

To.

A. J. Botes.

from.

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Trans

1886.

# STATUTES

OF THE

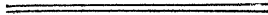
# CAPE OF GOOD HOPE,

PASSED BY THE

# FIFTH PARLIAMENT

DURING THE

SESSIONS 1874-1878.



CAPE TOWN :

SAUL SOLOMON & Co., STEAM PRINTING OFFICE,  
ST. GEORGE'S-STREET.

1882.

CAPE TOWN :  
SAUL SOLOMON AND CO. PRINTERS,  
ST. GEORGES-STREET.

**STATUTES**

**OF THE**

**CAPE OF GOOD HOPE.**

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# ACTS OF THE CAPE PARLIAMENT.

No. 1—1874.]

AN ACT

[June 23, 1874.

To Regulate the Investment of the Guardians' Fund,  
and the rate of Interest payable in respect thereof.

**W**HEREAS it is expedient to increase the powers at present possessed by the Master of the Supreme Court as to the investment of money in his hands as Administrator of the Guardians' Fund; and whereas the Act No. 15 of 1873, intituled "An Act to amend in certain respects Ordinance No. 105 of 1833, and to repeal Ordinance No. 3 of 1837, to endure for one year from the taking effect thereof," was by the third section thereof only to continue in operation for the period of one year from the 30th day of June, 1873, and it is expedient that the provisions thereof should be continued: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. The Ordinance No. 3 of 1837, intituled "Ordinance for altering the Ordinance No. 105, intituled 'Ordinance of His Excellency the Governor in Council for providing for the due administration and managementt of the Estates and Property of Minors, Lunatics, and Persons absent from the Colony, and for the proper care of the persons of Minors and Lunatics,'" and so much of the Ordinance No. 105 of 1833, intituled as aforesaid, as may be repugnant to or inconsistent with any of the provisions of this Act, are hereby repealed.

Ordinance No. 3 of 1837, and repugnant portions of Ordinance No. 105 of 1833, repealed.

II. It shall be lawful for the Governor to dispose of to the Master of the Supreme Court in his capacity of Administrator of the Guardians' Fund, and the said Master is hereby authorized to invest any unemployed moneys belonging to such Fund in so much of any stock and so many of any debentures which now have been or may hereafter be authorized to be raised or taken up by the Governor, as he may apply for on such terms as may be mutually agreed upon, provided that every such investment shall be made with the same advice or upon the same authority as if such investment were a loan upon mortgage.

Master may invest moneys of Guardians' Fund in Government stock or debentures.

III. In lieu and instead of the rate of interest provided for by the twenty-eighth and twenty-ninth sections of the Ordinance No. 105 of 1833, the interest payable by the said

Interest paid by Master to be four per cent. in certain cases.

B

No. 1—1874.

Master as Administrator of the Guardians' Fund, upon money which shall belong to any estate or to any person being or having a legal representative within this Colony, and which shall have been duly paid over to the said Master under the provisions of the twenty-fifth and twenty-sixth sections of the Ordinance No. 105, may be at the rate of four per cent. per annum.

Commencement of Act.

IV. This Act shall commence and take effect from and after the expiration of the said Act No. 15 of 1873, and no sooner.

Short title.

V. This Act may for all purposes be cited as "The Guardians' Fund Act, 1874."

No. 2—1874.]

AN ACT.

[July 6, 1874.]

To Secure by law a certain Allowance or Annual Pension to Sir Christoffel Joseph Brand, Knight, lately Speaker of the House of Assembly of the Cape of Good Hope.

Preamble.

WHEREAS Sir Christoffel Joseph Brand, Knight, has recently, in consequence of failing health, resigned the office of Speaker of the House of Assembly of this Colony, and the Parliament thereof is desirous of marking its sense of the long, great, and valued services rendered by him in the said office, by settling on him, for life, a pension equal to the salary and emoluments thereof: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Pension to be £1,000 per annum.

I. The Governor of the said Colony is hereby authorized and required to pay, or cause to be paid, from and out of the General Revenue of this Colony, to the said Sir Christoffel Joseph Brand, Knight, from the time of his said resignation, and during the remainder of his natural life, a pension at the rate of one thousand pounds sterling per annum.

No. 3—1874.]

AN ACT.

[July 6, 1874.]

To Provide for the Imprisonment in the Colony of certain Criminals sentenced in the Colony of Natal.

Preamble.

WHEREAS the Native Chief Langalibalele and one of his sons named Malambuli, have lately been tried and sentenced by the Supreme Native Court of the Colony of Natal, for certain offences by them committed, to banishment and imprisonment, the former for the term of his natural life, and the latter for the term of five years, and His Excellency the Lieutenant-Governor of the said Colony

of Natal has requested that the said Criminals may be permitted to be sent to Robben Island in Table Bay, in pursuance of their sentences, and it is advisable that the said request should be acceded to, and that provision be made for authorizing the imprisonment within this Colony, at Robben Island aforesaid, of the said Criminals: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

No. 3—1874.

I. From and after the arrival in this Colony of the said Langelibalele and the said Malambuli respectively, in pursuance of their said sentences, they shall and may respectively be imprisoned, detained and treated in every respect, and shall be deemed and taken to be within this Colony in precisely the same plight and condition as if the said terms for which they have been respectively sentenced as aforesaid were terms of imprisonment which they had respectively been sentenced to undergo by the Supreme Court of this Colony in respect of some crime or offence committed within the jurisdiction of the said Court.

Langelibalele and Malambuli may be imprisoned and detained in this Colony, as if sentenced in Supreme Court.

No. 4—1874.] AN ACT [July 6, 1874.

To Repeal the “Annexation of Ichaboe and Penguin Islands Act, 1873,” and to make other provisions in lieu thereof.

WHEREAS the island of Ichaboe on the south-west coast of South Africa, was, on the twenty-first day of June, 1861, duly taken possession of for and on behalf of Her Majesty Queen Victoria: And whereas, on the fifth day of May, 1866, certain other islands, islets, and rocks on the said coast, viz., Hollandsbird, Mercury, Long Island, Seal Island, Penguin Island, Halifax, Possession, Albatross Rock, Pomona, and Plum Pudding and Roast Beef, or Sinclair’s Island, hereinafter called the Penguin Islands, were also duly taken possession of for and on behalf of her said Majesty: And whereas, by a Proclamation dated the sixteenth day of July, 1866, by his Excellency Sir Philip Edmund Wodehouse, the then Governor of this Colony, the said island of Ichaboe and the said Penguin Islands were declared to be annexed to and to form part of this Colony: And whereas doubts having been entertained touching the legality of the said annexation by the said Proclamation, her said Majesty, by her Letters Patent dated the twenty-seventh day of February, 1867, after reciting (amongst other things the said doubts) that it was expedient that the same should be removed, and that the said islands should be annexed to and form part of this Colony, if the Legislative Council and

Preamble.

#### 4 ICHABOE AND PENGUIN ISLANDS CUSTOMS ACT.

No. 4—1874.

House of Assembly thereof should desire such annexation, and that until such annexation the affairs of the said islands should be administered by a Governor, to be for that purpose appointed by her said Majesty, did constitute and appoint the Governor and Commander-in-Chief for the time being of this Colony to be the Governor of the said islands, with certain powers therein mentioned, and did declare her pleasure to be that if at any time thereafter the said Legislative Council and House of Assembly should by resolution or otherwise request the said Governor of the said islands to transfer the same to this Colony for the purpose of their being annexed to and forming part thereof, and should by law provide that upon such transfer and annexation all laws which might be in force in this Colony on the day on which the said islands should be annexed thereto should immediately upon such annexation take effect and be in force in and upon the said islands so annexed, the said Governor should and was thereby authorized and empowered to transfer to this Colony the said islands, and from and after the date of such transfer the said islands so transferred should be deemed and taken to be and should be annexed to and form part of this Colony: And whereas it is expedient that the said islands shall be annexed to and form part of this Colony, and that, for the purpose of enabling the said annexation to be carried out according to the said Letters Patent, the said "Annexation of Ichaboe and Penguin Islands Act, 1873," which was passed in ignorance of the said doubts and of the said Letters Patent, should be repealed: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Act No. 1 of 1873 repealed.

As soon as Islands are annexed Colonial laws to be in force therein.

Short title.

I. The "Annexation of Ichaboe and Penguin Islands Act, 1873," is hereby repealed.

II. Upon the transfer and annexation of the said island of Ichaboe and the said Penguin Islands to this Colony, all laws which may then be in force in this Colony shall immediately upon such annexation take effect and be in force in and upon the said islands so annexed.

III. This Act may for all purposes be cited as the "Ichaboe and Penguin Islands Act, 1874."

No. 5—1874.]

AN ACT

[July 6, 1874.

To Exempt for the present the Island of Ichaboe and Penguin Islands from the operation of the Customs Laws of this Colony.

Preamble.

**W**HEREAS in case of the annexation of the island of Ichaboe and certain other islands, islets, and rocks



following and hereafter called the Penguin Islands, to wit: Hollandsbird, Mercury, Long Island, Seal Island, Penguin Island, Halifax, Possession, Albatross Rock, Pomona, and Plum Pudding and Roast Beef, or Sinclair's Island, it is expedient that the Customs Laws of the Colony should not at present be in force therein: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

No 5 -1874.

I. Notwithstanding that the said Island of Ichaboe and the said Penguin Islands may be annexed to this Colony, the said Islands shall, for the purposes of the laws relating to the Customs of this Colony, be deemed to be foreign ports respectively until the Parliament shall otherwise determine.

Islands to be deemed foreign ports for Customs purposes.

II. This Act may for all purposes be cited as the "Ichaboe and Penguin Islands Customs Act, 1874."

Short title.

No. 6—1874.]

AN ACT

[July 29, 1874.]

To Provide for taking a Census of the Population of the Colony of the Cape of Good Hope.

WHEREAS it is expedient that provision should be made for taking another census of the Colony, as accurate and complete as, regard being had to the consideration of expense and to other circumstances, may appear to the Governor to be practicable: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. It shall be lawful for the Governor, as soon as may be, to cause a census to be taken of the population, lands, live stock, and produce of this Colony.

Governor may cause census to be taken.

II. The said Governor shall by proclamation announce and make known the nature and particulars of the information to be collected by the enumerators to be employed in taking such census, and the duties to be discharged by such enumerators and by the inhabitants of the Colony respectively, and shall specify the forms of the returns to be made, which returns shall, as far as may be necessary or convenient, conform to the schedules annexed to "The Census Act, 1862."

Governor to proclaim duties of enumerators, forms of returns, &amp;c.

III. The Governor shall, in such proclamation, name some certain day as the day in regard to which the number of persons then in this Colony is, as accurately as circumstances will permit, to be ascertained by the enumerators: Provided that every enumerator shall inform himself of the

And name the day on which census to be taken.

No. 6—1874.

Divisional councils and municipalities to give all the aid in their power.

Eighth, tenth, and fourteenth sections of Census Act, 1862, to apply to enumerators under this Act.

Short title.

number of persons who were in his district upon that day as soon after that day as his duties as enumerator will allow.

IV. It shall be the duty of all divisional councils and municipal boards to aid, as far as in their power, in the taking of the said census, by supplying such information as they may be able to afford, and by performing such duties as shall by any such proclamation be assigned to them.

V. The provisions of the eighth, tenth, and fourteenth sections of "The Census Act, 1862," shall apply to the powers and responsibilities of the enumerators to be appointed by the Governor by any such proclamation as aforesaid, precisely as if the said sections were, *mutatis mutandis*, herein again set forth, and word for word repeated.

VI. This Act may be cited for all purposes as "The Census Act, 1874."

No. 7—1874.]

AN ACT

[July 29, 1874.]

### To Amend the "Border Protection Act, 1868."

Preamble.

**WHEREAS** it is expedient that the officer appointed to exercise jurisdiction under the "Border Protection Act; 1868," should, in addition to the jurisdiction given to him by the said Act, exercise within the limits of the district assigned to him under the said Act, certain powers possessed by a resident magistrate under the Act No. 15 of 1856, intituled "An Act to amend the laws regulating the relative rights and duties of Masters, Servants, and Apprentices," and other laws: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Officer appointed under Border Protection Act, 1868, to have jurisdiction under Act No. 15 of 1856.

I. It shall be lawful for the officer appointed to exercise jurisdiction under the said Border Protection Act, 1868, in addition to the jurisdiction thereby given to him, to exercise within the limits of the district from time to time defined by virtue of the first section of the said Act, the same jurisdiction as if such district were a district of a resident magistrate under the Act No. 20 of 1856, intituled "An Act for amending and consolidating the laws relative to the Courts of Resident Magistrates," and as if he were the resident magistrate of such district: Provided that nothing herein contained shall authorize the exercise by the said officer of any jurisdiction in civil cases, and provided that in the exercise of the jurisdiction hereby given the said officer shall conform as nearly as may be to the rules and laws in force as to courts of resident magistrates.

Short title.

II. This Act may be cited for all purposes as "The Border Protection Amendment Act, 1874."

No. 8—1874.]

AN ACT

[July 29, 1874.

No. 8—1874.

To Repeal the “Sinking Fund Act, 1864,” and the 2nd  
Section of the Act No. 5 of 1870.

**W**HEREAS, under and by virtue of the Sinking Fund Preamble.  
Act, 1864, and of the second section of the Act No.  
5 of 1870, intituled “An Act to amend in certain respects  
the Act No. 19 of 1864,” intituled “An Act to provide  
for the Leasing of Crown Lands, and other purposes,” large  
sums of money have been paid to the “Commissioners for  
administering the Sinking Fund of the Cape of Good Hope,”  
a great portion of which they are unable to invest as by  
law contemplated, and the same remain idle and uninvested  
in their hands ; and whereas “The Public Debt Consolida-  
tion Act, 1870,” provides for a Sinking Fund for, and the  
extinction of, all the Public Debts of this Colony up to the  
time of the passing of the said Act, and all Acts passed  
since that time, authorizing the borrowing of money, have  
in like manner provided for the extinction of such debts, and  
it has therefore become unnecessary that the provisions of  
the said first mentioned Acts should continue, and it is ad-  
visable that the uninvested moneys and assets of the said  
Commissioners, and the moneys which would otherwise be  
payable to them, under and by virtue of the said second  
section of the said Act No. 5 of 1870, should be paid  
to the Treasurer-General, to be available for the purpose of  
carrying on such public works as are already or may be  
authorized to be carried on, and that the moneys to arise  
from existing investments made by the said Commissioners  
should be dealt with in like manner: Be it enacted by the  
Governor of the Cape of Good Hope, with the advice and  
consent of the Legislative Council and House of Assembly  
thereof, as follows :

I. The said “Sinking Fund Act, 1864,” the second Repugnant Acts re-  
pealed.  
section of the said Act No. 5 of 1870, and so much of any  
other Act as is repugnant to or inconsistent with the pro-  
visions of this Act, are hereby repealed : Provided that such  
repeal shall not affect any act already done by the said Com-  
missioners, or any bonds or securities taken by them, or  
debentures purchased by them, or any cessions of any such  
bonds or securities made by them.

II. All bonds and securities taken by the said Com- Commissioners of  
Sinking Fund to hand  
over all bonds and  
securities to the  
Treasurer-General.  
missioners and in their hands, or in the hands of any person  
or persons on their behalf, at the time of the taking effect  
of this Act, shall by them be forthwith ceded and handed  
over to the Treasurer-General of this Colony, who shall  
stand in the same position with respect to such bonds and  
securities as the said Commissioners did at the time of such  
cession, and the said Treasurer-General for the time being

No. 8—1874.

shall sue for, recover, and receive the moneys due and to become due upon and in respect of such bonds and securities, and shall take all other steps which may be necessary, in and about the same, and all moneys to be received by the said Treasurer-General under or by virtue of any such bonds or securities shall form part of the general revenue of the Colony.

All moneys in hands of Commissioners or other persons to be paid over to Treasurer-General.

III. All moneys and other assets in the hands of the said Commissioners, or of any person or persons on their behalf, at the time of the taking effect of this Act, shall be forthwith paid over by them to the Treasurer-General as part of the general revenue of this Colony.

Short title.

IV. This Act may for all purposes be cited as the "Sinking Fund Repeal Act, 1874."

No. 9—1874.

AN ACT

[July 29, 1874.]

To Amend the Law relating to the Post Office and Postage.

Preamble.

WHEREAS it is expedient that the laws relating to the Post Office and Postage should be amended as hereafter mentioned: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Third section of Ordinance No. 1 of 1846 repealed, and another substituted.

I. The third section of the Ordinance No. 1 of 1846, intitled "Ordinance for the regulation of the Post Office and Postage," is hereby repealed, and the following shall be considered and substituted in its stead: For every half an ounce which any letter shall weigh over and above the weight of one ounce there shall be charged and taken an additional sum of four pence sterling, and every fraction of half an ounce shall be charged as half an ounce.

Postage on Colonial literary publications to any place not beyond the sea to be one penny.

II. The rate of postage on all literary periodical publications printed in this Colony, and posted in this Colony for transmission to any place not beyond the sea, shall be one penny, which shall be prepaid by means of postage stamps: Provided that the Governor shall have authorized the Postmaster-General to receive and convey any such publication at the said rate.

Tenth section of Postage Act, 1864, repealed, and another substituted.

III. The tenth section of the "Postage Act, 1864," is hereby repealed, and in lieu thereof: Be it enacted that it shall be lawful for the Governor, from time to time as local circumstances will permit, to authorise the establishment of penny posts between any one or more field-cornetcies, and any other field-cornetcy or field-cornetcies in the same division, under such rules and regulations as he shall deem necessary, and the chief town of any division shall, for the purposes of this section, be deemed a field-cornetcy.

