (1) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and if one of such objections is "want of novelty" he must state the time and place of the alleged previous publication or user, and if such publication is to be found in books, papers, or other documents, copies or extracts of the same, stating the title, edition, place, and date of publication or compilation thereof, shall be annexed to the particulars. No evidence shall, except by leave of the Court or a Judge in Chambers, be admitted in proof of any objection of which particulars are not so delivered.
- (2) Particulars delivered may be from time to time amended by leave of the Court or a Judge in Chambers.
- (3) The defendant shall have the right to begin and give evidence in support of his patent, and if the plaintiff produces evidence against the validity of the patent the defendant shall be allowed to bring rebutting evidence.

41. Where a patent has been revoked on the ground of fraud the Commissioner may, on the application of the true inventor made in terms of this Proclamation issue to him a new patent (in place of the revoked one), the date of which shall be the date of revocation of the patent so revoked. This new patent shall, however, cease on the revocation of the term for which the revoked one was granted. On revocation of patent on ground of fraud the true inventor may obtain a new patent.

42. (1) Any person who represents that any article sold by him is a patented article when no patent or similar exclusive privilege has been granted for the same shall be liable for every offence to a fine not exceeding one hundred pounds sterling, or to imprisonment with or without hard labour for a term not exceeding three months. Penalty on falsely representing articles to be patented.

(2) A person shall be deemed for the purposes of this Proclamation to represent that an article is patented if he sells the article with the word "patent" or "patented," or any word or words expressing or implying that a patent or similar exclusive privilege has been obtained for the article stamped, engraved or impressed on or otherwise applied to the article.

Actions for in-
fringement of patent.

43. Subject to the provisions of sub-section 2 of section 11 of this Proclamation an action for an infringement of a patent may be instituted in the Court by a patentee against anyone who after the publication of the complete specification exercises, sells, makes use of, applies, imitates, or copies the invention in question without the consent or licence of the patentee. Every ground on which a patent may be revoked shall be available by way of defence to an action for the infringement of a patent.

Procedure therein.

44. (1) In an action for infringement of a patent the plaintiff must deliver with his statement of claim, or by order of the Court or a Judge in Chambers at any subsequent time, particulars of the breaches complained of.

(2) The defendant must deliver with his statement of defence, or by order of the Court or a Judge in Chambers at any subsequent time, particulars of any objections on which he relies in support thereof.

(3) If the defendant disputes the validity of the patent the particulars delivered by him must state on what grounds he disputes it, and if one of those grounds is "want of novelty" must state the time and place of the previous publication or user alleged by him; and if the publication is to be found in books, papers, or other documents, copies or extracts of the same stating the title, edition, place and date of publication or compilation thereof, shall be annexed to the particulars of objections.

(4) At the hearing no evidence shall, except by leave of the Court, be admitted in proof of an alleged infringement or objection of which particulars are not so delivered.

(5) Particulars delivered may be from time to time amended by leave of the Court or a Judge in Chambers.

(6) On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant; and they respectively shall not be allowed any costs in respect of any particular delivered by them, unless the same is certified by the Court to have been proven or to have been reasonable and proper without regard to the general costs of the case.

Court may call in
experts.

45. In an action or proceeding for infringement or revocation of a patent the Court may, of its own accord, or at the request of one or both of the parties, call in the services of an expert, with whose assistance the whole case or a part thereof shall be dealt with and decided. The remuneration of such expert shall be fixed by the Court.

Order for suspen-
sion, inspection, &c.

46. In an action for infringement of a patent the Court may on application of one of the parties order the suspension or cessation of work, the production, furnishing or keeping of accounts, or the holding of an inspection, and may impose such terms and give such directions respecting the same and the proceedings thereon as the Court may see fit.

47. In an action for infringement of a patent the Court may certify that the validity of the patent came in question; and if the Court so certifies then in any subsequent action for infringement the plaintiff in that action on obtaining a final order or judgment in his favour shall have his full costs, charges and expenses as between attorney and client, unless the Court trying the action certifies that he ought not to have the same.

Certificate of validity questioned and costs thereon.

48. Where any person claiming to be the patentee of an invention by circulars, advertisements or otherwise threatens any other person with legal proceedings or liability in respect of any alleged manufacture, use, sale or purchase of the invention, any person or persons aggrieved thereby may bring an action against him, and may obtain an interdict against the continuance of such threats, and may recover such damage (if any) as may have been sustained thereby if the alleged manufacture, use, sale or purchase to which the threats related was not in fact an infringement of any legal rights of the person making such threats: Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.

Remedy in case of groundless threats of legal proceedings.

49. Every patent shall be granted for one invention only, but may contain more than one claim provided that no one shall be entitled to object to a patent on the ground that it embraces more than one invention.

Patent for one invention only.

50. (1) If a person possessed of an invention dies without making application for a patent for the invention, application may be made by and a patent for the invention granted to his legal representative.

Application for patent by representative of deceased inventor.

(2) Every such application must be made within twelve months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to be the true and first inventor of the invention.

51. A patent granted to the true and first inventor shall not become ineffective or void by reason of an application for letters patent being made in fraud of him or by reason of provisional protection being obtained thereupon, or by reason of the use or publication of such invention after the filing of the application during the period of provisional protection.

Patent to first inventor not invalidated by application in fraud of him.

52. A patentee may transfer to another person his patent for any place in or for any part of this Colony as effectually as if the patent had been granted only for such a place in or such party of this Colony; but no transfer or cession of a patent or part of a patent shall be legal unless such transfer or cession be made by means of a notarial deed and duly registered at the office of the Commissioner.

Transfer for particular places.

53. The exhibition of an invention at an international or industrial exhibition, or the publication of a description of the invention during the time of any such exhibition, or the use of the invention for purposes of the exhibition at the place where it is held, or the use of the invention during the time of the exhibition at another place by someone not authorized thereto

Exhibition at industrial exhibition not to prejudice patent rights.

by the inventor shall not prejudice the right of the inventor or his legal representative to apply for and obtain provisional protection and a patent for his invention, and shall not affect the validity of the patent obtained on such application: Provided always that the following two conditions are observed:—

- (a) The exhibitor shall previous to exhibiting his invention inform the Commissioner in writing of his intention so to do.
- (b) The application for a patent must be made within six months from the opening of the exhibition.

Governor may demand models.

54. The Governor may demand from a patentee at any time a model of his invention on payment of the costs of making the same, the amount of which in case of dispute shall be fixed by arbitrators. The destination of such models shall be determined by the Governor.

Representatives may act for infants, &c.

55. If anyone is unable by reason of tender age or weakness of mind or other incapacity to make a declaration or perform an act required or permitted by this Proclamation, or by any rules made under it, then his guardians or curators, or failing these a person appointed by the Court on the application of anyone on behalf of such person, or on the application of anyone interested in the making such declaration, or performing such act, may make such a declaration or one as near as possible to the one prescribed, or do such act in the name and on behalf of such aforesaid person. All acts done by such representative shall for the purposes of this Proclamation be as effectual as if done by the person so represented.

Exercise of discretionary power by Commissioner.

56. Where any discretionary power is by this Proclamation given to the Commissioner he shall not exercise that power adversely to the applicant for a patent or for amendment of a specification without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his attorney or patent agent.

Patent to bind Crown.

57. (1) A patent shall have to all intents the like effect as against His Majesty the King, his heirs and successors, as it has against a subject.

(2) But the officers or authorities administering any department of the service of His Majesty in his Colonial Government may by themselves, their agents, contractors or others, at any time after the application use the invention for the services of the Crown on terms to be before or after the use thereof agreed on, with the approval of the Comptroller of the Treasury, between those officers or authorities and the patentee, or in default of such agreement on such terms as may be settled by the Comptroller of the Treasury after hearing all parties interested.

Assignment to Secretary for War of certain inventions.

58. (1) The inventor of any improvement in instruments or munitions of war, his heirs, executors or assigns (who are in this section comprised in the expression "the inventor") may (either for or without valuable consideration) assign to such

person as may be approved of by His Majesty's principal Secretary of State for the War Department on behalf of His Majesty, all the benefit of the invention, and of any patent obtained or to be obtained for the same; and the person so approved of by the said Secretary of State may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the said Secretary of State for the time being on behalf of His Majesty, and all covenants and agreements therein contained for keeping the invention secret, and otherwise, shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the said Secretary of State for the time being.

(3) Where any such assignment has been made to the person so approved of by the said Secretary of State as aforesaid, the said Secretary of State or such person as aforesaid may, at any time before the application for a patent for the invention, or before publication of the specification or specifications, certify to the Commissioner his opinion that in the interest of the public service the particulars of the invention, and of the manner in which it is to be performed, should be kept secret.

(4) If the said Secretary of State or such person as aforesaid so certifies the application any specification or specifications with the drawings (if any), and any amendment of the specification or specifications, and any copies of such documents and drawings, shall instead of being left in the ordinary manner at the Patent Office be delivered to the Commissioner in a packet sealed by authority of the said Secretary of State or such person as aforesaid.

(5) Such packet shall, until the expiration of the term or extended term during which a patent for the invention may be in force, be kept sealed by the Commissioner, and shall not be opened save under the authority of an order of the said Secretary of State or such person as aforesaid, or of the Attorney-General.

(6) Such sealed packet shall be delivered at any time during the continuance of the patent to any person authorized by writing under the hand of the said Secretary of State, or such person as aforesaid to receive the same, and shall if returned to the Commissioner be again kept sealed by him.

(7) On the expiration of the term or extended term of the patent such sealed packet shall be delivered to any person authorized by writing under the hand of the Secretary of State or such person as aforesaid to receive it.

(8) Where the Secretary of State or such person as aforesaid certifies as before-mentioned after an application for a patent has been left at the Patent Office, but before the publication of the specification or specifications, the application, specification or specifications with the drawings (if any), shall be

forthwith placed in a packet sealed by authority of the Commissioner, and such packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Secretary of State.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which the Secretary of State or such person as aforesaid has certified as before mentioned.

(10) No copy of any specification or other document or drawing by this section required to be placed in a sealed packet shall in any manner whatever be published or open to the inspection of the public, but save as in this section otherwise directed the provisions of this Proclamation shall apply in respect of any such invention and patent as aforesaid.

(11) The Secretary of State or such person as aforesaid may at any time by writing under his hand waive the benefit of this section with respect to any particular invention, and the specifications, documents, and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State, or to such person as aforesaid, or to any person or persons authorized by the Secretary of State, or such person as aforesaid to investigate the same or the merits thereof shall not, nor shall anything done for the purposes of the investigation be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.

Register of Patent
Agents.

59. (1) After the first day of August, 1902, a person shall not be entitled to describe himself as a patent agent, whether by advertisement, by description on his place of business, by any document issued by him, or otherwise, unless he is registered as a patent agent, in pursuance of this Proclamation, or any rules to be made hereunder.

(2) Provided that every person who proves to the satisfaction of the Attorney-General that prior to the 11th day of October, 1899, he had been *bonâ fide* practising as a patent agent, shall be entitled to be registered as a patent agent in pursuance of this Proclamation.

(3) If any person knowingly describes himself as a patent agent in contravention of this section, he shall be liable to a fine not exceeding fifty pounds, to be imposed by a Court of Resident Magistrate.

Application of Pro-
clamation.

60. This Proclamation shall extend to all letters patent granted before the commencement of this Proclamation (except as to fees, which became due for renewals of such letters patent before the commencement of this Proclamation), and to all applications then pending in this substitution for such patents as

would have applied thereto if this Proclamation had not been issued. Provided always—

- (1) That any fees for renewals of patents granted prior to the commencement of this Proclamation, which became due between the 11th day of July, 1899, and such commencement may be paid within six months of the commencement of this Proclamation, and such payments shall be deemed and taken to be made within the period prescribed by law.
- (2) That all applications for patents pending at the commencement of this Proclamation shall, save as hereinafter mentioned, be treated for the purposes of this Proclamation as if the same had been filed with the Commissioner on the day of the commencement of this Proclamation.
- (3) That any question of priority between any two or more applicants whose applications were pending at the commencement of this Proclamation shall be determined in accordance with the dates on which such applications were originally filed.
- (4) That in the event of a patent being granted on any such application as aforesaid, the date of such patent shall be the date on which such application was originally filed. *Provided always that the term limited for the duration of every patent granted on any such application shall be fourteen years, together with such period as is equivalent to the period between the date when any such application was filed and the commencement of this Proclamation.
- (5) That the use or publication of any invention in respect of which an application for a patent was pending at the commencement of this Proclamation, before the acceptance of such application or the complete specification in respect thereof, as the case may be, under this Proclamation, shall be without prejudice to the patent (if any) to be granted for the same: provided that such use or publication took place on or subsequent to the date on which such application was originally filed.
- (6) Applications for patents pending at the commencement of this Proclamation shall not include any applications which lapsed or became abandoned under the provisions of Law No. 10 of 1898, prior to the 11th day of July, 1899.
- †(7) The renewal fees payable in respect of any patents granted prior to the coming into operation of Law

* The proviso to sub-sect. 4 of sect. 60 is inserted by virtue of the Patents (Amendment) Proclamation, Tr. 29 of 1902, sect. 4.

† Sub-sect. 7 of sect. 60 is inserted by virtue of the Patents (Amendment) Proclamation 1902, Tr. 29 of 1902, sect. 4.

No. 10 of 1898 shall be the renewal fees prescribed by Law No. 6 of 1887.

Governor may
make rules.

*61. It shall be lawful for the Commissioner, with the consent of the Governor, from time to time to alter the forms in the Schedules to this Proclamation and to make rules or prescribe forms subject to the provisions of this Proclamation for regulating the business of the Patent Office, the publication of advertisements, the licensing, suspension, and qualification of patent agents, and all other matters or things by this Proclamation placed under the direction or control of the Commissioner.

Acting Commis-
sioner.

62. It shall be lawful for the Governor, during the absence from his office of the Commissioner through illness, leave, or absence on duty, to appoint some fit and proper person to act for and on behalf of such Commissioner, and the person so acting shall have and exercise all the powers, duties, and privileges conferred by this Proclamation on the Commissioner.

Definition.

63. In and for the purposes of this Proclamation, unless the context otherwise requires :—

“ Governor ” means the officer for the time being administering the Government of the Transvaal.

“ Court ” means the High Court of the Transvaal, or the Witwatersrand District Court, as the case may be.

“ Attorney-General ” includes the Legal Adviser to the Transvaal Administration.

“ Foreign country ” means any country, colony, or state other than this Colony, and whether a British possession or not.

“ Patentee ” means the person for the time being entitled to the benefit of a patent.

“ Person ” means and includes corporation.

“ Legal representative ” means the heirs or executors of any deceased person.

“ Patent agent ” means an agent for obtaining patents in this Colony.

Short title.

64. This Proclamation may be cited as “ The Patents Proclamation, 1902. ”

* Such rules were made and published under Government Notice 179 of 1902 (*Gazette*, 9th May, 1902, p. 624).

SCHEDULE “ A. ”

.....(fill in name and address of the applicant or applicants) by profession.....hereby declare that.....in possession of an invention entitled (here insert title of invention) that.....the true and first inventor thereof, and that the same is not in use by any other person or persons to the best of.....knowledge and belief : And.....humbly pray that a patent be granted to.....for the said invention.

Dated this.....day of.....19.....

SCHEDULE "B."

(TITLE OF INVENTION.)

.....(Name and address of applicant or applicants) do hereby declare the nature of this invention to be as follows:

.....(Short description.)

Dated this.....day of.....19.....

.....
(Signature of the applicant or applicants or their Attornies or Patent Agents.)

SCHEDULE "C."

(TITLE OF INVENTION.)

.....(Name and address) by profession.....
do hereby declare the nature of this invention and in what manner the same is to be performed to be particularly described and ascertained in and by the following statement.....(Here insert full description of invention.)

Having now particularly described and ascertained the nature of.....said invention and in what manner the same is to be performed.....declare that what.....claim is—

- | | |
|---------|--|
| 1. | } (Here state distinctly
the features of novelty
claimed.) |
| 2. | |
| 3. | |

Dated this.....day of.....19.....

.....
(Signature of the applicant or applicants or their Attornies or Patent Agents.)

SCHEDULE "D."

I.....(Name and address)
hereby give notice of my intention to oppose the grant of a patent upon application No.....of.....applied for by.....upon the ground

.....
(Signature of the objector.)

SCHEDULE "E."

EDWARD, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Emperor of India, Defender of the Faith, to all to whom these presents shall come, greeting:

WHEREAS, John Smith of.....by profession..... hath by his declaration represented unto us that he is in possession of an invention for (insert title of invention) that he is the true and first inventor thereof and that the same is not in use by any other person to the best of his knowledge and belief. And whereas the said inventor hath humbly prayed that we would be graciously pleased to grant unto him (hereinafter together with his heirs executors and assigns or any of them referred to as the said patentee) our Royal Letters Patent for the sole use and advantage of his said invention. And whereas the said inventor hath by and in his complete specification particularly described the nature of his invention. And whereas we being willing to encourage all inventions which may be for the public good are graciously pleased to condescend to his request: Know ye therefore that we of our especial grace

certain knowledge and mere motion do by these presents for us our heirs and successors give and grant unto the said patentee our especial licence full power sole privilege and authority that the said patentee by himself his agents or licencees and no others may at all times hereafter during the term of years herein mentioned make use exercise and sell the said invention within our Colony of the Transvaal in such manner as to him or them may seem meet and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention during the term of fourteen years from the date hereunder written of these presents: And to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention we do by these presents for us our heirs and successors strictly command all our subjects whatsoever within our said Colony that they do not at any time during the continuance of the said term of fourteen years either directly or indirectly make use of or put in practice the said invention or any part of the same nor make or cause to be made any addition thereto or subtraction therefrom whereby to pretend themselves the inventors thereof without the consent licence or agreement of the said patentee in writing under his hand on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal Command and of being answerable to the patentee according to law for his damages thereby occasioned: Provided that these our Letters Patent are on this condition that if at any time during the said term it shall appear that this our grant is contrary to law or prejudicial or inconvenient to our subjects in general or that the said invention is or has become liable to be revoked under the provisions of "The Patents Proclamation 1902" on any of the grounds therein set forth or if the said patentee shall not supply or cause to be supplied for our service all such articles of the said invention as may be required by the officers or Commissioners administering any department of our service in such manner at such times and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided then and in any of the said cases these our Letters Patent and all privileges and advantages whatever hereby granted shall determine and become void notwithstanding anything hereinbefore contained: Provided also that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted: And lastly we do by these presents for us our heirs and successors grant unto the said patentee that these our Letters Patent shall be construed in the most beneficial sense for the advantage of the said patentee. In witness whereof we have caused these our letters to be made patent, and to be sealed as of the.....day of.....one thousand nine hundred and.....

Seal of Patent Office.

SCHEDULE "F."

Letters Patent No.....of.....for.....(Title of invention.)

It is hereby notified for general information that.....
.....(Name and residence of inventor) has applied to me for leave to amend the specification of the above-mentioned invention by way of.....
.....the particulars whereof are given hereunder.

I have decided that this application and all objections thereto shall be considered at my office on the.....day of the month of.....19...
at.....o'clock or as soon as possible thereafter; and I therefore call upon all persons who are interested in opposing the granting of this application to deposit at my office before the said date of hearing a statement in writing setting forth their objections as otherwise they will be debarred from bringing such objections forward.

Dated this.....day of.....19...

.....
Commissioner of Patents.

The alteration which I desire to make in.....is as follows:—
(The applicant shall here state clearly what he desires and his grounds herefor and sign the same.)

SCHEDULE "G."

Letters Patent No.....of.....for.....(Title of invention.)

It is hereby notified for general information that I have made a petition to His Excellency the Governor requesting an extension of the term of the above-mentioned Letters Patent and that this petition has been referred to the..... Court for consideration.

The hearing of this petition has been fixed for the.....day of..... 19.....in the.....noon at.....o'clock or as soon thereafter as the case can be heard.

All persons who are interested in opposing the granting of this request must deposit their objections in writing with the Registrar of the Court at least one month before the said date of hearing as otherwise they will be debared from bringing such objections forward.

Dated this.....day of.....19.....

.....
(Signature of applicant.)

SCHEDULE "H."

LIST OF FEES PAYABLE AT THE PATENT OFFICE ON AND IN CONNECTION WITH LETTERS PATENT.

	£	s.	d.	£	s.	d.
1. On application for provisional protection	1	0	0			
2. On filing complete specification	3	0	0			
or				4	0	0
3. On filing complete specification with first application				4	0	0
4. On appeal from Commissioner to Attorney-General. By appellant				3	0	0
5. On notice of opposition to grant of patent. By opponent				0	10	0
6. On hearing by Commissioner. By applicant and by opponent respectively				1	0	0
7. On appeal from Commissioner to the High Court of the Transvaal. By appellant				4	0	0
<i>On application to amend Specification.</i>						
8. Up to sealing. By applicant				1	10	0
9. After sealing. By patentee				3	0	0
10. On notice of opposition to amendment by opponent				0	10	0
11. On hearing by Commissioner. By applicant and by opponent respectively				1	0	0
12. On application to amend specification during action or proceeding. By patentee				3	0	0

On Certificate of Renewal.

13. Before the expiration of the third year from the date of the patent and in respect of the fourth year	2	0	0
14. Before the expiration of the fourth year from the date of the patent and in respect of the fifth year	2	10	0
15. Before the expiration of the fifth year from the date of the patent and in respect of the sixth year	3	0	0
16. Before the expiration of the sixth year from the date of the patent and in respect of the seventh year	3	10	0
17. Before the expiration of the seventh year from the date of the patent and in respect of the eighth year	4	0	0
18. Before the expiration of the eighth year from the date of the patent and in respect of the ninth year... ..	4	10	0
19. Before the expiration of the ninth year from the date of the patent and in respect of the tenth year	5	0	0
20. Before the expiration of the tenth year from the date of the patent and in respect of the eleventh year	5	10	0
21. Before the expiration of the eleventh year from the date of the patent and in respect of the twelfth year	6	0	0
22. Before the expiration of the 12th year from the date of the patent and in respect of the thirteenth year	6	10	0
23. Before the expiration of the thirteenth year from the date of the patent and in respect of the fourteenth year	7	0	0

NOTE.—Any or all of the above payments for renewals may be

On Enlargement of the time for payment of Renewal Fees.

	£	s.	d.
24. Not exceeding one month	1	0	0
25. Not exceeding two months	3	0	0
26. Not exceeding three months	5	0	0

Other Matters.

27. For every entry of a transfer agreement licence or extension of patent	0	10	0
28. For duplicate of letters patent each	2	0	0
29. Search or inspection fee for every quarter of an hour	0	1	0
30. For any certificate issued by the Commissioner	0	5	0
31. For copy of any specification or other document per folio of 100 words	0	1	0
32. On request to Commissioner to correct a clerical error—up to sealing	0	5	0
Ditto after sealing	1	0	0
33. For altering address in register	0	5	0
34. For enlargement of time for acceptance of complete specification—			
Not exceeding one month	2	0	0
Not exceeding two months	4	0	0
Not exceeding three months	6	0	0

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 10TH APRIL, 1902.)

To Amend the Law relating to the Registration of
Trade Marks in this Colony.

WHEREAS it is expedient to amend the law relating to the registration of Trade Marks in this Colony: Preamble.

Now therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:

1. Law No. 6 of 1892 and so much of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation are hereby repealed; but no such repeal shall affect anything duly done, or any right or privilege acquired, or any liability, penalty, or forfeiture incurred in respect of any such laws. Repeals.

2. (1) The Commissioner of Patents, who shall also be the Registrar of Trade Marks and is hereinafter referred to as the Registrar, may on application by, or on behalf of any person claiming to be the proprietor of a trade mark, register the trade mark. Application for registration.

(2) The application must be made in the prescribed form and accompanied by the prescribed number of representations of the trade mark and must state the particular goods or classes of goods in connection with which the applicant desires the trade mark to be registered.

(3) The Registrar may, if he thinks fit, refuse to register a trade mark, but any such refusal shall be subject to appeal to the Court, which shall, if required, hear the applicant and the Registrar and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

(4) When an applicant for the registration of a trade mark is out of this Colony at the time of making the application, he shall give the Registrar an address for service in this Colony, and if he fails to do so the application shall not be proceeded with until the address has been given.

(5) Where registration of a trade mark has not been or shall not be completed within twelve months from the date of the application by reason of default on the part of the applicant, the application shall be deemed to be abandoned.

Definition of trade
mark.

3. For the purposes of this Proclamation a trade mark must consist of or contain at least one of the following essential particulars:—

- (a) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or
- (b) A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or
- (c) A distinctive device, mark, brand, heading, label or ticket; or
- (d) An invented word or invented words; or
- (e) A word or words having no reference to the character or quality of the goods and not being a geographical name.

And there may be added to any one or more of these particulars any letters, words or figures, or combination of letters, words or figures, or any of them; but the applicant for registration of any such additional matter must state in his application the essential particulars of the trade mark, and must disclaim in his application any right to the exclusive use of the added matter, and a copy of the statement and disclaimer shall be entered on the register. Provided as follows:—

- (1) A person need not under this section disclaim his own name or the foreign equivalent thereof, or his place of business, but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof.
- (2) Any special and distinctive word or words, letter, figure, or combination of letters or figures, or of letters and figures used as a trade mark before Law No. 6 of 1892 came into operation, may be registered as such under this Proclamation.

How to be regis-
tered.

4. A trade mark must be registered as belonging to particular goods or description of goods and when registered shall be transferred and transmitted only in connection with the goodwill of the business concerned in such particular goods or description of goods and shall be determinable with such goodwill but subject as aforesaid application for registration of a trade mark shall be deemed to be equivalent to public use of such mark.

Trade marks may
be registered in any
colour.

5. A trade mark may be registered in any colour or colours and such registration shall, subject to the provisions of this Proclamation, confer on the registered owner the exclusive right to use the same in that or any other colour or colours.

Advertisement of
application.

6. Every application for registration of a trade mark under this Proclamation shall, as soon as may be after its receipt, be advertised by the Registrar unless the Registrar refuse to entertain the application.

Opposition to registration.

7. (1) Any person may within one month, or such further period not exceeding three months as the Registrar may allow, of the advertisement of the application, give notice in duplicate at the Patent Office of opposition to registration of the trade mark, and the Registrar shall send one copy of such notice to the applicant.

(2) Within one month after the receipt of such notice, or such further time as the Registrar may allow, the applicant may send to the Registrar a counter-statement in duplicate of the grounds on which he relies for his application, and if he does not do so shall be deemed to have abandoned his application.

(3) If the applicant sends such counter-statement, the Registrar shall furnish a copy thereof to the person who gave notice of opposition and shall, after hearing the applicant and the opponent, if so required, decide whether the trade mark is to be registered, but his decision shall be subject to appeal to the Court which shall hear the applicant and the opponent and the Registrar and may make an order determining whether and subject to what conditions (if any) registration is to be permitted.

(4) If the applicant abandons his application after notice of opposition in pursuance of this section, he shall be liable to pay to the opponent such costs in respect of the opposition as the Registrar may deem to be reasonable.

(5) Where the opponent is out of this Colony, he shall give the Registrar an address for service in this Colony.

8. Where each of several persons claims to be registered as proprietor of the same trade mark, the Registrar may refuse to register any of them until their rights have been determined according to law, and the Registrar may himself submit or require the claimants to submit their rights to the Court.

Conflicting claims to registration.

9. The Registrar shall not, without the special leave of the Court to be given in the prescribed manner, register in respect of the same goods or description of goods, a trade mark identical with one which is already registered with respect to such goods or description of goods, and the Registrar shall not without such leave as aforesaid register with respect to the same goods or description of goods, a trade mark having such resemblance to a trade mark already on the register with respect to such goods or description of goods as to be calculated to deceive. It shall not be lawful to register as part of or in combination with a trade mark any words the use of which would, by reason of their being calculated to deceive or otherwise be deemed disentitled to protection in the Courts of Justice in England or any scandalous designs.

When leave of the Court to register necessary.

10. From and after the first day of August, 1902, a person shall not be entitled to institute any proceedings to prevent or recover damages for the infringement of any trade mark capable of being registered under this Proclamation until and unless such trade mark is registered in pursuance of this Proclamation, or unless it has been registered under the provisions of Law No. 6 of 1892.

No action to lie for infringement of non-registered trade mark.

Effect of registration as first proprietor.

11. The registration of a person as first proprietor of a trade mark shall be *prima facie* evidence of his right to the exclusive use of such trade mark, and shall after the expiration of five years from the date of such registration be conclusive evidence of his right to the exclusive use of such trade mark subject to the provisions of this Proclamation as to its connection with the goodwill of a business.

Register of Trade Marks.

12. There shall be kept at the Patent Office a book called the Register of Trade Marks, wherein shall be entered the names and addresses of proprietors of registered trade marks, notifications of assignment and of transmissions of trade marks and such other matters as may be from time to time prescribed, provided always that there shall not be entered on the register, or be receivable by the Registrar, any notice of any trust express implied or constructive.

Entry of assignments.

13. Where a person becomes entitled by assignment, transmission, or other operation of law to a registered trade mark, the Registrar shall on request and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the trade mark in the Register of Trade Marks. The person for the time being entered in the Register of Trade Marks as proprietor of a trade mark, shall, subject to the provisions of this Proclamation, and to any rights appearing from such register to be vested in any other person, have power absolutely to assign or otherwise deal with the same, and to give effectual receipts for any consideration for such assignment or dealing.

Inspection of and extracts from register.

14. The register of Trade Marks kept under this Proclamation, shall, at all convenient times be open to the inspection of the public, subject to the provisions of this Proclamation, and to such regulations as may be prescribed, and certified copies, sealed with the seal of the Patent Office, of any entry in such register shall be given to any person requiring the same, on payment of the prescribed fee.

Sealed copies to be received in evidence.

15. Printed or written copies, or extracts purporting to be certified by the Registrar and sealed with the seal of the Patent Office, of, or from any documents in the Patent Office relating to trade marks, and of or from the register of trade marks, or other books relating to trade marks kept there, shall be admitted in evidence in all Courts in this Colony, and in all proceedings, without further proof or production of the originals.

Court may rectify the register.

16. If the name of any person who is not for the time being entitled to the exclusive use of a trade mark in accordance with this Proclamation, or otherwise in accordance with law, is entered on the register of trade marks as a proprietor of such trade mark, or if any mark is registered as a trade mark which is not authorised to be so registered under this Proclamation, any person aggrieved may apply in the prescribed manner for an order of Court that the register may be rectified, and the Court may either refuse such application, or it may, if satisfied with the justice of the case, make an order for the rectification

of the register, and may award damages to the party aggrieved. The Court may, in any proceeding under this section, decide any question as to whether a mark is or is not such a trade mark as is authorised to be registered under this Proclamation; also any question relating to the right of any person who is a party to such proceeding, to have his name entered on the register of trade marks, or to have the name of some other person removed from such register; also any other question that it may be necessary or expedient to decide for the rectification of the register. Whenever any order has been made rectifying the register, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

17. The Registrar may, on request in writing accompanied by the prescribed fee—

Power of Registrar
to correct clerical
errors.

- (a) Correct any clerical error in or in connection with an application for registration of a trade mark; or
- (b) Correct any clerical error in the name, style or address, or alter the address of the registered proprietor of a trade mark;
- (c) Cancel the entry or part of the entry of a trade mark on the register: Provided that the applicant accompanies his request by a declaration, on oath, made by himself, stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade mark;
- (d) Permit an applicant for registration of a trade mark to amend his application by omitting any particular goods or classes of goods in connection with which he has desired the trade mark to be registered.

18. (1) The registered proprietor of any registered trade mark may apply to the Court for leave to add to or alter such mark in any particular, not being an essential particular within the meaning of this Proclamation, and the Court may refuse or grant such leave on such terms as it may think fit.

Alteration of regis-
tered mark.

(2) Notice of any intended application to the Court under this section shall be given to the Registrar by the applicant, and the Registrar shall be entitled to be heard on the application.

(3) If the Court grants leave, the Registrar shall, on proof thereof, and on payment of the prescribed fee, cause the register to be altered in conformity with the order of leave.

19. If any person makes or causes to be made a false entry in the register of trade marks, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders, or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be liable to imprisonment for a term not exceeding two years, with or without hard labour.

Falsification of en-
tries in register.

20. (1) Any person who describes any trade mark applied to any article sold by him as registered which is not so, shall

Penalty on falsely
representing any
trade mark as regis-
tered.

be liable for every offence, on conviction before a Court of Resident Magistrate, to a fine not exceeding one hundred pounds sterling ;

(2) A person shall be deemed for the purposes of this Proclamation to represent a trade mark as registered if he sells the article with the word "registered," or any word or words expressing or implying that registration has been obtained, stamped, engraved, or impressed on or otherwise applied to the article.

Representatives
may act for infant,
&c.

21. If any one is unable by reason of tender age or weakness of mind or other incapacity to make a declaration, or perform an act required or permitted by this Proclamation or by any rules made under it, then his guardians or curators, or failing these, a person appointed by the Court on the application of any one on behalf of such person, or on the application of anyone interested in the making such declaration or performing such act, may make such a declaration, or one as near as possible to the one prescribed, or do such act in the name and on behalf of such aforesaid person. All acts done by such representative shall, for the purposes of this Proclamation, be as effectual as if done by the person so represented.

Exercise of discre-
tionary power by
the Registrar.

22. Where any discretionary power is by this Proclamation given to the Registrar, he shall not exercise that power adversely to the applicant for registration of a trade mark without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

Effect of Regis-
trar's certificate.

23. The certificate of the Registrar as to any entry matter or thing which he is authorised by this Proclamation, or any general rules made thereunder, to make or do, shall be *prima facie* evidence of such entry having been made and of the contents thereof, and of such matters and things having been done or left undone.

Protection of for-
eign trade marks.

24. (1) Any person who has applied for protection for any trade mark in a foreign country shall be entitled to registration of his trade mark under this Proclamation in priority to other applicants, provided that such application is made within six months from his applying for registration in such foreign country, and any such registration shall have the same date as the date of application in such foreign country.

(2) The use in this Colony, during the said period of six months, of the trade mark shall not invalidate the registration of the same.

(3) The application for the registration of a trade mark under this section must be made in the same manner as an ordinary application under this Proclamation, provided that any trade mark, the registration of which has been duly applied for in the country of origin, may be the subject of an application for registration under this Proclamation.

(4) Nothing in this section contained shall entitle the proprietor of a trade mark to recover damages for infringe-

ments happening prior to the actual registration of his trade mark in this Colony.

* 25. The Registrar may from time to time, with the consent of the Governor, make, and when made alter, annul or vary such general rules as to the registry of trade marks, and as to notices to be given by advertisement before the registration of trade marks, and as to the classification of goods for the purposes of this Proclamation, and as to the registration of first and subsequent proprietors of trade marks, and as to the removal from the register of any trade mark, as to notices and as to the persons entitled to inspect the register, and as to the proceedings to be taken to obtain the judgment or leave of the Court in any matter in which the judgment or leave of the Court is required to be obtained under this Proclamation, and generally for the purpose of carrying into effect this Proclamation as he may deem expedient. Any rules made in pursuance of this section shall, on publication in the *Gazette*, have the force of law.

Registrar may
make general rules.

26. There shall be paid in respect of applications and registration, and other matters under this Proclamation, such fees as may be from time to time, with the consent of the Governor, prescribed by the Registrar, and such fees shall be levied and paid to the account of the Colonial Revenue in such manner as the Controller of the Treasury may from time to time direct.

Fees.

27. The Registrar may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Proclamation, apply to the Legal Adviser of the Transvaal Administration for directions in the matter.

Directions to Registrar
from Legal
Adviser.

28. For the purposes of this Proclamation—

Definition of terms.

“Prescribed” means prescribed by general rules made in pursuance of this Proclamation.

“Court” means the High Court of the Transvaal.

“Foreign country” means any country, Colony or State other than this Colony, and whether a British possession or not.

“Governor” means the officer for the time being administering the government of this Colony.

29. This Proclamation may be cited for all purposes as “The Trade Marks Registration Proclamation, 1902,” and shall be of force and effect from and after the first day of May, 1902.