IV. In lieu of the rates of postage mentioned in the fifth section of the "Postal Rates Act, 1868," there shall be substituted the following, that is to say: On all book packets, patterns, and samples, as in the said section mentioned, not exceeding in weight two ounces, one penny; and for every additional two ounces or fraction of two ounces, an additional rate of one penny.

No. 9—1874.  
Rate of postage in  
fifth section of postal  
Rates Act, 1868,  
altered.

V. This Act may be cited for all purposes as the "Postage Act, 1874," and shall be read as one with the former laws relating to the Post Office and Postage.

Short title.

No. 10—1874.] AN ACT [July 29, 1874.

To Repeal the Act No. 24 of 1869, intituled "An Act to provide for the expenses of the survey of Crown Lands for lease, and for other purposes."

WHEREAS all moneys borrowed under and by virtue of the Act No. 24 of 1869, intituled "An Act to provide for the expenses of the survey of Crown Lands for lease, and for other purposes," have been repaid, and it is expedient that any moneys which may be from time to time required for the purpose mentioned in the said Act should be voted by Parliament, and that the said Act be repealed: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. The aforesaid Act No. 24 of 1869 is hereby repealed: Provided that such repeal shall not affect anything already done thereunder, or revive the 67th section of the Act No. 4 of 1865, therein mentioned.

Act No. 24 of 1868  
repealed.

No. 11—1874.] AN ACT [July 29, 1874.

For Exempting from Wharfage Dues, Bullion and Coin landed at East London and Port Alfred.

WHEREAS by the Act No. 26 of 1864 bullion and coin landed in Algoa Bay, Mossel Bay, and Port Alfred, were exempted from the payment of wharfage dues: And whereas there may be reason to doubt whether, in consequence of the passing of the Act No. 10 of 1866-1867, the said exemption as to Port Alfred still exists, and it is desirable to remove such doubts: And whereas it is expedient that bullion and coin imported into the port of East London should be exempted from the payment of wharfage dues:

Preamble.

No. 11—1874.

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :

Bullion and coin exempted from wharfage dues at East London and Kowie.

I. From and after the taking effect of this Act, all bullion and coin landed at or in the harbours of East London and the Kowie, respectively, shall be exempt from the payment of wharfage dues.

No. 12—1874.]

AN ACT

[July 29, 1874.]

To Amend the Law relating to the Superannuation Allowance to Police Officers.

Preamble.

WHEREAS by the Ordinance No. 1 of 1844, intituled "Ordinance for creating a Police Superannuation Fund," a Police Superannuation Fund was created for the police force of Cape Town, and whereas, by the Ordinance No. 25 of 1847, intituled "Ordinance for improving the Police of the Colony," a Police Superannuation Fund was created for the police force for the several country districts of this Colony, and whereas it is expedient that the police superannuation funds created under and by virtue of the said ordinances should be abolished, and that the superannuation allowance for which the said funds were intended to provide should be paid from and out of the public revenue of the Colony: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :

Repugnant laws repealed.

I. The Ordinance No. 1 of 1844, and the several sections of the said Ordinance No. 25 of 1847, numbered twenty-seven to thirty-six, both inclusive, are hereby repealed.

All Police Superannuation Funds to be handed over to, and become part of, public revenue.

II. All moneys, securities, and assets of every kind, constituting or belonging to any police superannuation fund, created under and by virtue of any of the provisions of the said ordinances which are by the last preceding section repealed, shall, by the respective trustees in whom the same are vested, be paid, transferred, and made over to the Treasurer-General of this Colony, as part and on account of the public revenue of the Colony, and the Treasurer-General for the time being shall, if necessary, sue for and recover any moneys due to and to become due to any such trustees as aforesaid.

Governor may superannuate police officers and pay pensions out of public revenue.

III. It shall be lawful for the Governor to order that any police officer shall be superannuated, and thereupon to pay, or cause to be paid, from out of the general revenue of this Colony, to the person so superannuated, such pension or yearly allowance as the said Governor shall approve of and

prescribe, but subject, however, to the following limitations and conditions, that is to say, that when and as often as the person superannuated shall have served with diligence and fidelity for any term not less than fifteen, and not more than twenty, years, his yearly allowance may be made equal to, but shall not exceed one-half of, his yearly pay while in active service, which yearly pay shall be taken to be the average of his yearly pay for the three years next pending his superannuation, and that when and as often as the person superannuated shall have served, in manner aforesaid, for the term of twenty years or upwards, his yearly allowance may be made equal to, but shall not exceed, two-thirds of his yearly pay while in active service, which yearly pay shall be taken to be the average aforesaid: Provided always that no police officer who shall be under the age of fifty years shall be capable of receiving any such yearly allowance as aforesaid unless it shall be certified in writing by the Resident Magistrate of his district that, from infirmity of mind or body, he is incapable of discharging the duties of his situation.

IV. It shall be lawful for the Governor, in case any police officer shall be disabled for the performance of his duty by reason of any wound or injury received by him in the actual execution of his duty, to pay or cause to be paid from and out of the general revenue of this colony, to the person so disabled, whatever his age or time of service may be, such pension or yearly allowance not exceeding the average of his yearly pay for the three years next preceding the time of his receiving the said wound or injury, should he have served so long; and if not, such yearly allowance not exceeding the average of his yearly pay during his time of service, as the said Governor shall approve of and prescribe.

Governor may pension disabled police officers.

V. It shall be lawful for the Governor to pay, or cause to be paid, from and out of the public revenue of this colony, such sums of money by way of reward to such police officers as shall by extraordinary services have merited the same: Provided that whenever such rewards shall have been paid by the Governor, a return showing the amounts and particulars of such payments shall be laid on the table of both Houses at the next ensuing Session of Parliament.

Governor may reward police officers for extraordinary services out of public revenue.

VI. Nothing in this Act shall be construed so as to entitle any police officer to claim as a matter of right any superannuation allowance or to prevent any such person from being unconditionally dismissed.

Superannuation allowance cannot be claimed as a matter of right.

VII. All sums of money which by the Ordinances in the first section hereof mentioned, are directed to be paid and handed over to trustees for the purpose of giving and being applied to the superannuation fund therein mentioned, except the deduction from the pay of police officers, not exceeding two and a half per centum, shall hereafter be paid into and form part of the general revenue of this colony.

All moneys formerly paid to the Superannuation Fund, in terms of first section of Ordinance except deductions from pay, to be paid in future to general revenue.

No. 12—1874.  
Interpretation clause.

VIII. The term "Police Officer" in this Act shall be taken to include Inspector of Police, Sub-Inspector of Police, Chief Constable, Sergeant of Police, Police Constable, and men of the Water Police for the port of Cape Town; but nothing in this Act contained shall apply to any officer or man of the Frontier Armed and Mounted Police Force of this colony, or to any officer or man of the Northern Border Police established under the Act No. 29 of 1868.

Short title.

IX. This Act may for all purposes be cited as the "Police Superannuation Act, 1874."

No. 13—1874.] AN ACT [July 29, 1874.

To Amend the Law relating to Merchant Shipping.

Preamble.

WHEREAS in an Act of the Imperial Parliament, to wit, the Merchant Shipping Act, 1873, certain provisions are contained respecting unseaworthy ships, and it is desirable to apply and adapt the said provisions to certain ships in this Colony, and to amend in certain respects the Local Merchant Seaman's Acts 1855 and 1863, and the Act 16 of 1857, intituled "An Act to consolidate the Laws relating to Quarantine and Port Regulations": Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Governor may exercise powers vested in Board of Trade by twelfth and thirteenth sections of Imperial Merchant Shipping Act, as to certain ships.

I. The powers and authorities vested in the Board of Trade by the twelfth and thirteenth sections of the said Merchant Shipping Act, 1873, may, as to all British ships registered at or being within the limits of this Colony, be exercised by the Governor of this Colony; and the said sections shall, as to all such ships, be read and understood as if the Governor was referred to and mentioned instead of the Board of Trade.

Owner of any ship surveyed under previous sanction may, if dissatisfied, apply to Supreme or Eastern Districts Court.

II. If the owner of any ship surveyed under the last preceding section is dissatisfied with any order made upon such survey, he may apply to the Supreme Court; or, in case the ship is in any port within the jurisdiction of the Eastern Districts Court, to that Court. The Court may, upon such application, if they think fit, appoint one or more competent persons to survey the ship anew, and any surveyor so appointed shall have all the powers of the person by whom the original survey was made. Such survey anew shall, if so required by the Governor or the ship-owner, be made in the presence of any person or persons appointed by them respectively to attend at the survey. The Court to which such application is made may make such order as to the detention or release of the ship, as to the

Powers of Court so applied to.



payment of any costs and damages which may have been occasioned by her detention, as to the payment of the expenses of the original survey, and of the survey anew, and otherwise as to the payment of any costs of and incident to the application, as to the Court may seem just.

No. 13—1874.

III. Any agreement made in this Colony with a seaman may, instead of stating the nature and direction of the intended voyage or engagement, as by the one hundred and forty-ninth section of the Imperial Merchant Shipping Act, 1854, required, state the maximum period of the voyage or engagement, and the places or parts of the world (if any) to which the voyage or engagement is not to extend.

Agreement with seamen in this Colony may be for a certain period, instead of for voyage.

IV. The court of tribunal in this Colony by law vested with the power of cancelling or suspending the certificate of a master or mate is also hereby vested with the like power of cancelling or suspending the certificates of engineers of steamships in the same manner as if "certificated engineer" or "certificated engineers" were inserted throughout after "master" or "masters" in the two hundred and forty-second section of the Imperial "Merchant Shipping Act, 1854," and in the "Local Merchant Seaman's Amendment Act, 1863."

Powers of suspending certificates of masters or mates extended to engineers.

V. The second section of the "Local Merchant Seaman's Amendment Act, 1863," shall be read and construed as if the words "with respect to cancelling or suspending certificates" in the commencement thereof were omitted.

Second section of Merchant Seaman's Amendment Act, 1863, amended.

VI. The twenty-first section of the said Act No. 16 of 1857 is hereby repealed, and the following shall be read and substituted in its place, that is to say:—The respective Port Captains of the Ports of Cape Town, Port Elizabeth, Simon's Town, Port Alfred, East London, and such other ports in this Colony as may from time to time be appointed for that purpose by Proclamation of His Excellency the Governor, to be published in the Government Gazette, shall, upon the arrival of any vessel in the said ports between sunrise and sunset, board her immediately, and, if practicable, previous to her coming to anchor, in order that he may point out to the master of the vessel a proper berth; and in case he should be prevented from so boarding, in consequence of the quarantine regulations, he shall point out a berth for such vessel arriving under such circumstances, and after having pointed out any such berth as aforesaid it shall be lawful for the Port Captain, if it shall appear to him necessary so to do, to order any vessel to shift or change her berth to any other berth to be pointed out, and any master of a vessel disobeying any order of a Port Captain under this section shall be liable to a penalty not exceeding £50.

Twenty-first section of Act No. 16 of 1857 repealed, and other provisions made instead.

Vessels arriving at certain ports to be boarded, and have berths assigned to them.

Penalty on vessels changing berths.

VII. The first section of this Act shall not apply to ships engaged exclusively in the coasting trade of this Colony, as

First section of this Act not to apply to coasting vessels under Act No. 26 of 1872.

No. 13—1874.

such coasting trade is defined by the second section of the Act No. 26 of 1872, intituled "An Act for Regulating the Coasting Trade of the Colony of the Cape of Good Hope."

Short title.

VIII. This Act may for all purposes be cited as the "Local Merchant Shipping Act, 1874."

No. 14—1874.]

AN ACT

[July 29, 1874.]

To Amend the law relative to the Registration and Qualification of Voters, and to the Election of Members of Parliament, and for the more effectual prevention of the Personation of Voters, and for other purposes connected with Elections.

Preamble.

**W**HEREAS it is expedient to amend in certain respects the law relative to the registration of Voters and the election of Members of Parliament, and to provide for the more effectual prevention of the personation of Voters, and for other purposes connected with elections: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:

Twenty second to thirty-first sections of Constitution Ordinance, and twenty-seventh section of Act No. 16 of 1856, repealed.

I. The several sections of the Ordinance for constituting a Parliament in this Colony, commonly called the Constitution Ordinance, from the 22nd to the 31st (both inclusive), and the 27th Section of the Act No. 16, 1856, intituled "An Act for amending the law relative to the Registration of Voters, and to the taking of Polls," are hereby repealed in so far as they relate to the electoral division of Cape Town.

Governor to appoint Registering Officer for the electoral division of Cape Town.

II. The list of voters for the electoral division of Cape Town, shall, upon the occasion of each biennial registration of voters, as by law required, be made out by some fit and proper person, to be nominated for that purpose by the Governor of the Colony, by Government notice in the Government Gazette, which person shall be called the registering officer for the electoral division of Cape Town.

And whereas the Town Council of the Municipality of Cape Town is, by law, required to frame annually a list of the resident householders of the said municipality: Be it enacted as follows:

Town Council to use form in schedule to this Act in framing list of householders for 1875.

III. The Town Council of the municipality of Cape Town, when framing the list of resident householders of the said municipality for the year one thousand eight hundred and seventy-five, shall employ a sufficient number of persons to collect, from house to house, in the several districts into

which the said municipality shall, for the time being, be divided, the names of the resident householders of the said districts, respectively, and such persons shall be supplied by the said Town Council with a sufficient number of printed papers, which shall, in substance, be in the form in the schedule to this Act set forth. The contents of every such paper shall be printed on one side in the English Language, and on the other side in the Dutch language.

No. 14—1874.

IV. Every person employed as aforesaid to collect the names of voters, being supplied with such printed papers as aforesaid, shall, upon such day or days as the Town Council shall in that behalf appoint, leave at every house, warehouse, or other building, in each district in which any person shall be found to receive the same, one of the said printed papers, to the end that the blanks in the said paper may be filled up in manner and form as in the said paper directed: Provided that as often as any warehouse or shop shall be a part of, or shall communicate with any house or building, and shall be occupied by the same person who occupies such house or building, it shall be sufficient to leave the said paper either at such house or building, or at such warehouse or shop.

Person employed to collect names to leave a form at every house on appointed day.

V. On such day or days as the Town Council shall in that behalf direct, not being less than two clear days from the day on which such printed papers as aforesaid shall have been left as aforesaid in any district, the person who left the same, or some other of the persons employed as aforesaid, shall call for the said papers at the places where the same were left, and, having obtained the said papers, shall deliver them to the registering officer: Provided that it shall be lawful for any person so employed as aforesaid, instead of leaving the papers aforesaid to be afterwards filled up, to allow the same to be filled up at once, should the person or persons by whom the same should have been filled up, had they been left, so desire; anything in either of the two last preceding sections to the contrary notwithstanding.

And to call for it again on a subsequent day to be appointed by Town Council.

VI. If the person who shall have called for and obtained any such paper as aforesaid shall find that the same has not been filled up, or has been filled up informally, he shall, if practicable, get the same paper or another paper filled up properly, so that the same shall show legibly,

Form may be filled up at once instead of being left.

If person calling for paper, finds it not filled up or informally filled, he shall get it properly filled.

1stly. The christian name and the surname of the claimant, and if he have more christian names than one, then all his christian names, written at full length. If the claimant be known by more christian names or more surnames than one, then the paper shall show all the names by which he is known.

2ndly. The street and the number of the street in which the claimant resides.

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3rdly. The trade, profession, or other occupation of the claimant, and

4thly. The nature of the qualification from or out of which the claimant claims a right to be registered as a voter.

Meaning of term  
"residence."

Should the house, warehouse, or shop, or building at which any such paper as aforesaid shall have been left, not be situated in any street or not in any street or place having a name, then the part of the paper left blank for the insertion of the street and number need not be filled up, or may be filled up in such a way as to designate, as well as may be, the situation of such house, warehouse, shop, or building. By the term "residence" in this and in the tenth section is meant the house, warehouse, shop, or other building at which the printed paper shall have been left, whether the occupier lives there or not; and by the term "christian name" is meant in this Act any name prefixed to the surname, whether received at christian baptism or not.

Meaning of term  
"christian name."

Penalty for inserting  
wrong name, &c.

VII. If any person shall, in any such printed paper as aforesaid, insert or shall move, incite, aid, or abet any other person to insert any name not being the name, and not being intended to be the name, of some person residing at or in occupation of the house or premises at which such printed paper was left to be filled up, and shall do so with intent that such name, so inserted, whether that of some non-existent person or not, shall appear upon the said paper as the name of a person claiming to be registered as a voter, such person so offending shall upon conviction be liable to a fine not exceeding five pounds, or to imprisonment with or without hard labour for any period not exceeding three months.

Signature or mark  
of any claimant to be  
witnessed.

VIII. The signature or mark of every person who shall sign any such printed paper as aforesaid as a claimant for registration shall be witnessed by at least one witness.

Papers to be kept by  
Town Council until  
applied for by Registering  
Officer.

IX. All such papers as aforesaid, collected in the several districts of the municipality of Cape Town, being received by the Town Council in order that the list of resident householders of the said municipality may be framed therefrom, shall be safely kept by the said Council until the then next nomination, in manner and form as in the second section of this Act mentioned of a registering officer for the electoral division, whereupon the said registering officer shall apply to the said Council for the said papers, and the said Council shall deliver the same to him.

Registering Officer to  
frame temporary list  
of claimants in each  
district.

X. As soon as the registering officer shall be in possession of the printed papers aforesaid, he shall frame from such papers a temporary or provisional list of the claimants in each district, beginning with district No. 1; and in framing such list he shall, in regard to each district, pursue an alphabetical order, and shall set forth the christian name or names

and the surname of each claimant at full length and not otherwise, and shall state opposite to each name the residence of the claimant, his trade or other description, and the nature of his qualification, as such particulars appear upon or from the printed papers in the registering officer's possession. And should such officer find that any of the said papers does not contain all such particulars as aforesaid, he shall take no notice of such paper in framing the said list.

No. 14—1874.

XI. Should the registering officer have reason to believe or suspect that the same person appears by the printed papers in the possession of such officer to be a claimant for registration in more districts than one, or more than once in the same district, whether by reason of the occupation by such person of premises in more than one district or in more than one place in the same district, then such officer shall cause to be delivered at every house, warehouse, shop, or other building, at or from which any printed paper containing the name of such person was obtained, a notice which shall be in substance as follows:

If same person appears to claim for more districts than one, or to claim more than once in same district, notice to be given to him.

#### NOTICE.

Inasmuch as there is reason to believe that the name ——— Form of notice.  
(here state the claimant's name at length), which name is found as that of a claimant for registration as a voter in more districts than one (or "more than once in district No.—"), refers to one and the same person, namely, ———, who resides in district No.—, (or "in ——— street, in district No.—"), notice is hereby given that unless cause to the contrary be shown to me at ——— at — o'clock in the forenoon on the — instant, the name of the said ——— will be placed on the list of claimants in district No.—, and not on the list of claimants in any other district (or "will be placed only once on the list of claimants in district No.—").

Cape Town, this — day of ———, 18—.

A. B., Registering Officer.

And should no cause to the contrary be shown at the appointed time and place, then the name of the person in question shall be placed upon the lists of claimants, in conformity with the terms of the said notice. In case any such claimant as is in this section referred to be a person who, being qualified to be registered in more districts than one, shall not reside within the electoral division of Cape Town, then he shall be registered in whichever of such districts he shall himself select, and failing such selection, then in whatever district the registering officer shall determine.

C

No. 14—1874.

Registering Officer to appoint a time and place to receive claim not registered.

XII. As soon as may be after the registering officer aforesaid shall be in possession of the printed lists obtained from the several districts which shall for the time being constitute, together with the municipality of Green Point, the electoral division of Cape Town, he shall publish in the Government Gazette, and by printed placards posted in such places as he shall deem necessary, a notice, stating that he will attend at a certain time and place, to be specified in such notice, for the purpose of receiving and taking down the names of all persons claiming to be registered as voters in any of the districts aforesaid who have not signed and delivered over as aforesaid printed lists containing their claims to be so registered, and also of all persons claiming to be registered as voters in the municipality of Green Point, which notice shall be in substance as follows :

#### REGISTRATION OF VOTERS.

The undersigned will attend on ——— (name the day or days of the week, and state the day or days of the month, and the year), at ——— (state the place), from nine o'clock a.m. till four o'clock p.m., for the purpose of taking down the names of all such persons as claim to be registered as voters in the electoral division of Cape Town, and who have not already signed and delivered over, in reference to the present registration, printed papers making their claims. All persons claiming before me must claim in person, or by an agent authorized by some writing, signed by the claimant, and witnessed by at least one witness, which agent must be able to state in full the claimant's christian name or names, his surname, his residence, his trade, profession, or other description, and the nature of his qualification to be registered.

Dated at Cape Town, this — day of —, 18—.

(Signed) A. B., Registering Officer.

Registering Officer may fix different time and place for each district, or may group districts together.

XIII. It shall be lawful for the registering officer aforesaid, instead of fixing the same time and place for taking down the names of such claimants as aforesaid for the whole of the districts into which the municipality of Cape Town shall be divided, to fix a different time and place for each district of such municipality, or for so many districts of such municipality as he shall deem expedient to group together ; and as often as different times and places shall be fixed in reference to all or any of the districts aforesaid, the notice aforesaid shall be altered accordingly. And the registering officer shall attend at some place within the municipality of Green Point for not less than six hours on some day to be fixed by him, for the purpose of taking down the names of claimants

To attend at Green Point for six hours at east on some day to be appointed.

for registration; of the place, day, and hours of which attendance notice shall be given in the manner hereinbefore provided.

No. 14—1874.

XIV. The registering officer, attending in conformity with the notice given by him as aforesaid, shall take down at full length the christian name or names and the surname of each claimant, the street and the number of the street in which such claimant resides, the trade, profession, or other description of such claimant, and the nature of the qualification in respect of which such claimant claims a right to be registered as a voter. In case the residence of such claimant shall be elsewhere than within the electoral division of Cape Town, then, instead of his place of residence, there shall be taken down the street and number of the street in which is situate the house, warehouse, shop, or other building, from or out of which such claimant claims a right to be registered as a voter.

Registering Officer to take down names, &c., of claimants.

XV. It shall be lawful for the registering officer to explain to any person claiming before him as aforesaid the nature of the qualifications in the eighth section of the Constitution Ordinance specified as entitling persons to be registered as voters, and to interrogate such person so far as may be reasonably necessary, to ascertain that such person comprehends the nature of such qualifications, and distinctly avers that he possesses the particular qualifications by him alleged. Any person who shall falsely, knowingly, and wilfully, aver to such registering officer, whether in answering questions put to him or otherwise, that such person possesses a certain qualification to be registered which he does not in fact possess, shall, upon conviction, be liable to a fine not exceeding ten pounds, and, in default of payment, to imprisonment with or without hard labour for any period not exceeding two months. If any claimant shall refuse or decline to answer any proper and reasonable question put to him by the registering officer for the purpose of ascertaining the existence of the qualification which such person shall allege that he possesses, then the name of such claimant shall not be taken down, or, if taken down, shall be expunged. Nothing, however, in this section or in the next succeeding section contained shall prevent any person whose name shall not have been taken down, or, having been taken down, shall have been expunged, from afterwards making his claim to be registered in manner and form as hereinafter in the nineteenth and twentieth sections of this Act provided.

Registering Officer may question claimant as to his qualification.

Penalty for false answers.

Name of claimant refusing to answer to be expunged.

XVI. The name of no claimant whose name appears upon the temporary or provisional list of claimants which is in the tenth section of this Act mentioned shall be taken down by the registering officer, and if any doubt or question shall arise whether any person appearing in person or by agent before the registering officer, and desiring to have his name

Registering Officer not to receive name of any person entered on temporary lists, but if any doubt or question should arise, may inquire into it.

No. 14—1874.

Should same person claim in Cape Town and Green Point, notice in eleventh section of this Act to be served.

taken down, is a person whose name appears upon the said temporary or provisional list, then the registering officer shall summarily inquire into the matter, and his decision shall, for the purpose of the list of claimants to be posted as hereinafter in the next succeeding section of this Act directed, be final and conclusive. Should the registering officer have reason to believe or suspect that the same person appears as a claimant for registration in the municipality of Green Point, and also in one or more of the districts into which the municipality of Cape Town is divided, then the provisions of the eleventh section of this Act shall, in substance, apply to such case, and the form of notice in the said section set forth shall be altered accordingly; and such claimant, if entitled to be registered in the municipality aforesaid, and also in one or more of the districts aforesaid, may elect whether he will be registered in the said municipality, or in some of the said districts to be named by him for the purpose; failing such election, he shall be registered either in the said municipality or otherwise in one of the said districts, as the registering officer shall determine.

Names of Claimants to be added to temporary list and complete list posted.

XVII. As soon as may be after the registering officer shall, in manner aforesaid, have taken down the names of all such claimants as are in the twelfth section of this Act described, he shall add their names in their respective districts and in alphabetical order, to the temporary or provisional list in the tenth section of this Act mentioned, and shall cause a copy of such list as then completed, legibly written, to be posted upon or affixed to some public place in Cape Town, there to remain for not less than seven days. And in such list the names of the claimants for registration in or belonging to the municipality of Green Point shall be separately set forth, precisely as if such municipality had been a district.

Names of claimants in each district to be posted there also.

XVIII. Besides posting or affixing, as in the last preceding section mentioned, the list of claimants in or belonging to the whole of the districts into which the municipality of Cape Town for the time being be divided, and also in or belonging to the municipality of Green Point, the registering officer shall cause to be posted upon or affixed to some public place in each district, there to remain for not less than seven days, a copy of so much of the said list as contains the names of the claimants in or belonging to the said district. And the registering officer shall cause so much of the said list as relates to the municipality of Green Point to be posted within the said municipality in like manner as if such municipality had been a district.

Notice to be attached to lists in two previous sections.

XIX. Subjoined to each of the lists in the two last preceding sections mentioned shall be a notice written in both the English and Dutch languages, and signed by the registering officer, which notice shall be in substance as follows:



## NOTICE.

No. 14 - 1874.

Notice is hereby given that if any person whose name is not inserted in the above list shall claim to have his name inserted therein, or if any person whose name is inserted therein or who claims to have his name inserted therein, shall object to the right of any other person whose name is inserted therein to be registered as a voter, such person may lodge with the undersigned at \_\_\_\_\_ on or before the — day of —, 18— (here insert some day not sooner than ten nor later than twenty-one days next after the day of the posting of the list to which such notices relates), his claim or objection (as the case may be), in order that such claim or objection may be recorded and dealt with as the law directs.

Dated at Cape Town this — day of —, 18 —,

(Signed) A. B., Registering Officer.

XX. Every claim to be made in pursuance of such notice as aforesaid shall be marked on the outside, "Claim to be registered as a Voter," and shall be in substance as follows :

This is to give notice that I hereby claim to have my name inserted in the list of voters in district No. — (or in the municipality of Green Point as the case may be), and that my qualification arises from the occupation of (here state "house," "warehouse," "shop," or other building, and the street and number of the street in which it is situated ; or, should it not be in a street having a name and numbered houses, describe it otherwise as well as may be).

Dated this — day of —, 18—

(Signed) E. F., Carpenter.

In case the qualification of the claimant shall be "salary" or "wages," then the above form of claim shall be altered accordingly.

XXI. Every objection to be made in pursuance of such notice as aforesaid shall be marked on the outside "Objection to the Registration of a Voter," and shall be in substance as follows :

This is to give notice that I hereby object to the name of \_\_\_\_\_ being retained on the list of voters for district No. — (or "the municipality of Green Point," as the case may be), and the ground of my objection is (here state the ground of objection).

Dated this — day of —, 18—,

(Signed) G. H.

No. 14—1874.

Claims and objections to give full particulars as to name, &c.

XXII. Every person claiming as in the twentieth section of this Act mentioned shall sign his christian name or names and his surname at full length, and shall also state what is his trade, profession, or other description, and every person objecting as in the twenty-first section of this Act mentioned shall, together with his name (which it shall not be imperative to write at full length), state his residence. No claim or objection which shall omit any of the particulars by this section required shall be attended to.

Court to be held to revise and amend voters' list.

XXIII. As soon as may be after the list in the seventeenth and eighteenth sections of this Act mentioned shall have been posted or affixed, the resident magistrate of Cape Town shall, by notice in the Government Gazette, inform all whom it may concern that the said magistrate will attend at his court-room, on some day and at some hour to be specified in such notice, for the purpose of revising and amending the voters' list for the electoral division of Cape Town. Such notice shall specify for the holding of such court a day later by not less than seven days than the day named in the notice in the nineteenth section of this Act, as the latest day for lodging claims and objections.

Original posted list and separate lists of claims and objections to be delivered to Magistrate by Registering Officer.

XXIV. As soon as may be after the expiration of the latest day for lodging claims and objections, and not later than forty-eight hours before the hour announced for the sitting of the resident magistrate for the purpose of revising and amending the voters' list as aforesaid, the registering officer shall deliver to such resident magistrate a correct copy of the list in the seventeenth section of this Act mentioned, in the plight and condition in which it was posted as in the said section enjoined, together with another list, containing the names of all persons not inserted in the said list, who shall, in terms of the notice in the nineteenth section of this Act mentioned, have claimed to be inserted therein, and also a third list containing the names of all persons inserted in the list aforesaid as posted and affixed, whose right to be so inserted shall have been objected to; and the registering officer shall, when delivering the said lists to the resident magistrate, deliver to him also the original writings containing all claims and objections. The registering officer shall, moreover, not less than forty-eight hours before the hour appointed for the sitting of the resident magistrate to revise and amend the list aforesaid, cause notice in writing to be given to every person inserted in the said list as posted, whose right to be so inserted shall have been objected to, that the hearing of such objection will come on before the resident magistrate at the sitting appointed to be held by him for the purpose aforesaid.

Manner of hearing and determining questions, and revising lists.

XXV. The resident magistrate of Cape Town shall, on the day and at the hour by him announced as aforesaid, attend in his court-room; and it shall be lawful for any person not

inserted in the voters' list as posted, who shall have claimed in writing to be inserted therein, and for any person who shall in writing have objected to the right of any person inserted in the said list to be so inserted, and for any person who shall have been so objected to, to come before such magistrate, and such magistrate shall hear all such parties, and if he shall think fit, take their evidence upon oath, and may, should he think fit, summon before him and examine upon oath any person whom he shall in the course of such inquiry deem it necessary to examine, and may impose a fine not exceeding ten pounds on any person duly summoned who shall, without lawful cause, refuse or neglect to attend; and such magistrate shall finally determine all questions brought before him, and revise and amend the voters' list as so posted as aforesaid, according as justice shall require. The resident magistrate may if necessary adjourn his sitting from time to time.

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XXVI. Every person who shall have claimed as aforesaid to be inserted in the list aforesaid shall be bound to prove his qualification to the satisfaction of the resident magistrate; and should such claimant not appear, either in person or by his general agent, or by some agent specially authorized in writing by such claimant, the claim of such person shall be dismissed.

Every claimant to appear and prove his claim.

XXVII. If the person who shall have objected to the right of any other person to be inserted in the list aforesaid shall not, either in person or by some agent specially authorized in writing by such objector, appear to make good his objection, such objection shall, without requiring any appearance or proof on the part of the person objected to, be dismissed. If the objector shall appear and if the person objected to shall not appear in person, and the ground of objection shall be one peculiarly within the knowledge of the person objected to, then, in case the objector, or should he have appeared by agent, his agent, shall make oath to the belief of the deponent that such ground of objection does really exist, the magistrate may either at once allow the objection or make some further inquiry as shall appear just.

Objectors to appear and make good their objections.

If person objected to does not appear, Magistrate may in certain cases either allow objection or make further inquiry.

XXVIII. It shall be lawful for the resident magistrate, should it appear right and fitting so to do, to adjudge to any person objecting or objected to such reasonable costs against the adverse party as such magistrate shall tax and allow, to be recovered in like manner as if costs between party and party in a civil action tried and determined in the court of the said magistrate.

Costs may be given.

XXIX. As soon as the resident magistrate aforesaid shall in manner aforesaid have revised and amended the voters' list aforesaid, he shall cause to be made out and safely kept in his office the said list as so revised and amended, and such list shall be and remain the list of registered voters for the

Revised list to be kept in Magistrate's office.

No. 14—1874.

And completion thereof to be reported to Colonial Secretary.

Provision for a biennial registration.

At elections, polling place and officer to be appointed for each district in municipality of Cape Town.

Each voter to vote in his own district.

Every voter on the list may be taken to be qualified.

Polling place for Green Point to be appointed either there or in Cape Town.

Duration poll.

Polling Officer to be assisted by some person acquainted with the inhabitants of each district.

electoral division of Cape Town, until a fresh list shall have been framed in manner as hereinafter provided; and the resident magistrate shall upon the completion of such list report to the Colonial Secretary that it has been completed.

XXX. The provisions of this Act from the third section to the ninth, both inclusive, shall be acted upon and carried into effect in every second year from and after the year one thousand eight hundred and seventy-five in manner and form as hereinbefore described in regard to that year; and all the other sections of this Act from the tenth to the twenty-ninth, both inclusive, shall be acted upon and carried into effect, when and as often as a registering officer for the electoral division of Cape Town shall, for the purpose of any biennial registration of voters, be nominated in manner and form as in the second section of this Act mentioned.

XXXI. As often as it shall be necessary, after the completion under this Act of a list of registered voters for the electoral division of Cape Town, to take a poll in the said division for members or for a member of either House of Parliament, then one polling place shall be, by Government Notice in the Government Gazette, appointed or established in each of the districts into which the said municipality of Cape Town shall for the time being be divided, and the polling officer appointed by Government Notice in the Government Gazette to take the poll in each district shall be furnished with a list of voters in and for such district; and no voters shall be competent or permitted to vote except at the polling place of the district in and for which he is registered. But the fact that any vote registered in any district shall have ceased at the time of taking the poll to possess the qualification in regard to which he was registered in such district shall not deprive him of the right to vote in such district so long as his name remains inserted in the list of voters in such district. And in regard to the municipality of Green Point, it shall be lawful to appoint a polling place within the said municipality, at which alone the voters registered belonging to such municipality shall be competent to vote, and not elsewhere, or to appoint that all such voters shall vote at the polling place of such one of the districts into which the municipality of Cape Town shall be divided as shall be deemed most convenient, and be selected.

XXXII. As often as any such poll as is in the last preceding section mentioned shall be taken in the said electoral division, such poll shall remain open for one day, and no longer, and the same day shall be appointed for taking the poll in the whole of the districts constituting the said electoral division.

XXXIII. The polling officer appointed to take the poll in each district of the municipality of Cape Town aforesaid shall be assisted by some person acquainted as generally as

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possible with the inhabitants of such district, which a sistant shall be appointed by Government Notice in the Government Gazette, and the duty of such assistant shall be to detect and disclose all attempts which may be made to personate any of the registered voters; and such assistant to the polling officer shall, before acting as such, make oath before the polling officer, who is hereby authorized to administer such oath, that he will perform his duty as such assistant without fear, favour, or prejudice. Should a polling place be appointed within the municipality of Green Point, it shall not be necessary to appoint an assistant to the polling officer at such polling place.

Such assistant to be sworn.