Short title.

* Such Rules were made and published under Government Notice No. 180 of 1902 (*Gazette* 9th May, 1902, page 630).

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 19TH APRIL, 1902.)

Preamble.

WHEREAS it is expedient to make provision for the vesting and protection of the copyright in certain Maps of His Majesty's South African Dominions, printed by, and under the authority of, the Commander-in-Chief of His Majesty's Forces in South Africa :

Now therefore, by virtue of the authority in me vested, I do hereby proclaim, declare and make known, as follows :—

Copyright in maps compiled for Field Intelligence Department of H.M. Forces.

1. Notwithstanding anything contained in Law No. 2 of 1887, the copyright in all Maps of His Majesty's South African Dominions made and compiled by the Field Intelligence Department of His Majesty's Forces in South Africa, and published in this Colony, shall be vested in and belong to the General Officer Commanding-in-Chief His Majesty's Forces in South Africa for the time being, as if such Officer were or had been the author thereof, and such Officer shall have all the rights and privileges conferred by Law No. 2 of 1887 in respect of such Maps.

Deposit with Registrar of Deeds.

2. Within two months of the publication in this Colony of any Map or Maps of any portion of His Majesty's South African Dominions, there shall be deposited with the Registrar of Deeds at Pretoria three copies of the same signed by some person duly authorised thereto by the said General Officer Commanding-in-Chief.

Not necessary to comply with other provisions of Copyright Law.

3. Save as provided in the last preceding section it shall not be necessary for the due protection and continuance of the copyright in such Map or Maps to comply with any other of the provisions of Section 10 of Law No. 2 of 1887.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 19TH APRIL, 1902.)

Amending Law No. 3 of 1897.

WHEREAS it is expedient to amend Law No. 3, of 1897, and to make provision for divorce between coloured persons in this Colony.

Preamble.

Now therefore by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows:—

1. The second and third paragraphs of Article 10 of Law No. 3, of 1897, are hereby repealed and the following substituted in lieu thereof:

Repeal of Articles of Native Marriage Law as to divorce of natives and substituted enactment.

“The suit for such divorce shall be brought in the same Court and in the same manner as if the parties thereto had been white persons.

“The Registrar of the Court shall give notice of each divorce pronounced by such Court, by sending a certified copy of the sentence to the person by whom or in whose district the marriage was celebrated.”

2. Art. 13 (*b*) is hereby repealed and the following substituted in lieu thereof:

“Divorces between coloured persons pronounced by a competent Court which have been notified to him in accordance with Art. 10.”

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 28TH APRIL, 1902.)

To amend the first and second Schedule to the "Stamp Duties Amendment Proclamation, 1902."

BY VIRTUE of the authority in me vested I do hereby declare, proclaim and make known, as follows:—

Amendment of
Law 5 of 1874.

1. So much of Section 12 of Law No. 5 of 1874, as requires payment of the sums of ten, twenty and thirty pounds as the case may be on the registration of Companies with limited liability, shall be and is hereby repealed; and the first Schedule of the "Stamp Duties Amendment Proclamation" shall be amended accordingly.

Amendment of Pr.
Tr. 12 of 1902.

2. The second Schedule to the "Stamp Duties Amendment Proclamation, 1902," is hereby amended by inserting under the heading of "Exceptions from Stamp duty" in respect of receipts, the following exemptions:—

- (a) Receipt given for money deposited in a Bank, or with any Banker to be accounted for, and expressed to be received of the person to whom the same is to be accounted for.
- (b) Acknowledgment by any Banker of the receipt of any Bill of Exchange or Promissory Note, for the purpose of being presented for acceptance or payment.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 28TH APRIL, 1902.)

To amend the Transfer Duty Proclamation, 1902.

BY VIRTUE of the authority in me vested I do hereby declare, proclaim and make known, as follows :—

1. Sub-section (2) of Section *twenty-nine* of the “Transfer Duty Proclamation, 1902” is hereby repealed, and the following substituted in lieu thereof :—

Amendment of Pr.
Tr. 8 of 1902.

“No cession of any such lease as is mentioned in the preceding sub-section, made after the taking effect of this Proclamation, shall be of any force or effect against creditors or any subsequent *bonâ fide* purchasers thereof, unless such cession be registered in the registration office in which such lease is registered.”

2. For the purposes of Section *seven* of the “Transfer Duty Proclamation, 1902,” no interest shall be deemed to accrue in respect of the period between the first day of October, 1899, and the opening of the Registration offices, to wit, the 20th of May next.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 16TH MAY, 1902.)

For Regulating the Administration of the Estates of Deceased Persons, Minors and Lunatics, and of Derelict Estates.

Preamble.

WHEREAS it is expedient to abolish the Orphan Chamber and the Office of Orphan Master within this Colony :

And whereas, it is expedient to alter and amend the law of this Colony relating to the registrations of wills, and the administration of estates and property of persons dying either testate or intestate :

And whereas, it is likewise expedient to alter and amend the law of this Colony relating to the administration and management of the estates and property of minors and lunatics, and in certain cases of persons absent from this Colony :

Now therefore, by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows :—

PART I.

MASTER OF SUPREME COURT SUBSTITUTED FOR ORPHAN MASTER.

Abolition of Orphan Chamber.

1. The Orphan Chamber within this Colony and the office of Orphan Master shall be, and are hereby, abolished.

Master of Supreme Court substituted for Orphan Master.

2. All the duties which have heretofore been performed by the said Orphan Master shall henceforth be performed by the Master for the time being of the Supreme Court of the Transvaal, who shall be, and is hereby authorised and required to do, and cause to be done, every matter and thing which the said Orphan Master was by law authorised, or required to do, or cause to be done.

Transfer of administration from Orphan Chamber to Master.

3. All persons, property, estates, matters and things which have at any time lawfully fallen, or been placed under, and which shall be at the time of the taking effect of this Proclamation under the guardianship, charge, or administration of the said Orphan Master shall be, and the same are hereby declared to be under the guardianship, charge and administration of the Master of the Supreme Court.

4. All books, accounts, vouchers, records and other documents of whatsoever description which, if the said Orphan Chamber had not been abolished, ought by law to have been under the charge, control, or custody of the Orphan Master, shall be placed and shall be and remain under the charge, control, and custody of the Master of the Supreme Court.

PART II.

ESTATES OF DECEASED PERSONS.

Death Notices.

5. Whenever any person shall die leaving any property in possession, reversion or expectancy, or leaving a will, the nearest relative or connection of the deceased who shall be at, or near the place of death, and in default of any such near relative or connection the person who at or immediately after the death shall have the chief charge of the house in or of the place on which the death occurs, shall within fourteen days thereafter cause a notice of death to be framed in the form set out in the Schedule "A" to this Proclamation, and shall cause such notice signed by himself to be delivered or transmitted:

Death notices to
Magistrate or Master.

- (a) To the Master if the death occurs in Pretoria or the district thereof:
- (b) To the Resident Magistrate of the District if the death occurs elsewhere, in which case such notice shall be accompanied by a duplicate, or a fair and true copy thereof.

And every Magistrate to whom such notice as aforesaid shall be given, shall cause the duplicate or copy thereof to be examined and compared with the original and if need be corrected and shall authenticate such duplicate or copy with his signature, and shall file and register the same and shall forthwith transmit the original notice to the Master. In case it shall appear that the person signing the death notice was not present at the death the Master may call upon such person for proof of death.

6. In case the information in any death notice is defective or insufficient, the Master may call upon any executor after his appointment to furnish such further information as may be required, and every executor so called upon shall without delay return his written answers to such questions as the Master may put for that purpose.

If death notice defective executor to furnish further information.

7. Any person who shall fail to comply with the provisions of the *fifth* and *sixth* Sections of this Proclamation, shall be liable to a penalty not exceeding twenty pounds, or in default of payment thereof to imprisonment with or without hard labour for any period not exceeding three months.

Penalty clause.

WILLS.

Deposit of wills,
&c., with Master.

8. It shall be competent for any person to deposit with the Master, either open or enclosed under a sealed cover, any will, codicil, or testamentary instrument executed by him; and the Master shall keep, or cause to be kept, a register of the names and descriptions of the persons depositing every such deed and the date of depositing the same; and every such deed shall be accompanied by a duplicate or fair and true copy thereof, which, together with the original, shall be kept under the charge and custody of the Master until the death of the maker thereof, unless re-delivery of the same be demanded by the said maker, or in his lifetime by his lawful attorney specially authorised for that purpose, and when any such deed shall be re-delivered in manner aforesaid, the maker or his attorney as the case may be shall sign a receipt for the same.

Persons in possession of wills, &c., on testator's death bound to transmit them forthwith to the Master in Pretoria or to the Resident Magistrate in the County districts.

9. Every person other than the Master, who shall at the time of the death of the maker thereof have in his possession any deed purporting to be, or entitled the last will, codicil, or other testamentary instrument of any other person, or into whose possession any such deed shall come after the death of the maker thereof, shall forthwith by the first opportunity deliver or transmit every such deed to the Master, when such person shall reside in Pretoria or the district thereof, and when such possessor shall reside in any other district of the Colony, then to the Resident Magistrate of the district in which he shall reside or be at the time, and if to the Magistrate, shall also deliver or transmit to him a duplicate or fair and true copy thereof, and every such Resident Magistrate shall cause such duplicate or copy to be examined and compared with the original, and if need be corrected, and shall authenticate such duplicate or copy with his signature, and shall file and register the same, and every such Magistrate shall forthwith transmit the original deed to the Master; provided always that if such Magistrate shall not be the Resident Magistrate of the district in which such deceased person ordinarily resided at the time of his death, he shall transmit the duplicate or copy of such will, codicil, or other testamentary instrument authenticated as aforesaid to the Resident Magistrate of such last mentioned district, and such last mentioned Magistrate shall file and register the same. Every Notary Public shall, when called upon by the Master to do so, transmit the original minute of any will, codicil, or testamentary instrument passed before him to the Master. Any person failing to comply with the provisions of this Section shall be liable to a fine not exceeding twenty pounds, or in default of payment to imprisonment with or without hard labour for any period not exceeding three months.

Penalty for theft,
destruction or concealment of wills,
&c., punishment.

10. If any person shall, either during the life of the testator or after his death, steal, or wilfully destroy or conceal any will, codicil, or other testamentary instrument, every such offender shall upon conviction, be liable to imprisonment with or without hard labour for any period not exceeding seven

years, or to a fine not exceeding five hundred pounds sterling, or to both such imprisonment and such fine; and it shall not in any indictment for such offence be necessary to allege that such will, codicil, or other instrument is the property of any person or is of any value: Provided always that nothing herein contained relating to the said offences nor any proceeding, conviction, acquittal, or judgment to be had or taken thereupon shall prevent, lessen, or impeach any remedy which any person aggrieved by any such offence might or would by law have had by means of any civil action, suit, or proceeding if this Proclamation had not been passed; but nevertheless the conviction of any such offender shall not be received as evidence against him, nor his acquittal as evidence for him in any such civil action, suit, or proceeding against him.

11. The Chief Justice, every Judge of the Supreme Court, and every Resident Magistrate or Justice of the Peace, upon information taken on oath being transmitted to him by the Attorney-General or any Public Prosecutor, or the Master, or upon the information of any person made on oath before any such Judge, Magistrate, or Justice of the Peace, that there is reason to suspect that any will, codicil, or other testamentary instrument is concealed in any place within the jurisdiction of such Judge, Magistrate, or Justice of the Peace may by warrant under his hand cause every such place to be searched.

Warrants to search for stolen or concealed wills by Judges, Magistrates, &c.

12. If any person who shall reasonably be believed to be in possession of, or have under his control any will, codicil, or other testamentary instrument shall, after the death of the testator refuse or fail to deliver or transmit the same in manner hereinbefore provided, the Master is hereby authorised and required forthwith to apply to the Supreme Court or any Judge thereof for an order of such Court or Judge on such person forthwith to deliver such will, codicil, or other instrument.

Applications by Master to the Court or a Judge for an order on persons refusing to give up wills.

13. Every deed being or purporting to be the will, codicil, or other testamentary instrument of any person which shall have been deposited with, or transmitted to the Master in manner hereinbefore provided, shall after the death of the maker thereof, be enregistered by the Master in the register of Estates, for which purpose the Master is hereby authorised and required to open or cause to be opened, every such deed which may be sealed up. Provided always that notwithstanding any such registration, all questions as to the validity and legal effect of every such deed shall be reserved and remain for the decision of the Supreme Court; and provided that where such deed has been deposited with the Master previous to the death of the maker thereof, the Master shall cause the duplicate or copy deposited with the said deed to be examined and compared with the original, and if need be corrected, and shall authenticate such duplicate or copy with his signature and shall transmit the same to the Resident Magistrate of the district in which the deceased ordinarily resided at the time of his death, if such district is not the district of Pretoria, and the said Magistrate shall cause the same to be filed and registered.

Enregistration of wills, &c., at testator's death.

INVENTORIES.

Inventory of estate in community by surviving spouse within thirty days of the death.

14. When one of two spouses who have been married in community of property shall die, the survivor shall within thirty days after the death of the deceased, cause an inventory of all property, goods and effects, movable and immovable of what kind soever, which at the time of the death shall have formed part of or belonged to, the estate possessed in community between the predeceasing and surviving spouses, to be made in the presence of two impartial witnesses being persons of good credit and repute, and of such persons having an interest in the distribution of the joint estate as heirs or legatees of the predeceased spouse who shall attend; and every such inventory shall be subscribed by the surviving spouse, the witnesses aforesaid, and such heirs and legatees as shall be present at the making thereof.

Penalties on omission of inventory.

15. Every surviving spouse who shall wilfully neglect to cause an inventory of the joint estate to be made in manner and within the period hereinbefore provided, or shall knowingly omit to enter in such inventory, any article of property of whatsoever kind, shall in the distribution of such estate, forfeit all right to and share in anything which may accrue to the joint estate after the death of the predeceasing spouse, and in and to such property so omitted in the inventory; and every loss which shall have been caused by the destruction or deterioration of any such property so omitted in the inventory, or which shall have accrued to the joint estate after the death of the predeceasing spouse by the loss or deterioration of any part thereof, shall in the distribution of the estate fall upon and be borne by such surviving spouse solely and exclusively. Provided always that nothing herein contained shall free or exempt any person who shall wilfully or for any fraudulent purpose make or cause to be made any false inventory of any such joint estate from any penalty or punishment hereinafter or by any other law provided with respect to the offence of making false inventories.

Inventory on the death of persons not married in community.

16. On the death of any person not being one of two spouses married in community of property, the wife or husband of the deceased, or in default or absence of the wife or husband, the child or children of the deceased, or in default absence or minority of the child or children, the next of kin of the deceased, or in default absence or minority of the next of kin, the person who at or immediately after the death shall have the chief charge of the house in, or of the place on which the death shall occur, shall within fourteen days after the death, make or cause to be made in the presence of two impartial witnesses, being persons of good credit and repute, an inventory of all goods and effects belonging to the deceased and being in the house or upon the premises at the time of the death, and of all other goods and effects known by the person making or causing such inventory to be made to have belonged to the

deceased. And every such inventory shall be subscribed by the person making or causing the same to be made by the witnesses aforesaid.

17. Every person hereinbefore required or directed to make or cause to be made any such inventory as aforesaid, shall so soon as the same has been made, forthwith deliver or transmit every such inventory—

Transmission of inventory to Master or Resident Magistrate.

- (a) To the Master, if such person shall reside in Pretoria or the district thereof :
- (b) To the Resident Magistrate when such person shall reside in any other district in which case such inventory shall be accompanied by a duplicate or fair and true copy thereof ;

and every such Resident Magistrate shall cause the duplicate or copy of every such inventory so delivered or transmitted to him to be examined, and if need be corrected, and shall authenticate such duplicate or copy with his signature and file the same of record in his office, and shall transmit the original to the Master.

18. Notwithstanding anything hereinbefore contained, it shall be lawful for the Supreme Court or any Judge thereof, or the Master, on sufficient cause appearing at any time to order that an inventory of any property belonging to any deceased person or to the joint estate of any deceased person, and the surviving spouse shall be taken by any person named in such order.

Inventory by Supreme Court, Judge or Master.

19. Every person who is required by the fourteenth, sixteenth and eighteenth sections of this Proclamation to make any inventory, shall include therein a specified list of all immovable property wherein to his knowledge the deceased had an interest at the date of his death, and if possible a reference to the title under which the deceased held such interest and the date of such title.

Particulars required as to immovable property.

20. Every person who shall fail to comply with the provisions of the fourteenth, the sixteenth or seventeenth sections of this Proclamation shall, in addition to any penalty provided by this Proclamation or any other law, be liable to a penalty not exceeding twenty pounds, or in default of payment to imprisonment with or without hard labour for any period not exceeding three months.

Penalty clause.

21. If any person required and directed, under and by virtue of the provisions of the fourteenth, sixteenth and eighteenth sections of this Proclamation, to make, or cause to be made, an inventory of any estate, goods, or effects, shall wilfully make a false inventory thereof, every such offender shall, upon conviction, be liable to punishment by imprisonment with or without hard labour for any period not exceeding five years, or by a fine not exceeding five hundred pounds, or by both such imprisonment and such fine.

Penalty for false inventory.

CUSTODY OF ESTATE PENDING ISSUE OF LETTERS OF
ADMINISTRATION.

Possession by survivor of estate in community of property until institution of proceedings for settlement.

22. When one of two spouses who have been married in community of property shall die, the joint estate shall remain under the charge of the survivor, until the executor of the deceased, or the tutor testamentary or dative of the minor children of the marriage, or the Master or curator bonis, lawfully appointed to such minor children, shall take proceedings for the administration, distribution, and final settlement of the said joint estate: Provided always that nothing herein contained shall prevent any such joint estate from being placed under sequestration as insolvent.

Custody of estate of persons not married in community.

23. On the death of any person, not being one of two spouses, married in community of property, the husband or wife of the deceased, or in default or absence of the husband or wife the child or children of the deceased, or in default, absence or minority of the child or children the next of kin of the deceased, or in default, absence or minority of the next of kin, the person who at or immediately after the death shall have the chief charge of the house in, or of the place on which the death shall occur, shall secure and take charge of all goods and effects of whatever description belonging to the deceased, and being in the house or upon the premises at the time of death, and shall retain the same in his or her custody or possession until delivery thereof shall be demanded by the executor of the deceased or by any other person lawfully appointed by the Supreme Court or any Judge thereof, or the Master to receive delivery of the same.

Appointment of curator bonis until issue of letters of administration.

24. In all cases where it may be necessary or expedient to do so, the Master may appoint a curator bonis to take the custody and charge of any estate, until letters of administration shall be granted to executors, testamentary or dative, for the due administration and distribution thereof; and every such curator bonis may collect such debts and may sell or dispose of such perishable property belonging to the estate as the Master shall specially authorise: And every appointment made by the Master of any curator bonis shall, on the application of any person having an interest in such estate, be subject to be reviewed and confirmed or set aside by the Supreme Court or any Judge thereof; and such Court or Judge by whom such appointment shall be set aside may appoint some other fit and proper person to be curator bonis.

Letters of administration.

LETTERS OF ADMINISTRATION.

25. The estates of all persons dying either testate or intestate shall be administered and distributed according to law under letters of administration to be granted in the form contained in the Schedule hereunto annexed, marked "B" by the Master to the testamentary executors duly appointed by such deceased persons, or to such persons as shall in default of

testamentary executors be appointed executors dative to such deceased persons in manner hereinafter mentioned.

26. In all cases in which any deceased person shall by will or codicil have duly appointed any person to be his executor, the Master shall, upon the written application of such executor, forthwith grant letters of administration to him so soon as such will or codicil shall have been registered in the office of the Master: Provided always that if it shall appear to the Master, or if any person by writing, lodged with the Master, shall object that any will or codicil by virtue whereof any person shall claim to be the testamentary executor of any person deceased is not in law sufficient to warrant and support such claim, then, and in every such case, letters of administration may be refused by the Master until the validity and legal effect of such will or codicil shall have been determined by the judgment of some competent Court, or until such objection as aforesaid shall have been withdrawn by the person by whom the same was made or until such persons shall have had sufficient time to apply to such Court as aforesaid, for an order restraining the issue of letters of administration: Provided also, that letters of administration shall not be granted to any such executors as aforesaid, who shall at the time of making such written application, be or reside beyond the limits of the Colony; and that, if the Master shall have reason to believe that any such last mentioned executor, although he may at the time of making such application be within the Colony, will not remain within the Colony until he has finally liquidated and settled the estate to be administered by him, the Master may refuse to grant letters of administration to such executor until he shall find sufficient security for the due and faithful administration by him of such estate.

Letters of administration to executor appointed by will.

27. When any person shall have died without having by any valid will or codicil appointed any person to be his executor, or where any person duly appointed to be the executor of any deceased person shall have predeceased him, or shall refuse or become incapacitated to act as such, or shall within such reasonable time as the Master shall deem sufficient, neglect or fail to obtain letters of administration, then and in every such case, the Master shall cause to be published in the *Gazette* and in such other manner as to him shall seem fit a notice, calling the surviving spouse (if any) the next of kin, legatees and creditors of the deceased to attend at his office at the time therein specified to see letters of administration granted to such person or persons as shall then be appointed by him, executor or executors to the estate of such deceased person: Provided always, that when it shall appear to the Master necessary or expedient so to do, it shall be lawful for him in such notice to call such persons as aforesaid to attend before any Resident Magistrate at such time and place as may be appointed for the purpose of proposing some person or persons to be by such Magistrate recommended to the Master as fit and proper to be by him appointed executor or executors.

Proceedings on failure of appointment of executors, or on death, incapacity or refusal to act.

And the Master shall, at the meeting so to be holden at his office, or upon receiving the report of such Resident Magistrate, appoint such person or persons as to him shall seem fit and proper to be executor or executors of the estate of the deceased and shall grant letters of administration accordingly, unless it shall appear to him necessary or expedient to postpone such appointment and to call another or other such meeting or meetings as aforesaid : And provided also that when it shall appear to the satisfaction of the Master that the estate of any such deceased person as is hereinbefore mentioned is manifestly insolvent, then, and in every such case, it shall not be necessary for him to take any such proceeding* as aforesaid for the appointment of an executor or executors.

In case of insolvency of estate.

Competition for the office of executor dative.

28. In every case in which a competition shall take place for the office of executor dative, the surviving spouse, whom failing the next or some of the next of kin whom failing a creditor or creditors, whom failing a legatee or legatees, shall be preferred by the Master to the office of executor : Provided always that nothing herein contained shall prevent any one or more of the above-mentioned classes of persons from being conjoined in the said office with one or more of any of the above-mentioned classes of persons ; and that when it shall appear to the Master, or to the Supreme Court, or any Judge thereof on reviewing the appointment of the Master that any good reason exists against the appointment of all or any of the above-mentioned persons or classes of persons as executor or executors, any such person or class of persons may be passed by and some other fit and proper person or persons may by the Master, or by such Court or Judge, be appointed executor or executors : And provided also that every such appointment so made by the Master, shall, on the application of any person having an interest in such estate, be subject or reviewed, and confirmed or set aside by the Supreme Court or any Judge thereof, and such Court or Judge by whom any such appointment shall be set aside, may appoint some fit and proper person or persons to be executor or executors.

Review of Master's appointment by Court or Judge.

Appointment of tutors of minors where minors would have been entitled to appointment.

29. When it shall happen that any of the next of kin or creditors or legatees of any deceased person shall be minors, under the guardianship of any tutor duly appointed then and in every such case such tutor shall be entitled to be preferred to the office of executor dative under the provisions of the last preceding section in like manner in all respects as the minor whose tutor he is, would, if of full age, have been entitled to be preferred to that office under the provisions of the said section.

Assumption of executors under power contained in will.

30. Nothing herein contained shall prevent any testamentary executor from assuming any other person or persons as executor or executors of the testator under and by virtue of any power for that purpose to him committed by such testator by his will or codicil ; Provided always that no person shall be entitled or qualified to act as assumed executor unless letters of administration shall have been granted to

him as such during the lifetime of the executor, testamentary by the Master, who shall grant the same on production to him of the will or codicil by which the assumption of such executor is authorised and of the deed by which such testamentary executor has assumed such person as executor. And every provision of this Proclamation and of every other law applicable or relating to or affecting executors shall be deemed and taken to be and shall apply and relate to and affect every such executor so assumed.

31. When by reason of any testamentary or assumed executor to whom letters of administration shall have been granted having died or become incapacitated to act as such or having been removed from his office by the decree of any competent Court there shall not remain for the administration of the estate any executor whatever, or so many executors, either testamentary or assumed as by the provisions of the will or codicil by which such executors were appointed or permitted to be assumed, shall be required to form a quorum of executors, and when it shall happen that any executor dative, shall, after letters of administration have been granted to him, die, or become incapacitated, or be removed in manner aforesaid, then, and in every such case, proceedings in order to the appointment of an executor in place of such executor so dying, or becoming incapacitated, or removed, shall be taken by the Master in like manner in all respects as hereinbefore provided by the provisions of the *twenty-seventh*, *twenty-eighth* and *twenty-ninth* Sections of this Proclamation.

32. Letters of administration granted to any person as testamentary executor, shall at all times be subject to be revoked and annulled by the decree of the Supreme Court, on the proof to the satisfaction of such Court, that the will or codicil, in respect of which, such letters have been granted to such person, is null, or has been revoked, either wholly or in so far as it relates to the nomination of such executor: and letters of administration granted to any person as executor dative, shall be at all times subject to be revoked and annulled by the Master, on production to him of any will or codicil by which any other person who shall then be legally capable and qualified and who shall consent to act as executor, has been legally nominated testamentary executor to the estate which such executor dative has been appointed to administer: Provided always that is, the non-production of such will or codicil, prior to letters of administration having been granted to the executor dative has been owing to the fault or negligence of the person therein nominated testamentary executor such person shall be personally liable for, and may be compelled at the instance of the Master, or any person interested, to make good to the estate all expenses which have been incurred in respect of, and with reference to, the appointment of the executor dative.

33. Every executor dative, assumed executor or curator bonis shall, before he shall be permitted to enter on the

Letters of administration to assumed executors.

Proceedings in case of death, incapacity or removal of testamentary or assumed executors.

Revocation of letters of administration by decree of Court, or in some instances by Master.

Security for due administration.

administration of the estate, find security to the satisfaction of the Master for the due and faithful administration of the estate to which he has been appointed for such amount as in the circumstances of each particular case shall be reasonable.

Appointment by
Master of executors
to estates under £100.

34. If any person shall die, whose estate shall be unrepresented, and in so far as the same shall be situated within this Colony, shall appear to the Master to be under the value of one hundred pounds sterling, the Master may cause such estate to be administered and distributed in accordance with the provisions of the *sixty-eighth* and *sixty-ninth* Sections of this Proclamation by an executor dative, to be by him summarily appointed for that purpose.

FOREIGN LETTERS OF ADMINISTRATION.

Operation of this
part only with regard
to letters granted in
State specially pro-
claimed.

*35. The provisions of the *thirty-sixth*, *thirty-seventh* and *thirty-eighth* Sections of this Proclamation shall come into force with regard to all letters of administration at any time granted in any State, as and from the date of, and during the period (if any), limited by a Notice, which it shall be lawful for the Governor to publish in the *Gazette*, declaring such State to fall under the provisions of the said Sections, and thereupon the said provisions shall continue in force, either until any period so limited as aforesaid, or any extension thereof by Proclamation in the *Gazette* shall have expired, or until a further Proclamation shall be similarly published by the Governor declaring that the said provisions shall no longer apply to letters of administration granted in such State.

Letters granted in
other State on pro-
duction to Master
may be sealed and
signed and given
effect to in this
Colony.

36. Whenever letters of administration, granted in any State, shall be produced to and a copy thereof deposited with the Master by the person in whose favour such letters of administration have been granted, or his duly authorised attorney, such letters may be signed by the Master, and sealed with his seal of office, and shall thereupon be of like force and effect and have as full operation in this Colony with respect to, and the Master shall have the same control over the administration of the entire estate of the deceased here situate, as though the said letters had been letters of administration granted by the Master: Provided however—

But no letters to be
so sealed and signed
if any letters already
granted.

- (1) That the Master shall not sign and seal any such letters so produced, in case any letters of administration shall have been granted already by him in respect of the estate of any deceased person which shall be situate in this Colony.
- (2) That before any such letters are signed and sealed, a certificate of death, and a duly certified copy of the will (if any) of the deceased, and an inventory of all

Stamp fees, &c., to be
the same as for letters
issued by Master.

* By Pr. (Adm.) No. 3 of 1902 (*Gazette*, 8th August, 1902, p. 1247) Natal is now brought within the provisions of sects. 36, 37 and 38 of this Proclamation: By Government Notice 462 of 1902 (*Gazette*, 19th September, 1902, p. 1361), the Orange River Colony: By Government Notice 480 of 1902 (*Gazette*, 10th October, p. 1434), the Cape Colony: and by Government Notice 622 of 1902 (*Gazette*, 21st November, p. 1680), the United Kingdom also.

property within this Colony known to belong to him, shall be lodged with the Master, and the same stamp fees of office duties and security shall be paid and given which would be required if the said letters had been letters dative granted by the Master.

- (3) That in case the Master shall refuse to sign and seal any such letters of administration so produced, it shall be lawful for the person thereby authorised and empowered to act, after notice to the Master, to make application to the Supreme Court for relief, and thereupon the Supreme Court shall make such order as to justice shall appertain.

Jurisdiction of Supreme Court in case Master refuses to sign.

37. Letters of administration lawfully granted by any British Consular Court shall be deemed and taken to be granted in a State to which the provisions of the last preceding Section apply.

Letters granted by British Consular Courts recognised.

38. A copy certified by the Master of the copy of any letters of administration deposited with him under the provisions of the *thirty-sixth* Section of this Proclamation shall be admitted in evidence in all legal proceedings in this Colony, as though such certified copy were the original letters, and a certificate under the hand of the Master to the effect that he has in accordance with the said provisions signed and sealed any letters of administration authorising and empowering any person to act thereunder, shall be admitted in all legal proceedings in this Colony *prima facie* proof of the legal right and title of such person to administer so much of the estate of the deceased person named in such certificate as is situate in this Colony.

Evidence by copy of letters certified by Master, and provision for Master's certificate of right to administer estates here situate under letters produced.

39. In the thirty-fifth, thirty-sixth, thirty-seventh and thirty-eighth Sections of this Proclamation, the following terms shall bear the following meanings:—

Definition of terms.

“State” shall include England, Scotland, Ireland and every British Colony and British Possession.

“State.”

“Letters of Administration” shall include every document issued, or a copy of every such document, duly certified by any lawful and competent judicial or other public authority in any State, under and by which document any person or body corporate shall be authorised and empowered to act as the personal representative of any deceased person, or as executor or administrator, either testamentary or dative, either of the whole estate of any deceased person which shall be legally situate in such State, or so much of such estate so situate as consists of immovable, movable, real or personal property as the case may be.

“Letters of administration.”

“British Consular Court” means any British Court having jurisdiction under an Order in Council, made in pursuance of the Foreign Jurisdiction Acts, 1843 to 1878, or any of them, or any amendment thereof.

“British Consular Court.”

DUTIES OF EXECUTORS.

Inventory by
executors.

40. Every executor shall, so soon as letters of administration shall have been granted to him in manner aforesaid, forthwith make an inventory showing the value of all property, goods and effects, movable and immovable, of what kind soever, belonging to the estate which he has been appointed to administer, and shall in like manner from time to time thereafter, and so soon as he shall find or know of any other such property, goods or effects belonging to such estate, and not contained in such first-mentioned inventory, make an additional inventory or inventories showing the value of all such last-mentioned property, goods and effects. And every such executor shall forthwith cause every such inventory, and additional inventory to be transmitted to the Master. And when any such additional inventory shall be so transmitted by any executor, dative, or assumed, he shall find such further security as the Master may require of him.

Transmission of in-
ventory to Master.

Penalty for false
inventory.

41. If any person required and directed under and by virtue of the provisions of the *fortieth* section of this Proclamation to make, or cause to be made an inventory of any estate, goods, or effects shall wilfully make a false inventory thereof, every such offender shall, upon conviction, be liable to punishment by imprisonment with or without hard labour for any period not exceeding five years, or by a fine not exceeding five hundred pounds, or by both such imprisonment and such fine.

Master may ap-
point appraiser to
value assets.

42. When any executor shall fail to place any value upon the assets or any portion thereof, or shall place a value upon them which shall not meet with the approval of the Master, it shall be lawful for the Master to cause the value of such assets to be appraised by any impartial person or persons, and the value so ascertained shall be taken to be the true value of such assets for the purposes of this Proclamation.

Liability in certain
cases for debts and
legacies by persons
who, previously to
the granting of let-
ters of administra-
tion, have intermed-
dled with estates,
and by persons to
letters have been
granted in respect of
property not con-
tained in inventory.

43. If previously to letters of administration being granted by the Master to any executor for the administration of any estate, any person shall take upon himself to administer, distribute or in anywise dispose of such estate, or any part thereof, except in so far as may be authorised by a competent Court, or by the Master, or may be absolutely necessary for the safe custody or preservation thereof, or for providing a suitable funeral for the deceased, or for the subsistence of the family or household or live stock left by the deceased; or if any person to whom letters of administration have been granted shall administer, distribute, or in any way dispose of any property or effects belonging to the estate of which he is the executor, and which shall not have been contained in the inventory or inventories of such estate lodged with the Master previously to the granting of the said letters of administration, or shall not be contained in any inventory or additional inventory made by him and transmitted by him to the Master in terms of the provisions of the *fortieth* section of this Proclamation, every such person shall thereupon become personally liable to pay to the

creditors and legatees of the deceased all debts due by the deceased at the time of his death, or which have thereafter become due by his estate, and all legacies left by the deceased in so far as the proceeds and assets of such estate shall be insufficient for the full payment of such debts or legacies: Provided always that when any person who shall be sued for the payment of any debt or legacy which he shall have rendered himself personally liable to pay in manner aforesaid, shall prove to the satisfaction of the Court before which he shall be sued that the true amount and value of the property which has actually been unduly administered, distributed, or disposed of by him did not exceed a certain sum, and that his administration, distribution, or disposal of the same was not fraudulent, then, and in every such case, such person shall only be personally liable for so much of such sum as he shall fail to prove has been distributed or disposed of in such manner and for such purposes as by law the same ought to have been distributed or disposed of and for the amount of the costs by him incurred in and concerning such suit as well as for the amount of the taxed costs incurred in and concerning such suit by the plaintiff therein notwithstanding that by reason of such person's personal liability having been restricted in manner aforesaid such plaintiff shall not have recovered from such person any part of the debt or legacy sued for.

44. Every person not being the executor of the estate of a deceased person duly appointed in this Colony who shall at the promulgation of this Proclamation or thereafter have or come into possession or custody of any property or asset belonging to such estate, shall forthwith either deliver such property or asset to the duly appointed executor (if any) then being in the Colony, or report the particulars thereof to the Master; and if such first mentioned person shall fail to do so or shall part with any such property or asset to any person not authorised by the Master by letters of administration or other direction to receive the same he shall apart from any other liability he may incur thereby be liable for all dues payable to the Government in respect of such property or asset.

Duty of person in possession of asset of estate of deceased person.

45. Every executor shall so soon as he shall have entered on the administration of the estate forthwith cause a notice to be published in the *Gazette* and in some newspaper published or circulating in the district in which the deceased ordinarily resided, calling upon all persons having claims due or not yet due as creditors against the deceased or his estate, to lodge the same with such executor within such period from the date of the publication thereof as shall be therein specified, not being less (save and except as in the *sixty-ninth* Section of this Proclamation provided) than thirty days or more than three calendar months as in the particular circumstance of each case shall by the executor be deemed proper; and all claims which would be capable of proof in case of the insolvency of the estate shall be deemed to be claims of creditors for the purposes of this Proclamation.

Public notice by executors to creditors and others to lodge their claims.

Suspension of execution of judgments against deceased until expiration of period of notice.