XXXIV. It shall be the duty of the polling officer at each polling place in the electoral division aforesaid, and he is hereby authorized and required, to prevent anyone from entering and remaining in the polling place during the hours of voting except the returning officer of the electoral division, the assistant aforesaid, the candidates in regard to whom the poll is taken, or, in the absence of any of the latter, or representative of each absent candidate (which representative shall be authorized by some writing under the hand of such candidate to represent him), and the voters, or persons claiming to be voters, coming to give and whilst giving their votes.

Polling officer to allow certain persons only to be present during the hours of voting.

XXXV. No person shall be permitted to enter or remain in any polling place during the poll, whilst he shall wear, carry, or display any cockade, ribbon, or other mark distinguishing the friends or supporters of any of the candidates in regard to whom the poll is being taken.

No cockade or ribbons to be worn in polling place.

And in regard to the several electoral divisions of the colony, other than the division of Cape Town: Be it enacted as follows:

XXXVI. As often as there shall be within any such electoral division a municipality or corporate town now forming or hereafter to be formed into a distinct field-cornetcy, and the commissioners or council of such municipality or the town council of such corporate town shall, at any meeting thereof, resolve that it would be for the public advantage to extend to such municipality or corporate town the provisions of this Act, or such of them as may not be deemed inapplicable to such municipality or corporate town, it shall be lawful for the Governor, with the advice of the Executive Council, upon the application of the commissioners or council of such municipality, or of the town councillors of such corporate town, to declare and provide, by proclamation in the Government Gazette, that the provisions of this Act in reference to the electoral division of Cape Town, with such exceptions, if any, and such adaptations as the Governor shall approve of and proclaim, shall be in force within the

Provisions of this Act may apply to country municipalities.

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As well as to Graham's Town.

Expenses of registration to be borne by municipalities.

field-cornetcy constituted by such municipality or corporate town, precisely as if the said provisions with such exceptions and adaptations had been by this Act expressly applied to such municipality or corporate town; and the electoral division of Graham's Town shall be capable of being brought under the provisions of this Act, in like manner as if Graham's Town were a municipality or corporate town within an electoral division; when and as often as the said provisions shall be extended to any municipality or corporate town, then all former laws or ordinances repugnant to or inconsistent with any of the said provisions shall be repealed: Provided that the expenses attendant upon the employment of the person or persons employed to collect the names of persons entitled to be registered as voters in any such municipality or corporate town, shall be borne by such municipality or corporate town, which shall also supply to the person or persons so employed the necessary printed papers.

And in regard to all and singular the several electoral divisions of this colony without distinction: Be it enacted as follows:

Forty-second & fifty-second sections of Constitution Ordinance repealed, and provisions of this Act substituted.

XXXVII. The forty-second and fifty-second sections of the Constitution Ordinance are hereby repealed, but where in any Act the said sections or either of them are referred to, the provisions of this Act substituted for the said sections or either of them shall be considered as mentioned instead thereof.

Polling Officers at elections may put certain questions.

XXXVIII. The polling officer at any polling place shall, if required by or on behalf of any candidate, and may of his own motion when he shall deem it fitting, put to any person coming to vote at the time of tendering his vote, but not afterwards, the following questions:

- 1st. What is your name in full?
- 2ndly. Where do you live?
- 3rdly. What is your occupation?
- 4thly. Are you to the best of your knowledge and belief the same person whose name appears as — — (here give the name of the registered voter as whom the person tendering his vote claims to vote) on the list of registered voters for the electoral division of — —?
- 5thly. (In case the poll is taken for a member or for members of the Legislative Council),—Have you already voted, either here or elsewhere, at this election, for any member of the Legislative Council? or (in case the poll is taken for a member or for members of the House of Assembly),—Have you voted, either here or elsewhere in this electoral division, at this election for any member of the House of Assembly?

XXXIX. In case the person tendering his vote shall, in answer to the first of the said questions, give the surname, as registered, of the voter as whom he claims to vote, but not the christian name as registered, or not all the christian names when more than one, and it shall appear from answers to further questions that the person tendering his vote has no names other than those first stated by him, he shall not thereby be precluded from voting, in case it shall appear from his answers to other questions, or from the testimony of the assistant to the polling officer in the thirty-third section of this Act mentioned (when there shall be such assistant present at the poll), that the christian name or names as registered are mistaken, and that the person tendering his vote is really and truly the person intended to have been registered.

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Discrepancies between name given by voter and that on registered list not to preclude him from voting, if it appears that he is really and truly the person intended to have been registered.

XL. In case the person tendering his vote shall, in answer to the second or third of the said questions, state a residence or occupation different from the residence or occupation registered as the residence or occupation of the voter as whom the person tendering his vote claims to vote, such person shall be questioned as to his residence and occupation at the time of the framing of the list of registered voters upon which appears the name of the voter as whom such person claims to vote. Should it appear from the answers to such questions that he did not at the time of the framing of such list reside at the place registered, or did not follow the occupation registered, he shall not thereby be precluded from voting in case it shall appear from his answers to other questions, or from the testimony of the assistant aforesaid (when there shall be such an assistant present at the poll), that the residence or the occupation, or residence and occupation, as registered, are mistaken, and the person tendering his vote is really and truly the person intended to have been registered.

Discrepancies between residence or occupation stated by voter and that on registered list not to preclude him from voting, in case it appears that he is really and truly the person intended to have been registered.

XLI. As often as the list of registered voters in the hands of the polling officer shall not set forth the residence or occupation of the voter, then it shall not be necessary to put the second or third questions aforesaid (as the case may be), anything in the thirty-eighth section of this Act notwithstanding.

If residence or occupation is not set forth in list, those questions need not be put.

XLII. If any person tendering his vote shall wilfully make a false answer to any question which any polling officer is, by the thirty-eighth, thirty-ninth, and fortieth sections of this Act, authorized to put, such person shall, upon conviction, be liable to be imprisoned with or without hard labour for any period not exceeding two years.

Penalty for false answers.

XLIII. Any person who, knowing that he is not the person registered by or under a certain name upon any list of registered voters, shall nevertheless wilfully assume or pretend to be the person so registered, and shall vote or attempt to vote as being the person so registered, shall,

Penalty for personation of voters.

No. 14—1874.

Person tried under either this or the preceding section not liable to prosecution under the other.

Polling officer may, on reasonable grounds of suspicion that person has contravened either of the two last sections, verbally order his apprehension.

But he may be released on bail.

No more than one person to vote on same name.

Person rejected may complain under forty-seventh section.

Penalty for voting more than once at any one election.

whether any such questions as aforesaid shall have been put to him or not, be liable, upon conviction, to a fine not exceeding fifty pounds, and in case of non-payment to imprisonment with or without hard labour for any period not exceeding six months, unless the fine imposed be sooner paid. Nothing in this section contained shall affect the provisions of the last preceding section in regard to the punishment for any false answer made to any question put, but no person prosecuted to trial either under this or the last preceding sections shall be afterwards prosecuted under the other of the said sections.

XLIV. If any polling officer shall have reasonable and probable cause for believing that any person has, in the presence of such polling officer, committed an offence under or against either of the two last preceding sections of this Act, it shall be lawful for such polling officer by verbal order to be given and acted upon before such person shall have left the polling place in which such offence, if any, shall have been committed, to authorize and require any officer of the law proper for the execution of criminal warrants, or any private person or persons, to detain in some convenient place such person so believed to have offended as aforesaid until such person shall be brought before some resident magistrate or justice of the peace to be dealt with according to law. But if such person will, whilst so detained, give bail by two sufficient sureties in twenty-five pounds each, or one such surety in fifty pounds, that he will when duly summoned appear to answer the charge against him, and that he will accept service of the summons at some place to be mentioned in the bail bond, he shall thereupon be liberated. Such bail bond as aforesaid may be entered into before the polling officer who shall have ordered his detention, or before any resident magistrate or justice of the peace.

XLV. No polling officer shall permit more persons than one to vote upon or in regard to any one name upon the list of registered voters. Should any person claim to vote upon or in regard to any name upon or in respect of which name another person shall have already voted, the vote of the person so claiming shall be rejected; but such person shall be at liberty to complain as in the forty-seventh section of this Act provided. But nothing in this section shall prevent different persons of the same name, who are all registered, from all voting, each in regard to one of the said names.

XLVI. If any person shall vote more than once at any one election for a member or for members of the Legislative Council, or more than once in any electoral division for a member or for members of the House of Assembly for such division, he shall be liable upon conviction to a fine not exceeding twenty-five pounds, and in case of non-payment to imprisonment with or without hard labour for any period



not exceeding three months unless the fine imposed shall be sooner paid.

No. 14—1874.

XLVII. It shall be competent for any voter registered or alleging himself to be registered as such in any electoral division other than the electoral divisions of Cape Town and Graham's Town, who shall complain that his vote, duly tendered at the proper polling place in such electoral division, was rejected by the polling officer who took the poll at such polling place, or who shall complain that at such polling place a person not entitled to vote thereat was, whether objected to or not, admitted to vote thereat, to lodge with the civil commissioner of the fiscal division which constitutes, or, if it does not constitute, gives its name to the electoral division in which such poll was taken, his complaint in writing, stating the name of the person so rejected or admitted, and requesting that the grounds of such complaint may be investigated. Such complaint must be lodged within seven days next after the day on which the poll in question was taken, otherwise no notice shall be taken of it, nor shall such poll as taken be capable of being impeached by any action or proceeding whatsoever by any person who shall not have lodged his complaint as aforesaid within the said space of seven days. But nothing in this section contained shall affect the fifty-fifth or any other section of the Constitution Ordinance, or delay the declaration or proclamation of the member or members of the House of Assembly as in the fifty-fifth section directed to be made by the returning officer, or delay any other act or proceeding by the said Ordinance enjoined in reference to the election of members of the Legislative Council.

In any electoral division other than Cape Town and Graham's Town, any person whose vote was not registered must complain within seven days to Civil Commissioner.

XLVIII. As often as the civil commissioner shall receive any such complaint in manner and form as aforesaid, he shall in the most speedy and inexpensive manner practicable cause the polling officer and the party complaining, and the party complained against, if any and if known, to attend before him, and shall in their presence inquire into the grounds of such complaint. If he shall adjudge that the vote of any person complaining that his vote was rejected was a vote which ought of right to have been received, then in case the poll in question were a poll for a member or for members of the Legislative Council, the civil commissioner shall allow the complainant to vote in manner and form as in the forty-first section of the Constitution Ordinance specified, precisely as if such civil commissioner were a polling officer taking a poll; but adding after the signature of such civil commissioner, that his vote has been taken under this section of this Act, and shall transmit the printed list or polling paper containing such vote to the Colonial Secretary, who shall, in case the committee of scrutineers have not completed their scrutiny, transmit the same to such committee, to be reckoned by them amongst the other votes. In

Civil Commissioner receiving any such complaint, to investigate it.

May allow the vote and record it.

No. 14—1874.

case it shall be made to appear to the civil commissioner that the vote of the voter so by him allowed to vote as aforesaid had been rejected by the polling officer because another person had already personated such voter, and voted as being such voter, then the civil commissioner shall by endorsement upon the printed list or polling paper certify that the name of the said voter had at the poll been fraudulently assumed by some person who had personated him and voted in his name; and the committee of scrutineers, receiving such printed list or polling paper bearing such endorsement, shall, besides reckoning the votes of such voter, set aside and treat as non-existent the votes upon the printed list or polling paper signed by the person who personated such voter and voted in his name, or signed at the request of such person by the polling officer, should such paper by reason that it is the only one which came from the same polling place bearing the same name, or by any other proof afforded by any other documents in the hands of the scrutineers, be capable of being identified. In case the complaint shall be that some person not entitled to vote at such poll was admitted to vote, and did vote thereat, and the ground of such complaint shall be established to the satisfaction of the civil commissioner, he shall, in case the poll in question was a poll for a member or for members of the Legislative Council, certify in writing that it has been made to appear to him in a proceeding under this section of this Act that the person who voted at the poll in question by and under the name of \_\_\_\_\_ was not entitled so to vote; and shall transmit such certificate to the Colonial Secretary, who shall, in case the committee of scrutineers have not yet completed their scrutiny, transmit such certificate to such committee, who shall thereupon set aside and treat as non-existent the votes given by such person, should the printed list or polling paper signed by such person be, for any such reason as that hereinbefore specified in regard to the certain other polling paper aforesaid, capable of being identified. Should the committee of scrutineers have completed their scrutiny before any such certificate or certificates as aforesaid shall have been transmitted to them by the Colonial Secretary, then the Colonial Secretary shall require the said committee to reassemble, and shall transmit every such certificate to such committee, who shall proceed thereupon as hereinbefore directed in order to correct the number of votes formerly certified by such committee under the forty-fourth section of the Constitution Ordinance.

If election is for Legislative Council, Civil Commissioner to inform Colonial Secretary seven days after such election, whether any such complaint is made, so that notice may be given to scrutineers.

XLIX. Every such civil commissioner as is in the last preceding section described shall, at the expiration of seven days next after the last day upon which a poll was taken for a member or for members of the Legislative Council, at any polling place in the electoral division with which he is connected, inform the Colonial Secretary whether any and,

if so, how many complaints, under the forty seventh section of this Act, have been lodged with him, to the end that the said Colonial Secretary may not require the committee of scrutineers to re-assemble until he shall have in his hands the whole number of certificates likely to be transmitted to him : And every civil commissioner who shall have informed the Colonial Secretary of any complaint which such civil commissioner shall afterwards find to be ill-founded shall forthwith report to the Colonial Secretary that such complaint has been dismissed.

L. When the committee of scrutineers, so re-assembled as aforesaid, shall have received all such certificates as aforesaid which shall have been transmitted to the Colonial Secretary, and shall have revised the number of votes for the several candidates as the same shall be affected by such certificates, and shall have certified to the Colonial Secretary, *de novo*, the number of votes given for each candidate, then in case the difference between the number of votes as originally certified by the said committee and the number of votes as certified *de novo* shall not be such as to affect the seat of any of the members already proclaimed, or to alter the ranking or position as amongst themselves of any of the members so proclaimed, the number of votes as certified *de novo* shall be published by Government Notice in the Government Gazette for general information, but shall not be further regarded. If, however, the difference aforesaid shall be such as to prove that any candidate already proclaimed a member had fewer votes than some candidate not proclaimed a member, or that the ranking or position as amongst themselves of any of the members proclaimed requires to be altered, then the Governor shall, by a proclamation reciting the former proclamation and the grounds that have since arisen for amending the same, proclaim afresh the names of the candidates in the order, as regards numbers of votes, in which they shall be found to stand after the revision and rectification of the votes as hereinbefore provided : And as often as it shall appear by such proclamation that any person formerly proclaimed a member has received fewer votes than some other person who was not proclaimed a member, the person formerly proclaimed a member shall, upon and from the issuing of such proclamation, cease to be a member, and the other person who received a greater number of votes shall thenceforth become the member in his room and stead. In case the revision and rectification aforesaid shall have the effect of showing an equality of votes between any member who was formerly proclaimed and any candidate who was not proclaimed, the question between them shall be determined by lot, to be drawn in manner and form as in the forty-fourth section of the Constitution Ordinance provided : And should the effect of such revision and rectification be to show

No. 14—1874.

Duty of scrutineers on receipt of amended voting papers.

Members to be proclaimed afresh, if difference in the number of votes alters their position.

No. 14—1874.

an equality of votes between any two or more members who, when formerly proclaimed, appeared to have had a majority one above another, then the order in which the names of the said members shall stand in the amended proclamation shall be determined by lot to be drawn in the same manner. But the day of the publication of the first proclamation, and not the day of the publication of the amended proclamation, shall, for the purpose of computing the time for which members shall hold their seats, be deemed to be the date of the election of the members proclaimed as such by such amended proclamation.

If election is for House of Assembly, Civil Commissioner to certify number of votes admitted and number of votes rejected for each candidate.

LI. In case the poll in regard to which any complaint as is in the forty-seventh section of this Act mentioned shall be lodged shall have been a poll taken for a member or for members of the House of Assembly, and if such complaint shall not have been inquired into and disposed of before the declaration or proclamation of the member or members, as in the fifty-fifth section of the Constitution Ordinance directed, the civil commissioner, in case he shall adjudge such complaint to be well founded, shall certify to the Colonial Secretary, in case of a vote or votes rejected at the poll, the name or names of the candidate or candidates for whom the complainant now votes, and in the case of a vote or votes admitted at the poll, from what candidate the vote or votes in question are to be deducted. Should the proclamation in the fifty-sixth section of the Constitution Ordinance specified not have been published when any such certificate shall have been received by the Colonial Secretary, then, if the effect of any such certificate shall be to show that any candidate formerly returned as a member has fewer votes than some other candidate not so returned, the former return shall be amended by the Colonial Secretary in conformity with the certificate by him received from the civil commissioner, and the proclamation to be issued under the fifty-sixth section of the Constitution Ordinance, shall publish the name of the member or the names of the members according to such amended return. A Government notice shall be prefixed or appended to such proclamation showing the number of votes received by the respective candidates as originally transmitted by the returning officer, and the change in such numbers consequent upon the certificate or certificates aforesaid. Should the proclamation in the fifty-sixth section of the Constitution Ordinance mentioned have been published before the receipt by the Colonial Secretary of any such certificate or certificates as aforesaid, then all and singular the provisions of the fiftieth section of this Act, in reference to the Legislative Council, shall *mutatis mutandis* be applied so far as applicable to the House of Assembly, precisely as if the number of votes as ascertained by the amended return aforesaid were the number of votes certified

*de novo* by the committee of scrutineers, and the number of votes originally transmitted by the returning officer in regard to the House of Assembly were the number of votes originally certified by the said committee in regard to the Legislative Council.