Order of Court or of a Judge for execution within six months after date of letters of administration.

Duties of executors after expiration of period for lodging claims.

Payment of debts.

Liability of executors in regard to preferent debts.

46. It shall not be lawful for any person who shall have obtained the judgment of any Court against any deceased person in his lifetime, or against his executor, in any suit or action commenced against such executor, or which having been pending against the deceased at the time of his death, shall thereafter have been continued against the executor of such person, to sue out or obtain any process in execution of any such judgment before the expiration of the period notified in the *Gazette* in manner hereinbefore provided; and it shall not be lawful for any such person as aforesaid to sue out or obtain any process in execution of any such judgment as aforesaid within six months from the time when letters of administration shall have been granted to the executor against whom execution of such judgment is sought, without first obtaining an order from the Supreme Court, or some judge thereof, for the issue of such process.

47. On the expiration of the period notified in the *Gazette* in manner hereinbefore provided, every such executor as aforesaid shall forthwith proceed to rank according to their legal order of preference, all such claims of creditors against the deceased or his estate as have been lodged with him, or of the existence of which he shall have knowledge, and shall pay off and discharge the same so soon as the funds necessary for that purpose shall have been realised out of the estate. And if the proceeds of such estate shall be found to be insufficient for the payment of all the just and valid claims of creditors to which it is liable, the executor thereof shall be liable to pay to any person having any such just and valid claim, the amount which such person would have been entitled to receive in respect of such claim, if ranked according to the legal order of preference, in so far as such executor shall have within the said period last mentioned, or afterwards at any time when he knew of the existence of such claim, paid such amount to any person the payment of whose claim against the deceased or his estate, according to the legal order of preference, ought to have been postponed until such just and valid claim as aforesaid had been satisfied; reserving always to such executor recourse against the person to whom payment of his claim may have been improperly made: Provided always that when such notice to creditors as aforesaid shall have been duly published as aforesaid, no creditor, claiming on the estate of any deceased person, who shall not have lodged his claim with the executor within such period as aforesaid, or thereafter before the distribution of the funds of the estate, shall in respect thereof be entitled to recover from any person having a just and valid claim as a creditor against such estate, restitution of any part of such funds which may have been paid to such person in satisfaction thereof, after the expiry of such period, and before the claim of the person seeking such restitution was lodged with the executor, although if lodged in due time, such last mentioned claim would, according to the legal order of preference, have been preferent to that of the person to whom such payment had previously been

made; nor shall such person have any claim against any executor in respect of any such distribution as aforesaid of the funds of any such estate made by him after the expiry of such period as aforesaid, and before the claim of such person shall have been known to such executor.

48. Every person by whom the funeral of any deceased person shall be performed, or caused to be performed, shall, for the amount of the expenses of such funeral, in so far as the same were suitable to the condition of the deceased, have a preference on the property and assets of the estate of the deceased, before any other debt or claim which may have been owing by deceased at the time of his death, or which may arise against his estate after his death.

Preference on estate for funeral expenses.

49. Any executor may, if he think fit, require any person preferring any claim as a creditor against the estate of which he is the executor, to substantiate such claim by an affidavit setting forth the details of such claim, with such particularity as the executor may reasonably require, and may refuse to recognise such claim until such affidavit has been delivered to him, and it shall be competent for any Court by which any such claim shall be adjudged in favour of any claimant, to decline to grant such claimant his costs against the estate, in case such Court shall deem that the information given by the claimant to the executor was insufficient; and that the executor acted with prudence and discretion in contesting such claim.

Executor may require affidavit in support of claim.

50. If an executor shall, after enquiry, find that the estate is insolvent, he shall immediately take the necessary proceedings for having such estate placed under sequestration as insolvent, unless the creditors consent to receive a dividend in full satisfaction of their claims, and proof of such consent is produced to the Master.

If estate insolvent.

51. If one of two spouses married in community of property shall die intestate, or shall die testate and shall have made no provision to the contrary in the will, the Master may, if it shall appear to him that it will be for the benefit of the minor children, if any, of the deceased spouse to do so, permit the share of the joint estate belonging to such deceased spouse to be taken over by the survivor, at a valuation to be made by a sworn appraiser instead of being realised according to law: Provided that no person having any lawful claim against the estate of such deceased spouse shall be delayed or defeated in obtaining payment of such claim by virtue of anything herein contained.

Master may permit surviving spouse to take over estate at appraisal.

52. If any executor in administering and distributing any estate shall find that any minor not having a lawful guardian, or tutor, or any lunatic not having a lawful curator, or any person absent from the Colony and not having a lawful representative within the same, has any valid right or claim to such estate, or any part thereof, such executor shall forthwith transmit to the Master a statement in writing, containing the

Executor to transmit claims of minors, lunatics and absent persons to Master.

Executors to pay to Master money devolving upon minors, lunatics or absent persons.

name of such minor, lunatic or absent person, and specifying the nature and value of the property to which such minor, lunatic or absent person has such right or claim.

53. If any executor shall, in administering and distributing any testate estate, find, that any sum of money has devolved upon or become due from such estate to any minor, lunatic or person absent from the Colony not having a guardian, tutor, curator or lawful representative within the same, such executor shall forthwith pay such money into the hands of the Master: Provided—

- (a) That if the person from whose estate such money has devolved or become due, shall by will or deed have directed that the same shall be otherwise dealt with, nothing herein contained shall be taken to prevent such executor from carrying into effect the provisions of such will or deed.
- (b) That the term executor shall be deemed to include administrator, unless, a contrary intention shall appear in the will or deed wherein the word executor occurs.

And every executor administering and distributing any intestate estate shall forthwith pay into the hands of the Master any sum of money which has devolved upon or become due from such estate to any minor or lunatic, and any sum of money which has devolved upon or become due from such estate to any person absent from the Colony, and not having a lawful representative within the same; provided always, that nothing in this section contained shall be taken to limit any power possessed by the Supreme Court to order any such money to be paid by any executor, or by the Master to any person for any purpose.

Administration and distribution accounts.

54. Every executor shall administer and distribute the estate to which he is appointed executor according to law, and the provisions of any valid will, codicil or other testamentary instrument relating to such estate, and shall, so soon as may be after the expiration of the period notified in the *Gazette* in manner hereinbefore provided, and not later than six months from the day on which the letters of administration were issued to him (unless upon application to the Master upon sufficient cause shewn to the satisfaction of the Master, further time be given from time to time for that purpose), frame and lodge with the Master a full and true account supported by vouchers of the administration and distribution of the said estate, and also a duplicate or fair and true copy of such account, and should such account not be the final account, it shall set forth all debts due to the estate and still outstanding, and all property and effects still unsold and unrealised, and the reasons why the same have not been collected or realised, as the case may be, and the executor shall, from time to time, as the Master may direct, render periodical accounts of his administration and distribution until the estate shall be finally liquidated, and should the executor fail to do so, he shall be liable to be summoned in terms of the next succeeding Section.

55. As often as any executor shall fail to lodge with the Master the account mentioned in the last preceding Section, the Master or any person having an interest in such estate, may, at any time after the expiration of six months, from the day on which the letters of administration were granted to such executor, summon him to shew cause before the Supreme Court why such account has not been so lodged as aforesaid: Provided that the Master or such other person as aforesaid, shall, not later than one month before suing out any such summons, apply by letter to the executor in default, requiring him to lodge his account on pain of being summoned to do so under this Section: And, provided further, that any executor receiving any such application from the Master or such other person as aforesaid, may lay before the Master such grounds and reasons as he may be able to advance why he has not lodged his account, and the Master, should such grounds and reasons seem to him sufficient, may grant to such executor such an extension of time for the lodging of such account as he shall in the circumstances deem reasonable; reserving always the right of any person having an interest in such estate to bring in review before the Supreme Court or any Judge thereof by motion, the decision of the Master under which any such extension is granted: and provided also, that any such executor so in default, if he shall fail to satisfy the Master that he ought to receive an extension of time may apply to the Supreme Court or any Judge thereof, by motion of which the Master and such other person as aforesaid shall get notice for an order granting to such executor an extension of time within which to lodge his account.

Summons if account has not been lodged within six months.

Master may extend time on sufficient cause being shewn.

On failure to satisfy Master, executor may appeal to Supreme Court.

56. Although the Court or Judge shall be of opinion that the grounds and reasons laid before the Master by any executor who shall be summoned to lodge his account as aforesaid were such as would have warranted the Master in granting an extension of time, the Master or other person at whose instance summons is issued shall nevertheless be entitled to his costs in case he shall before summoning the executor whose grounds and reasons the Master shall have overruled and declared insufficient have allowed such executor sufficient time for enabling him to apply to the Supreme Court or some Judge thereof for such an order as aforesaid granting to such executor an extension of time.

Master entitled to costs in certain cases where the Supreme Court overrules his decision.

57. The costs adjudged to the Master or such other person as aforesaid upon any summons sued out by him or on his behalf shall be payable by the executor in default in his individual capacity, and he shall not be at liberty to charge the same to the estate under his administration unless authorised so to do by the Supreme Court.

Costs unless otherwise ordered by Supreme Court to be paid by executor in default.

58. Every executor shall, in respect of his administration, distribution and final settlement of any estate, be entitled to claim, receive or retain out of the assets of such estate, or from any person who as heir, legatee or creditor shall be entitled to the whole or any part of such estate, such remuneration as may have been fixed by the deceased, by will or deed, or otherwise

Remuneration of executors.

a fair and reasonable compensation, to be assessed and taxed by the Master, subject to the review of the Supreme Court, upon the petition of such executor or of any person having an interest in such estate: Provided always, that if any executor shall fail to lodge the account of his administration and distribution of the estate within six months from the date on which letters of administration were granted to him, and shall have no lawful and sufficient excuse for such failure, it shall be competent for the Master to disallow the whole or any portion of the fees which such executor might otherwise have been entitled to receive in respect of his administration of such estate.

Conditions under which survivor of two spouses married in community may transfer or mortgage land registered in his or her name.

59. It shall not be lawful for the survivor of two spouses who were married in community of property, to transfer any land belonging to the joint estate and enregistered in the name of such survivor, unless and until an account of the administration of such estate has been lodged with and accepted by the Master; nor shall it be lawful for the survivor, unless and until such account has been so filed and accepted, to mortgage any such land as aforesaid, except for the purpose of—

- (a) Securing to the minor heirs of such deceased spouse the inheritance due to them in terms of the *sixty-third* section of this Proclamation; or
- (b) Raising money in order to pay such inheritance into the hands of the Master:

Provided that no transfer or bond allowed by this section shall be passed without the consent in writing of the Master.

Duties of executor with regard to property bequeathed with limited interest with eventual right to heir in remainder.

60. In case the owner of any immovable property shall at his death have bequeathed a fiduciary, usufructuary, or other limited interest in such property, to any person, and shall have directed by his will that such property should devolve, after the expiration of such limited interest, upon any other person or persons, certain or uncertain, then the executor of such deceased owner shall upon or before framing any administration and distribution account of the estate, either—

- (a) Transfer the property to the person immediately entitled to a limited interest therein, with an express reservation in such transfer of the rights of such last-mentioned person or persons; or
- (b) If the property is already registered in the name of the person entitled under the will to a limited interest only therein, obtain and transmit the title deed thereof to the Registrar of Deeds in order that such limitation of interest may be endorsed thereon;

But nothing herein contained shall affect the right of any executor to sell any immovable property for the purpose of paying the debts of the deceased owner thereof. Nor shall the passing of transfer under this section be deemed to determine whether the interest bequeathed is a usufructuary or a fiduciary interest.

Every executor who shall fail to prove that he has used due diligence to comply with the terms of this section shall forfeit all claim to fees in respect of his administration of the estate, and shall in addition be liable to a fine not exceeding one hundred pounds sterling or in default of payment to imprisonment for a period not exceeding four months.

Penalty.

61. Any person in possession of a title deed required by an executor in order to comply with the provisions of the last preceding section who shall refuse to deliver or unreasonably delay the delivery of such deed to such executor shall be liable to a fine not exceeding ten pounds, and in addition to pay all reasonable costs to which the executor may be put in obtaining possession of such deed ; but the legal rights or position of such person shall not be affected by his delivery of such deed in terms of this section. And every executor shall so soon as such deed is no longer required for the purposes of complying with the preceding section of this Proclamation return it to the person from whom it was received, if but for this section such person would be entitled to possession thereof.

Penalty for refusing to deliver title deed to executor when required.

62. In case any person to whom a fiduciary, usufructuary or other limited interest has been bequeathed as in the *sixtieth* section of this Proclamation mentioned shall not renounce such bequest and yet shall refuse to accept transfer thereof in terms of the said section or in case it shall be impossible for the executor of the former owner of the said property to pass transfer thereof to any such person as aforesaid, by reason of the refusal of the said person to satisfy and pay any transfer or other duty chargeable by law against such person, the said executor may apply to the Supreme Court on motion for an order compelling the said person to do all things and pay all duties and charges necessary to enable a transfer of the said property to be passed as required by the section aforesaid ; and the said Court may make such order upon the motion as in the circumstances it may deem meet.

Holder of limited interest compelled by motion to accept transfer.

63. Every surviving spouse who has been appointed executor testamentary of his or her deceased spouse shall, so soon as the estate of the deceased has been administered and an account thereof framed according to law :

Duties of surviving spouse appointed executor testamentary.

- (a) Secure the inheritances ascertained by the said account to be due to the minor children or descendants of the deceased spouse by a bond duly registered in the Deeds Office made in favour of the Master and deposited with him ; or
- (b) Pay the said inheritance into the hands of the Master.

Provided that if the deceased spouse shall by will or deed have directed that the said inheritances shall be otherwise dealt with, nothing herein contained shall be taken to prevent the surviving spouse from carrying into effect the provisions of such will or deed.

64. Every bond passed in terms of the last preceding section shall be conditioned to secure payment of the said

Requisites of bond and how paid off.

inheritances as and when the same become due, and shall hypothecate specially the immovable property (if any) of such surviving spouse or such of the said property as in the opinion of the Master shall be of value sufficient to secure the amount of the said inheritances, and generally all his or her goods and effects, or if there is no immovable property, or not sufficient in the opinion of the Master to secure payment of the said inheritances, such surviving spouse shall find two sureties to the satisfaction of the Master, who shall bind themselves as joint principal debtors for the due payment of the said inheritances renouncing the usual exceptions. Should any one or more of the said inheritances be duly paid off, the Master shall on proof of the fact of due payment release from the operation of the bond aforesaid, such portion of the said landed property as he may see fit: Provided that there remain under the operation of the said bond sufficient property in the opinion of the Master to secure the inheritances still unpaid.

Executor's account not to be accepted until sections *sixty* and *sixty-three* complied with.

65. The Master shall not accept any administration and distribution account tendered by any executor if the provisions of the *sixtieth* or *sixty-third* sections of this Proclamation have not been duly complied with, nor shall the transmission of any account to the Master by any executor before such compliance be taken to be such a lodging of the said account as is required by law.

When Master to furnish Registrar of Deeds with return containing certain particulars in respect of immovable property.

66. The Master shall from time to time furnish the Registrar of Deeds with a return, giving the name of every person married in community of property with regard to whom, or to whose estate an inventory has been filed shewing that such person had at the time of his or her death an interest in any immovable property registered in the name of his or her surviving spouse. Such return shall embody all material information respecting such property, and the interest therein of the deceased which is contained in the inventory lodged with the Master, and in the will, if any, of the deceased.

Government, the Master and Registrar exempt from liability in certain cases.

67. No omission to render any such return as is by the last preceding Section of this Proclamation required no rendering of an incomplete return, and no transfer or mortgage bond *bonâ fide* passed by the Registrar of Deeds against the provisions of the *fifty-ninth* Section of this Proclamation, and no error or omission in any bond accepted by the Master to secure the inheritances of minor children, and no release from or cancellation of any such bond *bonâ fide* made by the Master shall subject the Government, the Master, or the Registrar to any liability in respect of damage sustained by any person in consequence of such omission, return, transfer, mortgage, acceptance, release, or cancellation.

When Master may summarily appoint executor dative.

68. In all cases in which it shall appear from the death notice or inventory, filed in respect of the estate of any deceased person, and from such other information as the Master may call for, that the value of the assets of such estate does not exceed

ESTATES UNDER £100.

one hundred pounds, it shall be lawful for the Master, in the case of an intestate estate (or in the case of a testate estate, in which the executor testamentary may be unable or unwilling to act), summarily, and without observance of the usual and customary forms, to appoint an executor dative to administer the estate of such deceased person.

69. Any executor so appointed as aforesaid shall administer such estate in terms of the provisions of this Proclamation: Provided always that it shall be lawful for the Master at any time to direct.

Master may fix time for filing claims and account.

- (a) That such estate is to be administered within a less time than six months.
- (b) That the advertisement calling upon creditors to file their claims, is to be inserted once only in the *Gazette*, and in any newspaper published and circulating in this Colony, and that all claims are to be filed within a period (not being less than fourteen days, or more than three months) fixed by the Master, and notified in such advertisement.
- (c) That the administration and distribution account in such estate is to be filed within a period (not being less than fourteen days) after the last date fixed for the sending in of claims.

ESTATES OF NATIVES NOT LAWFULLY MARRIED.

70. If any native who shall not during his lifetime have contracted a lawful marriage, or who, being unmarried, shall not be the offspring of parents lawfully married, shall die intestate, his estate shall be administered and distributed according to the customs and usages of the tribe or people to which he belonged; and if any controversies or questions shall arise among his relatives, or reputed relatives, regarding the distribution of the property left by him, such controversies or questions shall be determined in the speediest and least expensive manner, consistent with real and substantial justice according to native usages and customs by the Commissioner for Natives of the district in which the deceased ordinarily resided at the time of his death, who shall call or summon the parties concerned before him, and take and record evidence of such native usages and customs, which evidence he may supplement from his own knowledge; and every decision of a Commissioner for Natives under this section shall be subject to an appeal to the Supreme Court at the instance of any person alleging an interest in the distribution of such property.

When estate of native to be dealt with according to usage of his tribe.

71. Letters of administration from the Master shall not be necessary for, nor shall the Master be called upon to interfere in, the administration and distribution of the estate of any such native, unless the Commissioner for Natives shall report that it is the desire of the persons concerned in the estate, according to native usages and customs, that an executor dative should be appointed.

Letters of administration not necessary unless persons interested so desire.

Meaning of the
word "native."

72. For the purpose of the last two preceding sections, the word "native" shall mean and include any person belonging to any of the aboriginal races or tribes of Africa south of the Equator, or any person, one of whose parents belongs to any such race or tribe.

PART III.

ESTATES OF MINORS AND ABSENT PERSONS.

Tutors and Curators.

Appointment by
father or mother only
of tutors to minors.

73. It shall not be lawful for any person except the father of any minor, or the mother of any minor whose father is dead or has abandoned the minor, by any will or other deed to nominate and appoint any tutor or tutors to administer and manage the estate, or to take care of the person of such minor: Provided always that nothing herein contained shall prevent any person who shall give or bequeath any property to any person, from appointing any curator or curators to administer and manage such property during the minority, or during the continuance of the insanity of the person to whom the same shall be given or bequeathed, in like manner and as fully in all respects, as the same might lawfully have been done prior to the taking effect of this Proclamation; and all curators so appointed shall be called curators nominate.

Curators nominate.

Tutors testamen-
tary.

74. All tutors nominated and appointed by fathers or mothers in manner aforesaid to their minor children shall be called tutors testamentary, whether such tutors shall have been nominated and appointed by wills, or by any other deeds duly executed by such fathers or mothers; and no tutor testamentary shall assume or enter upon the administration or management of the estate or property of any minor, except in so far as it may be necessary for preservation and safe custody of the same until letters of confirmation shall have been granted to him by the Master in the form contained in the Schedule "C" to this Proclamation.

Confirmation of
tutors testamentary
by Master.

Mode of granting
letters of confirma-
tion.

75. The Master shall on application in writing being made to him for that purpose, grant letters of confirmation as tutor testamentary to every person who shall have been lawfully nominated and appointed tutor testamentary to any minor by any valid will or deed; and whenever it shall come to the knowledge of the Master that any person who has been nominated tutor testamentary by any valid will or deed to any minor possessed of property has not applied for letters of confirmation, the Master shall, by writing, require of such person to inform him whether he is willing to act as such tutor testamentary, and if he shall consent so to do, shall grant him letters of confirmation accordingly. Provided always that letters of confirmation as tutor testamentary shall not in

any case be granted to any person who shall at the time be by law incapacitated or disqualified to hold the office of tutor; and that the second proviso in the *twenty-sixth* section of this Proclamation shall *mutatis mutandis* apply to the appointment of tutors testamentary.

76. No curator nominate shall assume or enter upon the administration or management of any estate or property, except in so far as may be necessary for the preservation and safe custody of the same, until letters of confirmation shall have been granted to him by the Master; and in order to the granting of such letters of confirmation, proceedings shall be taken by any such person and by the Master in like manner in all respects, as is provided by the last preceding section of this Proclamation, as to the granting of letters of confirmation to tutors testamentary, and such letters shall be in the form contained in Schedule "D" to this Proclamation.

Letters of confirmation to curators nominate.

77. The Supreme Court, or any Judge thereof, on the application of the Master, or of any relation, or of any person having an interest in the due administration of the estate or property of any minor in every case in which prior to the taking effect of this Proclamation, any tutor testamentary might by law have been required to give security *rem pupilli salvam fore* may make an order that letters of confirmation shall not be granted to any tutor testamentary or curator nominate as aforesaid, until he shall have found security to the satisfaction of the Master to such an amount as in the circumstances of each particular case shall be reasonable for the due and faithful administration and management of such estate or property:

Security *rem pupilli salvam fore* by curators and tutors nominate in like manner as before this Proclamation.

78. In every case in which it shall come to the knowledge of the Master that any estate or property within this Colony has devolved on, or come to belong to any minor being within the Colony, and not being at the time under the natural guardianship of his father or mother or of a tutor testamentary duly confirmed, the Master, except when it shall be known to him that a tutor testamentary has been duly nominated and appointed to such minor by any valid will or deed (in which case he shall proceed in manner for that purpose provided by the *seventy-fifth* Section of this Proclamation) shall cause to be published in the *Gazette* and in such other manner as to him shall seem fit, a notice calling on the relations of the minor, both paternal and maternal to attend at his office at the time therein specified, to see letters of confirmation granted to such person or persons as shall be appointed by him tutor or tutors dative of such minor: Provided always that when it shall appear to the Master expedient so to do, it shall be lawful for him in such notice to call on the relatives of such minor, both paternal and maternal, to attend before any Resident Magistrate at such time and place as he may appoint for the purpose of stating any objections which may exist to any of the next of kin or other person being appointed tutor dative, or of proposing some person or persons, to be by such Magistrate reported to

Appointment of tutors dative by Master.

Publication of notice.

the Master as fit and proper, to be by him appointed tutor or tutors dative. And the Master shall at the meeting, so to be holden at his office, or upon receiving the report of such Resident Magistrate, appoint such person or persons as to him shall seem fit and proper to be the tutor or tutors dative of such minor, and shall grant to him, or them, letters of confirmation as such, unless it shall appear to him necessary or expedient to postpone such appointment and to call another meeting: And provided also that when any such minor shall not be possessed of, or have claim to any other estate or property, except such as shall have been given or bequeathed to such minor, by some person who has duly appointed a curator or curators nominate, to administer and manage the same during the minority of such minor, or except some estate or property paid over to, and in the hands of, the Master under the *fifty-third* Section of this Proclamation, it shall not be necessary, though it shall in all cases be competent, for the Master to take any such proceedings as aforesaid for the appointment of a tutor dative.

Review of Master's
appointment.

79. Every such appointment made by the Master, shall, on the application of any of the relations of, or of the curator nominate of any estate or property belonging to such minor, be subject to be reviewed and confirmed, or set aside by the Supreme Court, or any Judge thereof, and such Court or Judge, by whom any such appointment shall be set aside, shall, and may appoint some other fit and proper person or persons to be the tutor or tutors dative of such minor.

Assumption under
power in will or deed
of other persons by
tutors testamentary
and curators nomi-
nate.

80. Nothing herein contained shall prevent any tutor testamentary of any minor, or curator nominate of any estate, from assuming respectively any other person as tutor of such minor or curator of such estate, under and by virtue of any power for that purpose to him committed by the will of, or any other deed duly executed by the person, by whom such tutor testamentary or curator nominate shall have been appointed: Provided always, that no person shall be entitled or qualified to act as assumed tutor or curator unless letters of confirmation shall have been granted to him, as such during the lifetime of the tutor testamentary or curator nominate, by the Master, who shall grant the same on production to him of the will or other deed, by which the assumption of such tutor or curator is authorised, and of the deed by which such tutor testamentary or curator nominate, has assumed such person as tutor or curator. And every provision of this Proclamation, and of every other law applicable, or relating to, or affecting tutors or curators dative, shall apply to every such tutor or curator so assumed respectively.

Confirmation by
Master of assumed
tutor or curator.

Proceedings in case
of death, incapacity
or removal of tutors
or curators.

81. When by reason of any tutor of any minor, either testamentary or assumed, or of any curator of any estate, either nominate or assumed, to whom letters of confirmation shall have been granted, having died or become incapacitated to act as such, or having been removed from his office by any competent court, there shall not remain for the guardianship of such minor, or for the administration or management of such estate

respectively, any tutor or curator whatever, or so many tutors, either testamentary or assumed, or curators nominate or assumed, as by the provisions of the will or deed, by which such tutors or curators were respectively appointed, or permitted to be assumed, shall be required to form a quorum of tutors, or curators, for the guardianship of such minor, or for the administration and management of such estate respectively, and when it shall happen that any tutor dative, shall, after letters of confirmation have been granted to him, die, or become incapacitated, or be removed in manner aforesaid, then, and in every such case, proceedings in order to the appointment of a tutor dative, in place of the person so dying, or becoming incapacitated, or removed, shall be taken by the Master, in like manner, and in all respects, as is hereinbefore provided by the provisions of the *seventy-eighth* section of this Proclamation.

82. Letters of confirmation granted to any person as tutor testamentary, or as curator nominate of the estate of any minor, shall be at all times subject to be revoked and annulled by the Supreme Court, or any Judge thereof, on proof to the satisfaction of such Court or Judge, that the will or deed in respect of which such letters have been granted to such person is null, or has been revoked either wholly, or in so far as relates to the appointment of such tutor or curator; and letters of confirmation granted to any person as tutor dative, shall be at all times subject to be revoked and annulled by the Master, on production to him of any valid will or deed, by which any other person who shall then be legally capable and qualified, and who shall consent to act as tutor, has been legally appointed tutor testamentary of the minor, to whom such tutor dative had been appointed: Provided always, that if the non-production of such will or deed, prior to letters of confirmation having been granted to the tutor dative, has been owing to the fault or negligence of the person therein appointed tutor testamentary, such person shall be personally liable for, and may be compelled by the Master, or any person related to the minor, to pay to the minor's estate, and account for all expenses, which have been incurred in respect of, and with reference to, the appointment of the tutor dative.

83. In every case in which it shall come to the knowledge of the Master, that in consequence of the death of any person, any estate or property has devolved on, or come to belong to any person absent from this Colony, and not having a legal representative within the same, the Master shall cause to be published in the *Gazette*, and in such other manner as to him shall seem fit, a notice calling on all whom it may concern to attend before him at the time therein specified, to see letters of confirmation granted to such person, as shall then be appointed by him curator dative of the estate or property of such absent person; and the Master shall at the meeting so to be holden before him appoint some fit and proper person to be such curator dative as aforesaid: Provided always that when the only property known by the Master to belong to any such absent person, shall consist

Revocation of letters of confirmation by Supreme Court; and as to tutors dative by Master on production of a valid deed appointing a tutor testamentary.

Appointment of curator dative of property belonging to absent persons not having a legal representative in the Colony.

of a sum or sums of money due and payable to him by the executor of any deceased person, or by the trustee of any insolvent estate, it shall not be necessary for the Master to take any such proceedings as aforesaid; but the Master may, pursuant to the *fifty-third* section of this Proclamation, demand, recover, and receive payment of all such sums of money, to be after the same, are so received by him, disposed of in manner hereinafter provided.

Appointment of
curator *ad litem* by
Supreme Court or
Judge,

84. Nothing herein contained shall prevent the Supreme Court, or any Judge thereof, from appointing a curator *ad litem* to any person in every case and in the same manner in all respects in which such appointment might by law have been made by such Court if this Proclamation had never been issued. And in all cases when the same may be necessary or expedient, the Master may appoint a curator bonis to take the custody and charge of any estate or property, until in order to the due administration and management of the same, letters of confirmation shall be granted to some person as tutor, testamentary or dative, or as curator, nominate or dative, in manner hereinbefore provided. And every such appointment as curator bonis so made by the Master shall on the application of any person having an interest in such estate be subject to be reviewed and confirmed, or set aside, by the Supreme Court or any Judge thereof; and such Court or Judge by whom any such appointment shall be set aside, shall and may appoint some other fit and proper person to be curator bonis.

and of curator bonis
by Master, subject to
review by the Court
or Judge.

Security for due
administration by
tutors and curators.

85. Every tutor dative or assumed, and every curator dative, and curator bonis, who shall be appointed by the Master or any Court or Judge to administer the estate or property of any minor or absent person, shall, before he shall be permitted to enter on the administration of such estate or property, find security to the satisfaction of the Master to such amount as in the circumstances of each particular case, shall be reasonable for the due and faithful administration and management of such estate and property.

Disqualifications of
persons as tutors or
curators.

86. Every person shall be deemed incapacitated and disqualified to hold, and shall be incapable of holding, the office of tutor, either testamentary or dative, or of curator either nominate or dative, in every case, and for every cause, in and for which any person appointed tutor testamentary, would previously to the taking effect of this Proclamation have been incapable of holding the office of tutor testamentary.

Removal *ipso facto*
of insolvent tutors
and curators.

87. Every tutor, either testamentary or dative, and every curator, either nominate or dative, whose estate shall be placed under sequestration as insolvent, shall cease to exercise or hold, and shall thereupon be deemed to have been removed, and shall, *ipso facto*, be removed from his office as tutor or curator aforesaid so soon as the final order for such sequestration has been made, but the removal of such tutor or curator shall not relieve him from any liability or responsibility attaching to him at the time of his removal.

88. Every executor, tutor or curator shall be liable to be suspended or removed from his office by order of the Supreme Court or any Judge thereof, if such Court or Judge shall be satisfied on motion, that by reason of absence from the Colony, other avocations, failing health, or other sufficient cause, the interests of the estate under his care would be furthered by such suspension or removal: Provided that in every case of suspension the Court or Judge may substitute some fit and proper person to act during the suspension of such executor, tutor or curator, in his place subject to such conditions as to the giving of security and the conduct and administration of the estate as the said Court or Judge may deem it just to impose.

Removal and suspension for cause of executors, tutors and curators.

DUTIES OF TUTORS AND CURATORS.

89. All tutors, either testamentary or dative, and all curators, either nominate or dative, shall within thirty days after entering upon the administration of their office, make, or cause to be made, and shall subscribe an inventory of all property, goods, effects movable and immovable forming part or belonging to the estates or persons under their guardianship; and every such tutor and curator shall thereafter from time to time, and so soon as any such property, goods or effects as aforesaid, shall come into his possession or to his knowledge make in like manner and form as aforesaid an additional inventory thereof; and every such tutor or curator shall respectively forthwith transmit all such inventories to the Master.

Inventory within thirty days by tutors and curators.

90. Every tutor or curator who shall fail to make up and transmit any such inventory in manner aforesaid, and who shall have no lawful and sufficient excuse for such failure, shall, by reason thereof, and in addition to every other liability, consequence, and penalty, which he shall thereby by law subject himself to and incur, be liable to a fine not exceeding twenty-five pounds sterling.

Penalties on failure of tutors and curators to make and transmit inventory.

91. If any tutor or curator, required and directed under and by virtue of the *eighty-ninth* Section of this Proclamation, to make or cause to be made an inventory of any estate, goods, or effects, shall wilfully make a false inventory thereof, every such offender shall upon conviction be liable to punishment by imprisonment, with or without hard labour, for any period not exceeding five years, or by a fine not exceeding five hundred pounds sterling, or by both such imprisonment and such fine.

Penalty on conviction of tutor or curator for making false inventory.

92. When letters of confirmation shall have been granted to any tutor, either testamentary or dative, or to any curator, either nominate or dative, every such tutor shall in all respects and for all intents and purposes, and every such curator shall, in so far as relates to the particular estate or property which has been placed under his guardianship, have every power, right and privilege, and shall do and cause to be done, every act, matter and thing touching and concerning the inventorisation, administration and management of the estate or property

Duties and liabilities of tutors and curators after confirmation.

Powers of curators nominate and tutors dative as to maintenance, &c., defined by order of Court or Judge.

Obligation of tutors testamentary and curators nominate to conform to directions in deed of appointment.

Prohibition of re-marriage of surviving parent until minors' shares have been secured.

Prohibition of alienation of immovable property by tutor or curator, except by order of Court or of a Judge, or by direction in deed of appointment.

under his guardianship, and every such tutor or curator and his estate, shall in respect and by reason of every act, matter or thing done or omitted to be done by him, incur and be subject to every liability, obligation and penalty, which by any law in force prior to the taking effect of this Proclamation, any tutor testamentary would then respectively have had or have been directed or required to do, and which he and his estate would then in respect and by reason of any such act, matter or thing done or omitted to be done by him, have incurred, or been subject to: Provided always that nothing herein contained shall give any curator, nominate or dative, any power or authority as to the maintenance, education or custody of the person of any minor, except in so far as the same may have been specially given and committed to him by the decree or order of any competent Court or Judge: And provided also that every tutor testamentary and curator nominate shall in the discharge of such their office and in the administration of the estate and property respectively under their guardianship, conform to and obey every lawful direction touching and concerning the same which shall have been given by the person by whom such tutor or curator shall have been appointed, in the will or deed by which such appointment was made, or in any other writing duly executed by such person.

93. As often as any widower or widow, being the parent of any minor child entitled to claim from such widower or widow any inheritance out of the estate of his or her deceased spouse, shall intend to contract another marriage, and to that end shall desire to marry either by special licence or after the publication of banns, such widower or widow shall obtain and deliver to the Resident Magistrate or Minister of the Gospel before whom such marriage is intended to be solemnized a certificate, under the hand of the Master, certifying that the amount of inheritance due to such minor child aforesaid, from and out of the estate of his or her deceased parent has been paid into the Guardian's Fund, or otherwise secured; and every such widower or widow who shall remarry before the shares due to his or her minor child out of such estate as aforesaid have been ascertained and secured in manner provided in this Proclamation, shall forfeit at the instance of the Master, or of such child when he attains his majority, a sum equal to one-fourth of his or her share in the joint estate of him or herself and such predeceased spouse for the benefit of his or her aforesaid minor children, and every such Resident Magistrate or Minister of the Gospel who shall solemnize such marriage without having first obtained such a certificate from the Master shall, in addition to any other liability, be liable to a fine of not exceeding five hundred pounds.

94. No tutor, either testamentary or dative, and no curator, either nominate or dative, or curator bonis, shall sell, alienate or mortgage any immovable property belonging to any minor or forming part of any estate under the guardianship of such tutor or curator, unless the Supreme Court or any Judge thereof shall have authorised such sale, alienation or mortgage, or unless the

person by whom any such tutor testamentary or curator nominate shall have been appointed shall have directed such sale, alienation or mortgage to be made.

95. Every tutor dative and every curator dative or curator bonis shall forthwith pay over to the Master all moneys belonging to the person or estate under his guardianship so soon as the same shall be received by or come into the possession of such tutor or curator, except in so far as the same may be required for the instant payment of debts due by such estate or for the immediate maintenance of such person; and if any such tutor or curator shall without any lawful and sufficient excuse retain and fail to pay over to the Master any such moneys as it is herein directed shall be paid over to the Master, every such tutor or curator shall be liable to pay to, and for the benefit of, the person or estate to whom or which such money belongs, interest on the same at the rate of twelve per cent. per annum for the whole period during which such money shall be so improperly retained and shall not be paid over to the Master; and shall be liable to be removed from his office of tutor or curator by the decree of any competent Court if it shall appear expedient to such Court so to do; and whenever it shall come to the knowledge of the Master that any such money has been so retained, and not paid over to him by any such tutor or curator, he may forthwith institute an action against such tutor or curator in order to recover payment thereof, and of the above-mentioned penal interest due thereon.

96. Any tutor testamentary or curator nominate to whom it shall seem expedient so to do, except where the person by whom such tutor or curator has been appointed, shall have directed that the same shall not be done, may pay over to the Master any money belonging to the person or estate under the guardianship of such tutor or curator, and which by law such tutor or curator might lend out at interest.

97. Every tutor, either testamentary or dative, and every curator, either nominate or dative, and every curator bonis shall on or before the fifteenth day of February in every year lodge with the Master a just, true and exact account of his administration of the estate or property under his guardianship up to the 31st day of December preceding, and also a duplicate, or otherwise a fair and true copy of such account; and if any such tutor or curator shall fail to lodge such account in manner aforesaid, and shall have no lawful and sufficient excuse for such failure, it shall be competent for the Master to disallow the whole or any portion of the fees which such tutor or curator might otherwise have been entitled to receive in respect of his administration of such estate during the year preceding the said 31st day of December: Provided always that the survivor of two spouses whom the predeceasing spouse shall, by will or other lawful instrument, have appointed the tutor of his or her minor children, and the administrator of the joint estate of such spouses during the minority of such children shall not in any case be required to lodge any such annual account in manner

Payment to Master by tutors dative and curators dative and curators bonis of all moneys, except as far as required for instant payment of debts.

Penalty interest at 12 per cent. for the period during which such money has been improperly retained.

Action by Master to recover amount with penal interest.

Liberty to tutor, testamentary or curator nominate to pay moneys in their possession to Master.

Accounts of administration by tutors and curators.

Penalty on failure of due lodging of account.

Exception in favour of surviving spouse administering the joint estate.

aforesaid anything to the contrary herein contained notwithstanding.

Master may sue every tutor and curator who shall fail to lodge account within prescribed time.

98. It shall be lawful for the Master to summon any tutor, whether testamentary or dative, and any curator, whether nominative or dative, and any curator bonis, to show cause why any account which under the last preceding section ought to have been lodged with the Master has not been lodged, and the provisions of the *fifty-fifth*, *fifty-sixth* and *fifty-seventh* Sections of this Proclamation shall *mutatis mutandis* apply to all proceedings taken by the Master in pursuance of this section.

Compensation of tutors and curators.

99. Every tutor, either testamentary or dative, and every curator, either nominate or dative, shall in respect of his administration and management of any estate be entitled to claim, receive, or retain out of the assets of such estate a reasonable compensation for his care and diligence in the said administration, to be assessed and taxed by the Master, subject to the review of the Supreme Court, or any Judge thereof, upon the petition of any such tutor or curator, or of any person having an interest in the said estate.

THE GUARDIAN'S FUND.

The Guardian's Fund.

100. All moneys paid to the Master by the Treasury on account of moneys received by the Government of the late South African Republic from the then Orphan Master, and all moneys paid to the Master under the provisions of the *fifty-third*, *sixty-third*, *eighty-third*, *ninety-fifth* and *ninety-sixth* Sections of this Proclamation, and of Section one hundred and *twenty-eight* of the Insolvency Law No. 13 of 1895, shall form and become part of the fund heretofore and hereafter to be known in law as "The Guardian's Fund;" and whenever any such money shall be received by the Master he shall open an account in the books of the said fund with the person to whom or the estate to which such money belongs: Provided that if it be not known to whom any such money belongs, or if in the case of minor heirs it is more convenient, the account may be opened in the name of the estate from which such money is derived.

Interest on moneys of minors and lunatics.

101. Interest shall be allowed on every sum of money so received by the Master for account of any minor or lunatic from the first day of the second month after such money has been received, and until the date on which such minor or lunatic shall become entitled by law to draw the capital and no longer: Provided that on the first day of January in each year the interest that has become due on any moneys as aforesaid shall be added to the capital in the books of the Guardian's Fund, and in case such interest is not drawn by the person entitled thereto previous to the first day of January following, interest shall be allowed on the accumulated sum.

Rate of interest.

102. The rate of interest for the purposes of the last preceding Section shall be such as the Governor may from time to time determine, provided that it be not less than three-and-

one-half per centum per annum, and that if it be at any time reduced, at least six months' notice shall be given before such reduction shall take effect.

103. All moneys paid to the Master under the provisions of any law for the purpose of being placed to the credit of the Guardian's Fund, shall be paid into the Bank with which the General Account of the Government is kept, to the credit of a separate account to be styled "The Guardian's Fund Deposit Account," and the Master may from time to time withdraw any part of such moneys by cheques or drafts, signed by himself, and drawn in accordance with such financial regulations as the Governor may have approved.

Payment into and withdrawal from bank with which the general account of the Government is kept of Guardian's Fund money.

104. It shall be lawful for the Master to pay any sum of money which is placed to the credit of any person, or of any estate to the person by law entitled to demand and receive the same, and also to pay to any tutor or curator of any minor, lunatic, insane or absent person, or of any estate, the whole or any part of such sum of money as in the books aforesaid shall at the time be placed to the credit of such minor, lunatic, insane or absent person of such estate as aforesaid, and as such tutor or curator is by law authorised or required to expend or dispose of for any purpose concerning, touching or in respect of, or with reference to, the person or estate under the guardianship of such tutor or curator; and when it shall appear to the Master that it is either unnecessary or illegal for such tutor or curator to expend or dispose of any such sum of money for the purpose for which it is alleged that the same is to be appropriated, it shall be lawful for the Master to refuse, or to suspend making such payment until the Supreme Court, or some Judge thereof, shall have made an order directing such payment to be made.

Master to pay moneys placed to the credit of persons or estates to persons entitled to receive the same, or to tutors or curators.

105. In any case in which the total amount standing to the credit of any minor or lunatic in the Guardian's Fund does not exceed one hundred pounds, it shall be competent for the Master, if after careful enquiry it shall appear to him to be for the interest of such minor or lunatic to do so, to pay and apply the whole, or any part of such amount, for the maintenance, education or other benefit of such minor or lunatic: Provided always that nothing herein or in the last preceding section contained shall authorise the Master to disregard or act contrary to the terms of any will or other deed under the provisions for which such amount shall have been received.

Master's powers as to sums under £100 credited to minors and lunatics.

106. The Master shall, in the month of April in each year, cause to be drawn up a list of all amounts standing in the books of the Guardian's Fund to the credit of any person unknown or not residing, and not having any known legal representative in this Colony, and shall cause the same to be inserted in the *Gazette*, and shall forthwith transmit two or more copies thereof to the Attorney-General, who may cause the said list, or any portion thereof, to be published in such manner as shall be deemed most expedient, in any country or countries to which any person or persons interested may be supposed to belong; and in the said advertisements all persons shall be invited to

List of moneys belonging to absent or unknown heirs to be published annually.

submit their claims to the Master: Provided that no such amount being less than ten pounds need be advertised more than twice.

Lapse to the Crown
of moneys unclaimed
for forty years.

107. When any money which has been placed to the credit of any person or estate in the Guardian's Fund shall remain unclaimed by any person having a just and lawful right thereto, for a period of forty years from the date when the same was paid into the said fund, then such money shall lapse and be forfeited to the Crown, and a draft for the amount thereof shall be passed by the Master accordingly to the Colonial Treasury.

Investment of
moneys to the credit
of the Guardian's
Fund.

108. The Master shall from time to time, and so soon as he shall find opportunity to do so, invest on mortgage of immovable property, or in any stock, debentures or other securities which may be issued by the Government of this Colony, and be charged upon the public revenue thereof, all such moneys standing to the credit of the Guardian's Fund as shall not be required to meet the current expenditure of the said fund: Provided that no such investment shall be made by the Master without first consulting thereupon with two advisers, who shall be from time to time appointed for that purpose by the Governor, or in the event of both or either of them refusing consent, unless he shall have applied to and obtained from the Supreme Court, or any Judge thereof, an order of such Court or Judge authorising him to make such loan: And provided also that it shall not be lawful for any loan on mortgage to be made to or in favour of the Master or either of his said advisers.

Bonds to be payable
to the Guardian's
Fund.

109. All bonds for money invested on mortgage shall be made payable to the Master of the Supreme Court administering the Guardian's Fund, and it shall be lawful for the Master to cede and assign, or to demand, enforce and receive, payment of any such bond and of the interest due thereon.

Examination annually
of wards' books
and Guardian's Fund
investments.

110. So soon after the first day of January as may be convenient in each year, the books and securities of the Guardian's Fund shall be examined by the Auditor-General and the Controller of the Treasury, hereinafter called the Examiners, who may call to their aid such person or persons as the Attorney-General may approve.

Duties of Examiners.

111. The Examiners shall ascertain:

- (a) The total amount of principal and interest due on the thirty-first of December preceding, to all persons or estates in whose favour any account may be open in the said books;
- (b) The amount invested upon mortgage or otherwise;
- (c) The amount of interest earned on the Guardian's Fund during the previous year over and above the amounts due, as in the last preceding sub-section mentioned; and
- (d) The balance of the profit and loss account of the previous year.

Certificate of profit and loss to be granted to Master.

112. The Examiners shall deliver to the Master a certificate of the balance on the profit and loss account so ascertained by them, and he shall forthwith forward a copy of the certificate to the Attorney-General. If it be a credit balance he shall thereupon pass a draft to the Colonial Treasury for the amount so certified.

113. If the Master shall be of opinion that any portion of the Guardian's Fund invested in any manner has become irrecoverable, he shall submit the particulars thereof to the Examiners, who, if they concur in that opinion, shall give a certificate of their concurrence to the Master. The Master shall thereupon report the fact to the Attorney-General, who may direct that the said amount be treated *mutatis mutandis* as irrecoverable revenue, and be charged to the profit and loss account of the Guardian's Fund.

Course of procedure in case of irrecoverable investments.

PART IV.

GENERAL.

114. If any person shall by will, or other deed, have appointed the Master in his official capacity to be the executor of his estate, or tutor testamentary of any minor, or curator nominate of any estate or property given or bequeathed by him to any minor or lunatic, such appointment shall be null and void; and proceedings shall be taken for the appointment of an executor dative, tutor dative, or curator dative, as the case may be, just as if no such appointment of the Master had been made.

Invalidity of appointment of Master as executor, tutor or curator.

115. The Master shall cause to be kept a register containing the names of every executor to whom letters of administration have been granted and of every surety for any executor dative, and also a register containing the names of every tutor and curator to whom any letters of confirmation have been granted, and of every surety for any such tutor or curator; and whenever any order for sequestration shall, under the provisions of Law No. 13 of 1895, be lodged with the Master he shall cause the said Registers to be examined, and

Master to keep register of executors, tutors, curators and sureties.

Proceedings on insolvency of such person.

- (a) If the insolvent is the executor, or the surety of an executor of an estate not previously administered, distributed and finally settled, the Master shall notify the fact in the *Gazette* :
- (b) If the insolvent is either a tutor or curator of any minor lunatic or absent person, the Master may take steps for the appointment of a tutor or curator dative in the place of such insolvent :
- (c) If the insolvent is a surety for any tutor or curator the Master may require such tutor or curator to give additional security to his satisfaction, and if such additional security be not furnished within a reasonable time the Master, or any person interested, may

move any competent Court for the removal of such tutor or curator without in any way affecting the liability of such tutor or curator up to the time of his removal, or impairing the validity of any security, or releasing any surety or his estate.

Records of Master's
office, &c.

116. The Master shall preserve of record in his office all original wills, codicils, testamentary instruments, death notices, inventories, and liquidation, administration and distribution accounts lodged with him under the provisions of this Proclamation, and any person may, at any time during office hours, inspect any such document and obtain a copy thereof, or an extract therefrom, on payment of the fees specified in the Schedule "E" to this Proclamation: Provided always that any person holding office under the Government of this Colony shall be, and is hereby authorised, without the payment of any fee, to inspect any such deed or document aforesaid, and to take a copy thereof or extract therefrom whenever it shall be necessary or expedient that the same should be done by any such person in the discharge of the duties of his office.

Master to forward
duplicates to Magis-
trates.

117. The Master shall, as soon as may be after the expiration of each month, forward the duplicates or copies certified by him, of all accounts lodged with and accepted and filed by him, to the Resident Magistrates of the respective districts in which the persons to whose estates such accounts relate ordinarily resided at the time of their decease, or in any case in which any such person resided abroad to the Resident Magistrate of Pretoria; and every such Resident Magistrate shall file such duplicates or copies in his office, and any person may at any time during office hours inspect or obtain a copy of or extract from any such duplicate or copy or any other document filed by the Resident Magistrate under the provision of this Proclamation on payment of the fee which would be payable to the Master for such inspection copy or extract.

Liability of Master
from costs of actions by
or against him.

118. When the Master shall be plaintiff or defendant in any action instituted by him or against him in his official capacity, and with reference to any matter or thing placed under his guardianship, control or superintendence, or which he is required to do or cause to be done, under and by virtue of the provisions of this Proclamation, and the party against whom such action has been instituted by the Master, or by whom it has been instituted against him, shall have his costs in and with respect to such action adjudged to him by the Court before which such action shall have depended, the Master may draw the amount of such costs from and pay the same out of the credit balance of the Guardian's Fund, unless the said Court shall order that the said costs shall be paid by the Master out of his private funds: Provided that nothing herein contained shall be deemed to limit the power of the Governor to specially authorise that any costs incurred or paid by the Master shall be defrayed out of the Guardian's Fund.

Property exempt
from operation of this
Proclamation.

119. The provisions of this Proclamation shall not extend or apply to the estate or effects (except immovable property) of

any person belonging to any regular regiment of His Majesty's army who shall die within this Colony, unless it shall be shewn to the Supreme Court, or any Judge thereof, or to the Master that for the preservation or due administration and distribution of such property it is necessary or expedient that the same should be dealt with under the provisions of this Proclamation.

120. Every person to whom letters of administration or letters of confirmation shall be granted after the date of the taking effect of this Proclamation for the administration of the estate of any person who shall have died prior to the said date, shall be subject to and conform with the provisions of this Proclamation, and shall administer the estate in accordance therewith.

This Proclamation applicable to all executors, &c., appointed after the date thereof.

121. The Master is hereby empowered to appoint such and so many persons as to him shall seem fit to act as appraisers for the valuation of all estates and property, the appraisement of which shall become necessary for the purposes of his department, and to revoke any appointment so made; and every such appraiser shall, in respect of every such appraisement by him, be entitled to demand and receive a reasonable compensation to be assessed and taxed by the Master: Provided always that any person who shall act as such appraiser in any case in which he or any person whom he represented as agent, or any person to whom he is married or to whom he is related within the third degree of consanguinity or affinity has an interest in the estate to be appraised, shall be liable to forfeit the said compensation, and to pay a fine not exceeding one hundred pounds.

Appointment of appraisers for the valuation of estates and property.

122. Every person who shall be appointed by the Master to act generally as an appraiser of such estates or properties as aforesaid, or to appraise any particular property or estate, shall take an oath before any Judge of the Supreme Court, Resident Magistrate or Justice of the Peace, that he will appraise all such estates or properties as may be submitted to his valuation, according to the just, proper and true valuation thereof to the best of his skill and knowledge, and shall transmit the said oath so taken by him and certified by the Judge, Magistrate, or Justice of the Peace before whom the same shall have been taken, to the Master.

Oath of appraisers before Judge, Magistrate or Justice of the Peace.

123. The Master shall, and is hereby authorised and required to charge and to demand, receive, retain or recover in respect of the acts, matters and things done or caused to be done by him or in his office all such fees as are specified in the tariff contained in the Schedule hereunto annexed, marked E, and shall collect these fees by means of revenue stamps to be affixed to the respective documents: Provided that the fees for searches shall be affixed opposite to entries in a book kept for the purpose: And provided always that nothing herein contained shall repeal any law now in force requiring any stamp to be used for any purpose, or any stamp duty to be paid in respect of any proceeding, except in so far as any alteration shall be expressly made in the tariff of fees hereinbefore mentioned.

Master's fees.

Meetings before
Magistrate or other
authorised official.

124. Any meeting advertised to be held before any Resident Magistrate under the *twenty-seventh* and *seventy-eighth* Sections hereof may, in the absence of such Magistrate on leave or duty, or through indisposition, be held before an official to be authorised by the Master.

Governor may
make regulations.

125. The Governor may, by proclamation, from time to time make and revoke rules and regulations for the better carrying into effect of the provisions of this Proclamation, the custody and preservation of the records, securities and valuable effects of the Master's office, the payment of money into and out of the Guardian's Fund, and generally for the management and good conduct of the business of the Master's office.

Repeal of Falcidian and Trebellianic laws.

126. In no case shall any heir of any one dying after the taking effect of this Proclamation be entitled to claim out of the estate of the person so dying, any portion under or by virtue of the laws known respectively as the Falcidian and the Trebellianic laws which, but for such laws respectively such heir would not be entitled to claim.

Lex Hac Edictali
repealed.

127. From and after the taking effect of this Proclamation the law known as the law or "Lex Hac Edictali" shall be and the same is hereby repealed.

No legitimate portion can be claimed of right.

128. No legitimate portion shall be claimable of right by any one out of the estate of any person who shall die after the taking effect of this Proclamation.

Persons making
will may disinherit
any child, &c., without
assigning reasons.

129. Every person competent to make a will who shall die after the taking effect of this Proclamation shall have full power to disinherit or omit to mention in his will any child, parent, relative or descendant without assigning any reason for such disinheritance or omission any law usage or custom now or heretofore in force in this Colony notwithstanding; and no such will as aforesaid shall be liable to be set aside as invalid, either wholly or in part, by reason of such disinheritance or omission as aforesaid.

Certain tacit hypothecations abolished.

130. All and singular the tacit hypothecations following, or such of them as now by law exist, are hereby abolished:

- (1) The tacit hypothecations possessed by minors upon the estates of their pro-tutors or guardians, and upon the estates of agents or others intermeddling with the property or affairs of such minors, and by insane persons, adjudged prodigals and interdicted persons upon the estates of their curators in security of the debts due and owing by such guardians, pro-tutors, agents or curators in their said capacity.
- (2) The tacit hypothecation possessed by legatees in security of their legacies upon the estates of the testators by whom the legacies were bequeathed.
- (3) The tacit hypothecation possessed by *fidei-commissary* heirs or legatees upon the estates of the fiduciary heirs

or legatees having a limited interest in the inheritances or legacies in question.

- (4) The tacit hypothecation possessed by women married out of community of property upon the estates of their husbands in respect of assets belonging to such women administered by their husbands.
- (5) The tacit hypothecation possessed by children upon the estate of their surviving parent in respect of property coming from their deceased parent.
- (6) The tacit hypothecation possessed by Government in respect of over-due taxes upon the estates of persons liable to pay the same or upon property affected by such taxes.
- (7) The tacit hypothecation of the local Executive Government of this Colony upon the estates of auctioneers and deputy-postmasters, considered as collectors or receivers of the public revenue in security of any debts or demands due by them in their said capacities to the said Government.
- (8) The tacit hypothecation of the said Government upon the estates of persons who shall have entered into contracts with the said Government in security for the performance of such contracts, or for any damages sustained by the non-performance thereof.
- (9) The tacit hypothecation possessed by municipalities, churches and generally any public body or institution whatsoever upon the estates of persons entrusted with the collection, custody or administration of their revenues in security for the revenues not accounted for by such persons.
- (10) The tacit hypothecation of persons by whom ships and houses have been built or repaired for the costs and charges thereby incurred; provided that nothing herein contained shall be construed so as to deprive any person of any right which he may now by law possess to retain any property whatsoever, which shall be in his actual possession until his costs and charges incurred thereon shall have been paid.
- (11) The tacit hypothecation possessed by persons who have lent money for the purpose of being expended in the repair of houses and other property in security for the money so lent.

131. The provisions of the last preceding section shall not affect the estate of any person who died before the taking effect of this Proclamation, or any right or tacit hypothecation acquired before that date.

Limitation of application of this Proclamation.

132. With regard to all rights of tacit hypothecation which are of the classes described in Sub-sections *three* and *five* of Section *one hundred and thirty* of this Proclamation, and

Limitation of application of this Proclamation with regard to certain rights of hypothecation already acquired.

which have been acquired before the taking effect thereof, the following provisions shall apply:

- (a) If the persons entitled to such rights are majors at the date of the taking effect of this Proclamation, then such right shall not be operative upon any immovable property for a longer period than one year from the said date, unless the existence of the said rights be recorded in the Deeds Office against the title of such property according to law.
- (b) If the persons entitled are minors at the date of the taking effect of this Proclamation, then such rights shall not operate in respect of any immovable property for a longer period than two years from the date of the majority of the said persons, unless the existence thereof is recorded as required by the last preceding sub-section.

Power of substitution and surrogation abolished.

133. From and after the taking effect of this Proclamation it shall not be competent for any person appointed executor in any estate, or tutor to any minor, to substitute or to surrogate any other person to act in his place.

Appointment of Acting Master.

134. It shall be lawful for the Governor to appoint an Acting Master of the Supreme Court, when and so often as occasion shall require, in case of the absence, sickness or other disability of the Master; and such Acting Master shall have power and authority to do any act or thing which may lawfully be done by the Master.

Appointment of Assistant Master.

135. It shall be lawful for the Governor to appoint an officer to be styled the "Assistant Master," who shall, subject to such directions as the Attorney-General may from time to time issue, have power and authority to do any act or thing which may lawfully be done by the Master.

Repeal of repugnant laws.

136. The several laws mentioned in Schedule "F," and so much of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation, are hereby repealed.

Powers conferred on Supreme Court vested in High Court, &c.

137. Until the establishment of the Supreme Court mentioned in this Proclamation, the powers and jurisdiction conferred on that Court or any Judge thereof shall respectively be vested in and be exercised by the High Court of the Transvaal, or any member thereof; and the powers and jurisdiction conferred and the duties imposed on the Attorney-General and on the Master of the Supreme Court shall be conferred and imposed on the Legal Adviser to the Transvaal Administration, and on the Master of the High Court of the Transvaal respectively.

Short title.

138. This Proclamation may be cited for all purposes as the "Administration of Estates Proclamation, 1902," and shall take effect from and after the first day of June, 1902.

SCHEDULE "A."

DEATH NOTICE.

Pursuant to the provisions contained in "The Administration of Estates Proclamation, 1902."

1. Name of the deceased?
2. Birthplace and nationality of the deceased?
3. Names and ad- \ Father.....
dresses of the }
parents of the } Mother
deceased? }
4. Age of the deceased?years.....months.
5. Occupation in life of the deceased?
6. Married or unmarried, }
widower or widow? }
- (a) Name of surviving }
spouse (if any), and }
whether married in }
community of pro- }
perty or not? }
- (b) Name or names }
and approximate }
date of death of }
predeceased spouse }
or spouses? }
- (c) Place of last marriage?.....
7. The day of the decease.....on.....190.....
8. Where the person died? { House
Town or place
District.....
9. Names of children of deceased, and whether majors or minors?

State separately the children born of different marriages, and give the date of birth of each minor. Names must be written out in full. If there are no children, and either or both parents be dead, then give the names and addresses of the brothers and sisters of deceased.

10. Has the deceased left any movable property?.....
11. Has the deceased left any immovable property?
12. Is it estimated that the estate exceeds £100 in value?
13. Has the deceased left a will?

Dated at.....the.....day of.....19.....

(State in what capacity.)

This notice must be filled up and signed by the nearest relative or connection of the deceased, who shall at the time be at, or near, the place of death—or, in the absence of such near relative or connection, by the person who at, or immediately after, the death shall have the chief charge of the house in, or the place on, which the death shall occur, and must be sent either to the Master of the Supreme Court in Pretoria, or, if the death occurred in the country districts, the Resident Magistrate of the district in duplicate within fourteen days of the death.

SCHEDULE "B."

Form of letters of
administration.

These are to certify that A.B. of.....has
been duly appointed the executor testamentary (or dative as the case may be),
and is hereby authorised as such, to administer the estate of the late C.D. of
.....

.....
Master of the Supreme Court.
Pretoria, this.....day of.....19.....

SCHEDULE "C."

Letters of confir-
mation of tutors.

These are to certify that A.B. of.....has
been duly appointed, and is hereby authorised as such, to act as the tutor
testamentary (or dative as the case may be) of C.D. minor, child of the late
E.F. of.....

.....
Master of the Supreme Court.
Pretoria, this.....day of.....19.....

SCHEDULE "D."

Letters of confir-
mation of curators.

These are to certify that A.B. of.....has
been duly appointed, and is hereby authorised, to act as the curator nominate of
the estate given (or bequeathed as the case may be) to C.D. by G.H. (here
describe the deed of gift or bequest by its date or otherwise) or, as the case may
be, as the curator dative of the estate of C.D. of.....

.....
Master of the Supreme Court.
Pretoria, this.....day of.....19.....

SCHEDULE "E."

TARIFF OF FEES.

	£	s.	d.
For registering any death notice	0	2	6
For registering any will, codicil, or testamentary writing	0	10	0
Inspection of any document, each estate	0	5	0
Copy of any document of 100 words or less	0	5	0
For every additional 100 words or portion thereof	0	2	6
For letters of administration as executor, testamentary, assumed or dative, or certificates of appointment as curator bonis each :-			
Where the value of the estate does not exceed £100	0	10	0
Where the value of the estate exceeds £100	1	0	0
For letters of confirmation of the appointment of tutors, testa- mentary, assumed, or dative, or curators nominate, assumed or dative, each	0	10	0
For every notice in the <i>Government Gazette</i> , including cost of publication	1	0	0
Attending meeting of next of kin, or creditors, before Master or Resident Magistrate	0	10	0
Approving of sureties given by executors, tutors and curators	0	5	0
Registering accounts of executors, tutors and curators, each	0	5	0
Registering any inventory act, repudiating an inheritance, deed of assumption, or any other deed, each	0	5	0
Registering an Order of Court	0	5	0
Registering any bond securing minors' portions	0	5	0
For every report at the discretion of the Master, subject to taxation, before the Court or a Judge thereof, not less than	0	10	0
For every certificate under the hand of the Master	0	5	0
For taxing the remuneration of executors, tutors, curators or appraisers, on every pound or fraction of a pound of the taxed amount	0	1	0

SCHEDULE "F."

Law Repealed.	Extent of Repeal.	Page in Statute Book.
Law No. 12 of 1870	The whole	395
Law No. 2 of 1871	Section 9	434
Volksraad Resolution of 2nd May, 1876	Article 6... ..	641
Volksraad Resolution of 7th June, 1876	Article 113, so far as it affects the Master's office	660
Volksraad Resolution of 8th August, 1890	Article 1215	77
First Volksraad Resolution of 17th August, 1894	Article 1381	306
Law No. 5 of 1896	The whole	75
Law No. 3 of 1897	Sections 16 and 17	15
Regulations framed under Section 16 of Law No. 3 of 1897 and promulgated under Government Notice No.121, dated 10th March, 1898	The whole	339 & 340
Proclamation No. 12 of 1901	Section 3... ..	891 <i>Gazette.</i>
Proclamation, Transvaal, No. 1 of 1901	The whole	965 <i>Gazette.</i>
Proclamation, Transvaal, No. 22 of 1901	Sections 1, 2, 3 and 4	1264 <i>Gazette.</i>
Proclamation, Transvaal, No. 24 of 1901	The whole	1368 <i>Gazette.</i>

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 15TH MAY, 1902.)

To Amend the Patents Proclamation, 1902.

Preamble.

WHEREAS it is desirable to amend the Patents Proclamation, 1902, and to give certain powers to the Legal Adviser to the Transvaal Administration in respect of the hearing of appeals from the Commissioner of Patents:

Now therefore, I do hereby proclaim, declare and make known, as follows:—

Insertion of words
in sections of original
Proclamation.

1. In Section 5 of "The Patents Proclamation, 1902," the words "Save as provided by Sections 23 and 53 respectively of this Proclamation," shall be inserted immediately before the words "The expression invention" at the commencement of the paragraph in which those words appear.

2. In Sub-section 2 of Section 23 of the said Proclamation, the words "or any foreign country" shall be added after the words "in this Colony" in the first line of such Sub-section.

3. In Sub-section 4 of Section 60 of the said Proclamation, the following words shall be added at the end of such Sub-section (namely): "Provided always, that the term limited for the duration of every patent granted on any such application shall be fourteen years, together with such period as is equivalent to the period between the date when any such application was filed, and the commencement of this Proclamation."

4. At the end of Section 60 of the said Proclamation, there shall be added the following Sub-section (namely): "(7). The renewal fees payable in respect of any patents granted prior to the coming into operation of Law No. 10 of 1898, shall be the renewal fees prescribed by Law No. 6 of 1887."

Power to Attorney-
General to examine
witnesses upon oath.

5. It shall be lawful for the Legal Adviser to the Transvaal Administration (hereinafter referred to as the Legal Adviser) on the hearing of an appeal to him from any decision of the Commissioner of Patents in any case in which any such appeal is given by "The Patents Proclamation, 1902," to examine witnesses on oath, and administer oaths for that purpose.

*6. The Legal Adviser may from time to time make, alter and rescind rules regulating appeals to him and the practice and procedure before him under "The Patents Proclamation, 1902," and in any proceeding before the Legal Adviser under the said Proclamation, the Legal Adviser may order costs to be paid by either party and any such order made a rule of the High Court of the Transvaal.

Power to Attorney-General to make rules regulating appeals to him.

7. This Proclamation may be cited as "The Patents (Amendment) Proclamation, 1902."

* Such rules were made and published by Government Notice, No. 191 of 1902 (Gazette 17 May, 1902, : p. 699).

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

DATED 15TH MAY, 1902.)

Vesting powers conferred upon "Superintending Officer of Gaols in Johannesburg" upon Governor and Deputy-Governor.

Preamble.

WHEREAS IT IS DESIRABLE to abolish the office of "Superintending Officer of Gaols in Johannesburg," and to provide for the appointment of a Governor and Deputy-Governor for the prison at Johannesburg :

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

1. The office of "Superintending Officer of Gaols in Johannesburg" shall be and is hereby abolished.

Governor of Johannesburg prison.

2. It shall be lawful for the Governor to appoint an officer to be styled the "Governor of the Prison at Johannesburg" and another officer to be styled the "Deputy-Governor of the Prison at Johannesburg."

Powers and duties and jurisdiction of Governor.

*3. All and singular the powers and jurisdiction conferred and the duties imposed on the Superintending Officer of Gaols in Johannesburg by Proclamation No. 14 of 1901, and Proclamation, Transvaal, No. 3 of 1901, or by any other law, shall be, and are hereby conferred and imposed on the Governor of the prison at Johannesburg in respect of all prisons within the Witwatersrand District.

Powers as to hearing and determining offences.

*4. All and singular the jurisdiction vested by the Proclamations mentioned in the last preceding section in the Superintending Officer of Gaols at Johannesburg to hear and determine certain offences, shall be and is hereby vested in the Deputy-Governor of the Prison at Johannesburg in respect of offences committed within the prisons and the precincts thereof in the Witwatersrand District.

* The powers, etc., conferred and imposed by these sections are conferred and imposed on the Governor and Deputy Governor of Pretoria Prison by Ord. 36 of 1902.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 27TH MAY, 1902.)

Legalizing certain Marriages Solemnized in this Colony.

WHEREAS the Marriage Ordinance, Law No. 3 of 1871, requires a marriage to be solemnized either by a Landdrost or by a Minister of the Gospel authorized by the Government to solemnize marriages on the production of a certificate from the Landdrost that the provisions of the Law have been complied with :

Preamble.

And whereas Law No. 3 of 1897 requires a marriage between coloured persons to be solemnized by an officer appointed by the Governor for that purpose, or by the Minister of a Christian or any other communion recognized by the State and duly authorized thereto by the Government, on the production of a certificate by such officer that the provisions of the Law have been complied with :

And whereas after the occupation of the Transvaal by His Majesty's Forces, persons were appointed as Marriage Officers by the Military Governors of Pretoria and Johannesburg to solemnize marriages under the aforesaid Laws.

And whereas Magistrates and District Commissioners were appointed by the said Military Governors without being expressly vested with the powers and jurisdiction conferred on Landdrosts by Law No. 3 of 1871, or with the powers and jurisdiction of the officers appointed to solemnize marriages between coloured persons under Law 3 of 1897 :

And whereas such Magistrates, District Commissioners and Marriage Officers appointed as aforesaid to solemnize marriages, did solemnize them under the aforesaid laws, and did grant certificates on which marriages were solemnized by Ministers of Religion duly authorized to solemnize marriages on the production of such certificates as aforesaid :

And whereas doubts have arisen whether the marriages solemnized by such Magistrates, District Commissioners and Marriage Officers appointed as aforesaid, or solemnized by Ministers of Religion on the certificates of such Magistrates, District Commissioners and Marriage Officers, are valid by reason of the fact that they were not legally vested with the

powers and jurisdiction conferred on Landdrosts by Law No. 3 of 1871, and on the officers appointed to solemnize marriages under Law No. 3 of 1897 :

And whereas such marriages as aforesaid were *bonâ fide* contracted by the said parties thereto, and were *bonâ fide* solemnized or certified to by the said Magistrates, District Commissioners and Marriage Officers appointed as aforesaid :

Now, therefore, by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows :—

Validation of marriages solemnized by officers appointed by Military Governor and by certain Ministers of Religion.

1. All marriages solemnized under Law No. 3 of 1871 by persons appointed by the Military Governors of Pretoria and Johannesburg as Magistrates, District Commissioners or Marriage Officers before or after such appointment, and all marriages solemnized by Ministers of Religion authorized to solemnize marriages either by the Government of the late South African Republic or by any Government Notice published in the *Gazette* since the 9th June, 1900, on the certificates of persons appointed as aforesaid, certifying that the provisions of the law have been complied with, shall be as valid to all intents and purposes as if such persons had been at the date of such marriages lawfully vested with all powers and jurisdiction conferred on Landdrosts by Law No. 3 of 1871.

Ditto as to marriages of coloured persons.

2. All marriages solemnized under Law No 3 of 1897 between coloured persons, by such Magistrates or District Commissioners appointed by the said Military Governors to solemnize marriages under the said Law, and all marriages solemnized by Ministers of Religion duly authorized for that purpose either by the Government of the late South African Republic or under any Government Notice published in the *Gazette* since the 9th June, 1900, on the certificates of the persons appointed as aforesaid and given under the said Law, shall be as valid to all intents and purposes as if the said persons so appointed were at the date of such marriages lawfully vested with the powers and jurisdiction conferred by Law No. 3 of 1897 on the person mentioned in the second section of the said Law.

Validation of marriages solemnized by Chaplains to H.M. Forces.

3. All marriages solemnized in this Colony under Law No. 3 of 1871 by any Chaplain to His Majesty's Forces between the date of the annexation of the Transvaal to His Majesty's Dominions, to wit, the first day of September, 1900, and the thirty-first day of March, 1901, shall be as valid, to all intents and purposes, as if such Chaplain had been at the several dates of such marriages a lawfully appointed Marriage Officer authorised to solemnize marriages under the said Law, without the production of the certificate required thereby.

Title.

4. This Proclamation shall be cited for all purposes as the "Legalization of Marriages Proclamation, 1902."

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 28TH MAY, 1902.)

Interest on Mortgage Bonds.

BY VIRTUE OF THE AUTHORITY in me vested, I do hereby declare, proclaim and make known as follows:—

1. Notwithstanding anything to the contrary contained in the Proclamation dated October 25th, 1899, signed by the President of the late South African Republic, and published in the *Staatscourant* at page 1685 :

No person who has passed a mortgage bond on land or other fixed property shall be entitled under and by virtue of the aforesaid Proclamation to claim exemption from the payment of any interest which shall accrue in respect of such bond from the first day of June next.

Exemption from interest on mortgage bonds due after 1st June, 1902, not to be claimed.

Nothing contained in this section shall affect the provisions of Section 2 of Proclamation, Transvaal, No. 27 of 1901.