No. 14—1874.

LII. Every person complaining as in the forty-seventh section of this Act mentioned, and every person complained against, shall be entitled to be assisted by an agent, and the civil commissioner may, should the circumstances of the case require it, take evidence on oath, and may summon witnesses to appear before him to give evidence; and the form of summoning witnesses and the consequences of attendance or non-attendance shall *mutatis mutandis* be in substance the same as are set forth in the sixteenth, seventeenth, and eighteenth sections of the rules, orders, and regulations of the courts of resident magistrates, contained in the schedule marked B to the Act No. 20 of 1856; and the civil commissioner may, if he shall think fit, award his reasonable costs to any person concerned in such investigation, to be paid by any other person concerned therein, and shall tax and ascertain such costs, and shall certify in writing to the clerk to the court of the resident magistrate of the district in which the person liable to pay such costs shall reside the amount of such costs, and the process of such court may issue for the levy of such costs precisely as if such costs had been costs recovered in a civil suit by the person to whom they shall have been awarded by the civil commissioner.

Mode of procedure in investigating complaints.

LIII. If the nature of any such complaint as aforesaid shall be such that the civil commissioner shall be uncertain regarding the decision proper to be given upon it, it shall be competent for him to draw up a statement of the facts, and such statement shall be signed by such civil commissioner in attestation of its correctness, and such commissioner shall (except as hereinafter excepted) transmit the same to the Registrar of the Supreme Court, to be by him submitted to a judge in chamber for his consideration and determination: Provided that every civil commissioner within the Eastern Districts, as the same are described in the Administration of Justice Act, 1864, shall transmit all such cases as last aforesaid to the Registrar of the Court of the Eastern Districts for the consideration and determination of a judge of the said court.

Civil Commissioner may submit doubtful cases to a Judge in chambers.

LIV. The judge before whom any such statement as aforesaid shall be laid may, should the same appear to him defective, call for further information from the civil commissioner who transmitted it, and shall give such a decision as shall appear to him right and proper, and such decision shall, for the purpose of the poll to which it relates, be final and conclusive.

Judge may call for further evidence, &c.

No. 14—1874.

Forty-seventh to fifty-fourth sections of this Act to apply to Cape Town and Graham's Town, &c.

LV. All and singular the several sections of this Act, from the forty-seventh to the fifty-fourth, both inclusive, shall apply to the electoral divisions of Cape Town and Graham's Town, in like manner as to all the other electoral divisions of the Colony, except that all complaints under section forty-seven shall, if they relate to the electoral division of Cape Town, be lodged with and be inquired into by the resident magistrate of Cape Town; and if they relate to the electoral division of Graham's Town, shall be lodged with and inquired into by the resident magistrate of Albany.

In case of equality of votes between candidates for House of Assembly, &c., forty-fourth section of Constitution Ordinance to apply.

LVI. If, upon ascertaining the number of votes which have been given for the several candidates for election as members of the House of Assembly for any electoral division, it shall be found that any two or more of such candidates have received an equal number of votes, the like proceedings shall be had in order to determine who shall be proclaimed the members for such electoral divisions as are prescribed in the forty-fourth section of the said Constitution Ordinance as to an equality of votes between candidates for election as members of the Legislative Council.

Short title.

LVII. This Act may be cited for all purposes as "The Election Law Amendment Act, 1874."

### SCHEDULE.

#### CLAIM TO BE REGISTERED AS A VOTER.

District No ———.

The qualifications entitling persons to be registered are detailed in the eighth and ninth sections of the Constitution Ordinance. The following is an abstract of the qualifications entitling to registration :

1. Every male person who is, and has been for not less than twelve months, the occupier of a house, warehouse, shop, or other building of the value of twenty-five pounds.

2. Every male person who is, and has been for not less than twelve months, in the receipt of salary or wages, at a rate of not less than fifty pounds per annum.

3. Every male person who is, and has been for not less than twelve months, in the receipt of salary or wages, at a rate of not less than twenty-five pounds per annum, and who besides has been and is supplied with board and lodging.

4. Every joint occupier being a male person, whose share in any house, warehouse, shop, or other building, is of the value of not less than twenty-five pounds.

#### DIRECTIONS TO BE OBSERVED IN FILLING UP THIS PAPER :

1. "Name."—The claimant must be careful to write or cause to be written all his names at full length; and if he be known by more christian names or more surnames than one, all such names must be written at full length, and his signature must be witnessed by at least one witness.

2. "Residence."—Insert the name of the street, and the number of the house, warehouse, &c., in virtue of occupying which the claimant seeks to be registered. Should the street have no name, or the house, warehouse, &c., no number, describe the premises by reference to some adjoining street or other object marking the locality.

3. "Trade, Profession, &c."—The claimant must state his trade, profession, or occupation, when he has any. Persons who have retired from any trade, business, or calling, will style themselves accordingly, such as "retired merchant," or the like.

4. "Qualification."—The claimant must describe the nature of his qualification, such as "resident householder," "salary," "wages," "salary and board and lodging," "wages and board and lodging."

5. Should there be more persons than one residing in or occupying the house, &c., where this paper has been left, each may apply to the registering officer for a separate paper, or all may sign this paper one under another.

6. The claimant will sign the "declaration" at foot, but need not there sign his name in full. If there be more claimants than one, the form of declaration will be understood as referring to each claimant separately:

Name.	Residence.	Trade, Profession, &c.	Qualification.

I, the undersigned, hereby declare that I am, to the best of my knowledge and belief, entitled to be registered as a voter in virtue of the qualification set opposite my name as above.

Signature of claimant \_\_\_\_\_,

Witness to Signature:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18—.

No. 15—1874.] AN ACT [July 29, 1874.

To provide for the Terminus of the Submarine Telegraph from this Colony being in India or Ceylon instead of at Aden.

WHEREAS under and by virtue of the Submarine Telegraph Act, 1873, a contract has been entered into for the construction and maintenance of a line of submarine telegraph between this Colony and Aden *via* Natal and

Preamble.

No. 15—1874.

Mauritius; and whereas it may be expedient that the terminus of the said line should be in India or Ceylon instead of at Aden: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Terminus may be in India or Ceylon, instead of at Aden.

I. The terminus of the line of the submarine telegraph to be constructed from this Colony *via* Natal and Mauritius, under and by virtue of the provisions of the Submarine Telegraph Act, 1873, may be at some place in India or Ceylon, instead of at Aden, as provided by the said Act; and the Colonial Government is hereby empowered to make the alteration in the contract necessary to give the company the option of making the terminus at such place in India or Ceylon.

Submarine Telegraph Act, 1873, to be construed accordingly.

II. In case it shall be determined that the terminus of the said line of telegraph shall be at some place in India or Ceylon, the said Submarine Telegraph Act, 1873, shall apply to and be read and construed as if such place had been mentioned therein instead of Aden.

Short title.

III. This Act may for all purposes be cited as the "Submarine Telegraph Amendment Act, 1874."

No. 16—1874.]

AN ACT

[July 30, 1874.]

To Amend the Law relating to Attesting Witnesses.

Preamble.

WHEREAS by law females and divers other persons are not competent to be witnesses to the execution of Wills and certain other instruments, and it is expedient to amend such law: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Who are competent to attest execution of a will or other instrument.

I. Every person, except as hereinafter excepted, above the age of fourteen years who is competent to give evidence in any court of law in this Colony shall be competent and qualified to attest the execution of a will or other instrument: Provided always that no person shall be qualified to attest any will or other testamentary writing, wherein he shall be nominated, either jointly or severally, heir or legatee, or be otherwise therein, either directly or indirectly, benefited, or who shall be appointed executor, administrator, or guardian in any such will or other testamentary writing, or to attest any power of attorney whereby he shall be appointed an attorney or agent, or under which he shall derive any benefit.

Short title.

II. This Act may be cited for all purposes as "The Attesting Witnesses Act, 1874."



No. 17—1874.]

AN ACT

[July 30, 1874.

No. 17—1874.

To Amend the Criminal Law.

WHEREAS it is desirable that certain amendments, as hereafter mentioned, should be made in the Criminal Law: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. All and singular the provisions of the second and every succeeding Section of "The Cattle Theft Repression Amendment Act, 1867," relating to the theft of any cattle, sheep, or goat, shall extend to the crime of theft of the skin of any such animal, and to the crime of attempting to steal any such animal or the skin thereof, precisely as if whenever such theft is mentioned or referred to in the said Act, the crime of theft of the skin of any such animal, or of attempting to steal any such animal or the skin thereof, had been mentioned in place or stead of the theft of such animal.

Preamble.  
Provisions of Act No 17 of 1867 extended to thefts of skins, &c.

II. If upon the trial of any person upon any indictment for robbery, it shall appear to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit the crime of assault, or the crime of theft, forming part of the crime of robbery charged in the said indictment, the defendant shall not, by reason thereof, be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of the said crime of assault or of the said crime of theft, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such assault or theft; and no person so tried shall be liable to be afterwards prosecuted for the assault or theft, forming part of the said crime of robbery, charged in the said indictment.

Persons tried for robbery may be convicted of assault or theft, when such assault theft forms part of the said crime of Robbery, & no person shall again be tried for that assault or theft forming part of that charge of Robbery. N.B. When they do not find guilty of Robbery or assault on the trial may be postponed after arraignment.

III. Notwithstanding that any defendant may have been arraigned upon any charge, it shall be competent for the Court before which he has been arraigned to postpone the trial of the said charge until such time and place, and upon such terms, as to such Court may seem proper: Provided, however, that no such postponement shall be allowed after the jury shall have been duly sworn and charged with the prisoner in the manner provided for that purpose: Provided, further, that nothing in this section contained shall be held or construed to repeal or in any way to affect the validity of the provisions of the 58th and 59th Sections of Ordinance No. 40 of 1828.

But not after jury is sworn.

IV. The statement of an accused person purporting to be duly made and subscribed according to the 34th Section of the Ordinance No. 40, intituled "An Ordinance for Regula-

Prisoner's declarations at preparatory examinations to be received in evidence on mere production.

No. 17-1874.

Exceptions.

Admissibility of deposition at preparatory examination of witness unable to travel.

*then he is too travel, ded that I shall med that accused attys or counsel had opportunity, examining the ers*

Lashes not to be inflicted under any sentence of Resident Magistrate's Court until judge's certificate is received.

*when more than 2 = dozen*

Section 51 of Ordinance No 14 amended.

Unstamped instruments admissible in criminal cases.

Witnesses to be examined by grand jury, may be sworn by foreman.

*was to give ce on a bill of meat need not be in open Court but make depositions Foreman of jury \* must be such indictment he swear wilfully he may be found of perjury,*

ting the manner of proceeding in Criminal Cases in this Colony," shall be received in evidence before any Court or Tribunal upon its mere production without further proof thereof, unless it shall be proved that such statement was not in fact duly made, or that the signatures or marks thereto are not, in fact, the signatures or marks of the persons whose signatures or marks they purport to be.

V. In addition to the cases mentioned in the 41st Section of the Ordinance No. 72, intituled " Ordinance for Altering, Amending, and Declaring in certain respects the Law of Evidence within this Colony," where a deposition of an absent witness is admissible in evidence, such deposition shall also be admissible in evidence as in the said section mentioned, if it shall be proved on oath to the satisfaction of the Court that the deposing witness is too ill to be able to travel: Provided that in every case mentioned in the forty-first section of the Ordinance No. 72, aforesaid, and in this section of this Act, it shall appear upon the record or be proved to the satisfaction of the Court that the person accused, by himself, his counsel, attorney, or agent, had a full opportunity of cross-examining the witness.

VI. The punishment of whipping, where the number of lashes or cuts shall exceed twelve, shall in no case be inflicted under any sentence of any Court of Resident Magistrate until the proceedings in the case have been returned to the Magistrate with a Judge's certificate, as directed by the 47th Section of the Act No. 20 of 1856, intituled " An Act for amending and consolidating the Laws relative to the Courts of Resident Magistrates."

VII. The 51st Section of the said Ordinance No. 40 shall be read and construed as if the words " where innocence may be fairly presumed, and in every case where the charge is not alleged with sufficient certainty " were omitted therefrom.

VIII. Every instrument liable to Stamp Duty shall be admitted in evidence in any criminal proceeding, although it may not be stamped as required by law.

IX. From and after the passing of this Act, the witnesses in support of a bill of indictment need not be produced or sworn in open Court, but it shall be lawful for the foreman of every grand jury, and he is hereby authorized and required, to administer an oath to all persons whomsoever who shall appear before such grand jury to give evidence in support of any bill of indictment, and all such persons attending before any grand jury to give evidence may be sworn and examined upon oath by such grand jury touching the matters in question; and every person taking any oath in support of any bill of indictment who shall wilfully swear falsely shall be deemed guilty of perjury; and the name of every witness examined or intended to be examined

shall be endorsed on such bill of indictment, and the foreman of such grand jury shall write his initials against the name of each witness so sworn and examined touching such bill of indictment, and the form of oath shall, as near as may be, be as follows: "I, A.B., swear that the evidence I will give before the grand jury, upon the bill of indictment against C. D., shall be the truth, the whole truth, and nothing but the truth, so help me God."

No. 17—1874.

X. The word "foreman" in the last preceding section shall include any member of such grand jury who may for the time being act on behalf of such foreman in the examination of witnesses in support of any bill of indictment; and the words "oath" and "swear" shall include affirmation, declaration, admonition, and any other form which is by law required or allowed to be taken in lieu of an oath.

Meaning of word "foreman," &c., in last section.

XI. Every person who, after the taking effect of this Act, shall be held to bail, or committed to prison for any crime or offence, shall be entitled to require and have within a reasonable time in that behalf from the person who shall have the lawful custody thereof, and who is hereby required to deliver the same a copy of the examinations of the witnesses, respectively, upon whose depositions he has been so held to bail or committed to prison, and of his own statement, on payment of a reasonable sum not exceeding three pence for each folio of one hundred words: Provided that if such demand shall not be made before the day appointed for the commencement of the trial of the person on whose behalf such demand shall be made is to take place, such person shall not be entitled to have any such copy as aforesaid, unless the Judge or other person to preside at such trial, shall be of opinion that such copy may be made and delivered without delay or inconvenience to the trial; but it shall, nevertheless, be competent for such Judge, or other person presiding at such trial, if he shall think fit, to postpone such trial on account of such copy not having been previously had by the party charged.

Persons bailed or committed to prison entitled to receive copy of examinations of witnesses against him.

On payment of three pence a folio.

XII. Every person under trial shall be entitled at the time of the trial, to inspect, without fee or reward, all depositions (or copies thereof) which have been taken against, and the statement taken at the preliminary examination of, such person.

Persons under trial may inspect depositions without charge at trial.

XIII. The Thirty-ninth Section of the said Ordinance No. 40 is hereby repealed.

Section 39 of Ordinance No. 40 repealed.

XIV. This Act may be cited for all purposes as the "Criminal Law Amendment Act, 1874."

Short title.

No. 18—1874.

No. 18—1874.] AN ACT [July 31, 1874.  
To Amend Constitution Ordinance and Act No. 3 of  
1865, and to repeal Act No. 6 of 1859.

Preamble.

WHEREAS it is expedient, in order to secure to the electors a more equal exercise of the franchise, to divide the Colony of the Cape of Good Hope into seven electoral provinces, for the purpose of electing the members of the Legislative Council, and to alter, in other respects, the constitution of the said Council: And whereas it is necessary, for the purposes aforesaid, to amend the Constitution Ordinance and Act No. 3 of 1865, and to repeal Act No. 6 of 1859: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Sections 4 and 5 of Constitution Ordinance, Act No. 6 of 1859, and section 31 of Act No. 3 of 1865, repealed.  
Present Council to be deemed to have been elected for five years.

And vacancies in the meantime, or before dissolution, to be filled up as if this Act had not been passed.

Division of Colony into seven electoral provinces.

I. The fourth and fifth sections of the Constitution Ordinance, the Act No. 6 of 1859, and the thirty-first section of the Act No. 3 of 1865, are hereby repealed: Provided that all the members of the Legislative Council in existence at the time of the taking effect of this Act, shall be deemed to have been elected for the term of five years from the date of their election, and no longer: Provided, further, that any vacancy or vacancies which shall happen in the present Council before the dissolution thereof, or before the expiration of the said five years, whichever shall first happen, shall be filled up in the same manner as if this Act had not been passed, but the member or members elected to fill such vacancy or vacancies shall hold his or their seat or seats until the expiration of the five years aforesaid or such dissolution as aforesaid, and no longer.

II. For the purpose of electing hereafter the twenty-one elective members of the said Council, as provided for by the twenty-first section of Act No. 3 of 1865, the Colony of the Cape of Good Hope shall be divided into seven electoral provinces, and such provinces shall respectively consist of the electoral divisions following, that is to say:

1. The western electoral province shall consist of the electoral divisions of Cape Town, Cape Division, Stellenbosch, and Paarl.
2. The north-western electoral province shall consist of the electoral divisions of Worcester, Malmesbury, Piquetberg, Namaqualand, and Clanwilliam.
3. The south-western electoral province shall consist of the electoral divisions of Swellendam, Caledon, Riversdale, Oudtshoorn, and George.
4. The midland electoral province shall consist of the electoral divisions of Graaff-Reinet, Richmond, Beaufort West, and Victoria West.

5. The south-eastern electoral province shall consist of the electoral divisions of Port Elizabeth, Uitenhage, Graham's Town, Albany, and Victoria East.
6. The north-eastern electoral province shall consist of the electoral divisions of Somerset East, Fort Beaufort, Cradock, Colesberg, and Albert.
7. The eastern electoral province shall consist of the electoral divisions of King William's Town, East London, Queen's Town, Aliwal North, and Wodehouse.