2. Notwithstanding anything contained in the proviso to Section 2 of Proclamation, Transvaal, No. 27 of 1901, actions at law may be brought and maintained in any competent Court in this Colony for the capital sum of any mortgage bond included in the aforesaid Proclamation of the 25th October, 1899, after the expiration of six months, reckoned from the first day of June next, but not before.

Power to bring actions for capital sum of mortgage bond after 6 months from 1st June, 1902.

3. Nothing contained in this Proclamation or in Proclamation Transvaal No. 27 of 1901 shall be taken in any way to validate the aforesaid Proclamation of the 25th October, 1899.*

Proclamation of 25th October, 1899, not hereby validated.

* Procl. 25th Oct., 1899, has now been declared by the Supreme Court to have been invalid *ab initio*, but by Ord. 42 of 1902 actions on bonds passed before 25th Oct., 1899, upon which interest during the war period is still due, are not to be brought before 1st Jan., 1904. Interest is to be payable on the deferred interest. But see Ord. 42 of 1902.

PROCLAMATION

By His Excellency the Administrator.

(DATED 5TH JUNE, 1902.)

To Amend the Law relating to Post-Office Savings Banks.

Preamble.

WHEREAS it is expedient to afford facilities for the deposit of small savings at interest upon the security of the public revenue, and to make the General Post-Office of the Colony available for that purpose :

Now therefore by virtue of the authority in me vested, I do hereby proclaim and make known as follows :—

Repeal of Laws.

1. Law No. 9, 1892, Law No. 6, 1893, and First Volksraad Resolution dated 12th July, 1894, Art. 817, are hereby repealed, and any other Law repugnant to, or inconsistent with, this Proclamation.

Power of Post-
master-General to
establish Savings
Banks.

2. The Postmaster-General may, with the consent of the Controller of the Treasury, establish Post-Office Savings Banks, and authorise and direct such of his officers as he shall think fit, to receive deposits for remittance to the principal office, and to repay the same under such regulations as the Governor may from time to time prescribe in that respect by notice published in the *Gazette*.

How deposits to be
made, entered, re-
ported and proved.

3. Every deposit received by any officer of the Postmaster-General appointed for that purpose, shall be entered by him at the time in the depositor's book, and the entry shall be attested by him and by the dated stamp of his office, and the amount of such deposit shall upon the day of such receipt, if there be a daily post, or by the next post if the mail be despatched less frequently, be reported by such officer to the Postmaster-General, and the acknowledgment of the Postmaster-General signified by the officer whom he shall appoint for the purpose, shall be forthwith transmitted to the depositor, and the said acknowledgment supported by the duly attested entry in the depositor's book shall be conclusive evidence of his claim to the repayment thereof, with the interest thereon, upon demand made by him on the Postmaster-General ; and in order to allow a reasonable time for the receipt of the said acknowledgment, the entry by the proper officer in the depositor's book shall also be conclusive evidence of such claim to repayment for twenty days from the lodgment of the deposit ; and if the said acknowledgment shall not have been received by the depositor through the post within twenty days, and he shall before or

upon expiry thereof demand the said acknowledgment from the Postmaster-General, then the entry in his book shall be conclusive evidence of such claim during another term of thirty days.

4. Deposits of one shilling, or any number of shillings, or of pounds and shillings, will be received from any depositor at any Post-Office Savings Bank, provided the deposits made by such depositor in any year ending on the thirtieth day of June do not exceed one hundred pounds, and provided the total amount standing in such depositor's name in the books of the Postmaster-General do not exceed five hundred pounds, exclusive of interest. When the principal and interest together standing to the credit of any one depositor amount to the sum of six hundred pounds, all interest shall cease so long as the same funds amount to the said sum of six hundred pounds.

Limits of deposits.

5. On demand of a depositor or person legally authorised to claim on account of a depositor, made in such form as shall be prescribed in that behalf for repayment of any deposit or any part thereof, the authority of the Postmaster-General for such repayment shall be transmitted to the depositor forthwith, and the depositor shall be absolutely entitled to the repayment of any sum that may be due to him within thirty days after his demand shall have been made at any Post-Office where deposits are received or paid.

How repayments to be obtained.

6. The officers of the Postmaster-General engaged in the receipt or payment of deposits shall not disclose the name of any depositor, nor the amount deposited or withdrawn, except to the Postmaster-General or to such of his officers as may be appointed to assist in carrying this Proclamation into operation: Provided that nothing herein contained shall be deemed to limit the authority of the Auditor-General.

Secrecy to be observed.

7. The Postmaster-General shall keep separate accounts of all moneys deposited and paid under this Proclamation, and the Controller of the Treasury shall from time to time, and as often as the account will permit, invest any moneys to the credit of such account in such manner as the Governor may require or approve of, and may, as often as occasion may require, or as the Governor may deem expedient, realise or vary any such investments.

Accounts to be kept and investments made.

8. The interest payable to depositors shall be at such rate as may, from time to time, be fixed by the Governor not exceeding the rate of five pounds per centum per annum; but such interest shall not be calculated on any amount less than one pound or some multiple thereof, and shall not commence until the first day of the month next following the day of deposit, and shall cease on the first day of the month in which such deposit is withdrawn.

Interest.

9. Interest on deposits shall be calculated to the thirtieth day of June in every year, and shall then be added to and become part of the principal money.

How calculated.

See Government Notice No. 519 of 1902, *Gazette* 17th Oct., p. 1,455, for regulations as to these investments.

Names and addresses of depositors to be furnished and declaration to be made.

10. Every depositor on making a first deposit shall be required to specify his name in full, his occupation and residence, to the officer of the Postmaster-General appointed to receive the deposit, and make, and subscribe with his name or mark, if unable to write, the declaration set forth in the schedule hereunto annexed, marked "A," to be witnessed by the officer of the Postmaster-General appointed to receive deposits, or by some person known to him, or by some Minister of religion in the district in which the depositor resides, or by a Justice of the Peace. If the depositor cannot write, the certificate at the back of the declaration form shall be filled up and witnessed by two persons, both over the age of sixteen years.

Trust deposits.

11. Deposits may be made by a trustee on behalf of another person in the joint names of such trustee and the person on whose account such money shall be so deposited; but repayment of the same, or any part thereof, shall not be made without the receipt of both the parties, or the executors or administrators, and the survivor in the case of the decease of one of them whose receipt, either personally, or by agent appointed by power of attorney, which power of attorney may be executed by an infant of, or exceeding the age of fourteen years, shall alone be a valid discharge except in case of insanity or imbecility of the person on whose behalf the deposits were made, when the Postmaster-General may, on proof of such incapacity to his satisfaction, allow repayment to be made to the trustee alone. And in such cases the declaration set forth in Schedule "B" shall be signed by the said trustee.

Deposits for Minors.

12. Deposits may be made by, or for the benefit of, any person under twenty-one years of age, and repayment may be made to such minor after the age of seven years in the same manner as if he were of full age. In cases of minors under the age of seven years the declaration set forth in the Schedule annexed, marked "A," shall be signed for, and on his behalf, by one of the parents or a friend of such depositor.

Married women.

13. Any Postmaster or other officer as aforesaid may pay under the authority of the Postmaster-General any sum of money in respect of any deposit made by a married woman, or by a woman who may marry after such deposit, to such woman.

Deposits by Societies.

14. The trustees of any friendly society, or of any charitable, provident, or other society approved by the Controller of the Treasury, may deposit the funds without restriction as to the maximum amount in the Post Office Savings Bank: Provided, that a copy of the rules be forwarded to the Postmaster-General, with the names and addresses of such trustees. And, in the case of such societies, the declaration set forth in the Schedule annexed, marked "C," shall be signed by one or more of the trustees, the treasurer, steward, clerk, or other responsible officer or officers, for, and on behalf of such society.

How deposits of intestates and others to be dealt with.

15. In case any depositor in the said Post-Office Savings Bank shall die, leaving a sum of money in the Post-Office Savings Bank, which, with the interest due thereon, shall not

exceed in the whole the sum of fifty pounds, and letters of administration be not produced to the Postmaster-General, or if notice in writing of the existence of a will, and intention to take out letters of administration be not given to the Postmaster-General at his principal office within the period of two months from the death of the depositor, or if such notice be given, but such letters of administration be not taken out, and produced to the Postmaster-General within the period of three months from the death of the depositor, it shall be lawful for the Postmaster-General after the expiration of the two or three months, as the case may be, with the consent of the Legal Adviser to the Transvaal Administration, to pay and divide such money to and among such persons as shall appear to be entitled thereto; and every such payment shall be a valid and effectual discharge against any demand or claim, made upon the funds of the said Post-Office Savings Bank by any other person as being the lawful representative of such depositor; and any such person so claiming as aforesaid, shall have his remedy by recourse against the person who shall have received such payments, and not otherwise; and such administration or distribution by the said Postmaster-General, shall be entirely free, and discharged from all stamp fees and duties whatsoever: Provided, that in case no claims be made on any such money as aforesaid, or if made, shall not be admitted by the said Postmaster-General, or by the determination and adjudication of one of the members of the High Court of the Transvaal as hereinafter mentioned, then, and in every such case, such money shall, subject to any order made by any such Judge, be paid by the Postmaster-General into the Guardians' Fund, to be dealt with by the Master of the said High Court as if such money had been paid in by an executor or tutor.

16. If any depositor of a sum not exceeding fifty pounds being illegitimate shall die intestate, leaving any person who but for the illegitimacy of such depositor would be entitled to the money due to such deceased depositor, it shall be lawful for the Postmaster-General with the authority in writing of the Legal Adviser to the Transvaal Administration to pay the money of such deceased depositor to any one or more of the persons who, in his opinion, would have been entitled to the same according to the law of succession *ab intestato* if the said depositor had been legitimate.

Deposits of illegitimate persons deceased.

17. As often as the Postmaster-General shall, under the provisions of Sections fifteen or sixteen of this Proclamation, distribute any sum of money deposited in the Post-Office Savings Bank, he shall forward to the Master of the High Court an account showing the sum deposited and the distribution thereof, and such account shall be filed and registered in the same manner as an account rendered by an executor but free from any fee or duty.

Account of deposits distributed under Sections fifteen or sixteen to be forwarded to the Master.

18. In all cases wherein a certificate shall be required of the amount of the balance standing in the books of the Post-Office Savings Bank, for the purpose of obtaining letters of administra-

Certificate of amounts deposited.

How disputes between depositor and Postmaster - General to be settled.

tion such certificate shall be prepared in the manner set forth in the Schedule annexed, marked "D."

19. In case any difference shall arise between the Postmaster-General and any depositor in the said Post Office Savings Bank, or any executor, administrator, next of kin, or creditor or trustee of a depositor who may become insolvent or any person claiming to be such executor, administrator, next of kin, creditor or trustee or to be entitled to any money deposited in the Post-Office Savings Bank, then and in every such case the matter so in dispute may be referred in writing to the summary decision of one of the members of the High Court of the Transvaal; and such member may inquire into and determine the matter in dispute and his determination and adjudication on the premises shall be final and conclusive and binding on the parties: Provided that such member may if he see fit make such order for further enquiry and determination of the matter in dispute as he may deem necessary.

* Governor may make regulations.

20. The Governor may make by notice published in the *Gazette* regulations for superintending, inspecting and regulating the mode of keeping and examining the accounts of depositors and with respect to the making of deposits and to the withdrawal of deposits and interest and all other matters incidental to the operation of this Proclamation and all regulations so made shall be binding on the parties interested to the same extent as if such regulations formed part of this Proclamation.

Accounts to be laid before the Governor.

21. An account of all deposits received and paid under the authority of this Proclamation and of the expenses incurred during the year ending the thirtieth day of June, together with a statement of the total amount due at the close of such year to all depositors, shall be laid before the Governor before the thirtieth day of September next ensuing.

Expenses.

Short title.

22. This Proclamation may be cited as "The Post-Office Savings Bank Proclamation, 1902."

SCHEDULE A.

S.B. 1.

DEPOSITOR'S BOOK
Office.....
No.....

DECLARATION BY DEPOSITOR ON MAKING FIRST DEPOSIT.

(Name in full) I,
 (Residence) of
 (Occupation)

(If a female, state whether married, widow, or spinster)

do hereby declare to the Postmaster-General that I desire, on my own behalf, to make deposits in the Post-Office Savings Bank, and that I am not directly or indirectly entitled to any sum or sums standing in my own name or in the name

* Regulations under this section were promulgated by Government Notice No. 224 of 1902, published in *Government Gazette* of 6th June, 1902; also by Government Notice No. 519 of 1902, *Gazette*; 17th Oct., p. 1,455, as to the investment of the moneys deposited.

or names of any other person or persons in the said Post Office Savings Bank, save and except deposits which may have been made by the officers of any Society of which I am a member, and which may have been authorised to make deposits in the Savings Bank, or deposits to which I am entitled solely as Executor, Administrator, or other personal representative of a deceased depositor. I also signify my consent that my deposits in the said Post Office Savings Bank shall be managed according to the Regulations thereof.

Witness my hand this.....day of.....190...
Signature of Depositor.....

Signed by the said Depositor {
in presence of me. {

If the Depositor cannot write, the certificate printed on the back of this form must be filled up and signed by two persons both above sixteen years of age.

In case the money is deposited on behalf of a minor under the age of seven years the declaration must be made by one of the parents or guardians. The date on which the minor will attain the age of seven years must be stated here.

Seven years of age on the.....day of.....190 ,
before which date the deposits cannot be withdrawn.

CERTIFICATE.

We, the undersigned, certify that the declaration printed on the other side was read to the depositor in our presence and hearing, that the depositor declared that he understood the same, and that he made his mark thereto in our presence.

Signature
and
Address.....
Signature
and
Address.....

SCHEDULE B.

S.B. 2.

DEPOSITOR'S BOOK.
Office.....
No.....

DECLARATION BY PERSON MAKING FIRST DEPOSIT AS TRUSTEE FOR ANOTHER.

(Name in full) I,.....,
(Residence) of.....,
(Occupation).....

(If a female, state whether married, widow, or spinster.)

hereby declare to the Postmaster-General that I desire to make deposits in the Post Office Savings Bank as Trustee of

(Name in full).....*
(Residence) of.....
(Occupation).....

(If a female, state whether married, widow, or spinster.)

hereinafter called the depositor, and, further, that I am not entitled to any benefit from the deposits which I desire to make as such Trustee, and that the

* If the person in trust for whom the account is opened be under seven years of age, the date on which he will attain that age is to be stated here :—

Seven years of age on the.....day of.....
190.....before which date the deposits cannot be withdrawn.

depositor is not directly or indirectly entitled to any benefit from any deposits in the Post Office Savings Bank, save and except deposits made by the officers of any Society of which he is a member, and which may have been authorised by the Postmaster-General to make deposits in the Savings Bank, and save and except deposits to which the depositor is entitled as Executor, Administrator, or other personal representative of a deceased depositor. I also signify my consent that the deposits made by me in the Post Office Savings Bank, on behalf of the depositor, shall be managed according to the Regulations thereof.

Witness my hand this.....day of.....190.....
Signature

Signed by the said {
 Trustee in the pre-
 sence of me {

If the Trustee cannot write, the certificate printed on the back of this form must be filled up and signed by two persons of at least sixteen years of age.

CERTIFICATE.

We the undersigned, certify that the declaration printed on the other side was read over to the person making the same in our presence and hearing, that he declared that he understood it, and that he made his mark thereto in our presence.

Signature.....
 and
 Address.....
 Signature.....
 and
 Address.....

SCHEDULE C.

S.B. 3.

DEPOSITOR'S BOOK.
Office.....
No.....

DECLARATION TO BE MADE BY OFFICERS OF A SOCIETY WHEN DEPOSITING MONEY ON BEHALF OF SUCH SOCIETY.

I being
 and I being
 of the Society called.....
 established at..... in the District of
 do hereby declare to the Post-
 master-General that ^I _{we} on behalf of the said Society ^{am} _{are} desirous of making
 deposits in the Post Office Savings Bank of the Transvaal.

^I _{We} further declare that the moneys now being deposited, and hereafter to
 be deposited, are the property of the said Society, consisting of contributions of
 the members thereof.

Given under ^{my} _{our} hand this.....
 day of..... 190.....

Signed in my presence.....

SCHEDULE D.

DEPOSITOR'S BOOK.
Office.....
No.....

POST OFFICE SAVINGS BANK.

It is hereby certified that the balance standing in the books of the Post Office Savings Bank to the credit of the depositor.....
of..... numbered as above,
on the..... day of..... in the year 19.....
amounts in the whole to the sum of.....

Controller,
Savings Bank Department,
General Post Office, Johannesburg.

Entered.....

Examined.....



PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 5TH JUNE, 1902.)

Preamble.

WHEREAS it is desirable to repeal the "Regulations regarding the payment of a five per cent. tax on the net profits of Gold Mines," published in the *Staatscourant* of the 15th February, 1899, and make other provisions in lieu thereof:—

Now, therefore, by virtue of the authority in me vested I do hereby, declare, proclaim, and make known as follows:—

Repeal of Regulations of 15th Feb., 1899.

1. The regulations published in the *Staatscourant*, of the 15th February, 1899, regarding the "payment of the five per cent. tax on the net profits of Gold Mines," and so much of any other law or regulations inconsistent with the provisions of this Proclamation, shall be, and are hereby repealed.

Tax of 10 per cent. on annual net produce of gold-bearing properties.

2. There shall be levied a tax of ten per cent. on the annual net produce obtained from the working of claims mynpachts and other gold-bearing properties situated in this Colony; such net produce shall be taken to be the value of the gold produced after deduction therefrom of the cost of production, and of such sums as may be allowed in respect of the exhaustion of capital as hereinafter defined.

Definition of "cost of production."

3. For the purposes of this Proclamation cost of production shall mean:—

- (1.) All amounts not being capital outlay actually expended during the year on winning and treating the ore under the heads specified in Account No. 1, contained in the Schedule annexed thereto.
- (2.) All amounts actually expended on general charges as specified in the aforesaid Schedule.

Definition of Capital.

4. Capital shall mean for the purposes of this Proclamation:—

- (1.) All amounts actually expended in mine equipment, shaft sinking, and development, whether incurred before or after the commencement of production not being of a recurrent character, or such as are ordinarily defrayed out of revenue.
- (2.) All amounts expended for ordinary purposes of administration prior to the commencement of production.

5. (1) The amount to be deducted under Section *two* by way of allowance for exhaustion of capital shall be such sum as, if paid by way of annuity from the date of the commencement of production (or from the date of the expenditure of the capital if such expenditure took place subsequent to such commencement) for the whole period during which the property is estimated to continue to be workable, would at 3 per cent. compound interest produce an amount equal to the amount of such capital.

(2) The period referred to in the last preceding sub-section shall, subject to the provisions of Section *nine* of this Proclamation, be determined by the Commissioner of Mines on the estimate contained in Account No. II. of the statement to be furnished in accordance with the provisions of section *six* hereof.

(3) For the purpose of determining this period it shall be open to the Commissioner of Mines, or any person authorised by him, thereto to call for such further particulars as he shall think fit, and to make, or cause to be made, any examination of the property, and any plans or documents which may appear to him to be necessary for the purpose.

(4) Such period having been determined as herein provided, shall, for the purpose of calculating the deduction to be allowed in respect of exhaustion of working capital, be subject to revision in every fifth year after the year in which it was first determined. If on such revision it shall appear according to a just estimate then to be made that the period determined originally, or, by any subsequent revision, was greater or less than the true period according to such estimate, such adjustment shall be made in the deduction to be allowed as shall be necessary, due regard being had to the time which shall have elapsed since such original or subsequent determination, and to the total amount of the deductions already allowed.

(5) In any such revision the same provisions shall apply as in the original determination of the period.

6. (1) A statement shall be rendered by every company or partnership owning claims, mynpachts or other gold-bearing properties to the Receiver of Revenue at Johannesburg, in the form prescribed in the Schedule annexed hereto, or in any similar form which may be accepted by the Controller of the Treasury, within one month after the date of the making up of the first accounts rendered to the shareholders or partners of such company or partnership after the taking effect of this Proclamation; and if no accounts are made up by such company or partnership prior to the 30th June, 1903, then such statement as aforesaid shall be rendered on such last-mentioned date. In the case of properties not owned by any company or partnership the statement shall be rendered on the 30th June, 1903, or on such other date as shall be allowed by the Controller of the Treasury. The said statement shall be in respect of the twelve months immediately preceding the date up to which such accounts are rendered as aforesaid, or the 30th of June, as the case may be.

Amount to be deducted under Section 2 hereof.

Determination of period mentioned in Section 5 (1).

Revision of period for purpose of calculation of deduction.

Statement rendered by owners of gold-bearing properties to the Receiver of Revenue, according to form in Schedule

By whom signed.

(2) The statement in the case of a company shall be made and signed by the Managing Director or Secretary thereof, and in any other case by the principal partner or other person having the control or management of the property within this Colony.

Duty to be paid.

(3) At the same time as such statement is rendered the duty appearing to be due thereon in accordance with the provisions of this Proclamation shall be paid to the said Receiver, who shall grant a receipt therefor.

Annual Statement.

(4) A similar statement shall be rendered annually not later than twelve months after the date of the one previously rendered, and the duty paid as aforesaid.

Transmission of
Statement to Colonial
Treasurer.

(5) On any such statement being rendered, and the duty paid as herein provided, the Receiver shall forthwith transmit the statement and any documents connected therewith to the Controller of the Treasury.

(6) In the case of a property which shall cease to be worked within a year from the taking effect of this Proclamation, or from the date of the last statement rendered under this Proclamation a statement shall be rendered for the period up to the date of ceasing, and the duty chargeable thereon shall be a first charge on such property or any assets existing in connection therewith.

Colonial Treasurer
may call for evidence
to satisfy himself of
correctness of state-
ment.

7. The Controller of the Treasury may call for such evidence as he thinks fit with a view to satisfying himself as to the correctness of the statement referred to in the last preceding section, and for this purpose shall have the right at all reasonable times of inspecting the books of the company, partnership, or person rendering such statement, or of causing the same to be inspected by any person authorised thereto in writing.

If not satisfied may
call for amended
statement.

8. (1) If the Controller of the Treasury is not satisfied that the net produce as disclosed by any such statement as aforesaid, is the full and true amount on which the tax imposed by this Proclamation is payable, he shall cause the company, partnership, or person rendering such statement to be notified in writing of the particulars in which it shall appear to him that such statement should be amended, and shall call for a statement amended in accordance with such notification.

Assessment on
amended statement.

(2) On such amended statement being rendered to the satisfaction of the Controller of the Treasury, he shall cause an assessment to be made in accordance therewith of the amount on which the tax shall be paid.

Assessment in case
amended statement
not rendered.

(3) If the Company, partnership, or person in question shall not render such amended statement to the satisfaction of the Controller of the Treasury within 14 days or such further period, as may be allowed, the Controller of the Treasury shall cause an assessment to be made of the amount on which in his opinion the tax should be paid according to this Proclamation and shall notify the company, partnership, or person of such assessment, shewing in detail how such assessment is made.

Copy of assessment
to be transmitted to
Receiver of Revenue.

(4) A copy of any assessment made under this section shall be forwarded to the Receiver of Revenue at Johannesburg, and the

duty due thereon according to this Proclamation shall on demand be payable to the said Receiver.

9. It shall be lawful for the company, partnership, or person aforesaid at any time within one month from the date of receiving notification of assessment, as provided in the last preceding section, on payment of the amount demanded as aforesaid to call on the Controller of the Treasury, to have the amount on which the said tax shall be paid determined by arbitration, and if such amount be less than that assessed, the said Receiver of Revenue shall refund to the said company, partnership, or person the difference between the amount of the tax paid by the said company, and the amount payable on the sum determined by arbitration as aforesaid. If the amount determined by such arbitration shall be greater than that assessed as aforesaid, the tax due in accordance with the provisions of this Proclamation or the difference between such amounts shall on demand be payable to the said Receiver.

Arbitration of amount of assessment.

10. The provisions of the "Expropriation of Lands and Arbitration Clauses Proclamation, 1902" relating to arbitration, shall *mutatis mutandis* apply to any arbitration under this Proclamation.

Pr. Tr. 5 of 1902 to apply to arbitration.

11. The demand by the Receiver of Revenue mentioned in the preceding sections, shall be delivered at the office of the party liable for the tax, or posted thereto by registered letter properly stamped, and thereupon the amount demanded shall be a debt due to His Majesty, recoverable after four weeks from the date of the said demand, with interest at the rate of ten per cent. per month from the date of such demand.

How demand to be made.

12. Any company, partnership, or person failing to render the statement mentioned in Section *six* of this Proclamation, shall be liable to a penalty of ten pounds for every day such company, partnership, or person is in default, after the expiration of one month from the date prescribed in the said Section for rendering such statement.

Penalty for failing to render statement.

13. Any person wilfully framing any false statement or account for the purposes of this Proclamation, shall be deemed to be guilty of perjury, and shall be liable to the penalties provided for the commission of that crime; and any company, partnership, or person employing such person to frame such account shall be liable to a penalty not exceeding £500, in addition to making good any unpaid duty which was properly payable under this proclamation.

Penalty for framing false statement.

14. Any person who refuses to allow the Controller of the Treasury, or any person duly authorised by him in writing thereto, to inspect such books as he is entitled under this Proclamation to inspect, or who wilfully obstructs him in such inspection, or refuses to allow the Commissioner of Mines or any person deputed by him to make such inspection of the property as he is by this Proclamation authorised to make, or wilfully obstructs him therein, shall be liable to a fine of £50 for every such refusal or obstruction, and in default of payment to im-

Penalty for refusal to allow inspection of books.

prisonment with or without hard labour for a period not exceeding six months.

Penalty for divulging information contained in statement.

15. Any statement or account rendered by any company or partnership under this Proclamation shall not be divulged by any person into whose hands it may come, except for purposes connected with the proper carrying out of the provisions of this Proclamation, and to some person duly authorised to deal with such statements and accounts. Any person wilfully contravening the provisions of this section shall be liable on conviction to a penalty not exceeding fifty pounds, or to imprisonment with or without hard labour for a period not exceeding six months.

Recovery of penalty.

16. Any penalty imposed by this Proclamation shall be recoverable by action in any competent Court.

Forms to be used.

17. For the purpose of the due carrying out of the provisions of this Proclamation, it shall be lawful for the Controller of the Treasury to use such forms, in addition to and in substitution for the forms herein prescribed as he shall think fit.

Title.

18. This Proclamation may be cited for all purposes as the "Profits Tax (Gold Mines) Proclamation 1902."

SCHEDULE.

ACCOUNT No. I.

Account of Produce Working Expenses and Profit and Loss for the year ended.....

MINE EXPLOITATION—		£	s.	d.
Mining
Development
Shaft Sinking
Mechanical Treatment
Chemical Treatment
Charges including—				
Secretary's Salary
Directors' Fees
Claim Licences
Insurance
Printing, Stationery and Advertising
Salaries, Wages and Native Labour
Maintenance, Buildings and Surface
London and Paris Agencies
Legal Expenses
Sundry Expenses
Balance...
GOLD ACCOUNT—				
.....ozs. Fine Gold from Mechanical Treatment
.....ozs. Fine Gold from Chemical Treatment
Products not expressed in Fine Gold

ACCOUNT No. II.

(a) Estimated life of the mine or gold-bearing property ... ..	...		
(b) Working capital expended prior to commencement of production (specify different heads) ... ..	... ..	£	s.	d.
(c) Working capital expended since commencement of production (specify dates and heads of expenditure) ... ..	... ..		

ACCOUNT No. III.		£	s.	d.
1. Balance from Account No. 1	... ..	...	...	...
		£	s.	d.
Allowance in respect of capital included in				
Account No. II. (b)...	... ..		
Ditto ditto in Account	... ..		
No. II. (c)	... ..		
Total allowance in respect of capital	... ..		
Net produce...		...	...	...
				£

CERTIFICATE.

On behalf of.....(here insert the name of the company or firm, if any), I certify that the statements contained in the foregoing Accounts, No. I. and No. II, are to the best of my knowledge and belief, true and correct.

Dated theday of.....190.....

Received from.....the sum of.....
being duty at the rate of ten per centum on the amount above stated. Receipt issued No.....

.....190..... Receiver of Revenue.

(Amended by Ord. 6 of 1902.)

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 6TH JUNE, 1902.)

To regulate the Registration of Mining Rights, Stands and Leasehold Lots.

Preamble.

WHEREAS it is desirable to make provisions regulating the registration of Mining Rights and Stands in the Transvaal and such Leasehold Lots as are situated in the Mining district of Johannesburg, and to amend the existing law relating thereto.

Now therefore by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows:—

Terms defined.

1. In this Proclamation, and in any Regulations made thereunder, the following terms in inverted commas shall have the meaning put opposite to them, that is to say

“Mining Right” means and includes—

Mining Right.

- (a) Any right granted to dig or prospect for precious stones, precious metals and base metals, under the provisions of Law No. 15 of 1898, No. 22 of 1898, and No. 14 of 1897, and of any other law now or hereafter in force, dealing with such digging or prospecting aforesaid, such as Claim Licences, *Mijnpacht-Brieven*, etc.; or the portion of ground assigned for such digging or prospecting.
- (b) Any right granted under the aforesaid laws in connection with, and attached to the right to dig and prospect for precious stones, precious metals and base metals, and transfer of which is required by the aforesaid laws to be registered at the offices of the Mining Commissioners.

“Stand” means what is included in that term under Law No. 15 of 1898, or Law No. 22 of 1898.

“Lot” means such a sub-division of land situated within the Mining Districts of Johannesburg, defined by Government Notice No. 217 of 1902, as is referred to in sub-section (3) of section 29 of the “Transfer Duty Proclamation, 1902.”

Mining District.

“Mining District” means the area under the jurisdiction of a District Registrar of Mining Rights as notified in the *Gazette*.

“Township” means a piece of land divided into stands or lots, described and shown on one general plan or diagram.

“Division” means a portion of a Mining District in charge of a Beacon Inspector with respect to beacons.

* “Diagram” means a confirmed diagram prepared by an admitted surveyor.

* “Approved Diagram” means a diagram approved by the Surveyor General without further publication.

* “Confirmed Diagram” means a diagram confirmed by the Surveyor General after publication in the *Gazette* in terms of Law No. 15, of 1898.

2. The provisions of Laws No. 14 of 1897, No. 15 of 1898, No. 22 of 1898, and of any other law which may be repugnant to or inconsistent with the provisions of this Proclamation, shall be, and are hereby repealed.

Repeal of Laws.

3. There shall be, and there is hereby created and established at Johannesburg, an office to be styled the Registration of Mining Rights Office for the registration of Mining Rights Stands, Leases of Lots, and such other rights and deeds as are hereinafter mentioned.

Creation of Registration Mining Rights Office.

4 It shall be lawful for the Governor to appoint an officer to be styled the Registrar of Mining Rights who shall be in charge of the said office, and whose duties shall be as follows:—

Registrar of Mining Rights.

- (a) To take charge of, and preserve all records of title deeds and documents in the said office, or in the offices of the late Mining Commissioners.
- (b) To register titles to all Mining Rights and Stands issued in accordance with Law.
- (c) To register leases and cessions of leases of Mining Rights and Stands required to be registered under the provisions of the “Transfer Duty Proclamation, 1902.”
- (d) To register leases and cessions or leases of lots, and for this purpose, sub-section (3) of Section twenty-nine of the “Transfer Duty Proclamation, 1902,” shall be read and construed so as to require of the owner or lessee of any land sub-divided into lots and situated in the Mining District of Johannesburg to send the general plan and other information referred to in the said sub-section to the Registrar of Mining Rights instead of to the Registrar of Deeds; it shall be the duty of the Registrar of Mining Rights to send a certified copy of such plan to the Registrar of Deeds.
- (e) To receive all applications for Mining Rights in the manner prescribed by regulation.

* The definitions of “Diagram” and “Approved Diagram,” as also this amended definition of “Confirmed Diagram” are inserted by virtue of the amendments in Ordinance 6 of 1902, Sect. 1.

- *(f)* To issue and renew licenses to Mining Rights and Stands, and to certify, sign, and register deeds of transfer of Mining Rights and Stands; *provided that the Registrar may issue or renew provisionally any licence to a Mining Right or Stand in any case in which the title thereto is not in order.*
- †(g) To refuse to renew licences to claims pegged off on places whereon it is forbidden to prospect or dig, and *in places which in his opinion are in the indisputable lawful possession of others.*
- (h) To certify, sign and register all mortgage bonds specially hypothecating any Mining Right or Stand or any lease thereof, or any lease of any Lot, and any servitude or encumbrance contained in a Deed of Transfer or constituted by notarial deed ‡ for registration or authorised by order of Court.
- (i) To register cessions of registered bonds.
- (k) To cancel or partially cancel any registered bond or deed other than a deed of transfer, and to release from the operation of any such bond the whole or any part of the property thereby specially hypothecated.
- (l) *To make in the registration of any deed all such endorsements on any registered title or other deed or instrument filed of record in his office as may be necessary to give effect to such registration.*
- (m) To keep a register of all interdicts and orders of Court served upon him and affecting the transfer of any title registered in his office, and of all notices relating to estates furnished to him by the Master of the High Court.
- (n) To keep all such debt and other registers as may be requisite for the due performance by him of any of his duties.
- §(o) *To cause to be prepared and kept up to date compilation plans of all Mining Rights and Stands and Lots, and to examine and certify as to the correctness of any Mining Right represented on a Mining Right Diagram in the manner more fully set forth in the Regulations to be published in terms of this Proclamation.*
- (p) To permit the public, upon payment of the prescribed fees, to have such inspection of the records in his office, and to obtain such information filed of record as may be usual and customary.

* The proviso originally in sub-sec. (f) was repealed by Ordinance 6 of 1902, sec. 1, sub-sec. 2 (a).

† The words in italics were repealed by Ordinance 6 of 1902, sec. 1, sub-sec. 2 (b).

‡ The words "or constituted by notarial deed" were inserted by Ordinance 6 of 1902, sec. 1, sub-sec. 3.

§ This clause in italics was repealed by Ordinance 6 of 1902, sec. 1, sub-sec. 2 (c)

- (g) To prescribe and draft all forms and registers that may be required for the purpose of conducting the work of the said office.
- * (r) *To cancel the titles to all Mining Rights and Stands which have absolutely lapsed, as well as to cancel all mortgage bonds which have become inoperative.*
- (s) To give notice on the following business day to the Registrar of Deeds at Pretoria of all transfers, leases, and cessions of leases of, and of all mortgages, cancellations of mortgages and other encumbrances on *Mynpachts*, Stands or Lots, registered during any day in his office, so that the same may be recorded in the Deeds Office at Pretoria.
- (t) To give notice on the following business day to the owner or lessor of Stands or Lots in any Township, or his duly authorised agent, of all transfers, leases and cessions of leases of, and of all mortgages, cancellations of mortgages and other encumbrances, on any such Stands or Lots registered during any day in his office.
- (u) To keep a record in his office of all deeds of transfer of immovable property situated in the District of Witwatersrand, and of all leases, mortgages and other encumbrances thereon as notified to him by the Registrar of Deeds.
- (v) And generally to exercise all such powers and discharge all such duties as shall be necessary and required of and from the Registrar of Mining Rights.

5. It shall be lawful for the Governor to appoint an Acting Registrar of Mining Rights when and so often as occasion shall require in case of the absence, sickness, or disability of the Registrar of Mining Rights, and such Acting Registrar shall have power and authority to do any act or thing which may lawfully be done by the Registrar.

Acting Registrar.

6. It shall be lawful for the Governor to appoint an officer to be styled the Assistant Registrar of Mining Rights, who shall, subject to such directions as the Commissioner of Mines may from time to time issue, have power and authority to do any act or thing which may lawfully be done by the Registrar.

Assistant Registrar.

7. It shall be lawful for the Governor to appoint an officer to be styled the District Registrar of Mining Rights for such Mining District as may be assigned to him by notice in the *Gazette*, who shall represent the Registrar of Mining Rights in his District, and who shall be subject to such directions as the Registrar of Mining Rights may from time to time issue for the purpose of carrying out the provisions of this Proclamation.