No. 18—1874.

III. The voters in and for each of the said electoral provinces shall be entitled to elect three qualified men, and no more, to be members of the said Legislative Council, and such members shall vacate their seats at the expiration of seven years from the date of their election: Provided that every member vacating his seat under the provisions of this section shall be eligible to be re-elected.

Each province to elect three members, who shall vacate their seats every seven years.

IV. All and singular the provisions of the Constitution Ordinance, from the thirty-fourth to the forty-fourth sections thereof, both inclusive, and of the seventy-third and seventy-fifth sections of the said Ordinance, regarding the mode of signing and accepting requisitions, and electing and proclaiming any member or members of the Legislative Council for the western and eastern districts respectively, shall apply, *mutatis mutandis*, to the election of any member or members of the said Council for the said electoral provinces respectively, precisely as if the said Ordinance had directed the election of members of the said Council to take place for the said electoral provinces respectively, instead of for the western and eastern districts respectively: Provided, however, that as often as there shall be an election of any member or members of the said Council, then, in case the candidate or candidates to fill the vacant seat or seats who shall have duly accepted and transmitted a requisition or requisitions, as in the said thirty-fourth section of the said Ordinance is mentioned, shall in number not exceed the seat or seats to be filled, then in every such case there shall be no poll held; but such candidate or candidates, if otherwise duly qualified, shall, after the expiration of the time limited by the proclamation for transmitting requisitions and acceptances thereof, be declared and proclaimed in the Government Gazette, as being duly elected a member or members of the said Legislative Council.

Mode of election.

V. The thirty-third section of the said Constitution Ordinance shall be, and the same is hereby, amended, by reading the same as if the words following, that is to say, "western or eastern, as the case may be, for which he shall be elected," had not been inserted therein, but had been entirely omitted therefrom.

Section 33 of constitution ordinance amended.

No. 18—1874.

Province to be selected by person elected for more than one.

VI. If in any case the same person shall have been elected as member of the said Council for more than one electoral province, such person shall be bound, upon being thereto required by the Governor, if not before, to elect the electoral province for or in respect of which he will become a member of the said Council; and upon such election being declared, a fresh election shall take place to supply the resulting vacancy or vacancies.

Council may be dissolved as provided in section 74 of Constitution Ordinance.

VII. Nothing in this Act contained shall prevent the Governor from, at any time, dissolving the present or any future Legislative Council, as in the seventy-fourth section of the said Constitution Ordinance provided.

Members of Parliament accepting offices of profit under Government or becoming insolvent to vacate their seats.

VIII. And whereas it is provided by the 33rd and 47th sections of the said Ordinance, that no person holding any office of profit under her Majesty the Queen within the said Colony, and no uncertificated insolvent, shall be eligible to be elected a member of the said Council or of the House of Assembly, but no provision is made in and by the said Ordinance for the vacating of the seat of any person who, being a member either of the said Council or of the said Assembly, shall accept any office of profit under Her Majesty or shall become insolvent: Be it enacted that if any member of the Legislative Council or House of Assembly shall accept or be the holder of any office of profit under Her Majesty the Queen, save and except the office of Colonial Secretary, Treasurer of the Colony, Attorney-General, Commissioner of Crown Lands and Public Works, or Secretary for Native Affairs, or if the estate of any such member shall be sequestrated as insolvent, the seat of such member shall become vacant, and thereupon an election shall take place for filling the said vacancy in like manner as if the causes specified in this section for creating vacancies had been specified in the said Constitution Ordinance.

Exceptions.

Further provision for filling vacancies.

IX. And whereas the 73rd section of the said Constitution Ordinance provides *inter alia* for the supplying during the recess of either House of Parliament of any vacancy which may have occurred in either of such Houses, but no provision is made in and by the said Ordinance for the supplying of any vacancy occurring in either House in the interval between any general election for members of either House and the then next meeting of Parliament: Be it enacted that the provisions of the said seventy-third section of the said Ordinance, relative to the supplying, during the recess of either House of Parliament, of any vacancy which shall have occurred in either of such Houses, shall extend and apply to the supplying of vacancies occurring in either House in the interval between any general election for members of either House and the then next meeting of Parliament, precisely as if such interval were a recess created by prorogation or adjournment of the House in which any

Vacancies during recess.

such vacancy shall have occurred; and it shall be lawful for any member of the House of Assembly desiring to resign his seat during such interval, to do so by writing under his hand, addressed to the Colonial Secretary, anything in the seventieth section of the Constitution Ordinance to the contrary notwithstanding: Provided, further, that it shall be lawful for any member of the House of Assembly to resign his seat in the said Assembly, by writing under his hand, addressed to the Colonial Secretary, instead of the Speaker of the said Assembly, if such office shall be vacant in consequence of the death or resignation of such Speaker, or if such Speaker should be absent from the Colony.

No. 18—1874.  
Members may resign during recess by writing to Speaker or Colonial Secretary.

X. This Act may be cited for all purposes as the “Constitution Ordinance Amendment Act, 1874.” Short title

No. 19—1874.] AN ACT [July 31, 1874.

To provide for Constructing, Equipping, and Working certain Railways, and to relieve the Divisions of the Cape, Stellenbosch, and the Paarl, from the charge commonly called Sub-Guarantee to which the Immovable Property in the said Divisions is now liable.

WHEREAS it is expedient that certain Railways should be constructed, equipped, maintained, and worked, that is to say: Preamble.

1. From East London, *via* Blaney, to King William's Town, and from Blaney to Queen's Town;
2. From Worcester, *via* Hex River and De Staat, to Beaufort West;
3. From the Bushman's River to Cradock;
4. From Graham's Town to the Little Fish River (on the aforesaid line to Cradock);
5. From Belleville on the Cape Town and Wellington Railway, *via* Kraaifontein, to Malmesbury, and from Kraaifontein to Muller's Vley;
6. From the Zwartkop's River, *via* Uitenhage, to Graaff-Keinet; and
7. In Cape Town, from the Castle to the Docks;

And whereas it is also expedient that the necessary funds for constructing and equipping the said railways should be provided: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

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Governor shall cause sections of railway to be constructed, equipped, maintained, and worked.

I. The Governor shall, as soon as conveniently may be after the passing of this Act, cause to be constructed and equipped, either under contract for each separate line of railway or otherwise, the several railways in the preamble of this Act mentioned, and shall cause the same to be maintained and worked, and shall appoint such engineers and other officers, and do and perform all such acts, matters, and things as he may deem necessary or expedient for the said purposes: Provided, however, that instead of constructing and equipping so much of the said railway sixthly above mentioned as lies between the Zwartkops River and Uitenhage, it shall be competent for the Governor to exercise the power of purchase contained in the "Port Elizabeth and Uitenhage Railway Company (Limited) Act, 1871."

Lands may be entered, &c.

II. Any person being duly authorized by the Governor so to do may enter upon any land for the purpose of surveying the same, and of probing or boring in order to ascertain the nature of the soil, or of setting out the said several lines of railway, making full compensation to the occupier of the said land for any damage thereby occasioned, the same to be recoverable by action brought in any competent court within three months from the date when such damage is alleged to have been committed.

Powers of Commissioners under Act No. 9 of 1858 bestowed upon Governor in regard to taking or acquiring lands and materials.

III. All and singular the powers and authorities which are by Act No. 9 of 1858, intitled "An Act to provide for the Management of the Public Roads of the Colony," bestowed upon the commissioners of roads in regard to taking or acquiring lands and materials necessary for the making or repairing of any such main road as in the said Act mentioned, or of any works in connection therewith, are hereby bestowed upon the Governor, or any person charged by him with the making or maintaining of the railways aforesaid, precisely as if the said powers and authorities were, *mutatis mutandis*, herein again set forth, and as if the said railways were public roads: Provided, however, that if any land or materials belonging to any person who shall be absent from the Colony, or whose place of residence shall be unknown to the Governor, shall be required for the making or maintaining of the railways aforesaid, then it shall not be necessary to serve the several notices required by the eleventh and twelfth sections of the said Act No. 9 of 1858 upon such proprietor, but the publication of any such notice in the Government Gazette shall be deemed and taken to be a sufficient notice to such proprietor: Provided, also, that it shall not be necessary before the exercise of any such powers or authorities as aforesaid, that any proceeding shall be taken to settle the amount of compensation or recompense to be paid for or in respect of such land or materials, but it shall be lawful for the Governor, or any person charged by him with the making or maintaining of the railways aforesaid,



to enter upon, take possession of, and use any land or materials which may be required for the purposes of any of the said railways whenever he may think fit, leaving all questions as to the recompense or compensation to be paid for or in respect of such land or materials to be settled afterwards in manner provided by the 12th and 13th Sections of the said Act No. 9 of 1858.

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IV. The provisions of the fifty-sixth and fifty-seventh sections of the said Act No. 9 of 1858, relative to injuries done, whether wilfully or carelessly, to the main roads of the Colony, and to buildings and works connected therewith, shall, *mutatis mutandis*, extend and apply to injuries done to the lines of railway hereby authorized to be constructed and any buildings or works connected therewith, precisely as if the said lines of railway were main roads.

Provisions of sections 56 and 57 of Act No. 9 of 1858 to extend to railway lines.

V. The several provisions of Act No. 19 of 1861, intituled "An Act for the Regulation of Railways in this Colony," save and except the twenty-ninth and thirtieth sections thereof, shall, *mutatis mutandis*, apply to the railways to be constructed under this Act, precisely as if the said railway belonged to a company, and there were a board of directors, the functions of the said board being performed by the Governor with the advice of the Executive Council.

Act No. 19 of 1861 to apply to railways under this Act.

VI. For the purpose of constructing and equipping the said railways in the preamble of this Act mentioned it shall be lawful for the Governor to expend a sum not exceeding four millions eight hundred and five thousand and eighty pounds sterling, as follows, that is to say:

Sum: to be expended

1. For the purpose of constructing and equipping the said railway from East London to King William's Town, and from Blaney to Queen's Town, the sum of one million and sixty-nine thousand pounds sterling, which said sum includes a sum of twenty-five thousand pounds already authorized by resolution of both Houses of Parliament to be expended upon the construction of the first section of the said line of railway from East London.
2. For the purpose of constructing and equipping the said railway from Worcester to Beaufort West, a sum not exceeding one million three hundred and ninety thousand pounds sterling.
3. For the purpose of constructing and equipping the said railway from the Bushman's River to Cradock, a sum not exceeding eight hundred and forty-two thousand pounds sterling.
4. For the purpose of constructing and equipping the said railway from Graham's Town to the Little Fish River, a sum not exceeding three hundred and twenty-eight thousand pounds sterling.

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5. For the purpose of constructing and equipping the said railway from Belleville to Malmesbury and from Kraaifontein to Muller's Vley, a sum not exceeding two hundred and twenty-eight thousand pounds sterling.
6. For the purpose of constructing and equipping the said railway from the Zwartkop's River to Graaff-Reinet, a sum not exceeding nine hundred and forty thousand pounds sterling, which said sum includes the money required for the purchase of the said railway between Zwartkop's River and Uitenhage and the matters and things appertaining thereto; and
7. For the purpose of constructing and equipping the said railway from the Castle to the Docks, a sum not exceeding eight thousand and eighty pounds sterling.

Loan of £4,000,000  
authorized.

VII. And whereas it is estimated that of the said sum of four millions eight hundred and five thousand and eighty pounds sterling, a sum not exceeding four millions will be required to be raised by loan, the residue of the said sum being provided from and out of the proceeds of the sale of Crown Lands, heretofore paid to the Commissioners of the Sinking Funds, under the 2nd section of the Act No. 5 of 1870, for purpose now otherwise provided for, and from and out of other existing sources of revenue, it shall be lawful for the Governor to raise the said sum of four million pounds, from time to time as he may deem expedient, either by debentures or stock, or partly by debentures and partly by stock.

Provisions if bor-  
rowing upon debentures.

VIII. In so far as the said borrowing shall be upon debentures, the following provisions shall be observed:— Such debentures shall be issued in this Colony or in England, or partly in this Colony and partly in England, for sums not exceeding five hundred pounds nor less than one hundred pounds each, upon the best and most favourable terms that can be obtained, and the interest to accrue due thereon shall be charged upon and made payable out of the general revenue of this Colony.

Provisions, if bor-  
rowing upon stock.

IX. In so far as the said borrowing shall be upon stock the following provisions shall be observed:

1. Such stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be kept for that purpose by the Treasurer of the Colony, such credit to be given in the first instance upon production and delivery to the said Treasurer, by such purchaser, or by his order, of a scrip certificate for the amount of stock for which such credit shall be claimed, such certificate being signed by the Colonial Secretary and countersigned by the said Treasurer and by the Auditor-General, and which scrip certificate shall be kept in the office of the said Treasurer.

2. Such stock shall bear interest after the rate of four pounds and ten shillings per centum per annum on the nominal amount of such stock, from the 15th day of April or the 15th day of October next preceding the issue of the said scrip certificate which shall last happen, and such interest shall be payable thereafter half-yearly on the 15th day of April and the 15th day of October in each year; the first of such payments to be made on the half-yearly day which shall happen next after the opening of such credit in the books of the said Treasurer as aforesaid, and shall be paid on such days, respectively, or so soon thereafter, as demand shall be made therefor by the lawful holder for the time being of such stock, to such lawful holder or his duly authorized attorney, at the office of the Treasurer in Cape Town.
3. Such stock, together with the interest from time to time to accrue thereon, shall be and is hereby charged upon and made payable out of the general revenue of this Colony; and the Governor shall from time to time pay such interest, and may also out of such revenue or any moneys to be appropriated for that purpose from time to time buy up and cancel such stock or any part thereof.
4. Such stock shall be transferable by transfer in the books of the said Treasurer, and every person to whom any such credit as aforesaid shall have been given in the said books in the first instance, or to whom any such transfer shall thereafter have been made in the said books, shall be entitled to require and demand of the said Treasurer a receipt or certificate stating the amount of such stock standing to his credit in such books.
5. There shall be paid into the treasury upon every transfer in the said books of any sums of such stock a sum of two shillings and sixpence upon every hundred pounds to be transferred in such books, and on every other sum so transferred in the like proportion: Provided that instead of any fractional part of a penny which would, under this provision, be payable, a full sum of one penny shall be payable; and no transfer shall be actually made in such books as aforesaid unless and until such sum as shall be payable as aforesaid shall be paid.
6. All such stock shall be put up for public tender in such amounts as may from time to time seem fit, and may be disposed of for the best terms which can be thus obtained. If more tenders than one offering the same terms shall be received for a greater amount of such stock than the amount for the time being about to be issued, it shall be lawful to accept any

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one or more of such tenders or any part of any such tenders as circumstances may make expedient.

7. The moneys realized by the issue and sale of such stock shall be carried to a separate account, and shall be expended, so far as shall be necessary, for the purposes mentioned in the preamble of this Act.

Formation of fund for payment of interest and gradual extinction of loan under this Act.

X. As a fund for the payment of the interest upon, and for the gradual extinction of, the debt to be raised upon debentures under authority of this Act, there shall be charged and chargeable upon, and set apart out of the annual revenues of this Colony, an annual sum equal to the interest on the whole amount of such debentures as shall from time to time be issued under authority of this Act; and a further sum equal to one pound sterling per annum on the total amount of the principal or capital sum which shall from time to time be raised upon debentures under the authority of this Act; and such sum shall be annually charged on and payable out of the revenues of the Colony so long as any portion of the debt to be raised under authority of this Act upon debentures or any interest thereon shall remain unpaid and unextinguished, and such annual charge shall, so soon as such debt and interest shall have been all paid and extinguished, cease and determine.

Portion of fund not required for payment of interest to be applied in cancelling debentures.

XI. Such portion of the fund which shall under the last foregoing section be charged and chargeable annually on the revenues of the Colony as shall not be required for the payment of the interest for the time being due upon the debentures to be issued under authority of this Act, shall be applied in redeeming and cancelling such debentures in such manner and form as shall be provided by the terms and conditions whereon and whereunder such debentures shall be issued.

Redeemed debentures to be cancelled by Treasurer and advertised.

XII. All debentures which shall be redeemed under the authority of this Act shall, immediately on the receipt thereof, be cancelled by or on behalf of the Treasurer of this Colony, and shall be duly advertised as so cancelled.

Master of Supreme Court may invest money in stock and debentures.

XIII. Notwithstanding anything herein contained, it shall be lawful for the Governor to dispose of to the Master of the Supreme Court, in his capacity of Administrator of the Guardians' Fund, and the said Master is hereby authorized to invest any unemployed moneys belonging to such fund in so much of any such stock and so many of any such debentures as he may apply for, on such terms as may be mutually agreed upon, provided that every such investment shall be made with the same advice, or upon the same authority, as if such investment were a loan upon mortgage.

Accounts to be submitted annually to Parliament.

XIV. An account showing the amount of all stock and debentures issued from time to time under authority of this Act, and of the moneys realized by the issue and sale thereof, and of the expenditure of all such moneys, or of so much thereof as shall for the time being have been expended;

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and of all other moneys which have been expended upon the said railways out of the general revenue of the Colony, or otherwise, distinguishing the total sums expended upon each line of railway, and an account of the amount of such stock and debentures for the time being outstanding, and of all such sums thereof as shall from time to time be bought in and cancelled, if any, vouched by the Auditor-General, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and like accounts within fourteen days after the commencement of every succeeding session thereof.

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XV. And whereas under and by virtue of the Acts relating to the construction of the Cape Town and Wellington Railway, to wit, the Acts No. 20 of 1857, No. 10 of 1862, and No. 15 of 1872, a certain charge in the nature of a sub-guarantee is imposed upon the immovable property of or belonging to the division of the Cape (including the municipalities of Cape Town and Green Point), and the divisions of Stellenbosch and the Paarl; and whereas the railways in the preamble of this Act mentioned are to be constructed without imposing any such charge upon property of or belonging to the divisions through which the said lines of railway will pass: Be it enacted, that the said charge upon the immovable property of or belonging to the said divisions, and the liability thereof to any rate in respect of such charge, shall cease as from the 1st of January last past: Provided that nothing herein contained shall discharge or relieve any such property, or the owners or occupiers thereof or the divisional council of either of the said divisions, from any liability for any sum or sums of money due in respect of the said sub-guarantee for any period prior to the 1st day of January aforesaid, but such moneys shall be in the same plight and condition as if this Act had not passed.

Sub-guarantee under Acts No. 20 of 1857, No. 10 of 1862, and No. 15 of 1872, abolished.

XVI. This Act may for all purposes be cited as the "Railways Act, 1874."

Short title.

No. 20—1874.] AN ACT [July 31, 1874.

To Enable the Divisional Council of Swellendam to borrow moneys, upon the security of Road Rates and Tolls, for the payment of its Debt, and for the improvement and construction of certain Roads in connection with Southey's Pass.

WHEREAS it is expedient that the Divisional Council of Swellendam should be empowered to borrow moneys, upon the security of road rates and tolls of the said division, for the purpose of paying off the balance of the contribution

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due by the said Council to the general revenue on account of the expense of constructing the road over Southey's Pass, and for improving and constructing the roads by which the said Pass is approached from Heidelberg and Port Beaufort on the one side, and from the Karroo on the other, by which the inhabitants would be benefited: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof:

Repugnant laws repealed.

I. So much of the Act No. 9 of 1858, entitled an "Act to provide for the management of the public roads of this Colony," No. 10 of 1864, entitled an "Act to provide for the construction and maintenance of the Main Roads of this Colony," and No. 22 of 1873, entitled an "Act to amend the Laws relating to the construction and maintenance of the Main Roads of the Colony," as is repugnant to or inconsistent with any of the provisions of this Act, shall, so far as regards the provisions of this Act, be and the same is hereby repealed.

Divisional Council may raise loan not exceeding £2,000 on credit of tolls or rates.

II. It shall be lawful for the said Divisional Council to raise from time to time by way of loan, on the credit of any tolls to be levied or rates to be assessed under the Acts in the first section of this Act cited, any sum or sums that may at any time be required by the said Divisional Council for the purposes hereinbefore mentioned: Provided that no such loan as aforesaid shall be capable of being effected except under and by virtue of a resolution of the said Council, at a meeting at which there shall be present not fewer than six elected members: Provided that no meeting shall be competent to pass any such resolution unless each of the members shall have had due notice (as required by the "Rules of Order" of the said Divisional Council) of the intention to hold such meeting: And provided that no loan or loans or debts contracted by the said Council under this Act shall at any time exceed the sum of two thousand pounds sterling: And provided that, except as hereinafter in section 5 is mentioned, no such loan shall be applied for the payment of any previous loan or debt that may have been raised or may be due by the said Council.

Sums to be chargeable upon rates and revenues of council.

III. The sums aforesaid are hereby charged upon and made payable out of all and singular the rates and revenues of the said Divisional Council, and it shall be lawful for the said Divisional Council to apply to the payment of interest or principal, or interest and principal, of the moneys aforesaid, any such rates or revenues not specially appropriated or required for any other object.

Acknowledgment loan to be in form given in schedule.

IV. The said Divisional Council shall grant to the party or parties, or company, society, or co-partnership, from whom they shall borrow such moneys as aforesaid, a written acknowledgment of or for the moneys so borrowed by such

Council for the purposes aforesaid, which acknowledgment shall in substance be in the form given in the Schedule to this Act, and shall be signed on behalf of the said Divisional Council by three of its elected members appointed for that purpose by a resolution of the said Council.

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V. And whereas the said Divisional Council is indebted to the general revenue of the Colony in the sum of four hundred and thirty-seven pounds and ten shillings sterling, being the balance of its contribution towards the expense of constructing the road over Southey's Pass: Be it enacted that it shall and may be lawful for the said Council to pay the aforesaid sum of four hundred and thirty-seven pounds and ten shillings sterling, out of the said sum of two thousand pounds sterling, authorized to be raised under this Act.

Balance £437 10s. 0d. due to general revenue to be paid out of money raised under this Act.

VI. All debts lawfully incurred by the said Divisional Council for the purposes of this Act shall be subject to the provisions of the "Public Bodies Debts Act, 1867."

Debts incurred to be subject to Act No.— of 1867.

VII. All moneys raised as aforesaid under this Act shall on receipt thereof be deposited in a bank, to be chosen for that purpose by the said Council, to the credit of a separate account, and all sums required shall be drawn by cheques signed by the secretary to the said Divisional Council, and countersigned by such one of its elected members as shall be appointed so to do by the said Council.

Moneys raised to be deposited in bank to separate account, &c.

VIII. The said Council shall keep a separate and distinct account of all moneys received and expended by virtue of this Act, and shall cause an abstract of the said account to be transmitted to the Colonial Secretary half-yearly, showing all moneys received and expended up to the 30th June and 31st December then next preceding, and all liabilities and assets on the same days.

Separate account to be submitted to Government half-yearly

IX. The accounts in the preceding section mentioned shall be audited and examined by the auditors, to be from time to time appointed under the provisions of "the Divisional Councils Act, 1865," and the provisions of the 83rd and 85th sections of the said Act shall extend and apply to all accounts, books, and papers connected with the said loan.

Accounts to be audited.

X. All the necessary costs, charges, and expenses attending the procuring of this Act and the carrying the provisions thereof into effect shall be paid out of the money to be received under the provisions of this Act.

Expenses of Act to be paid out of loan raised.

XI. This Act may be cited for all purposes as the "Swellendam Divisional Council Loan Act, 1874."

Short title.

### SCHEDULE.

We, the undersigned, members of the Divisional Council of Swellendam, duly authorized thereto by the said Council, do hereby acknowledge that the said Divisional Council of Swellen-

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dam is indebted to \_\_\_\_\_ in the sum of \_\_\_\_\_, for so much money borrowed by the said Council for the purposes set forth in the Swellendam Divisional Council Loan Act, 1874, and certify that the said sum is secured by the said Act, in manner and form as by the said Act provided. And we further covenant and engage in our said capacity that the principal and interest of the said debt shall be payable and paid in manner following, that is to say (here insert the rate of interest, times of payment, and other conditions agreed upon).

Given under our hands at Swellendam this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
 \_\_\_\_\_ } Members of the  
 \_\_\_\_\_ } Divisional Council  
 \_\_\_\_\_ } of Swellendam.

Witnesses :

\_\_\_\_\_

No. 21—1874.] AN ACT [July 31, 1874.

For Applying a Sum not exceeding Eight Hundred and Forty-four Thousand Two Hundred and Thirty-two Pounds Seventeen Shillings and Sixpence Sterling for the Service of the Year 1874.

Preamble.

**W**HEREAS by the Act No. 21 of 1873, intituled "An Act for applying a Sum not exceeding Two Hundred and Eighty-one Thousand Five Hundred and Fifty-two Pounds Eight Shillings and Sixpence Sterling for the Service of the Year 1874," the said sum of two hundred and eighty-one thousand five hundred and fifty-two pounds eight shillings and sixpence was charged upon the revenue of this Colony for the service of the Government of the Colony until the 30th June, 1874: And whereas it has become expedient in the present session of Parliament, to take into consideration the requirements of the said service for the entire year 1874, as well that portion for which provision was made by the said Act as the remaining portion thereof: And whereas it is expedient, in order to prevent confusion, to repeal the said Act No. 21 of 1873, and to provide by one Act for the service of the year 1874: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Act No 21 of 1873  
 repealed.  
 Expenditure 1874.

I. The Act aforesaid, No. 21 of 1873, is hereby repealed.  
 II. The public revenue of the Colony is hereby charged with a sum not exceeding eight hundred and forty-four thousand two hundred and thirty-two pounds seventeen shillings and sixpence sterling for the service of the year 1874, in



addition to the sums already by law provided for such service, which sum of eight hundred and forty-four thousand two hundred and thirty-two pounds seventeen shillings and sixpence shall be applied in manner following, that is to say :

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1. For the expenditure of the Civil Establishments, a sum not exceeding one hundred and forty-four thousand five hundred and sixty pounds and sixpence. Civil establishments
2. For the expenditure of the Judicial Establishments, a sum not exceeding thirty-nine thousand and thirty-two pounds fifteen shillings. Judicial establishments.
3. For the expenditure of Educational Establishments, a sum not exceeding thirty-one thousand five hundred and sixty-three pounds. Educational establishments.
4. For the expenditure of Medical Establishments, a sum not exceeding forty-one thousand eight hundred and twenty-five pounds, nineteen shillings and sixpence. Medical establishments.
5. For the expenditure of the Police and Gaols Establishments, a sum not exceeding seventy-five thousand eight hundred and sixty-nine pounds ten shillings. Police and gaol establishments.
6. For the expenditure of the Border Department (Aborigines), a sum not exceeding ninety-three thousand five hundred and forty-five pounds sixteen shillings and ninepence. Border department (aborigines).
7. For the expenditure on account of Pensions and Retired Allowances, a sum not exceeding six thousand nine hundred and thirty-eight pounds nineteen shillings and sixpence. Pensions and retired allowances.
8. For the expenditure on account of Charitable Allowances and Gratuities, a sum not exceeding two hundred pounds. Charitable allowances.
9. For the expenditure on account of Works and Buildings, a sum not exceeding one hundred and one thousand one hundred and seventy-eight pounds ten shillings. Works and buildings.
10. For the expenditure on account of Roads and Bridges, including Convict Expenditure, a sum not exceeding one hundred and one thousand and thirty-nine pounds sixteen shillings and threepence. Roads and bridges.
11. For the expenditure on account of Miscellaneous Services, including Parliamentary Expenses, a sum not exceeding sixty-four thousand and forty-three pounds ten shillings. Miscellaneous services.
12. For the expenditure on account of Interest, a sum not exceeding two hundred pounds. Interest.
13. For the expenditure on account of Colonial Allowances to Military Officers, a sum not exceeding ten thousand pounds. Colonial military allowances.

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Railways. 14. For the expenditure on account of Railways, a sum not exceeding sixty-three thousand two hundred and ninety-pounds.
- Immigration. 15. For the expenditure on account of Immigration, a sum not exceeding twenty-four thousand pounds.
- Electric telegraphs. 16. For the expenditure on account of Electric Telegraphs, a sum not exceeding forty-six thousand nine hundred and forty-five pounds.
- Total amount  
£844,232 17s 6d. Amounting in the whole to eight hundred and forty-four thousand two hundred and thirty-two pounds seventeen shillings and sixpence, as detailed in the schedule hereunto annexed.
- Application of supplies. The said aids and supplies shall not be issued or applied for any use, intent, or purpose other than the particular services for which the said amounts have been granted respectively by this Act.

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No. 22—1874.] AN ACT [July 31, 1874.

For Applying a Sum not exceeding Three Hundred and Eighty-six Thousand and Seventy-two Pounds Thirteen Shillings and Ninepence Sterling for the Service of the Year 1875.

Preamble.

WHEREAS it is expedient to provide further sums, in addition to those by law provided, for the services of the Government of this Colony until the 30th June, 1875: Be it therefore enacted by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Expenditure 1875.

I. That a sum not exceeding three hundred and eighty-six thousand and seventy-two pounds thirteen shillings and ninepence sterling, shall be charged upon the revenue of the said Colony, towards the service of the year 1875, and applied in the manner and for the purpose set forth in the schedule annexed to this Act, that is to say:

Civil establishments.

1. For the expenditure of the Civil Establishments, a sum not exceeding seventy-two thousand two hundred and eighty pounds and threepence.

Judicial establishments.

2. For the expenditure of the Judicial Establishments, a sum not exceeding nineteen thousand five hundred and sixteen pounds seven shillings and sixpence sterling.

- No. 22—1874.
3. For the expenditure of the Educational Establishments, a sum not exceeding fifteen thousand seven hundred and eighty-one pounds ten shillings sterling. Educational establishments.
  4. For the expenditure of the Medical Establishments, a sum not exceeding twenty thousand nine hundred and twelve pounds nineteen shillings and ninepence sterling. Medical establishments.
  5. For the expenditure of the Police and Gaols Establishments, a sum not exceeding thirty-seven thousand nine hundred and thirty-four pounds fifteen shillings sterling. Police and gaols establishments.
  6. For the expenditure on account of the Border Department, a sum not exceeding forty-six thousand seven hundred and seventy-two pounds eighteen shillings and fourpence sterling. Border department.
  7. For the expenditure on account of Pensions, Retired Allowances, and Gratuities, a sum not exceeding three thousand four hundred and sixty-nine pounds nine shillings and ninepence sterling. Pensions, retired allowances, and gratuities.
  8. For the expenditure on account of Charitable Allowances, a sum not exceeding one hundred pounds sterling. Charitable allowances.
  9. For the expenditure on account of Works and Buildings, a sum not exceeding eighteen thousand two hundred and fourteen pounds five shillings sterling. Works and buildings.
  10. For the expenditure on account of Railways, a sum not exceeding thirty-one thousand six hundred and forty-five pounds sterling. Railways.
  11. For the expenditure on account of Roads and Bridges, a sum not exceeding fifty thousand five hundred and nineteen pounds eighteen shillings and twopence sterling. Roads and bridges.
  12. For the expenditure on account of Miscellaneous Services, a sum not exceeding twenty-eight thousand three hundred and fifty three pounds sterling. Miscellaneous services.
  13. For the expenditure on account of Interest, a sum not exceeding one hundred pounds sterling. Interest.
  14. For the expenditure on account of Colonial Military Allowances, a sum not exceeding five thousand pounds sterling. Colonial military allowances.
  15. For the expenditure on account of Immigration, a sum not exceeding twelve thousand pounds sterling. Immigration.
  16. For the expenditure on account of Electric Telegraphs, a sum not exceeding twenty-three thousand four hundred and seventy-two pounds ten shillings sterling. Electric telegraphs.

II. The said aids or supplies shall not be issued or applied for any use, intent, or purpose, other than the particular services for which the said amounts have been granted respectively by this Act. Application of supplies.

## SCHEDULE.

## For the Expenditure of the Civil Establishments :

His Excellency the Governor	£985	0	0
Colonial Secretary .. ..	630	0	0
Treasurer-General .. ..	617	10	0
Auditor-General .. ..	1,179	0	0
Registrar of Deeds .. ..	672	10	0
Inspector-Gen. of Chests, &c.	507	10	0
Commissioner of Crown Lands and Public Works ..	930	0	0
Railway Service Working Department .. ..	2,192	5	0
Engineer for Railways and Harbours .. ..	2,278	5	0
Telegraph Department .. ..	3,343	0	0
Surveyor-General .. ..	1,635	10	0
Dept. of Public Works, &c.	4,669	0	3
Secretary for Native Affairs	260	0	0
Port Department .. ..	1,627	5	0
Keeper of Public Buildings	151	10	0
Crown Agents for the Colonies	125	0	0
Post Office .. ..	48,445	5	0
Customs Department—Rents	1,050	0	0
Rents for Sundry Offices ..	781	10	0
Civil Commissioners, &c. Transport .. ..	200	0	0
			<u>£72,280 0 3</u>

## For the Expenditure of the Judicial Establishments :

Supreme Court .. ..	£2,838	10	0
High Sheriff .. ..	89	0	0
Attorney-General .. ..	..	..	..
Solicitor-General .. ..	400	0	0
Divisional Courts .. ..	8,697	7	6
Administration of Justice ..	4,597	10	0
Rent of Offices .. ..	994	0	0
Transport .. ..	1,900	0	0
			<u>£19,516 7 6</u>

## For the Expenditure of the Educational Establishments :

Educational (exclusive of Es- tablishments) .. ..	£15,536	10	0
Rents .. ..	60	0	0
Transport .. ..	185	0	0
			<u>£15,781 10 0</u>

## For the Expenditure of the Medical Establishments :

Medical Department . . . .	£6,381	9	9
Hospitals .. ..	14,306	10	0
Rents .. ..	25	0	0
Transport .. ..	200	0	0
			<u>£20,912 19 9</u>

For the Expenditure of the Police and Gaols Establishments :

No. 22—1874.

Police and Gaols—Establishments .. ..	£26,177	5	0		
Police and Gaols—exclusive of do. .. ..	10,070	0	0		
Rents .. ..	300	0	0		
Transport .. ..	1,387	10	0		
				37,934	15 0

For the Expenditure on account of the

Border Department .. ..	46,772	18	4		
Pensions, Retired Allowances, & Gratuities	3,469	9	9		
Charitable Allowances .. ..	100	0	0		
Works and Buildings .. ..	18,214	5	0		
Railways .. ..	31,645	0	0		
Roads and Bridges .. ..	50,519	18	2		
Miscellaneous Services .. ..	28,353	0	0		
Interest .. ..	100	0	0		
Colonial Military Allowances .. ..	5,000	0	0		
Immigration .. ..	12,000	0	0		
Electric Telegraphs .. ..	23,472	10	0		
Total .. ..	£386,072	13	9		

No. 23—1874.]

AN ACT

[July 31, 1874.

To Amend the Law of Inheritance of this Colony.

**WHEREAS** it is expedient to remove certain restrictions heretofore existing by the laws of this Colony on the freedom of the disposition of property by the last will or testament of the owner thereof: Be it enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :

Preamble.

I. So much of any law or ordinance heretofore existing in this Colony as shall be repugnant to, or inconsistent with, any of the provisions of this Act, shall be repealed, and the same is hereby repealed accordingly.