District Registrar.

8. It shall be lawful for the Governor to appoint an officer to be styled Assistant District Registrar of Mining Rights in such Districts as shall from time to time be necessary, who shall be subject to such directions as the Registrar of Mining

Assistant District Registrar.

* This clause in italics was repealed by Ordinance 6 of 1902, sec. 1, sub-sec. 2 (e).

Rights may from time to time issue for the purpose of carrying out the provisions of this Proclamation.

Duties of District
Registrar.

9. The duties of the District Registrar shall, subject to such regulations as shall from time to time be published, be as follows:—

- (a) To receive all applications, documents for registration, or any other matters of any other nature whatsoever relating to or affecting the title to any Mining Right, or any lease thereof, situated in his mining district, and to examine and check the same with reference to the compliance with all prescribed forms and regulations, and with reference to the due and proper payment of all transfer duty stamps, licences, taxes, or other charges of any nature whatsoever, as shall be required to be paid under any law, custom or regulation of this Colony, and to forward the same to the Registrar of Mining Rights, with his report.
- (b) To keep a record of all documents and matters passing through his Office, and of the grant, transfer and encumbrance of all Mining Rights within his mining district.
- *(c) To receive from the Registrar of Mining Rights all confirmed licences to Mining Rights in his mining district, and to issue them to the licencees on production of vouchers showing that the proper dues on such licences have been paid.*
- (d) To report to the Registrar on all matters affecting Mining Rights within his mining district.
- (e) To give information to the Public in connection with titles to Mining Rights situated within his mining district, against payment of such fees, if any, as shall from time to time be prescribed by regulation.
- (f) To control the work of all Beacon Inspectors who are responsible to him.
- (g) To see that no person digs or prospects, or occupies, or takes possession of any Mining Right or other property or right within his mining district, unless such person be provided with a proper licence or authority so to do according to law, and generally to supervise and report on all matters concerning his mining district.
- (h) In respect of Stands situated in his District, to perform the duties imposed, and exercise the powers conferred on the Registrar of Mining Rights, under Section *four* (with the exception of sub-section “*g*” thereof) and under Section *sixteen* of this Proclamation.

This sub-section shall not apply to the Mining District of Johannesburg.

* This clause in italics was repealed by Ordinance 6 of 1902, sec. 1, sub-sec. 4.

Notice to District
Registrar of grants,
transfer and encum-
brance of title.

10. It shall be the duty of the Registrar of Mining Rights to give immediate notice to the District Registrar of Mining Rights of all grants and transfers of title to Mining Rights situated within his mining district, and of all mortgage bonds, leases and other deeds affecting such titles, and registered by him for the purpose of enabling such District Registrar to carry out his duties defined by the last preceding section, and more especially by sub-section (e) thereof.

* 11. It shall be lawful for the Governor from time to time to frame rules and regulations for the good order and management of the Registration of Mining Rights Office, and for better carrying into effect the objects for which that office is established, and generally for the working of the said office, and preservation of the records therein, and more especially to prescribe:—

Rules and Regula-
tions.

- (a) The fees, if any, to be taken in respect of any act, matter or thing required to be done in the said office.
- (b) The manner and form in which deeds and documents required to be registered or preserved of record in the said office, shall be prepared, executed and registered.
- †(c) *The manner and form in which diagrams shall be drawn, and the proceedings to be taken for the confirmation of diagrams.*
- (d) The manner and form in which licences to Mining Rights and Stands may be granted and renewed.
- (e) The manner and form in which information required or allowed by law to be furnished to or by the Registrar, or District Registrar, shall be recorded in his office or given to the Public.
- (f) The conditions under which copies of lost deeds or bonds may be issued.
- (g) The manner and form in which consent to the cancellation of bonds or other deeds shall be signified.
- (h) The manner in which and the place in which licence moneys due on Mining Rights and Stands shall be paid.
- †(i) *The place, manner and form at and in which application for new rights, and objections to the grant or registration of all rights shall be made, and generally with regard to all such matters and things as shall be required and necessary for the efficient working of the office.*

But no rules or regulations framed under this section shall be of any force or effect, unless and until published in the *Gazette*.

* Such regulations have been framed and published under Government Notice 228 of 1902 (*Gazette* 6th June, 1902, p. 812).

† This clause in italics was repealed by Ordinance 6 of 1902, sec. 1, sub-sec. 4.

Sworn proof of acts to be performed in the Registration of Mining Rights Office.

Government taxes and transfer duty to be paid before Registration of Deed.

12. The Registrar, or District Registrar, may require (and any person may tender) proof under oath of any fact which he may consider necessary to be established in connection with any matter or thing sought to be done in the Registration of Mining Rights Office.

13. No deed of transfer bond, or any other document affecting the title to any Mining Right or Stand, and no cession of a lease of any Mining Right, Stand or Lot shall be registered unless the same shall be accompanied

- (a) By a receipt or * certificate from some competent revenue officer that all licence moneys and taxes due to the Government on the Mining Right or Stand, to be transferred, mortgaged or burdened have been paid.
- (b) In the case of Lots and Stands, in respect of which rent or licence moneys are required to be paid to some Company or person, other than the Government, by a certificate from the official or person authorised to receive such rent or licence moneys, that the same has been paid, and by a certificate from the owner or lessor of such Lots or Stands or his duly authorised agent, that there is no objection to such transfer or cession.
- (c) In cases in which transfer duty is payable on such transfer or cession, by a receipt for such duty signed by the officer to whom the same is required to be paid; such receipt shall contain information whereby it can be identified with the property in question.

Cancellation of Deeds of Transfer.

†14. *Subject to sub-section (r) of section 4 of this Proclamation*, it shall not be lawful for the Registrar to cancel any deed of transfer except upon an order of the High Court or any Judge thereof.

Correction of errors in Deeds.

15. In all cases in which in consequence of an error in any grant, deed of transfer, mortgage bond, or any other deed, whether in the name, or names, of a person, or persons, therein mentioned, or in the description of the property thereby granted transferred, or bonded, it shall be found necessary to amend such grant, deed, or bond, it shall be lawful for the Registrar, upon consent in writing of the persons interested, to amend such error; provided that, where such error is common to two or more interdependent deeds, one deed shall not be amended without the others. Should any interested person refuse to consent to such amendment, no alteration shall be made except by order of the High Court, or any Judge thereof.

16. It shall be the duty of the Registrar to give notice to the Registrar of Deeds of any such amendments made by him as are described in the preceding section in any deed relating to Mynpachts, Stands or Lots.

Two or more persons cannot hold by one transfer unless they are partners.

17. It shall not henceforth be lawful to transfer any Mining Right, or Stand, or any lease thereof or a lease of any

* The words " receipt or " were inserted by Ord. 6 of 1902, sec. 1, sub-sec. 5.

† The words in italics were repealed by Ord. 6, of 1902, sec. 1, sub-sec. 6.

Lot, to two or more persons by one and the same deed of transfer, unless such persons be partners carrying on business under some particular name, firm, or style.

In all other cases, where any Mining Right, or Stand, or lease thereof, or a lease of any Lot is acquired by two or more persons in undivided shares, a separate deed of transfer shall be necessary in order to convey the share of each owner.

18. It shall not be lawful to transfer different kinds of Mining Rights, or to transfer more than one Stand, or the lease of more than one Stand, or of more than one Lot, by one and the same deed of transfer, or to transfer Mining Rights situate on different farms, or on different portions of the same farm not owned by the same person, by one and the same deed of transfer, and it shall not be lawful to transfer more than one Mining Right, other than Claims, *Bewaarplaatsen* and Machine Stands by one and the same deed of transfer.

Different kinds of Mining Rights, &c., cannot be transferred by one and the same deed of transfer.

19. It shall not be lawful to transfer any Mining Right or any Stand, or any lease thereof, or any lease of any Lot from more than one registered owner, by one and the same deed of transfer, except:—

Separate transfer for each owner.

- (a) Where the right to be transferred is owned by two or more persons constituting a firm :
- (b) Where the same person acquires undivided shares in the same right.

20. If it shall happen, in any case of the partition of any Stand, or Mining Right, or of any lease thereof, or of any lease of any Lot, held in undivided shares, that the total share of any owner in such property is hypothecated under a mortgage bond, it shall be lawful for the Registrar, upon production of such bond, and of the consent in writing of the legal holder of such bond (which consent shall state that it is given under the provisions of this section) to allow transfer to be passed to such owner of the divided share awarded to him on partition, notwithstanding that such bond remains uncanceled. But in every such case the Registrar shall at the time of allowing such transfer to be passed:—

If undivided share of Mining Right is hypothecated, transfer of divided share can on partition be passed under certain conditions.

- (a) Endorse on such bond that such divided share is, in terms of this section, substituted for the undivided share previously held by such owner :
- (b) Make an entry of such substitution in the Debt Register :
- (c) Endorse on the transfer of such divided share that, in terms of this section, it is mortgaged by such bond.

21. From and after the completion of the entry and endorsements aforesaid, the divided share of such property so transferred shall be deemed to be hypothecated as fully and effectually as if such divided share, and not an undivided share, had been originally hypothecated by such bond.

When conditions fulfilled, divided share regarded as originally hypothecated.

Master to notify payments on account of registered debts to Registrar, who shall write off same.

The Master to notify rehabilitation to Registrar, who shall thereupon write off debts registered against insolvent.

When hypothecation is for future debts this must be expressly stated and maximum amount fixed.

† Provisions for registration of title to derelict and expropriated Mining Rights.

Owners of Mining Rights existing at date of this Proclamation to file diagrams.

22. When, and as often as it shall appear from the liquidation account of any insolvent estate, and from the vouchers annexed thereto, that a payment has been made to any creditor on account of a registered obligation of debt, the Master of the High Court shall notify such payment to the Registrar of Mining Rights, who shall thereupon write off the same in the Debt Register, and also, if possible, on such obligation of debt.

23. The Master of the High Court shall furnish the Registrar with returns of all insolvents who may, from time to time, obtain their discharge or rehabilitation, and such returns shall specify the property and registered obligations of debt appearing in the insolvent's schedules, or in the liquidation account of his estate; and the Registrar shall, on receipt of such returns, write off in the Debt Register all debts registered against any such insolvent prior to his insolvency and, if possible, endorse upon the obligation of debt that it has been cancelled in terms of this section.

24. No deed or instrument of hypothecation executed at any time after the commencement of the taking effect of this Proclamation shall be of any force or effect to give preference or priority to the payment of any advances, debts or demands made, or accruing, after the date of such deed or instrument, unless it shall be expressed in such deed or instrument that the same is meant or intended to cover or secure future advances, debts or demands generally, or some proper description thereof, to be in the said deed or instrument described, and unless also a certain sum shall be expressed in such deed or instrument as a sum beyond which such future advances, debts or demands shall not * be deemed to be covered or secured by the hypothecation made or created by such deed or instrument.

25. The provisions of sections 27-36, inclusive of "The Deeds Proclamation, 1902," shall, *mutatis mutandis*, apply to the acquisition of title to any property registered in the Registration of Mining Rights Office, which has become derelict, or expropriated in the same manner as if the said sections were embodied in this Proclamation.

26. The registered holder of any Mining Right or Stand not situated in a Stand Township, a *confirmed* diagram whereof is not filed in the Registration of Mining Rights Office on such date, shall file *confirmed* diagrams in quadruple of such Mining Right or Stand, prepared by an admitted surveyor, within six months from the date on which notice to do so shall be given to such holder. On non-compliance with the terms hereof within the said period, such holder shall be liable to the penalties provided in Art. *seventy-eight* of Law No. 15 of 1898.

‡ 27. Every owner or lessee of a Township shall, in case a duly approved general plan or diagram of such Township is not filed in the Registration of Mining Rights Office at the date

* The word "not" was by a clerical error omitted from the Section after the words "debts or demands shall." It has now been inserted by Ord. 6 of 1902, Sect. 1, sub-sec. 7.

† The words in italics are omitted by virtue of Ord. 6 of 1902, Sect. 1 Sub. 8.

‡ This section was originally in a different form; its present form is by virtue of Ord. 6 of 1902, sub-sec. 2. Digitisation Programme, University of Pretoria, 2016

of the taking effect of this Proclamation, within six months thereafter cause such a plan or diagram to be *lodged with the Registrar of Mining Rights.

Any such owner or lessee, who shall fail to comply with the terms of this section shall be, except for good causes shown, liable to a penalty of £100, and to a further penalty of £100 for every month during which he continues in default. Every such penalty shall be a debt due to the Crown and may be recovered in any competent Court.

†28. (1) *The Claimants to all "Rights of Way" granted under the Gold Law, for which no proper title, grant or diagram exists shall file a statement of such claims at the Office of the District Registrar within six months from the opening thereof, together with such proof as they may possess of their rights thereto, and a diagram thereof, prepared by an admitted Surveyor.*

Rights of Way.

(2) *No Claims will be considered or allowed that are not filed before the expiry of the period mentioned in the last preceding sub-section.*

(3) *Notice shall be published at least twice in the "Gazette" thirty clear days prior to the hearing of any such claim as hereinafter provided.*

(4) *A day shall be appointed on which any such claim shall be heard and determined by the Registrar of Mining Rights, when the Claimant and any person interested in opposing such claim, shall adduce such evidence as they may desire in support of their respective contentions.*

(5) *It shall be competent for the Claimant or the party interested in opposing such claim as aforesaid, if not satisfied with the decision of the Registrar of Mining Rights, to bring the matter by action or otherwise before the High Court of the Transvaal or the Witwatersrand District Court if such matter falls within its jurisdiction, as if there had been no decision thereon by the said Registrar.*

29. It shall be lawful for the Commissioner of Mines to appoint one or more Beacon Inspectors for each district, whose duties, subject to the special provision of this Proclamation and the Regulations framed thereunder, shall be as follows:—

The appointment
and duties of Beacon
Inspectors.

- (a) To inspect and assign the number to all Beacons under the jurisdiction of the District Registrar.
- (b) To see that all beacons and boundaries of Mining Rights within his division of the mining district are kept in proper order and that all regulations with regard to pegging or otherwise are carried out according to Law.
- (c) To inspect and report on all peggings in chronological order, beacon numbers, grants of "Rights of Way," including pipe lines, tram lines, and the like.
- (d) To report to his District Registrar on all matters relating to his duties, and to his division generally,

* As to filing of diagram see Ordinance 6 of 1902, sec. 3.

† This section was repealed by Ordinance 6 of 1902, sec. 1 sub-sec. 9.

and as to the proper carrying out by the holders of Mining Rights of all duties and obligations laid upon them, that affect his duties by the terms of the grants of such Mining Rights or by the Law governing such grants.

- (e) Generally to supervise the division of the mining district under his charge, and immediately to advise and report to his District Registrar any infringement or attempted infringement of the Law.
- (f) To carry out and perform all such other instructions as he shall receive from his District Registrar within the limits of his duties.

Governor may make regulations for size of Beacons, &c.

30. It shall be lawful for the Governor to make regulations providing for the size of beacons, the pegging out of claims, and generally for the proper carrying out of the duties of Beacon Inspectors.

But no rules or regulations framed under this and the preceding section shall be of any force or effect unless and until published in the *Gazette*.

Powers and duties of Mining Commissioners under Law No. 15 of 1898, conferred and imposed on other officials.

31. The powers and duties imposed on Mining Commissioners, Responsible Clerks, and Claim Inspectors, under the provisions of Law No. 15 of 1898, No. 22 of 1898, and No. 14, of 1897 save and except powers and duties imposed on them with regard to civil and criminal jurisdiction, marriages and the collection of revenue; and all notices required under the said laws to be given to Landdrosts or Mining Commissioners in respect of the prospecting for precious stones, or metals, and the discovery thereof, shall be imposed on and given in matters within his district to the District Registrar of Mining Rights unless otherwise provided for by this Proclamation or Regulations made thereunder.

No licences to be issued for pegging-out of claims until further provision is made in respect thereto.

*32. Anything to the contrary notwithstanding in Section *fifty-nine* or in any other provision of Law No. 15 of 1898, no licences shall be issued for the pegging out of claims on any public digging whether proclaimed before or after the taking effect of this Proclamation until further provisions are made in respect thereto.

Title.

32. This Proclamation may be cited for all purposes as "The Registration of Mining Rights Proclamation, 1902." The provisions of this Proclamation and the Rules and Regulations made thereunder shall take effect in the Mining district of Johannesburg from the date of the taking effect of this Proclamation, and in any other district or mining district from such date as may be notified by the Governor in the *Gazette*.

* By Ordinance 21 of 1902, the Governor may from time to time notify that in any Mining District mentioned in the notice, the provisions of the above section shall not be in force, and after publication of the notice licences shall be issued for the pegging out of claims on any public diggings within such Mining District mentioned.

Such notice was published in *Gazette*, 12th September, 1902, pages 1346-7, notifying that licences would be issued for the pegging out of claims in the Mining Districts of Barberton and Pietersburg.

PROCLAMATION.

By His Excellency the Administrator of the Transvaal.

(DATED 6TH JUNE, 1902.)

To Amend and add to the Law relating to Lunatics.

WHEREAS it is desirable to amend the present law relating to Lunatics ;

Preamble.

Now, therefore by virtue of the authority in me vested, I do hereby declare, proclaim and make known as follows :—

1. Law No. 9 of 1894, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation are hereby repealed; but such repeal shall not affect any warrant issued or thing done in pursuance of any such repealed law.

Repeal of laws.

2. In the construction of this Proclamation, the following terms shall have the meanings herein assigned to them unless there is something in the context repugnant to such construction :

Interpretation of terms.

“Asylum” means an asylum for lunatics now existing, or which may hereafter be declared by the Governor as an asylum or place for the reception or detention of lunatics.

“Court” means the High Court of the Transvaal.

“Criminal Lunatic” means any person convicted of any crime and certified to be insane under the provisions of this Proclamation.

“Governor’s Pleasure Lunatic” means any person for whose detention during his pleasure, the Governor is authorised to grant an order.

“Judge” means any member of the High Court of the Transvaal.

“Constable” includes members of the police force.

“Attorney-General” includes the Legal Adviser to the Transvaal Administration.

“Colonial Secretary” includes the Secretary to the Transvaal Administration.

“Lunatic” includes any idiot or person of unsound mind incapable of managing himself or his affairs.

“Magistrate” means a Resident Magistrate and includes an Acting Resident Magistrate and an Assistant Resident Magistrate.

“ Medical Practitioner ” means a legally qualified medical practitioner within the meaning of any law now or hereafter in force.

“ Prison ” means any prison or place of confinement to which a person may be committed whether on remand or for trial safe custody punishment or otherwise under any other than civil process ; and

“ Prisoner ” means any person so committed.

“ Single Patient ” means any person detained as a lunatic by order under this Proclamation in any place other than an asylum or prison as defined in this section.

Proclamation to
apply to persons de-
tained in Asylum at
time of taking effect
thereon.

3. The provisions of this Proclamation shall apply to every person who at the taking effect thereof is detained in an asylum or place of confinement for lunatics, and every warrant or order granted for the detention of any such person shall be deemed to have been legally granted until set aside or varied under the provisions of this Proclamation.

Urgency cases.

4. In cases of urgency where it is expedient either for the welfare of a person alleged to be a lunatic or for the public safety that an alleged lunatic should be forthwith placed under care and treatment he may be received and detained in any asylum or prison upon an urgency order made (if possible) by the husband or wife, or by a relative of the alleged lunatic, accompanied by one medical certificate, provided that—

- (1) If an urgency order is not signed by the husband or wife or by a relative of the alleged lunatic, the order shall contain a statement of the various reasons why the same is not so signed and of the connection with the alleged lunatic of the person signing the order and the circumstances under which he signs the same.
- (2) No person shall sign an urgency order unless he is at least twenty-one years of age and has within two days before the date of the order personally seen the alleged lunatic.
- (3) No alleged lunatic shall be received under an urgency order unless it appears from the medical certificate accompanying the order that the certifying medical practitioner has personally examined the alleged lunatic not more than three clear days before his reception.
- (4) The admission of an alleged lunatic on an urgency order shall forthwith be notified by the person receiving the patient to the Magistrate of the district, who shall thereupon on production to him of the urgency order and the medical certificate proceed in the same manner as if the original application had been made to him for the issue of a summary reception order.
- (5) An urgency order shall not remain in force for a longer period than seven days from its date

PART I.

PROVISIONS RELATING TO LUNATICS WHO ARE NEITHER
GOVERNOR'S PLEASURE NOR CRIMINAL LUNATICS.

5. Any Magistrate upon the information on oath of any person that a person wandering at large is deemed to be a lunatic, may by order require a constable to apprehend the alleged lunatic and bring him before the Magistrate making the order or before any Magistrate having jurisdiction where the alleged lunatic is.

Magistrate may order apprehension of person wandering at large and deemed to be a lunatic.

6. If a constable is satisfied that it is necessary for the public safety, or the welfare of an alleged lunatic with regard to whom it is his duty to take any proceedings under this Proclamation, that the alleged lunatic should before any such proceedings are taken be placed under care and control, the constable may apprehend and convey the alleged lunatic to a prison or hospital, and the gaoler or officer in charge of the hospital shall unless there is no proper accommodation in such prison or hospital for the alleged lunatic receive and detain the alleged lunatic therein, but no person shall be so detained for more than forty-eight hours without the knowledge and authority of a Magistrate. It shall not be lawful to detain any alleged lunatic apprehended under this or any other section of this Proclamation for a longer period than seven days without a Magistrate's order under section ten unless a medical practitioner shall certify that it is impossible to decide as to the sanity or otherwise of the alleged lunatic within such period of seven days, in which case the Magistrate may authorise the detention of the alleged lunatic for a further period not exceeding seven days.

Constable may under certain circumstances remove alleged lunatic to prison or hospital.

7. When under this Proclamation notice has been given to or an information on oath laid before a Magistrate that a person wandering at large is deemed to be a lunatic, such Magistrate may examine the alleged lunatic at his own house or elsewhere, and may proceed in all respects as if the alleged lunatic had been brought before him.

Magistrate may examine such person.

8. Every constable who has knowledge that any person not wandering at large is deemed to be a lunatic, and either is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, shall, without delay, give information thereof on oath before the nearest Magistrate.

Constable to report to Magistrate cases of lunatics not under proper care, though not wandering about.

9. Upon the affidavit, or information on oath, of the husband or wife, or other near relative, of any person, that such person is deemed to be a lunatic, or upon the affidavit or information on oath of any person that person is deemed to be a lunatic, and either is not under proper care, treatment and control, or is cruelly treated or neglected as aforesaid, any Magistrate may himself visit the alleged lunatic, and shall, whether making such visit or not, obtain certificates from any two medical practitioners whom he thinks fit (one of whom

Upon information given, Magistrate may order person to be examined by medical practitioner.

shall, if practicable, be the District Surgeon), as to the mental state of the alleged lunatic. In case the services of two medical practitioners shall not be available, or immediately available, the Magistrate may accept the certificate of one medical practitioner.

Summary reception order. If Magistrate satisfied that person is lunatic and not under proper care, he may order person to be detained.

10. If, upon the certificate of the medical practitioners or practitioner who examined the alleged lunatic, and after such further or other enquiry as the Magistrate thinks necessary, he is satisfied that the alleged lunatic is a lunatic, and either is not under proper care, treatment and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, or if the person having the care, treatment and control of the alleged lunatic consents to the issue of the order hereinafter mentioned, the Magistrate may by order (in this Proclamation termed a summary reception order) direct the lunatic to be received and detained in some asylum or other place to be named in such order. Provided that a summary reception order shall not be granted, unless each medical practitioner on whose certificate it is proposed to grant such order, has personally examined the alleged lunatic not more than fourteen clear days before the date of the summary reception order, and that it shall not be competent for a Magistrate to accept, for the purpose of such order, the certificate of any Asylum Medical Officer, or private medical practitioner, to whose charge he proposes to commit the alleged lunatic by such order, or who has any interest in the payments to be made on account of such alleged lunatic; provided further that all proceedings under this and the preceding section with respect to alleged lunatics shall be conducted in private. And provided further, that if at any time after the issue of such order, the Magistrate having jurisdiction to make such order, is satisfied that some relative or friend of the lunatic, who is willing to take such lunatic under his own charge, will take proper care of such lunatic and provide for his maintenance, it shall be lawful for such Magistrate, on the recommendation of the District Surgeon, notwithstanding anything to the contrary in this Proclamation contained, to discharge such lunatic to the care and custody of such relative or friend.

Such order shall authorise detention for one month.

11. A summary reception order shall authorise the detention of the person named therein for a period not exceeding one month, and if the place named therein be not an asylum, it shall be lawful for the Magistrate who has issued such order, at any time during its continuance, to authorise, by endorsement of such order, the removal of the lunatic named therein, from the place of detention specified therein, to an asylum; provided that the Magistrate shall notify such removal within twenty-four hours to the *ex officio* curator ad litem; and provided further, that after the removal of such lunatic to an asylum, any regulations as to discharge, transfer or death of patients framed under the provisions of

this Proclamation, shall apply to such persons so removed, and that notice of such discharge, transfer or death shall be given within twenty-four hours to the *ex officio curator ad litem*.

12. A Magistrate granting any order for the detention of any alleged lunatic under this Proclamation shall, without delay, transmit a copy thereof, with copies of the depositions and medical reports upon which he acted in granting such order, and his own report to the Attorney-General. The Magistrate shall also, within ten days, transmit as aforesaid the report of the District Surgeon, or such medical practitioner as shall have been in attendance upon the lunatic, as to his mental condition during his detention, such report to be based upon an examination of the lunatic, made not less than two or more than ten days after the date of the summary reception order; provided, that if the lunatic shall have been committed, by the order aforesaid, to detention in an asylum, the duties of furnishing and transmitting the medical report shall devolve on the medical superintendent of such asylum. Such Magistrate shall also make such report (if any) to the Colonial Secretary, as may be prescribed by any general regulations, and otherwise conform thereto.

Magistrate granting such order, to send copy of order, report, and medical practitioner's report to the Attorney-General.

13. The Attorney-General shall be *ex officio* the curator *ad litem* of such persons as may be detained under any order granted by a Magistrate under this Proclamation, or further detained under a Judge's order.

The Attorney-General *ex officio* curator *ad litem* of such lunatics.

14. A *curator ad litem* receiving any such order, depositions and reports as aforesaid from a Magistrate shall, within the said period of one month, lay the same, with any further reports, depositions or statements which he may have deemed necessary to call for, before a Judge in chambers for his consideration.

Curator ad litem receiving above reports, &c., to lay the same before Judge in Chambers.

15. The Judge, upon consideration of such order, reports and evidence of lunacy therein appearing, may order as follow:—

The Judge may:—

- (1) If satisfied that an order for the further detention of the alleged lunatic may be made, forthwith make such order accordingly, and for such period as he may deem necessary.
- (2) Direct that a summons be issued and served upon the alleged lunatic and the *curator ad litem* to appear in the Court to be therein named to show cause why the alleged lunatic shall not be declared lunatic, and his detention as such confirmed, or, if necessary, that a curator be specially appointed for the care of his person and for the care or administration of his property.
- (3) Appoint a *curator bonis* for the temporary care or custody of any property of the alleged lunatic, and where it appears to the Judge desirable that temporary provision should be made for the maintenance

Order further detention of alleged lunatic.

Call upon *curator ad litem* and lunatic to appear before an appointed Court.

Appoint a *curator bonis*.

or other necessary purposes or requirements of the alleged lunatic or any member of his family out of any cash or available securities belonging to him in the hands of his bankers or of any other person, the Judge may authorise any such banker or other person to pay to the *curator bonis* such sums as may be deemed necessary, and may give directions as to the application thereof for the alleged lunatic's benefit or the relief of his family.

Direct discharge of alleged lunatic.

(4) Direct that the alleged lunatic be immediately discharged.

Direct as to issue, service, &c., of summons.

(5) Direct that any summons or other process be issued, and the proceedings in the case be continued free of any stamp duty or office fee; and other that service of any process under this section be made in such manner as may seem expedient.

Generally give necessary directions.

(6) Generally give such directions as may appear necessary and proper.

Husband, wife, friend, or relative of person deemed to be lunatic, may apply directly to the Court or Judge for enquiry.

16. Nothing in this Proclamation contained shall prevent any husband, wife, or other relative of any person deemed to be a lunatic, or any friend of such person who has no husband, wife or near relative at or near the place where such person is residing, from applying by petition directly to the Court or Judge for an enquiry into such person's mental condition whether a summary reception order shall previously have been granted or not, and such Court or Judge may order therein as may be deemed fitting.

Any person detained under summary reception order may apply to Court for enquiry.

17. Any person detained under the order of a Magistrate under this Proclamation or under a Judge's order for a further detention granted as aforesaid, may apply to the Court directly or through the *curator ad litem* for an enquiry into the cause and grounds of such person's detention, and such Court may order therein as may be deemed fitting.

Where person is ordered to be further detained or is declared a lunatic, the Colonial Secretary may order his removal to asylum.

18. At any time after a Magistrate has issued a summary reception order for the detention of a lunatic, or the Court has declared a person a lunatic, the Colonial Secretary may by warrant under his hand authorise the removal of such lunatic to some asylum, hospital or other safe place of confinement, there to be detained until legally discharged, or legally removed to some other asylum or place, provided that, in the case of a person dealt with by summary reception order, if such warrant of removal as aforesaid is issued prior to the grant of the Judge's order notice of the issue of the warrant shall forthwith be sent by the said Secretary to the *ex officio curator ad litem*.

Procedure if found insane prior to arraignment.

PART II.
PROVISIONS RELATING TO GOVERNOR'S PLEASURE AND CRIMINAL LUNATICS.
19. If at any time prior to the arraignment of any person against whom criminal proceedings have been initiated for some

crime or offence it shall appear to the gaoler or other custodian of such person that such person is insane, such gaoler or other custodian shall without delay report the fact to the Magistrate of the District in which such person is confined; and such Magistrate shall forthwith direct two medical practitioners, or one medical practitioner if two are not immediately available, to examine such person and to enquire into his sanity, and after such examination the said medical practitioners may certify in writing that he is insane; and if upon such certificates or certificates the Magistrate is satisfied that such person is a lunatic the Magistrate shall by order direct such person to be kept in custody in some prison pending the signification of the pleasure of the Governor: Provided that nothing in this or the next succeeding section shall be read as prohibiting the abandonment of the criminal charge at the discretion of the Judge or Magistrate concerned, and the adoption of the procedure specified in Part I. of this Proclamation in those cases in which the crime or offence charged is of a petty nature and the interests of justice will not suffer by the abandonment of the charge.

20. If on the arraignment or during the trial of any person charged with any crime or offence, it shall appear to the judicial officer, presiding at such trial, that such person is insane the question of such person's sanity shall be enquired into by a jury, especially empanelled for the purpose, if the trial be before a Judge and a jury, or otherwise, by the Court, before which the trial is being held; and if such jury or Court shall find that such person is insane the judicial officer presiding at such trial shall record such verdict or finding, and shall issue an order committing such person to some prison pending the signification of the Governor's pleasure.

Procedure if found insane during trial or on arraignment.

21. When in any indictment, or other criminal proceeding, any act or omission is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane so as not to be responsible, according to law, for his action, at the time when the act was done, or the omission made, then if it appears to the jury or Court before whom such person is tried that he did the act or made the omission charged, but was insane as aforesaid at the time when he did or made the same the jury or such Court shall return a special verdict or finding to the effect that the accused was guilty of the act or omission charged against him, but was insane as aforesaid at the time when he did the act or made the omission; and the judicial officer presiding at the trial shall thereupon order the accused to be kept in custody in some prison pending the signification of the pleasure of the Governor.

Procedure when persons charged with offences are found to be insane by jury or Court.

22. When an order committing a person as aforesaid pending the signification of the Governor's pleasure has been granted it shall be the duty of the keeper of the prison to which such person has been committed to send a copy of such order forthwith through the Magistrate of the District to the Colonial Secretary for transmission to the Governor, and it shall be lawful for the Governor thereupon and from time to time to

Such persons to be kept in custody during Governor's pleasure.

give such order for the safe custody of such person in such place and in such manner as the Governor may see fit.

If found after conviction to be insane.

23. When it shall appear to the superintendent of a convict station, to a gaoler, or to any other custodian of prisoners that a convicted prisoner in his charge is insane, such superintendent, gaoler, or custodian shall report the fact to the Magistrate of the District in which such prisoner is confined; and such Magistrate on receipt of such report, or on an order from the Colonial Secretary, shall forthwith direct two medical practitioners (one of whom shall if practicable be the District Surgeon) to examine such prisoner, and to enquire as to his sanity, and after such examination and enquiry the said medical practitioners may certify in writing that he is insane, provided that unless the prisoner is under sentence of death the Magistrate may, in case the services of two medical practitioners shall not be available, direct one medical practitioner, who shall, if practicable, the District Surgeon, to perform such duty.

Magistrate to order him to be confined.

24. When a convicted prisoner is certified as aforesaid to be insane, the Magistrate shall, by order under his hand, direct that the said prisoner be kept in custody in the prison in which he is confined as a criminal lunatic, until the Colonial Secretary, or if such prisoner be under sentence of death the Governor, shall by warrant issue directions as to his disposal. The Magistrate issuing such order as aforesaid shall without delay transmit a copy of such order, together with copies of the medical certificates upon which he acted in granting such order, and of the criminal warrant under which such lunatic was detained in prison to the said Secretary.

If prisoner certified insane to be removed under warrant of Governor to some Asylum and detained there as a lunatic.

25. When a convicted prisoner not under sentence of death is certified as aforesaid to be insane the Colonial Secretary may, if he thinks fit, direct such prisoner to be removed to an asylum named in the warrant, and thereupon such prisoner shall be removed to and received in such asylum and subject to the provisions of this Proclamation relating to discharge, and otherwise shall be detained therein, or in any other asylum to which he may be transferred as a criminal lunatic until he ceases to be a criminal lunatic.

Procedure in case of prisoner under sentence of death.

26. When a prisoner under sentence of death is certified as aforesaid to be insane the Governor may, if he thinks fit, direct such prisoner to be removed to an asylum named in the warrant, and thereupon such prisoner shall be removed to and received in such asylum, and subject to the provisions of this Proclamation relating to discharge, and otherwise shall be detained therein, or in any other asylum to which he may be transferred as a criminal lunatic, until he ceases to be a criminal lunatic.

When it is certified that a criminal lunatic (other than one in respect to whom a special verdict was returned) is sane the Colonial Secretary may order him to be remitted to prison.

27. When it is certified by two medical practitioners as aforesaid that a person being a criminal lunatic or Governor's pleasure lunatic (not being a person with respect to whom a special finding or verdict under section twenty-one of this Proclamation has been returned) is sane the Colonial Secretary, if satisfied that it is proper to do so, may, by warrant, direct such

person to be remitted to prison to be dealt with according to law.

28. A criminal lunatic shall, upon the expiration of the sentence of imprisonment to which he may be subject, cease to be a criminal lunatic; provided however that the order or warrant under which he was previously detained as a criminal lunatic, shall continue to operate as an authority for his detention pending the issue of the Judge's order hereinafter mentioned. If one month before the expiration of his sentence of imprisonment a criminal lunatic is still of unsound mind, the asylum superintendent or other custodian of such lunatic shall forthwith transmit a medical certificate of insanity with such report and other documents as may be deemed necessary to the Attorney-General, who shall without delay lay the same before a Judge in chambers for his consideration, whereupon the said Judge shall order the further detention of the said criminal lunatic as a case under Part I., or make such other order in accordance with section fifteen of this Proclamation as the said Judge may see fit; and such order shall have effect on and after the date of the expiration of the said lunatic's sentence of imprisonment.

When a criminal lunatic shall cease to be a criminal lunatic.

29. The superintendent of an asylum or other place in which a criminal lunatic or a Governor's pleasure lunatic is detained, shall make a report to the Colonial Secretary at such times (not being less than once a year) and containing such particulars as the said Secretary may require of the condition and circumstances of every criminal lunatic and Governor's pleasure lunatic in such asylum or place; and the said Secretary shall at least once in every two years during which a criminal lunatic or Governor's pleasure lunatic is detained take into consideration the condition, history and circumstances of such lunatic for the purpose of determining whether he ought to be discharged or otherwise dealt with.

Superintendent of asylum or other place in which criminal or Governor's pleasure lunatic is detained, to report to Colonial Secretary at least once a year.

30. The Colonial Secretary may from time to time order the transfer of any criminal lunatic or Governor's pleasure lunatic detained in any asylum or other place, to any other asylum, and such criminal lunatic shall accordingly be received and detained in the asylum to which he is so transferred.

Colonial Secretary may order transfer of criminal lunatic or Governor's pleasure lunatic.

31. The Governor may discharge any criminal lunatic or Governor's pleasure lunatic, absolutely or conditionally, that is to say on such conditions as to the duration of such discharge, and otherwise as the Governor may think fit.

Governor may discharge criminal lunatic absolutely or conditionally.

32. Where a criminal lunatic or Governor's pleasure lunatic is conditionally discharged in pursuance of this Proclamation:—

Conditions to be observed in conditional discharge.

- (1) A report of his condition shall be made to the Colonial Secretary, by such persons and at such times and containing such particulars as may be required by the warrant of discharge (or directed by the Governor), or by any general rules and regulations.
- (2) If any of the conditions of such discharge appear to the Governor to be broken or the conditional discharge

Governor may make regulations for dealing with prisoners who appear from imbecility to be unfit for penal discipline.

- is revoked, the Governor may direct him to be taken into custody and removed to some asylum or place named in the warrant, and he may thereupon be taken, and shall be received and detained in such asylum or place, as if he had been removed thereto under the provisions of this Proclamation.
33. The Governor may make, revoke and vary regulations for the treatment of persons sentenced to imprisonment, who appear in accordance with the said regulations to be from imbecility of mind, either unfit for penal discipline, or unfit for the same penal discipline as other prisoners.

Court may appoint curator over property of lunatic.

34. The Court may appoint a curator for the care or administration of the property of any person declared lunatic or of a person lawfully detained as a criminal lunatic or Governor's pleasure lunatic, with or without security as the Court may direct, and may confer upon such curator authority to do any specified act, or exercise any specified power or may confer a general authority to exercise on behalf of the lunatic until further ordered, all or any of such powers without further application to the Court; provided that when a lunatic, detained by order of the Court or of a Judge of whose property no curator has been appointed, possesses property the estimated value of which does not exceed five hundred pounds in respect of the corpus thereof or fifty pounds per annum in respect of the income thereof, a Judge in Chambers or the Master of the High Court of the Transvaal may, on the application of the official curator *ad litem*, appoint a curator of the property of the lunatic.

Court may under certain circumstances appoint curator over property without appointing curator over person.

35. Where upon an enquiry the Court shall be of opinion that the person to whom it relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others, such Court may make such order as it thinks fit for the care or administration of the property of the lunatic including all proper provisions for his maintenance, but it shall not be necessary unless the Court shall think proper to do so to make an order as to the custody of his person.

Court may dissolve a partnership if member thereof declared a lunatic.

36. When any person being a member of a partnership is declared a lunatic by the Court, the Court may by the same order, or by an order subsequently granted, dissolve the partnership.

Copy of order appointing curator over property to be lodged with Master.

37. When the Court has granted an order for appointing a curator for the care or administration of the property of a lunatic, an office copy of such order shall forthwith be lodged with the Master of the High Court.

38. The Master shall grant to such curator a certificate that he has been so appointed, and is authorised as such to have the custody and administration of the lunatic's estate.

Master to grant certificate of appointment to curator.

39. Every such curator shall be under the like duty and obligation as an executor appointed for the administration of the estate of a deceased person, to lodge with the said Master an inventory or additional inventory of the property of a lunatic and accounts of his administration, and in respect of any such inventory or account the like stamps and fees shall be payable as in the case of the estate of a deceased person.

Curator to file inventory, &c., with Master.

40. Every such curator shall be allowed the like remuneration to be taxed by the said Master as in the case of an executor.

Curator to be allowed same remuneration as executor.

41. When any lunatic, for the care or administration of whose estate a curator has been appointed shall die intestate, or having left a will there shall be no executor, or none willing to act, such curator shall continue the administration of the estate of such lunatic, and distribute the assets thereof as if he had been appointed an executor dative, and it shall be lawful for the Master to require the same security from such curator as he would have been entitled to require from an executor dative.

If lunatic die intestate or has no executor, *curator bonis* to act as executor.

42. The Court may authorise and direct any curator appointed as aforesaid to do all or any of the following things:—

Court may authorise curator to do following acts.

- (1) Sell any property belonging to the lunatic.
- (2) Make exchange or partition of any property belonging to the lunatic or in which he is interested, and give or receive any money for equality of exchange or partition.
- (3) Carry on or discontinue any trade or business of the lunatic.
- (4) Grant leases of any property of the lunatic.
- (5) Perform any contract relating to the property of the lunatic entered into by the lunatic before his lunacy.
- (6) Exercise any power or give any consent required for the exercise of any power where the power is vested in the lunatic for his own benefit or the power is in the nature of a beneficial interest in the lunatic.
- (7) Raise money on mortgage of the lunatic's property for payment of his debts or payment of any debt or expenditure incurred for the lunatic's maintenance or otherwise for his benefit or payment of or provision for the expenses of his future maintenance.
- (8) Apply any money for or towards the maintenance or the benefit of the lunatic.
- (9) Make such reports concerning the lunatic's estate to the Court or to the Master as such Court shall deem fit.

43. Nothing in this Proclamation contained shall be deemed to limit or abridge the power by law possessed by the Court in regard to declaring persons of unsound mind or to the appointment of curators to the person or property of any lunatic.

Proclamation not to be taken to limit power of Court as to declaring persons insane or appointing curators.

PART IV.

OFFENCES AND PENALTIES.

Penalty for detain-
ing alleged lunatic,
except under provi-
sions of this Pro-
clamation.

44. Every person who, except under the provisions of this Proclamation, receives or detains a lunatic or alleged lunatic in an asylum or for payment takes charge of, receives to board and lodge, or detains a lunatic or alleged lunatic shall upon conviction be liable to a penalty not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to such imprisonment without the option of a fine.

Penalties for false
statements, &c.

45. Every person guilty of any of the following acts or offences shall upon conviction be liable to a penalty not exceeding one hundred pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months or to such imprisonment without the option of a fine :—

- (1) Making any wilful misstatement of any material fact in any petition, application, statement of particulars, report or reception order under this Proclamation.
- (2) Making a wilful misstatement of any material fact in any medical certificate or other certificate or in any statement or report of bodily or mental condition under this Proclamation.
- (3) Knowingly making in any book, statement or return any false entry as to any matter as to which he is by this Proclamation or by any rules or regulations made under this Proclamation required to make an entry.
- (4) Wilfully obstructing any Magistrate, curator, *curator ad litem*, visitor, medical practitioner, constable or other person specially authorised by the Governor or under any order of Court in the exercise of any of the powers conferred by this Proclamation or by any rules or regulations made thereunder.

Penalty where no
special penalty pro-
vided.

46. Every person who shall contravene any of the provisions of this Proclamation, in respect of which no other penalty or punishment is thereby or by any other law provided, or who shall contravene any of the provisions of any rules or regulations made by the Governor under this Proclamation, shall, upon conviction, be liable to a penalty not exceeding twenty pounds, or in default of payment, to imprisonment with or without hard labour for any period not exceeding three months.

Penalty if nurses,
&c., or persons in
charge illtreat luna-
tic.

47. Any officer, nurse, attendant, servant, or other person employed in any asylum or other place, or any person having the care or charge of a lunatic, or alleged lunatic, whether by reason of any contract or any tie of relationship or marriage, or otherwise, who shall illtreat or wilfully neglect any such lunatic or alleged lunatic, shall upon conviction be liable to a penalty not exceeding fifty pounds, or in default of payment to imprisonment with or without hard labour for any period

not exceeding six months, or to such imprisonment without the option of a fine.

48. Any officer, attendant, servant, or other person employed in any asylum or other place who shall wilfully permit, or assist or connive at the escape or attempted escape of any lunatic, or who shall secrete a lunatic, shall upon conviction be liable to a penalty not exceeding twenty pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding three months, and to instant dismissal from any position such convicted person may then occupy.

Penalty for conniving at escape of lunatic.

49. It shall not be lawful to employ any male person in any asylum in the personal custody or restraint of any female patient, and any person employing a male person contrary to this Section shall be liable to a penalty not exceeding twenty pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months: Provided that this Section shall not extend to prohibit or impose a penalty on the employment of male persons on such occasions of urgency as may in the judgment of the Superintendent of the institution render such employment necessary, but the employment shall be reported to the Colonial Secretary.

Male person not to be employed in personal custody of female patient.

50. If any officer, attendant, or other person employed in any asylum, or any person having the care or charge of, or attending upon any single patient, carnally knows, or attempts to have carnal knowledge of any female under care or treatment as a lunatic, he shall upon conviction be liable to imprisonment with or without hard labour for any period not exceeding five years; and no consent or alleged consent of such female thereto shall be a defence in any prosecution for such offence.

Penalty on person having charge of lunatic for carnally knowing female patient.

PART V.

GENERAL.

*51. Whenever any person shall, with the previous consent of the Colonial Secretary, be brought into this Colony from any other Colony or Territory in South Africa to which the Governor may by proclamation apply the provisions of this Section by virtue of a warrant under the hand of a person duly authorised in such Colony or Territory to sign the same setting forth that such person has been judicially declared in any such Colony or Territory to be a lunatic, such person shall within this Colony deemed to be legally detained under such warrant for a period of one month from the date thereof in any asylum or other safe place of confinement named in such warrant. On the admission of such person into the asylum or other safe place of confinement aforesaid, the medical superintendent or officer in charge of such asylum or other safe place of confinement shall forthwith forward the warrant with the supporting documents to the Attorney-General for submission

Lunatics from neighbouring Colonies.

* This section has been applied to Southern Rhodesia by Proclamation No. 9 (Admn.) 1902. (*Gazette*, 24th Oct., 1902, p. 1470.)

to a Judge in Chambers, and thereupon all the provisions of this Proclamation shall apply as if such person were a person in respect of whom a summary reception order had been granted in terms of this Proclamation.

No person to be detained in asylum unless under order of Court or Judge.

52. Subject to any exception in this Proclamation mentioned, it shall not be lawful to receive or detain in any asylum, hospital, or other place, or as a single patient any lunatic or alleged lunatic, except under an order made by a Magistrate, a Judge, or a Court.

Every person receiving a patient into his house to transmit a notice thereof to the Colonial Secretary.

53. Every person who shall take care or charge of any lunatic as a single patient shall, within twenty-four hours after so taking charge of such person, transmit through the post a notice of such admission to the Colonial Secretary. True copies of the order, statement, and medical certificates upon which such person shall have been so received shall be transmitted to the said Secretary by the Magistrate making the order.

Every such patient to be visited by independent medical practitioner.

54. Every such lunatic shall as often as may be provided by regulations under this Proclamation, or as may be directed by the Colonial Secretary, be visited by a medical practitioner not deriving, and not having a partner, father, son, brother, or other relative who derives any profit from the care and charge of such lunatic.

Insanity of person residing in private dwelling-house.

55. If the insanity of a person residing in a private dwelling with relatives or others, who receive no remuneration for his maintenance and care, has endured for a period of six months, and is of such a nature as to require compulsory confinement in the house, or restraint or coercion of any kind, the person who has charge of the patient shall intimate such detention to the Colonial Secretary, and shall transmit to the said Secretary a certificate signed by at least one medical practitioner as to the condition of the person so detained, and the reasons (if any) which render it desirable that such person shall remain under private care. The said Secretary may thereupon order that such person be so detained for a further period not exceeding six months, at the expiration of which period if the insanity still continues, the necessary steps must be taken by the person having charge of the patient to obtain an order under Section ten.

Person voluntarily submitting to treatment.

56. The medical superintendent of an asylum may with the previous assent in writing of the Colonial Secretary, which assent shall not be given without written application by the patient, receive and lodge as a boarder for the time specified in the assent, any person who is desirous of voluntarily submitting to treatment, but whose mental condition is not such as to justify the issue of certificates of insanity. Provided always—

(a) That if such person makes a written application to the medical superintendent, he may be received as a boarder temporarily for a period not exceeding seven days, pending the receipt of the said Secretary's assent.

- (b) That every such boarder shall be produced if required to the official visitors at their visits to the asylum.
- (c) That no such boarder shall be detained for more than three days after having given written notice to the medical superintendent of his intention or desire to leave, unless detained under an order made by the Court, or Judge, or Magistrate.
- (d) That notices of admission, discharge and death with respect to all such boarders shall be made to the Colonial Secretary in the same manner as in the case of lunatics.
- (e) That every such boarder shall be discharged at the expiration of the time specified in the said Secretary's assent, unless a renewed application is made and assent given.

57. Every medical certificate or report under this Proclamation shall be signed by a medical practitioner, and shall state the facts upon which the certifying medical practitioner has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others; and no order made under this Proclamation shall be made upon a certificate founded only upon facts communicated by others.

Requirements of medical certificates under Proclamation.

58. Every medical certificate or report made under and for purposes of this Proclamation shall be evidence of the facts therein appearing, so far as they may be facts within the knowledge of the person making the certificate, and of the judgment therein stated to have been formed by the certifying medical practitioners on such facts, as if the matters therein appearing had been verified on oath.

Medical certificate evidence of certain facts.

59. The medical certificates or reports under this Proclamation shall not be received or acted upon if made by any person related to the supposed lunatic within the fourth degree of consanguinity or affinity, or the partner or assistant of a person so related; and neither of the persons signing such certificates or reports shall be so related to, or the partner or the assistant of the other of them.

Medical certificates not to be signed by person related to alleged lunatic within fourth degree.

60. Mechanical means of bodily restraint shall not be applied to any lunatic unless the restraint is necessary for the purpose of surgical or medical treatment, or to prevent the lunatic from injuring himself or others; and in every such case—

Under what circumstances mechanical means of bodily restraint allowed.

- (1) A medical certificate shall as soon as it can be obtained be signed, describing the mechanical means used, and stating the ground upon which the certificate is founded.
- (2) The certificate shall be signed in the case of a lunatic in an asylum or other place of confinement by the medical officer thereof, and in the case of a private patient by his medical attendant.

- (3) A full record of every case of restraint by mechanical means shall be kept from day to day.
- (4) A copy of the certificates and records under this Section shall be sent to the Colonial Secretary at the end of every quarter.
- (5) In the application of this Section "mechanical means" shall be such instruments as the Governor may by regulation determine.

Any person appointed under this Proclamation to make enquiry may examine on oath and summon witnesses.

Penalty for not obeying such summons.

Expenses of witnesses.

Requirements and execution of warrant under this Ordinance.

Powers of Colonial Secretary under Proclamation may be exercised by another person appointed by Governor.

Escaped lunatic may be recaptured.

61. Any Magistrate or any Commissioner or person appointed by the Court or by the Governor to make any enquiry under this Proclamation, or in respect of any lunatic, may, if he deems it necessary so to do, summon any person to appear before him to testify upon oath touching any matter respecting which such Magistrate, Commissioner, or other person is, under this Proclamation, or by any commission or order issued by any such Court, or by the Governor, authorised to enquire (which oath such Magistrate, Commissioner, or other person is hereby empowered to administer).

62. Every person who does not appear pursuant to any such summons as is in the last section mentioned, or does not assign some reasonable excuse for not appearing, or who appears and refuses to be sworn or examined shall, on conviction in the Court of any Resident Magistrate having jurisdiction, be liable to a penalty not exceeding twenty pounds, and in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

63. Every person so summoned as aforesaid shall be entitled to be paid his expenses as if a witness summoned to attend upon a trial in a criminal case.

64. A warrant of the Governor under this Proclamation may be under the hand of the Colonial Secretary. Every such warrant, and every Magistrate's order for the detention or removal of a lunatic may be executed by the person to whom it is addressed, or by any constable, and when it relates to a person not in custody may be executed in like manner as if it were a warrant for the arrest of a person charged with an offence, and it shall be the duty of every constable to aid in the execution of every warrant under this Proclamation.

65. The Governor may from time to time direct that all or any of the powers, duties and authorities by this Proclamation vested in or required to be performed by the Colonial Secretary, shall be exercised and performed by any person the Governor shall think fit, subject to any restrictions or limitations he may impose, or that such powers, duties and authorities may, as to certain parts of the Colony be exercised by the said Secretary, and as to certain other parts by some person or persons other than the said Secretary.

66. If any person escapes while being conveyed to an asylum or place in pursuance of this Proclamation, or if any person lawfully detained in an asylum or other place for lunatics escapes, he may be re-taken within twenty-eight days after his

escape by the superintendent of such asylum, or person in charge of such other place, or any officer or servant belonging thereto, or by any person assisting such superintendent, person in charge, officer or servant, or by the duly appointed escort of such escaped person, or by any constable, and conveyed to and received and detained in such asylum or other place. If not re-taken within twenty-eight days he shall be formally discharged, and before re-admission a new order must be obtained; provided that in the case of any criminal or Governor's pleasure lunatic who escapes he may be re-captured as aforesaid at any time after escape.

67. When any person shall be detained under the provisions of this Proclamation in any asylum or other place, the maintenance of such person shall until further provision therefor be made, be defrayed out of the Colonial revenues: Provided always that all sums so paid may be recovered from the estate of any such person, or from any person or persons liable by law to contribute towards the maintenance of such detained person by the Resident Magistrate of the district in which such estate is situated, or in which the person or persons so liable shall reside; and provided further that such liability shall not, unless otherwise agreed on, exceed in any case the rate of ninety-six pounds per annum.

Cost of maintenance in an asylum or other place.

68. Any action brought by any person who has been detained as a lunatic against any person for anything done under this Proclamation shall be commenced within three months next after the release of the person bringing the action.

Action by lunatic, limitation of.

69. It shall be lawful for the Governor from time to time to appoint fit and proper persons to visit, inspect and report on asylums under the provisions of this Proclamation.

Appointment of visitors.

70. The Governor may, from time to time, make and alter or rescind rules or regulations for all or any of the following purposes:—

*Governor may make, &c., regulations.

- (1) For the discharge of lunatics on recovery, or on the application of relatives or friends, or on probation.
- (2) For the removal or transfer of lunatics from one asylum or place to another asylum or place, including the temporary transfer of patients to any specified place for such period as may be deemed expedient for the benefit of their health.
- (3) For the guidance of visitors, and as to the reports to be made to or by them.
- (4) For prescribing the books to be kept in asylums or otherwise in reference to any lunatic and the entries to be made therein, and the accounts, returns, reports, extracts, copies, statements, notices, documents and information to be sent to the Colonial Secretary, or other authority or person as the Governor may direct.

* Rules and Regulations made by the Governor under this section, were promulgated by Government Notice, No. 227, of 1902, published in Government Gazette, 6th June, 1902.

(5) As to the persons by whom the times when and the manner in which such entries, accounts, returns, reports, extracts, copies, statements, notices, documents and information, are to be made and sent in regard to any asylum or any lunatic or alleged lunatic.

(6) As to the terms of payment and accommodation for paying patients in any asylum.

(7) For prescribing forms for the purpose of this Proclamation.

(8) For prescribing the duties and discipline of officials employed in any asylum.

(9) Generally for the due administration and efficient working of this Proclamation and the care and comfort of lunatics.

71. This Proclamation may be cited for all purposes as "The Lunacy Proclamation, 1902."

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 13TH JUNE, 1902.)

WHEREAS by Proclamation Transvaal No. 12 of 1901, dated the 1st July, 1901, the period between the 11th October, 1899, and a date to be thereafter notified in the *Gazette*, was not to be taken into account in computing the period within which certain payments were to be made and certain rights exercised under the contracts therein referred to:

Preamble.

And whereas by Government Notice No. 223 of 1902, the first day of June, 1902, was notified as the date from which time would again commence to run under the provisions of the aforesaid Proclamation:

And whereas it has been made to appear to me that owing to the existence of Martial Law and the disturbed state of some districts of the Colony further time should be given:

Now, therefore, by virtue of the authority in me vested I hereby declare, proclaim and make known:

1. That the 1st day of August, 1902, shall be taken to be the date referred to in Section 1 of Proclamation Transvaal No. 12 of 1901, as "the date to be hereafter notified in the *Gazette*."

Alteration of date for computing period within which options may be exercised.

2. The aforesaid Government Notice, No. 223 of 1902, is hereby withdrawn and is to be treated as if it had not been issued.

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 13TH JUNE, 1902.)

Preamble.

WHEREAS it is desirable to make provision for the levying and collection of rates for the purposes of the Municipality of Johannesburg :

Now therefore, by virtue of the authority in me vested, I do hereby declare, proclaim, and make known as follows :—

Short title.

1. This Proclamation may be cited and referred to as the “Johannesburg Rating Proclamation 1902.”

Definitions.

2. In this Proclamation, unless the context otherwise by necessary implication requires, “Municipality” means the Municipality of Johannesburg, as constituted for the time being.

“The Council” means Council for the Municipality of Johannesburg, established under Proclamation No. 16 of 1901.

“Town Clerk” means the Town Clerk for the said Municipality, and includes any person for the time being acting in such capacity.

“Town Treasurer” means the Treasurer for the said Municipality, and includes any person for the time being acting in such capacity.

“Interest in land” means and includes—

- (a) Land or the usufruct thereof.
- (b) The right in and over land under a stand license.
- (c) Any lease of land for a period of not less than ten years, or for the natural life of any person mentioned therein, or which is renewable from time to time at the will of the lessee indefinitely or for periods which, together with the first period thereof, amount in all to not less than ten years.
- (d) Any servitude over land.
- (e) Any user of land under a claim licence, or other mining title, for residential purposes or for purposes not incidental to mining operations.

“Rateable property” means and includes every interest in land as above defined, together with any building thereon, with the following exceptions :

- (1) Any interest in land or buildings owned by the Crown.

(2) Any licence or right to dig or prospect for precious stones and minerals on any portion of land assigned for that purpose; and any portion of land held or occupied exclusively for the exercise of such rights.

3. The Council shall from time to time, but not less than once in every three years, cause a valuation of all rateable property within the Municipality to be made by one or more competent persons, who shall be appointed by resolution of the Council not less than one month before he or they shall enter upon his or their duty.

General Valuations.

4. Every valuer shall, before entering upon the valuation entrusted to him, make before some Justice of the Peace a solemn declaration in the terms following :—

Declaration of valuer.

“ I.....do solemnly and sincerely declare that I will, to the best of my skill and knowledge, and without fear, favour, or prejudice, truly and impartially appraise and value all such rateable property as I shall be required to value in the Municipality of Johannesburg for the purpose of assessment, and that I will conscientiously value the same at and for the full and fair value thereof. And I make this solemn declaration, conscientiously intending to fulfil the same.

Declared at.....this.....day of.....

Before me.....”

And every such declaration shall be lodged with and preserved by the Council.

5. The valuer or valuers shall prepare the said valuation (hereinafter referred to as the Valuation Roll) in writing, in such manner as to show to the best of his or their knowledge and opinion

Provisional Valuation Roll, contents of.

- (a) The name and address of every owner of rateable property.
- (b) The description and situation of the land or buildings, an interest in which constitutes the rateable property of such owner.
- (c) The nature of the interest of such owner in such land or buildings.
- (d) The value of the rateable property of such owner distinguishing between the value of the interest in the land, and the value of the interest in buildings, but giving also the total rateable value.

6. The amount or sum at which the valuer or valuers shall value for the purposes of the Valuation Roll, any rateable property shall be the full and fair price or sum, which the same would in his or their judgment be likely to realise if brought at the time of valuation to voluntary sale, and offered for sale upon the usual terms and conditions applicable to property of such kind.

Basis of Valuation.

Valuer to have
power of entry and
inspection.

7. (1) Every valuer provided with written authority signed by the Town Clerk, shall, for the purpose of making any valuation as aforesaid, have power to enter at all reasonable hours in the daytime, into and upon any land or buildings within the Municipality, and shall also have power to inspect and make extracts from all registers or other records, or any deeds or instruments belonging to or in the custody or possession of any Government official or any person, firm, or company in which are contained particulars of any rateable property, whether such person, firm or company is or is not interested in such rateable property.

(2) Every such valuer shall be entitled to call upon the owner or occupier of rateable property for such written particulars in regard to such rateable property as may be necessary for enabling such valuer to make a correct valuation thereof; and any owner or occupier who shall fail to supply such written particulars when called upon to do so, shall be liable to a penalty not exceeding twenty pounds in respect of each offence, and any person who shall furnish to any valuer a false statement of value or other particulars as aforesaid shall be liable on conviction to a penalty not exceeding *fifty pounds* in respect of each offence.

Inspection of Pro-
visional Valuation
Roll.

8. When the Valuation Roll has been completed, it shall be laid before the Council, and shall lie at the Office of the Council for the inspection of every person liable to pay rates in respect of property included therein, and any such person may at all reasonable times inspect the same, and take copies or extracts therefrom. The Council shall, by notice published in one or more local newspapers, call upon all persons interested, to lodge in writing with the Town Clerk in the form set forth in the Schedule hereto, notice of any objections they may have against the valuation of any rateable property valued as aforesaid, or by reason of the omission therefrom of property alleged to be rateable property, and whether held by the person objecting or by others within a specified time, not being less than fourteen days from the first publication of such notice. No person shall be entitled to urge any objections before the Valuation Court hereinafter referred to, unless he shall first have lodged such notice of objection as aforesaid.

Proceedings of
Valuation Court.

9. (a) After the expiration of the time specified in such notice, the Council shall appoint from among themselves a Committee consisting of the Chairman* of the Municipality, and not less than five Councillors, who shall form a Valuation Court.

(b) Such Court shall thereafter at meetings duly called by the Town Clerk, proceed to consider the Valuation Roll, and the objections made as aforesaid, and shall be entitled to make such alterations and amendments in the Valuation Roll either by way of reduction or increase as to it may seem expedient.

* By Ord. 34 of 1902, the Deputy Chairman may be appointed a member of the Committee instead of the Chairman.

- (c) Provided that no alteration or amendment by way of increase shall be made unless and until the person appearing in the Valuation Roll to be directly affected thereby, shall have had at least three days' previous notice from the Town Clerk of the date of sitting of the Court at which any proposal for such increase will be considered, and such person so affected may either forward any objections to such increase in writing to the Town Clerk before such date, or present the same for consideration at such sitting and the Valuation Court shall duly hear and consider all such objections.
- (d) At every sitting of such Court, three members personally present shall constitute a quorum, and the Chairman of the Municipality, if present, shall preside, and all decisions of such Court shall be arrived at by the vote of a majority of the members personally present, and in case of an equality of votes the Chairman, or the Councillor acting as such, shall have a casting vote.
- (e) No person shall sit on the hearing of any matter in which he shall be directly interested or concerned, as being primarily liable to pay the rates in question, or any part thereof.
- (f) In case, for any reason, there shall be vacancies on the Committee, or incapacity to act, so that a quorum cannot be formed, the Council may at once, and without any notice, appoint other members temporarily, or otherwise, to fill up such vacancies or the places of the members incapable of sitting.
- (g) The Town Clerk, by publication in one or more local newspapers, shall give not less than seven days' previous notice of the date fixed for the first sitting of such Court.
- (h) At every sitting of such Court, any person who has lodged any objection to any valuation, and any person the valuation of whose property is objected to or proposed to be increased, may appear either in person or by Counsel, Solicitor, or admitted and licensed Law Agent.
- (i) At every sitting of such Court it shall be competent for the Court to call and examine any witnesses on oath, and to call for the production of all such papers or documents as it may deem necessary, and every valuer by whom any valuations under consideration shall have been made shall attend such Court, and answer on oath all questions which may be put to him by or through the Court in regard thereto.
- (j) It shall not be necessary for such Court to keep any formal record of its proceedings, other than a note of the assessment objection and finding in regard to each objection, but such Court may cause any deposition

taken before it to be taken down in writing and signed by the deponent, and may authenticate it by the signature of the Chairman, as having been taken before such Court, and every such deposition so taken down, signed and authenticated, shall be deemed and taken to be good evidence in any prosecution for perjury.

- (k) The decision of such Court shall be noted in writing, upon the notice served as provided in Section *eight* hereof, and shall be signed by the Chairman of the Court, and such notice shall be kept of record in the Office of the Town Treasurer, and shall at all reasonable times be open to inspection by any of the persons affected by such decision.
- (l) The Signature of the Chairman of such Court affixed to any paper or document, shall be equivalent to the signatures of all the Councillors present thereat, and the addition of the word "Chairman" to such signature shall be *prima facie* evidence that such signature is the signature of such Chairman, and all documents so signed shall be accepted, without further proof, as evidence of such of the proceedings and decisions of such Court as they shall purport to set forth.

Valuation Roll.

10. When the Valuation Court has completed its examination of the Valuation Roll, and has made such alterations and amendments therein as it may deem necessary, the Town Clerk shall sign and certify the same. He shall further cause an advertisement to be inserted in one or more local newspapers not less than three times within a period of one week, informing all persons interested of the completion thereof, and that the same will become fixed and binding upon all parties concerned who shall not before a date fixed in such notice, not being less than fourteen days from the date of the first advertisement, bring the decision of the Valuation Court in review, before the High Court of the Transvaal, or the Witwatersrand District Court, should either of such Courts be then sitting, and if not, then within fourteen days after the commencement of the next ensuing term of such Courts; provided, however, that it shall not be competent for any person to take any proceedings for review, who shall not have lodged an objection to the valuation as originally made, or be interested as owner in rateable property, the valuation of which shall have been increased by the Valuation Court.

Special Valuations.

11. Notwithstanding anything to the contrary in this Proclamation stated the Council may at any time direct that a valuation be made of any rateable property omitted from the Valuation Roll, or of any new or sub-divided rateable property, or of any rateable property which from any cause particular to such property arising since the last valuation thereof has materially increased or decreased in value; and upon the making of any such interim valuation the same forms shall be observed

and the same proceedings may take place as nearly as can be *mutatis mutandis* as are hereinbefore set forth with regard to general valuations and appeals in respect thereof, excepting that in the discretion of the Council the prescribed notices may be served in writing upon the persons interested instead of being published as aforesaid.

12. No valuation contained in any Valuation Roll framed under this Proclamation and no rate based thereon shall be rendered void or be affected by reason of any mistake or variance in the description of any rateable property or in the name of any owner thereof; and no Valuation Roll made up and authenticated in terms of this Proclamation shall be capable of being challenged or set aside by reason of any informality.

13. It shall be lawful and competent for the Council to impose or levy a rate or rates in or for each and every year of such amount, or amounts, in the pound as it shall think fit, but not, except with the sanction of the Governor, exceeding threepence in the pound on the value arrived at as aforesaid and as appears in the Valuation Roll of all rateable property within the Municipality.

Powers to impose rates.

14. Notwithstanding anything herein contained in case any abnormal or extraordinary expenditure shall be incurred by the Municipality in respect of some particular area of rateable property over and above expenditure common to the whole Municipality, the Council may by resolution determine that such abnormal or extraordinary expenditure (and whether the outlay in respect thereof has or has not actually been made) shall be in whole or part a special charge upon the rateable property, or some portion thereof within such particular area to the exclusion of the rest of the municipal area, and fix the amount of the special rates thereon (not, however, in any case, except with the sanction of the Governor, to exceed threepence in the pound), and the persons and times by whom and when the same is payable.

Special rates may be imposed.

15. Any rate made or levied by the Council under the provisions of this Proclamation shall be made and levied upon the valuation of the rateable property framed in terms of this Proclamation.

Incidence of rates.

16. Every rate levied by the Council shall become due and payable upon a day to be fixed by the Council, of which day and of the amount of which rate the Council shall give at least thirty days' notice by advertisement in a newspaper circulating in the Municipality, and in such other mode as the Council may by resolution direct.

Notice of Advertisement of rates.

17. Whenever the Council shall have given such notice as aforesaid of the day upon which such rate will become due and payable it shall be the duty of all persons liable for such rate to pay the amount thereof to the Town Treasurer at the offices of the Council, failing which defaulters will be liable to legal proceedings for the recovery of the amounts due by them respectively.

Payment of rates.

18. If after the time fixed for the payment of any such rate as aforesaid any person fail to pay any rate due by him it shall be competent for the Council to cause a printed or written demand to be made upon such person requiring such person to pay the amount stated in such demand within fourteen days after service thereof. And in case any person who shall have had such demand delivered to him personally or left at his ordinary place of residence, or place of business or office, shall make default, it shall be competent for the Council to apply to the Chief Magistrate of the Witwatersrand District for a summary warrant to recover such rates together with interest as hereafter provided from the persons liable to pay the same; which warrant the said Magistrate shall grant on production of a list of the names and addresses of the persons so in default and the amounts together with interest, as by this Proclamation provided, respectively due by them with a certificate by the Treasurer that they have been severally required to make payment of the said rates by notice as aforesaid, and that such rates are due by them and do not exceed the maximum rates fixed by or under this Proclamation; and every such warrant shall contain every authority and be executed in all respects as though it were a Writ of Execution issued out of the Court of the Resident Magistrate of the Witwatersrand District, and the Messenger of the Court in executing the same shall conform to such rules and make such charges as are for the time being applicable to Writs of Execution of such Court as aforesaid.

19. (1) Notwithstanding the provisions of the last preceding section, the Council may at its discretion, after the time fixed for the payment of any such rates as aforesaid, recover from the person in default (without further notice or demand) the amount of the rates and interest thereon due by such person irrespective of the amount thereof by action in the Court of the Resident Magistrate of the Witwatersrand District, whether the person liable for the same shall be domiciled within the jurisdiction of such Court or not.

(2) In case it shall not be possible to effect service of summons within the limits of the jurisdiction of such Court as aforesaid, then such service shall be effected in such manner as the said Court shall direct.

20. In case any rates made and levied under the provisions of this Proclamation shall remain unpaid for a period of three months after the date fixed by the Council for payment thereof, interest upon such rates shall be chargeable and recoverable by the Council at the rate of 10 per cent. per annum reckoned from the date upon which the rates shall have been fixed to become due and payable.

21. In case any person liable to pay any rate, and who shall be in default as regards payment thereof, shall not be resident within the jurisdiction of the Court of Resident Magistrate of the Witwatersrand District, it shall be lawful for the Council at its option to make the demand referred to in Clause *eighteen* hereof upon, or to take proceedings under Clause *nine-*

teen hereof against any person receiving any rents or profits of the rateable property in respect of which such rate is unpaid, or who would receive the same if such rateable property were let or occupied.

22. When any rate levied upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable, the Council may at any time within twelve months after the levying of the rate, demand the amount of such rate or any part thereof from any tenant or occupier for the time being of such rateable property, and on non-payment thereof may, after one month from the date of such demand, recover the same from such tenant or occupier in the same manner as though he were the owner. And every such tenant or occupier shall be entitled to deduct from any rent or other amount payable by him to such owner, so much as was so paid by or recovered from him, and the production of the receipts for such rates so paid by or recovered from such tenant or occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount to the owner.

23. In any proceedings to levy or recover rates, or consequent on the levying or recovering of any rate, as well as in all other proceedings under the provisions of this Proclamation, the Valuation Rolls, Rate Books and Records of the Council and all entries made therein, and extracts or certified copies thereof signed by the Town Clerk, and also all copies of any newspaper containing any notice necessary to be proved, shall upon production thereof alone be *prima facie* evidence of the levying of such rate and of the contents thereof, without any evidence that the notices required by or other requirements of this Proclamation have been complied with. Provided that it shall be competent for any party to any such proceedings to offer evidence to prove the contrary.

Evidence.

24. The person who is the owner of any rateable property shall be liable for payment of the amount of the rate due on such property; in the case of joint owners of rateable property they shall be jointly and severally liable for the rate due thereon.

Who liable for rates.

25. It shall not be lawful for any person primarily liable for payment of any rates imposed pursuant to this Proclamation in respect of any rateable property to render any person interested under or subsequent to himself as lessee of such rateable property or any part thereof liable absolutely or conditionally to pay such rates or any part thereof in lieu or stead of himself and any contract, written or oral made or entered into after the taking effect of this Proclamation imposing on any such subsequent lessee any liability for or in respect of such payment shall be wholly void.

Avoidance of contracts, stipulations, &c., intended to shift the incidence of rates.

26. No transfer or cession of any interest in any piece of land shall be passed before any Registrar of Deeds or Registrar of Mining Rights or other Government Official until a proper

Rates to be a first charge on rateable property.

receipt shall be produced to such Official for payment of the rates last imposed on such interest.

Application of rates.

27. The proceeds of the rate or rates in the preceding sections mentioned shall be applied for and towards such purposes of the Municipality as the Council shall from time to time think fit.

SCHEDULE.

OBJECTIONS.

Against an entry in the Valuation Roll made up under the provisions of Proclamation No. 38 of 1902.

Year 190...

To the Valuation Court
of the Municipality of Johannesburg.

The following entry has been made in the Valuation Roll of the Municipality of Johannesburg:—

Here insert the name
of Objector and copy
of the entry complained of

I do hereby object to the said entry and ask that:—

The Objector will here
state what entry he
considers should be
substituted for the
above.

On the following grounds:—

The Objector will here
state the reasons why
he considers the entry
should be altered.

Signature of Objector.

Johannesburg.....day of.....190...

VALUATION COURT.

Objection by

Decision of Court:

Sec.:

No.:

Johannesburg,

....day of.....190...

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 19TH JUNE, 1902.)

WHEREAS it is desirable to add to the powers granted to the Town Council of Johannesburg in and by Proclamation No. 16 of 1901 :

Preamble.

Now, therefore, by virtue of the authority vested in me, I do hereby proclaim, declare, and make known as follows :—

1. The term “the Council,” as used in this Proclamation, shall mean the Town Council of Johannesburg, established under Proclamation No. 16 of 1901.

Definition of Council.

2. (1) Clause 4 of Proclamation No. 16 of 1901 is hereby repealed, and the following clause substituted in place thereof :—

Amendment of Proclamation No. 16 of 1901, Clauses 4, 6, 7, 10, 18, 31, 31-38, 40, 41, and 43.

(a) There shall be for the Government of the said Municipality, a Council which shall consist of so many Councillors as the Governor shall from time to time, by notice in the *Gazette*, determine, not being less than twelve, to be appointed by the Governor, and to hold office during pleasure. A Chairman and Deputy Chairman of the Municipality shall be appointed by the Governor from among the Councillors, and shall hold office during the Governor's pleasure, and the Deputy Chairman shall be paid such salary from and out of the funds of the Municipality as the Governor may direct.

(2) Clause 6 of Proclamation of No. 16 of 1901 is hereby amended by the deletion of the words, “An Ordinary Meeting of the Council shall take place at least once in every week,” and by the insertion in their place of the words, “The Council shall meet at least forty (40) times in each calendar year.”

(3) Clause 7 of Proclamation No. 16 of 1901 is hereby amended by the deletion of the word “seven” therein, and the substitution in place thereof of the words, “one-half or such larger proportion as the Council may from time to time fix of the—.”

(4) Clause 10 of Proclamation No. 16 of 1901 is hereby amended, by striking out all the words after the word “purpose” therein, and by substituting in place thereof the following words: “and minutes of proceedings at a meeting of the Council, signed at the same or the next ensuing meeting by the

Chairman, or by a member of the Council, describing himself as, or appearing to be, Chairman of the meeting at which the minutes are signed, shall be received in evidence without further proof."

(5) Clause 18 of Proclamation No. 16 of 1901 is hereby amended, by striking out all the words after the word "paid," where it occurs the second time in the said clause.

(6) Clause 31 of Proclamation No. 16 of 1901 is hereby repealed, and a new clause inserted in place thereof, to read as follows :—

"The Council shall, in addition to the powers above enumerated, have the power to supply, on such terms as may be fixed by the Council, electricity, gas and water, for all purposes for which the same can be used, to all buildings, grounds, places or premises, or any part thereof."

(7) Clauses 32 to 36 inclusive of Proclamation No. 16 of 1902 are hereby amended, by the substitution of the words "gas or water," for the words "or gas," wherever the same occur in the said clauses.

(8) Clause 37 of Proclamation No. 16 of 1901 is hereby repealed, and the following clause substituted in lieu thereof :—

"All streets, roads, thoroughfares, foot-pavements, foot-paths, sidewalks, squares and open spaces which have been, or shall be, at any time set apart and appropriated by proper authority, for the use of the public, or to which the inhabitants of the Municipality shall at any time have or acquire, a common right shall be vested in, and be under the management and control of the Council."

(9) Clause 38 of Proclamation No. 16 of 1901 is hereby amended, by the insertion therein after the word "Chairman," of the words, "or in his absence the Deputy Chairman."

(10) Clause 40 of Proclamation No. 16 of 1901 is hereby amended, by the insertion of the word "rents" after the word "tolls" in sub-section (2), and by adding at the end of sub-section (3) the words, "and also all charges or profits arising from any service or undertaking carried on by the Council, by virtue of any powers vested in it."

(11) Clauses 41 and 43 of Proclamation No. 16 of 1901 are hereby amended by the insertion of the words "or under any bye-law in force in the Municipality" after the word "Proclamation" in each of the said Clauses.

3. Clause 21 of Proclamation 16 of 1901 is hereby amended :—

By adding at end of sub-section (3) the words "and the charging of fees in connection with public sales held on any public square or open space."

By adding after the word "vehicles" in sub-section eleven the words "standing or."

By striking out sub-section (15) and inserting instead thereof the following sub-section :—

(15) For preventing or regulating and controlling the use, storage, sale, and removal of dynamite, petroleum, and other explosives or combustibles.

By adding at end of sub-section (16) the words “and also for dealing with vicious or dangerous dogs and such as create disturbance by barking or otherwise.”

Dangerous Dogs.

By adding at end of sub-section (18) the words “and for charging fees in connection therewith.”

And at the end of sub-section (19) by adding the words “and for prohibiting or regulating and controlling the planting of trees in streets, and for maintaining, cutting, or removing any such trees.”

Trees in Streets.

By adding to sub-section (27) the following words “and the charging of fees in connection with any such hoarding.”

And after sub-section (27) by adding the following sub-sections :—

For determining and regulating the places where and the manner in which placards, bills, advertising boards, or advertisements, or notices of any kind shall be displayed in or near, or in view of any street or thoroughfare.

Advertising Boards.

For prohibiting or regulating, or licensing the use and passage of advertising vans, sandwich boards, lanterns, flags, screens, or other movable advertising devices in or along any street or thoroughfare.

Advertising Vans.

* For the regulation, or prevention of washing of clothes on public or private premises, and the licensing of persons for washing and laundry work.

Washing of clothes.

For establishing, maintaining, and regulating Tramways.

Tramways

For licensing and regulating Tea Rooms, Cafés, Restaurants, Eating and Lodging-houses, and all dairies, milkshops, cowsheds, bake-houses, butchers' shops, and all factories and places where articles of food, or drink are manufactured, or prepared for sale or use.

Tea Rooms, Cafés, &c.

For licensing, controlling, and regulating Theatres, Music Halls, Public Halls, Concert Rooms, and other places of public entertainment.

Places of Entertainment.

† For licensing and regulating Locomotives, Tramcars, Omnibuses, and all private vehicles.

Locomotives, Tramcars, &c., public vehicles.

For establishing and maintaining and compelling the use of any sanitary or other service which the Council is authorised to carry out or regulate or which may be established by virtue of any powers vested in the Council.

Compelling use of Sanitary Service.

For preventing the pollution of gathering grounds, springs, wells, reservoirs, filter-beds, water purification, or pumping works, tanks, cisterns, or other sources of

Purity of Water Supply.

* For bye-laws as to laundries see *Gazette*, 28th November, 1902, p. 1698 (Government Notice No. 636 of 1902).

† The word “private” was inserted in error in the Proclamation as originally gazetted.

water supply, or storage whether situate within or without the Municipality, the water wherein or wherefrom is used or is likely to be used by man within the Municipality for drinking or domestic purposes.

For determining and regulating :—

(a) The structure of walls, foundations, roofs, chimneys windows, guttering, and down-piping, and all other parts of buildings whether new or already existing in order to secure stability, sufficient height, light, and ventilation, and the proper off rain-water as well as for the prevention of fires and for purposes of health.

(b) The sufficiency of the space about buildings in order to secure a free circulation of air, and the proper ventilation of buildings.

(c) The closing of buildings or parts of buildings, unfit for human habitation, and the prohibition of their use for habitation or occupation.

For the giving of notice and the deposit of plans and sections by persons wishing to construct or alter buildings ; for the approval or otherwise of all plans and sections of any such buildings or alterations by the servants of the Council, and the charging of fees in connection therewith, and for the removal, alteration, or pulling down at the expense of the owner of any work begun, or done in contravention of any Bye-Law or Regulation, and for preventing the occupation of any new or altered buildings, until a certificate of the fitness thereof for habitation shall have been issued, signed by the Medical Officer of Health.

For preventing the disfiguring of the front of buildings or fences, and for prohibiting or licensing the use, or regulating the size, description and fixing of signboards, screens, private lamps, sun blinds, or other devices attached to or connected with any buildings or fences, by means whereof any advertisements or notices of any kind may be displayed.

For preventing and removing obstructions in streets, roads, squares, and public thoroughfares, foot pavements and sidewalks, for dealing with diseased animals, and the burial of dead animals, and the driving of live stock through streets or thoroughfares, and as to live stock found straying in any streets or thoroughfares.

For establishing, maintaining, and regulating pounds, and public weighing machines, and charging of fees in connection therewith.

For establishing, maintaining, and regulating Cold Storage Works.

For prohibiting or regulating the erection of wires of any kind, in along, under, or over any street or thorough-

Structure of walls,
foundations, &c.

Air spaces.

Buildings unfit for
habitation.

Approval of plans,
&c.

Disfiguring of
buildings or fences.

Obstructions in
streets.

Pounds and
weighing machines.

Erection of Wires.

- fare, provided, that such wires as may be erected for public purposes by the Postmaster-General shall not be prohibited.
- For the prevention of nuisances, arising from stable litter, filth, dust, ashes and rubbish, or from any other cause, and for the prevention of the keeping of animals on any premises so as to be a nuisance or to be injurious to health. Prevention of nuisances.
- For preventing any person or vehicle from carrying or conveying any article, burden or load, so as to obstruct or incommode passengers or vehicles in any street, sidewalk or foot pavement, and for preventing the wheeling of wheelbarrows, cycles or other vehicles, on any sidewalk or foot pavement, except for the purpose of crossing the same to or from any house or building. Obstructions on pavements, &c.
- For preventing persons from congregating with others and thus causing an obstruction in any sidewalk, thoroughfare or open space, except such as may be set apart for the purpose, and for preventing obstructions in streets, thoroughfares, and open spaces.
- For regulating the construction and maintenance of all installations for the supply of light, heat, or power, by means of electricity, gas, or otherwise. Installation for supply of light, &c.
- For regulating and controlling the generation of acetylene gas, or other inflammable, or explosive gas, and the construction and use of all apparatus connected therewith, and for preventing or regulating the storage of liquid acetylene, or carbide of calcium.
- For the provision of a proper and sufficient water supply for every dwelling-house, school, store, factory, or workshop.
- For the giving of notice, and the deposit of plans by persons wishing to lay out any building lots or new townships; for the approval or otherwise of all such plans by the Council, for securing uniformity and continuity of streets, on, or leading to or from any private property, and for preventing the laying out of new building lots or townships, or the sub-division of existing building lots without the approval of the Council. Plans of building lots.
- For enabling the Council to establish, maintain, and control locations or townships for Asiatics and other coloured persons, and to charge rents for the use of Stands in locations or townships laid out by the Council. Establishment and control of locations.
- For enabling the Council to control and supervise the housing of natives by employers, and to prevent annoyance to persons in the neighbourhood arising therefrom; to compel all natives not residing on the premises of their European employers, or not holding letters of exemption whilst lawfully within the Municipality to reside at any location for natives, which may have been established by the Council; and Housing of natives by employers.

Compulsory residence of natives in locations.

Natives in public streets.

Meaning of term "Native."

Cesspools, &c.

Urinals.

Street decorations and temporary platforms.

Gutterings and down-pipes.

Weights and measures.

Sale by weight and measure.

Meters.

for enabling the Council to regulate the use of public streets by natives, and for prohibiting the carrying by natives of knobkerries, assegais, or other sticks or weapons, and further for enabling the Council to license native wash-boys and native labourers other than boy or labourers, employer in industrial concerns or domestic service. The term "Natives" as used herein shall include any person belonging to any of the aboriginal races or tribes of Africa, South of the Equator, and any person one of whose parents belongs to any such race or tribe as aforesaid.

For preventing the use, and securing the closing of cesspools, and for regulating the provision, construction, use and repair of, and for preventing damage to earth closets, water closets, privies, ashpits, urinals, sinks, fixed baths and fixed basins, waste pipes, drains and slop tanks in connection with buildings.

For ascertaining the existence and cause of any nuisance arising from any drain, closet, cesspool or water supply, sink trap, syphon, pipe or other work or apparatus connected therewith, and for remedying the same and recovering the expenses incurred by the Municipality in respect thereof.

For establishing, maintaining and regulating public closets, urinals and lavatories.

For regulating and controlling street decorations, and for prohibiting, regulating and controlling the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment, or for the accommodation of spectators at any procession, ceremony or spectacular display of any kind.

For preventing the discharge of any guttering or down-pipes, on to any pavement or sidewalk, and securing, regulating and controlling the laying down of pipes, to carry any out-flow therefrom to such gutter, or drain, as may be authorised or approved by the Council for the purpose.

† For regulating and controlling the sale and use, and the inspection, verification, and stamping of weights, measures, and weighing instruments, and the charging of fees in connection therewith.

For regulating and controlling the sale of goods, wares, merchandise, or other things by weight or measure.

For regulating and controlling the use of gas, water, and electric meters, and the testing and stamping of such meters, and the charging of fees in connection therewith.

* The words "other than.....domestic service" are inserted by virtue of Ord. 41 of 1902, sect. 2.

† For bye-laws as to weights and measures and the sale of goods, &c., by weight or measure, see *Gazette*, 28th November, 1902, p. 1700 (Government Notice No. 638 of 1902).

- For preventing, or regulating, and controlling the keeping of bees, and of wild or dangerous animals.
- For preventing the possession, sale, or offering for sale, or the conveyance, or handling, otherwise than for purposes of destruction, and for ensuring the destruction when necessary, in the opinion of the Medical Officer of Health of diseased animals, and of diseased meat, fish, or other articles of food or drink unfit for the use of man, and for preventing the adulteration or reduction below a proper standard of quality, and for securing the sale in a pure state, of milk, or any other article of food or drink, and for authorising the entry on, and inspection of premises, vehicles or packages, for securing any of the objects of this clause.
- For regulating and controlling the conveyance of meat or dead animals through, or along any public streets or public thoroughfares.
4. Clause 30 of Proclamation, 16 of 1901, is hereby added to by the insertion at the end thereof of the following additional sub-sections :—
- To establish and maintain cemeteries, and to make such charges in connection therewith as may be fixed by bye-laws.
- To establish, erect and maintain markets and market-buildings.
- To establish, maintain and regulate one or more fire brigades, and to make such charges for the service of such brigades, and for the water used at fires as may be fixed by bye-laws.
- To purchase, lease, or otherwise acquire, all such movable and, subject to the approval of the Governor, such immovable property as the Council may from time to time require, for the proper carrying out of the powers, duties, rights, and obligations of the Council.
- To establish, maintain, and carry out such sanitary services for the removal of nightsoil, slops, rubbish, and refuse of all kinds, and to make such charges for the same, as the Council may from time to time think fit.
- To acquire, construct, lay down, equip, maintain and work tramways, and to make charges in connection therewith.
- To acquire, erect, construct, equip, and carry on lighting, heating, or power supply works, within the Municipality, or beyond its limits.
- To erect, construct, equip, and carry out sewerage or drainage works within the Municipality, or beyond its limits.
- To acquire, erect, construct, equip, and carry on, and make charges in connection with cold storage works.
- Bees and wild animals.
- Diseased meat and adulteration of food.
- Conveying meat in town.
- Amendment of Clause 30 of Proclamation No. 16 of 1901.
- Power to establish fire brigade.
- Purchase.
- Sanitary service.
- Tramways.
- Lighting works, &c.
- Drainage.
- Cold storage works.

To provide for carrying on works beyond the boundaries.

To enter into any contract, or contracts with any Municipality, Board of Health, or other corporation or company, person or persons, to secure or further the carrying out beyond the limits of the Municipality of any work, or undertaking which may be within the powers of the Council.

To sell.

To sell all by-products resulting from the carrying on of any works or undertakings which may be within the powers of the Council, and also to let, sell or otherwise dispose of any movable or immovable property; Provided no sale or lease of immovable property, exceeding £1,000 in value, shall take place without the sanction of the Administrator of this Colony.

Power to do all the things for which there is power to make bye-laws.

To do all things necessary for carrying out all the purposes for or in regard to which the Council is authorised from time to time, to make, alter or revoke bye-laws or regulations, and for carrying into effect all such bye-laws or regulations.

Saving clause about pounds.

5. Nothing in Law No. 2 of 1882, or Law No. 8 of 1899, contained shall apply to any pound established by the Council.

Power to close streets or roads.

6. The Council shall have the power, anything to the contrary in this Proclamation notwithstanding, at all times and upon such notice as it shall deem fit, to close any street, road or thoroughfare, for any particular class of traffic, or for all traffic, either temporarily or permanently.

Inspection and copies.

7. (1) The minutes of proceedings of the Council shall, at all reasonable times, be open to the inspection of any inhabitant of Johannesburg, who may make a copy thereof, or take an extract therefrom, on payment of a fee of one shilling.

(2) The Treasurer's accounts shall be open to the inspection of any member of the Council, who may make a copy thereof, or take an extract therefrom.

(3) The abstract of the Treasurer's accounts shall be open to the inspection of all inhabitants of Johannesburg, and copies thereof shall be delivered to any inhabitant, on payment of such fee for each copy as may be prescribed by regulation.

8. The sole and exclusive right is hereby given to the Council to establish, maintain and work, electric or mechanically worked tramways for public use within the Municipality.

Permission granted by late Stadsraad to erect colonnades, balconies, &c., declared lapsed where no work done.

9. In all cases in which permission has been obtained under regulations or otherwise from the late Stadsraad or its predecessors, to erect colonnades, balconies, verandahs, or other projections or wires, over any street, or to lay down pavements, kerbing or gutters, or acquire openings in or rights under pavements, or to acquire any other right in any portion of any street within the Municipality, and no work has at the date hereof been done or executed under or by virtue of such permission, the same shall as from the date hereof lapse and determine.

10. In all such cases as aforesaid in which any work has, under and by virtue of any such permission, been done or executed at the date hereof, the Council shall have the power, either summarily or on such notice as it may deem fit, to cancel the said permission and to remove or cause to be removed at the expense of the person claiming the benefit of any such permission, all structures erected, or openings or excavations made in pursuance of any such permission, on paying to the person or persons to whom such permission has been granted, or his or their legal successors in title, compensation in respect of any of such structures, openings or excavations so removed as hereinafter set forth. The Council, may, however, in its discretion, confirm for such period and subject to any such modification as it may deem fit, any such permission, and in that event shall have the power to charge in respect of the exercise thereof such annual or other sum and to impose such other conditions as the Council may from time to time determine, either in place and stead of, or in addition to, any obligation expressed in the terms of such permission or otherwise: Provided, however, that no person shall in any event by the continued exercise of any rights in pursuance of any such permission acquire any prescriptive right to the use of any portion of any street.

Where work done, Council has power to cancel permission on payment of compensation.

Council may confirm permission and may make charge for same.

11. In case it shall become necessary for the Council to pay any compensation to any person or persons as aforesaid, the amount thereof shall be determined by mutual agreement if possible, but failing such agreement then by arbitration as hereinafter provided: Provided, however, that the Council shall in no case pay compensation for or in respect of any direct or indirect or consequential damages which may be sustained through the removal of any structure, opening or excavation as aforesaid, but only for or in respect of the actual loss incurred on the value of such structure, opening or excavation, and the actual cost of removing the same and of placing any building affected by such removal in such condition as regards safety, or otherwise as may be required to comply with any of the Council's bye-laws regarding buildings.

Amount of compensation determined by arbitration where parties cannot agree.

Only actual value of structure, &c., paid.

12. The Council shall have power, by themselves or their officers, to inspect all wells, tanks and cisterns within the Municipality, the water wherein or wherefrom is used, or likely to be used, by man for drinking or domestic purposes, or for the manufacture of drinks for the use of man, or as an ingredient in the manufacture of any article intended for food for the use of man; and if on any inspection as aforesaid or on the representation of any person it shall at any time appear that any such water is so polluted as to be injurious to health, or that any bye-laws in respect thereof have not been complied with the Council shall call upon the owner or occupier of the premises to which the well, tank or cistern belongs forthwith to close remedy the same and failing compliance with such notice the Council may take proceedings before any competent Court whether by way of summons or application; and on any proceedings against

Power to inspect wells, tanks, and cisterns.

Power to make bye-laws to protect water against pollution.

Power to close wells.

Penalty for non-compliance.

Court may authorise Council to close well.

Service of notice where owner absent.

Power to inspect water supply.

Prosecutions.

Plans of existing townships to be deposited with the Council.

such person for such non-compliance or for breach of any bye-law framed in pursuance hereof the Court may in the event of conviction make an order directing the well, tank or cistern to be permanently or temporarily closed by such person or such other order as may appear requisite or necessary to prevent injury to the health of persons using the water therefrom, and may in addition sentence the person convicted to a fine not exceeding five pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding one month ; and the Court may further, if it appear necessary, cause the water to be analysed at the cost of the Council, and the Court in making any such order may further authorise the Council if the person on whom an order is made by virtue hereof fails to comply with the same within such period as the Court shall deem reasonable to do whatever may be necessary in the execution of such order, and all expenses incurred by them may be summarily recovered from the person on whom the order was made ; provided that in the case of any well, tank or cistern as aforesaid being situated upon any unoccupied ground the owner whereof (or some person duly authorised to represent him) cannot after reasonable enquiry be found within the Municipality, any such notice, summons or other process as aforesaid shall be deemed to be sufficiently served if the same be affixed to such tank or cistern or to any building erection, post or board upon or in the immediate vicinity of such well, tank or cistern.

13. The Council shall have power by themselves or their servants at any time of the day or night and without notice to enter upon or inspect or take samples from or require information in respect of the condition and working of all gathering grounds, springs, reservoirs, filter-beds, water purification or pumping works or other sources of water supply storage or distribution, whether situated within or without the Municipality the water wherein or wherefrom is used or is likely to be used by man within the Municipality for drinking or domestic purposes.

14. The Council may prosecute summarily in the Court of the Resident Magistrate for all breaches of its bye-laws or regulations ; and the provisions of any law relating to prosecutions by private persons shall apply to all such prosecutions.

15. Every owner of a now existing township within the Municipality, containing one or more streets or thoroughfares shall within sixty (60) days after the date of this Proclamation file at the office of the Town Engineer, a plan certified by a Government Surveyor showing all the Stands or Lots and all the roads, streets, or thoroughfares and all squares or other open spaces within such township existing on the 8th day of May, 1901, or in case of any township laid out since that date existing at the date of this Proclamation and set apart by such owner for the use of the public, or represented by such owner either on a plan or otherwise as intended for public use and

every such first mentioned plan, if, and when approved by the Council or settled by arbitration as hereinafter provided, shall for all Municipal purposes, be deemed to be the authorised plan of such townships, and all the streets, roads, thoroughfares, squares and open spaces shown thereon and set apart or represented as aforesaid, shall be vested in and be under the control and management of the Council. For the purpose of this Section the term "Township" shall mean any piece of land divided into stands or lots for purposes of sale or lease, and "Owner" shall mean the holder or holders whether in freehold or otherwise of every such piece of land who shall have so divided the same, or his or their successors in title other than the holders of such stands or lots.

16. It shall be competent for the Council in case it shall consider that any such plan so filed as aforesaid is defective in that it does not show or only partially or incorrectly shows any street, thoroughfare, square or other open space which was in existence on the date above referred to, and which under the previous Section is vested in and is under the control and management of the Council to make objection to such plan on the ground of such defect by serving a notice of such objection, setting forth in detail the grounds thereof at the office or place of business in Johannesburg of the person or Company filing such plan within ninety days after the date of the filing thereof.

Provisions for objections being made by the Council.

17. In case within ninety (90) days after the filing of any plan as aforesaid, the Council shall not serve or cause to be served at the office or place of business in Johannesburg of the person or company filing the same, any notice or objection as aforesaid to such plan, then the same shall be deemed and taken to be approved by the Council and become the authorised plan of the township as aforesaid.

If no objections by Council within ninety days after filing of plan it shall be taken to be approved of.

18. In case within the said period of ninety (90) days as aforesaid, the Council shall serve, or cause to be served, a notice of objection as aforesaid, to any such plan at the office or place of business in Johannesburg of the person or company filing the same then unless the difference or matter in regard to which such objection is made can forthwith be settled between the Council and such person or company, the same and the plan in question shall be referred to and settled by arbitration as hereinafter provided, and the plan so settled shall become the authorised plan as aforesaid of the township therein referred to.

If objections and differences cannot be settled, reference to arbitration.

19. In case of any dispute or difference arising in regard to any matter necessitating settlement by arbitration as aforesaid, or in case of reference either by agreement or by operation of any law under which other provision is not made of any dispute in which the Council shall at any time be concerned to arbitration the provisions of the clauses relating to arbitration in the "Expropriation of Lands and Arbitration Clauses Proclamation, 1902." shall, except as hereinafter provided, apply

Arbitration clauses.

mutatis mutandis to arbitration proceedings by the Council, as if the said clauses were inserted in this Proclamation.

Before arbitrators,
each party may ap-
pear by Counsel.

20. Upon all proceedings before any arbitrator or arbitrators or umpires, as the case may be, each party may appear in person, or by counsel or solicitors, or admitted and licensed law agents, and may produce such witnesses and documentary evidence as the arbitrator or arbitrators, or umpire as the case may be, shall allow.

Costs of arbitra-
tion.

21. The costs of and incidental to any reference to arbitration shall be, in the discretion of and be settled by the arbitrator or arbitrators or umpire, as the case may be.

Definition of
"Owner."

22. For all municipal purposes except where otherwise provided the term owner shall include any person receiving the rent or profits of any lands or premises from any tenant or occupier thereof, or who would receive such rents or profits if such land or premises were let whether on his own account or as agent for any person entitled thereto, or interested therein; and the term occupier shall include any person in actual occupation of land or premises without regard to the title under which he occupies, and in case of premises sub-divided and let to lodgers or various tenants the person receiving the rent payable by the lodgers or tenants, whether on his own account or as agent for any person entitled thereto or interested therein.

Indemnity clause.

23. Any act, matter or thing done or executed by the Council prior to the date of this Proclamation, which may at the date of the execution thereof have been beyond the powers and authorities of the Council, but which would have been valid had this Proclamation then been in force is hereby declared to have been and to be valid.

Title.

24. This Proclamation shall be read as one with Proclamation No. 16 of 1901, and shall be cited for all purposes as the "Johannesburg Municipality Amendment Proclamation, 1902."

PROCLAMATION

By His Excellency the Administrator of the Transvaal.

(DATED 19TH JUNE, 1902.)

To increase the Jurisdiction of the Native Court for
the Witwatersrand District.

WHEREAS it is desirable to increase the jurisdiction of
the Native Court at Johannesburg for the Witwatersrand
District :

Preamble

Now, therefore, by virtue of the authority in me vested,
I do hereby declare, proclaim and make known as follows :—

1. In addition to the jurisdiction conferred by Section
fifty-seven of the “Magistrates Court Proclamation 1902,” the
Native Court constituted and established under the said
Proclamation, shall have exclusive jurisdiction to try all
contraventions by any person of the Native Passes Proclamation
1901, and the regulations thereunder, and all contraventions of
the Masters and Servants’ Law where either the complainant or
the accused is a coloured person.

Extension of Juris-
diction of Native
Court at Johannes-
burg.

2. This Proclamation may be cited for all purposes as
“The Native Court Extended Jurisdiction Proclamation 1902.”

Title.

NOTE.

*On the 21st June, 1902, was issued a Proclamation by His
Excellency, notifying that His Majesty the King, by Warrant
under His Royal Sign Manual, has been graciously pleased by
Letters Patent passed under The Great Seal of the United
Kingdom, to constitute the office of Governor of the Colony of the
Transvaal, to provide for the Government thereof, and to constitute
a Legislative Council with full powers and authority to establish
such Ordinances as may be necessary for the peace, order and good
government of the Colony.*

*From this date therefore, all Legislative Enactments have been
named Ordinances.*

APPENDIX.

PROCLAMATION.

NATIVE MARRIAGES BY CHRISTIAN RITES.

(DATED 29TH SEPTEMBER, 1900.)

WHEREAS LAW No. 3 OF 1897 makes provision for the Marriage of Natives by Christian Rites :

AND WHEREAS it is desirable to appoint some person or persons as Marriage Officer under the said Law, and who can also explain to Natives the effect of such marriage :

NOW THEREFORE, I, JOHN GRENFELL MAXWELL, MAJOR-GENERAL, MILITARY GOVERNOR OF PRETORIA, by virtue of the authority committed to me, do hereby proclaim and make known as follows :—

* (1) Any Natives desirous of being married in accordance with Christian Rites, shall, before the solemnisation of their marriage by the Officer appointed by the Government under Article 2 of the Law, or before the issue of a certificate by such Officer for the solemnisation of the marriage by a clergyman or minister authorised thereto by the Government, subscribe and declare to the particulars required in the following schedule :—

(A)

I hereby declare that the nature and obligation of the marriage contract I desire to enter into has been fully explained to and understood by me, and I am aware that, should I contract another marriage during the lifetime of my spouse without having previously obtained a divorce, I shall be liable to prosecution for bigamy and to imprisonment with hard labour for five years or such other time as may be decreed by the Court.

Witnessed and interpreted by :—

.....
.....

Sworn before me,

.....

Marriage Officer,
Justice of the Peace.

* Marriages solemnised by Magistrates or District Commissioners appointed by Military Governor are legalized by Pr. Tr. 31 of 1902 : as also are marriages solemnised by ministers of religion duly authorised by Government Notice issued since 9th June, p. 1900.

*(2) Under and by virtue of the provisions of Article 2 of the Law herein before referred to, PERCY CAZENOVE, LIEUTENANT, 15th Regiment Imperial Yeomanry, Staff Officer for Native Passes, presently at Pretoria, is hereby appointed to be MARRIAGE OFFICER for the Town and District of Pretoria for Natives desirous of being joined together in matrimony by Christian Rites, and to be *ex-officio* Justice of the Peace within the Town and District of Pretoria.

Appointment of
Native Marriage
Officer for Pretoria.

*(3) All appointments by the Government of the South African Republic of Clergymen or Ministers as Marriage Officers under Article 6 of the Law No. 3 of 1897 are hereby confirmed.

Appointments of
Native Marriage
Officers of S.A.R.
confirmed.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twenty-Ninth Day of September, One Thousand Nine Hundred.

J. G. MAXWELL,
Major-General,
Military Governor.

* Marriages solemnised under Law 3 of 1897 by Magistrates or District Commissioners appointed by Military Governors or by ministers of religion duly authorised by a Government Notice issued subsequent to 9th June, 1900 are legalized by Pr. Tr. 31 of 1902.

PROCLAMATION

By His Excellency the High Commissioner for South Africa.

WHEREAS it is provided by Proclamation No. 17 of 1901, issued by Lord Kitchener, as High Commissioner for South Africa, at Pretoria on the 7th August last, that the cost of the maintenance of the families of all burghers in the field, who shall not have surrendered by the 15th of September, 1901, shall be recoverable from such burghers and shall be a charge upon their property, movable and immovable, in the Transvaal and Orange River Colony :

And whereas no provision is made in the said Proclamation, nor at the present time exists, whereby such cost of maintenance as aforesaid may be recovered :

And whereas, further, it is desirable to provide for the manner and process by which the aforementioned provision of the said Proclamation may be fully and speedily carried into effect :

Now, therefore, under and by virtue of the authority in me vested, I do hereby proclaim and make known as follows :—

1. On and after the 15th day of September, 1901, it shall be lawful to sell by public auction any property in the Transvaal or Orange River Colony, movable or immovable, and to attach the credit balance in any bank in either of the said Colonies of any burgher of the late South African Republic or of the late Orange Free State who shall not have surrendered previous to such aforementioned date, and whose properties have thereby become subject to the charges imposed thereon by the aforesaid Proclamation No. 17 of 1901.

2. The powers conferred by section 1 of this Proclamation shall, in the case of property in the Transvaal, be exercised by the Secretary to the Administration thereof, and in the case of property in the Orange River Colony, by the Secretary to the Administration of the said Colony, at such time and on such conditions as they may respectively determine.

For the proper exercise of the aforesaid powers the said Secretaries respectively may appoint such persons as they may approve of to sell, deliver, cede or transfer any such property as aforesaid, and any such sale, delivery, cession or transfer shall be valid and binding in Law.

3. The person appointed as aforesaid to sell any immovable property shall—

- (a) Inquire into and ascertain the extent and particulars of all mortgage bonds, hypothecs and other burdens on the said property, as well as into the value thereof.
- (b) After having ascertained the probable value of the said property, advertise the sale thereof twice at least in the *Gazette* and in such other paper as in the circumstances shall seem to him expedient; such sale shall be held not less than three weeks from the date of first publication of the said advertisement, which shall contain a description of the situation, extent, nature and other particulars of the property to be sold, the time and place for the holding of the said sale and the material conditions thereof.
- (c) Immediately after the sale frame a plan of the distribution of the proceeds of the said sale amongst the claims secured by the said property in their legal order of preference, which plan shall lie at the office of the Orphan Master for the inspection of all parties interested for a period of not less than fourteen days so as to enable any of such parties to object to the same, unless they shall signify in writing their agreement thereto.

Any person objecting to the plan of distribution shall lodge with the Orphan Master a notice in writing of his objection, and the proceeds of the said sale shall not be distributed until such objection is determined by the Supreme Court of this Colony, when established, or be withdrawn, or be admitted by the other parties interested in the distribution of the said proceeds.

When any objection to the plan of distribution is admitted by the parties interested, or upheld by the decision of the Supreme Court, the said plan shall be amended accordingly.

- (d) Deposit the proceeds of any such sale as aforesaid in the office of the Controller of the Treasury.

4. The balance of the proceeds of the sale of any such immovable property as aforesaid remaining after payment of the claims on the plan of distribution mentioned in the last preceding section when finally settled shall be available for satisfying the charge imposed on the said property by the aforesaid Proclamation No. 17 of 1901.

5. Should the legal holder of a mortgage bond on any property sold as aforesaid, or should the person entitled to a tacit hypothec or other charge on such property be a burgher of the late South African Republic or of the late Orange Free State who shall not have surrendered previous to the 15th September last, and on whose properties a charge is imposed by the aforesaid Proclamation No. 17 of 1901, he shall not be entitled to receive any of the proceeds of such sale in respect of such mortgage bonds, tacit hypothec or other charge but any sum due in respect of any such mortgage bond, tacit hypothec or charge shall be paid out of the said proceeds to the Controller of the Treasury, and shall be available for the purposes mentioned in the last preceding section.

6. All immovable property sold as aforesaid shall be subject to any *bonâ fide* lease of such property executed prior to the date of the aforesaid Proclamation No. 17 of 1901, to wit the 7th August, 1901.

7. The cancellation of any mortgage bond on any property sold as aforesaid, after payment thereof out of the proceeds of such sale, shall be effected on a written order by the Secretaries to the Transvaal and Orange River Colony Administrations respectively, addressed to the Registrar of Deeds of the Transvaal or Orange River Colony as the case may be.

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