Repugnant laws repealed.

II. 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 Act.

No legitimate portion can be claimed of right.

III. Every person competent to make a will shall have full power by any will executed after the taking effect of this Act to disinherit or omit to mention 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.

Persons making wills may disinherit any child, &c., without assigning reasons.

No. 23—1874.

Existing laws of inheritance *ab intestato* to remain in force.  
Existing laws of community of property between spouses to remain in force.

Short title.

IV. Nothing in this Act contained shall affect or alter the Laws of Inheritance *ab intestato* at present in force in this Colony.

V. Nothing in this Act shall extend to or alter or affect the laws of this Colony regarding community of property between spouses when not excluded by antenuptial contract.

VI. This Act may be cited for all purposes as "The Succession Act of 1874."

No. 24—1874.]

AN ACT

[July 31, 1874.

To Regulate the appropriation of Grants from the Public Revenue in aid of Higher and Professional Education.

Preamble.

WHEREAS it is expedient to encourage the advancement of the youth of all classes throughout the Colony in literary and scientific studies, and to make better provision for enabling young persons to prepare themselves for the various examinations prescribed, or to be prescribed, by the University of the Cape of Good Hope: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Moneys to be administered by Governor under rules and regulations framed by him and approved of by Parliament.

I. All sums of money granted by Parliament for the purposes of higher and professional education shall be administered by the Governor, in accordance with such rules and regulations touching higher and professional education as shall from time to time be approved of by the Governor, with the advice of the Executive Council, and published by proclamation in the Government Gazette: Provided that no such rule or regulation, nor any alteration or rescission thereof, which may from time to time become expedient, shall be proclaimed by the Governor or shall take effect until such rule or regulation or the alteration or rescission thereof, as the case may be, shall have been assented to by both Houses of Parliament by resolution of each House: Provided also that the regulations contained in the schedule to this Act shall be, and are hereby declared to be, the regulations touching higher professional education for the time being, subject to alteration or rescission in the manner hereinbefore set forth: And provided, further, that an annual report of the allocation of such sums of money shall each year be laid before Parliament.

Regulations for the time being to be those in the schedule to this Act.

Annual report to be submitted to Parliament.

No grant to be made to Graaff-Reinet College unless number of professors and lecturers exceed two.

II. In consideration of the payment from the Public Treasury of the Colony of four hundred pounds per annum to the Council of the Graaff-Reinet College, under the provisions of the 28th section of Act No. 29 of 1860, intituled "An Act for establishing a College at Graaff-Reinet," no grant under this Act shall be made in aid of the salary of

a professor or lecturer of the said College, unless and until the number of such professors or lecturers shall exceed two, and then only in respect of the number of such professors or lecturers in excess of two.

No. 24—1874.

III. The first condition, Class 1, Order A, in the schedule to the Education Act, 1865, shall be read as if the words "where no other provision has been made from the public funds for higher education" in the commencement thereof were omitted therefrom.

Class 1, Order A, in schedule to Act No. 13 of 1865, amended.

IV. This Act may for all purposes be cited as "The Higher Education Act, 1874."

Short title.

#### SCHEDULE.

1. A grant not exceeding £200 per annum will be made in aid of the salary of a professor or lecturer in any of the Departments of Literature, Science, Law, and Medicine, if the Government is satisfied that such a professorship or lectureship is one that ought to be so aided, and that the College or Institution with which such professorship or lectureship is connected, is so situated and conducted as to afford facilities to youth of all classes for the prosecution of higher or professional studies, and for qualifying themselves for the examinations prescribed, or to be prescribed, by the University of the Cape of Good Hope, for degrees in the faculties of Arts, Law, and Medicine.

2. The Government shall satisfy itself from time to time as to the arrangements made for the discharge of the duties attached to each such professorship or lectureship.

3. The appointment of each professor or lecturer, the rate of fee to be paid by students, and the time and place of delivery of lectures, shall be subject to the approval of the Government.

4. In every college or institution with which any professorship or lectureship is connected, students shall be at liberty to attend the classes of the professor or lecturer without being resident students in such college or institution, and such students not being residents, shall not be compelled to be present at any religious ceremony, or to receive religious instruction in any such college or institution.

5. The authorities of the College or Institution to which the professorship or lectureship aided by Government is attached, shall cause to be furnished to the Government such reports and returns as may from time to time be required.

No. 25—1874.] AN ACT [July 31, 1874.

To Provide for the payment of Pensions to Widows of Officers on the Fixed Establishment of the Public Service of this Colony.

WHEREAS it is desirable to provide for the payment of pensions to widows of officers on the fixed establishment of the Public Service of this Colony: Be it enacted

Preamble.

60 PUBLIC SERVICE WIDOWS' PENSION ACT.

No. 25—1874.

by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

One per cent per annum to be deducted from salary or pension of public officers.

I. From and after the taking effect of this Act, there shall be deducted from and out of the salary of every officer who may now or shall hereafter hold an appointment on the fixed establishment of the public service of this Colony, and from and out of the pension of every officer who may now or shall hereafter hold any such appointment, and who may retire on pension, one per centum per annum of such salary or pension, together with such further sums of money as any such officer shall agree to have deducted from his salary or pension as hereafter mentioned: Provided that as to any such officer as aforesaid who may hold an appointment as aforesaid at the time of the taking effect of this Act, no such deduction as aforesaid shall be made, unless such officer shall, within one year after the taking effect of this Act, have signified to the Treasurer-General his consent that such deduction shall be made, and if such officer shall not signify such consent within the time aforesaid, his widow shall not be entitled to any of the privileges or benefits conferred by this Act.

No such deduction to be made from officers appointed when this Act comes into operation without their consent.

Deductions to be paid into public revenue.

II. All moneys deducted from salaries or pensions under the provisions of this Act shall be paid into, and form part of, the public revenue of this Colony.

Widow entitled to pension calculated on the amounts deducted from the salary or pension of deceased according to a scale approved by the Governor in Council.

III. From and out of the public revenue aforesaid there shall be paid to the widows of all officers from whose salaries or pensions deductions shall have been made under the provisions of this Act, such pensions as may be prescribed by the Governor in Council, depending upon the respective amounts deducted from the salaries and pensions aforesaid, according to a scale calculated on tables of mortality, approved by the Governor in Council, interest being reckoned at the rate of five per centum per annum, and subject to such regulations as shall from time to time be fixed by the said Governor in Council, and published in the Government Gazette: Provided that no scale calculated as aforesaid shall be adopted, unless and until such scale shall have been submitted to and approved by a competent actuary resident within Great Britain: Provided, further, that no annual pension paid to any widow under the provisions of this Act shall exceed one-third of the salary of her deceased husband during the year immediately preceding his retirement from the public service, or death, as the case may be; nor shall any such pension exceed the sum of two hundred and fifty pounds sterling per annum.

No pension to exceed one-third of salary of deceased officer during year before retirement on death, nor exceed £250 per annum.

Mode of procedure when officer wishes to secure his widow a larger pension than deduction of one per cent. would give.

IV. Every officer of the public service who shall be desirous of securing a pension for his widow, under the provisions of this Act, beyond what the deduction of one per centum as aforesaid would secure under the provisions



of the third section hereof, shall, at the time of his proposing to have a further sum beyond the one per cent. aforesaid deducted from his salary or pension, produce to the Treasurer-General the certificate of some duly qualified medical practitioner in this Colony, approved by the Governor for the purpose, as to his state of health, and it shall be competent for the Treasurer-General, in case such medical practitioner shall not certify that such officer is in sound health, either to refuse his application altogether, or to require such a deduction from the salary or pension of such officer, greater than if he were in sound health, as such officer and the Treasurer-General may agree upon, and in case they may not be able to agree, the application shall be considered as refused.

No. 25—1874.

V. Any widow entitled to a pension under this Act shall forfeit her right thereto upon her re-marriage. Pensions to be forfeited on re-marriage.

VI. No pension payable under this Act shall be assignable or transferable, nor shall the same be attached, arrested, or levied upon, for or in respect of any debt or claim due by the deceased husband of such recipient. Pensions not to be transferred nor levied upon for debt.

VII. Nothing in this Act contained shall apply to the salary or pension of any Governor or Lieutenant-Governor of the Colony, or of any officer in the public service, not on the fixed establishment thereof, nor to any public officer as aforesaid, who may be in the receipt of a yearly salary or pension less than one hundred pounds. Limits of Act.

VIII. A statement of all moneys deducted from salaries and pensions, and of all pensions paid under the provisions of this Act, during each year, together with the interest reckoned at the rate of five per centum per annum, shall be laid before both Houses of Parliament at every session thereof. Annual accounts to be laid before Parliament.

IX. At the end of every period of three years, the first period being reckoned from the time of the taking effect of this Act, complete statements of all moneys deducted from salaries and pensions, of all pensions paid, and of all liabilities incurred under the provisions of this Act, shall be submitted by the Treasurer-General to a competent actuary, together with all such particulars connected therewith as such actuary shall require for a full investigation into the working and effects of this Act; and the report of such actuary shall be laid before both Houses of Parliament during its first session which shall be held after receipt of such report. Triennial report of actuary required.

X. This Act shall commence and take effect from and after such date as may be fixed for such purpose by the Governor by proclamation in the Government Gazette, and may be cited for all purposes as the "Public Service Widows' Pensions Act, 1874." Commencement of Act.

No. 26—1874.

No. 26—1874.]

AN ACT

[July 31, 1874.]

To Provide for the Construction of certain Bridges  
over the Orange River.

Preamble.

WHEREAS by the Acts No. 15 of 1871 and No. 12 of 1872, certain provisions were made for promoting the construction of a bridge or bridges over the Orange River: And whereas there is reason to believe that a convention will shortly be entered into between the Government of this Colony and the Government of the Orange Free State, under which, besides the provisions mentioned in the said first mentioned Act, the Government of this Colony will be enabled to construct the said three first mentioned bridges, with power, however, to the Government of the Orange Free State or any company formed therein to construct any one or more of the said bridges on the same terms as the Government of this Colony or any company formed therein may be authorized to construct the same, and with a further provision that the Government of the said Orange Free State shall be at liberty to receive one-half of the revenue to be derived from any bridge or bridges to be constructed by the Government of this Colony, upon payment to the said Government of one-half of the money expended in and about constructing such bridge or bridges, and upon such other terms as may be deemed fair and reasonable: And whereas it is proposed that four bridges shall be constructed over the said river, that is to say, at some convenient site in the vicinity of Aliwal North, Bethulie, Colesberg, and Hope Town respectively: And whereas the last of the said proposed bridges would abut upon the Province of Griqualand West, and it is expedient therefore that power should be given to the Governor to enter into a convention with the Government of the said Province similar to that proposed to be entered into with the said Government of the Orange Free State: And whereas in case of the construction of the said bridges, or any of them, by or on behalf of the Government of this Colony, it will be necessary to provide for raising money for such construction, not exceeding three hundred thousand pounds sterling: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Repugnant laws repealed.

I. So much of the said Acts No. 15 of 1871 and No. 12 of 1872, and of any other law in force in this Colony, as is repugnant to or inconsistent with any of the provisions of this Act, is hereby repealed.

Convention may be entered into with Free State.

II. It shall be lawful for the Governor to enter into a convention as aforesaid with the Government of the Orange Free State, which shall be binding on this Colony, and

upon such convention being entered into and published by proclamation in the Government Gazette, the same shall be of the same force and shall have the same effect as if it had been introduced in so many enacting clauses in this Act.

No. 26—1874.

III. For the purpose of constructing the said bridges it shall be lawful for the Governor to raise, as hereafter mentioned, a sum not exceeding three hundred thousand pounds sterling.

Loan for construction of bridges authorized.

IV. The said sum of three hundred thousand pounds sterling may be raised from time to time, as it may be deemed expedient by the Governor, by debentures, to be issued in this Colony or in England, or partly in this Colony and partly in England, for sums not exceeding five hundred pounds, nor less than one hundred pounds each upon the best and most favourable terms that can be obtained, and the interest to accrue due thereon shall be charged upon and made payable out of the general revenue of this Colony.

Loan to be raised by debentures.

V. As a fund for the payment of the interest upon, and for the gradual extinction of, the debt to be raised under authority of this Act, there shall be charged, and chargeable upon, and set apart out of the annual revenues of this Colony, an annual sum equal to the interest on the whole amount of such debentures as shall from time to time be issued under authority of this Act, and a further sum equal to one pound sterling per centum on the total amount of the principal or capital sum which shall from time to time be raised under the authority of this Act; and such sum shall be annually charged on and payable out of the revenue of the Colony so long as any portion of the debt to be incurred under authority of this Act or any interest thereon shall remain unpaid and unextinguished, and such annual charge shall, so soon as such debt and interest shall have been all paid and extinguished, cease and determine.

Extinction of debt provided for.

VI. Such portion of the fund which shall under the last foregoing section be charged and chargeable annually on the revenues of the Colony as shall not be required for the payment of the interest for the time being due upon the debentures to be issued under authority of this Act, shall be applied in redeeming and cancelling such debentures in such manner and form as shall be provided by the terms and conditions whereon and whereunder such debentures shall be issued.

Sums not required for payment of interest to be applied in cancelling debentures

VII. All debentures which shall be redeemed under the authority of this Act shall immediately, on receipt thereof, be cancelled by or on behalf of the Treasurer of this Colony.

Redeemed debentures to be cancelled by Treasurer.

VIII. Notwithstanding anything herein contained it shall be lawful for the Governor to dispose of to the Master of the Supreme Court, in his capacity of administrator of the Guardians' Fund, and the said Master is hereby authorised to invest any unemployed moneys belonging to such fund, in

Guardians' Fund may be invested in debentures.

## 64 UITENHAGE WATER SERVICE INCREASED LOAN ACT.

No. 26—1874.

so many of any such debentures as he may apply for on such terms as may be mutually agreed upon: Provided that every such investment shall be made with the same advice, or upon the same authority, as if such investment were a loan upon mortgage.

Annual accounts to be laid before Parliament.

IX. An account showing the amount of all debentures issued from time to time under authority of this Act, and of the moneys realised by the issue and sale thereof, and of the expenditure of all such moneys or of so much thereof as shall for the time being have been expended, distinguishing the total sums expended upon each of the said bridges and an account of the amount of such debentures for the time being outstanding, and of all such sums thereof as shall from time to time be bought in and cancelled, if any, vouched by the Auditor-General, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and like accounts within fourteen days after the commencement of every succeeding session thereof.

Convention may be entered into with Griqualand West.

X. It shall be lawful for the Governor to enter into a convention with the Government of Griqualand West, which shall be binding upon this Colony, for the purpose of enabling the said bridge over the Orange River, in the vicinity of Hope Town, to be constructed similar to the convention which may be entered into with the Government of the Orange Free State, and upon such convention being entered into and published by Proclamation in the Government Gazette, the same shall be of the same force and shall have the same effect as if it had been embodied in so many enacting clauses of this Act.

Bridges may be built by contract.

XI. Such of the said bridges as may be constructed on behalf of the Government of this Colony, shall be constructed by contractors to be approved of by the said Government.

Short title.

XII. This Act may for all purposes be cited as "The Orange River Bridges' Act, 1874."

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No. 27—1874.]                      AN ACT                      [July 31, 1874.

To Authorize and empower the Municipality of Uitenhage to borrow a further sum under Act No. 3 of 1877.

Preamble.

WHEREAS by the Uitenhage Water Act, No. 3 of 1867, the Commissioners of the Municipality of Uitenhage are empowered, subject to the several conditions and provisions in the said Act contained, to borrow and take up at interest any sum or sums of money not exceeding in the aggregate the principal sum of Two Thousand Five

Hundred Pounds sterling, for the purpose of enabling the said commissioners to construct and provide one or more reservoirs, and to convey water from the Uitenhage spring or springs near Sandfontein to the town of Uitenhage in an improved manner, upon the security of a special rate or rates, not to exceed in any one calendar year the amount of one penny in the pound sterling on the value of all the immovable property situate within the said municipality liable to assessment, and to mortgage the said rate, for securing the repayment of such moneys:

And whereas the said sum of Two Thousand and Five Hundred Pounds sterling will be sufficient only for storing and filtering the water in reservoirs close to the town, and for leading the same through the streets (for household purposes), but insufficient to provide for certain necessary works to be constructed between the said Uitenhage spring or springs and the town of Uitenhage, and for husbanding the water for irrigation purposes, in accordance with the said Uitenhage Water Act, No. 3 of 1867:

And whereas such works as were authorized by the said Act No. 3 of 1867, both for irrigation and household purposes, can be no longer delayed, in consequence of the increased and increasing requirements of the said municipality, the storing and husbanding of the said water having become a necessity:

And whereas such necessary works between the said Uitenhage spring or springs and the town of Uitenhage (to be constructed wholly within the boundary of the said municipality and in and over the town lands of the same) cannot be undertaken without further borrowing powers on the security of such intended special water rate or rates as aforesaid, and such further borrowing powers cannot be obtained without the aid and authority of Parliament: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. A further sum or sums than is already authorized by the Uitenhage Water Act No. 3 of 1867, that is to say, a further principal sum of Ten Thousand Pounds sterling is hereby authorized to be raised, in like manner as the sum of Two Thousand Five Hundred Pounds is authorized to be raised by the said Act, and such further principal sum of Ten Thousand Pounds sterling, or any part thereof, shall be used and expended in the manner and for the purposes set forth in the said Uitenhage Water Act, or some or any of them.

Further loan authorized under Act No. 3 of 1867.

II. All and several the provisions of the said Act No. 3 of 1867, empowering the said commissioners to borrow and take up at interest the amount authorized by that Act, shall apply *mutatis mutandis* to the provisions of this Act, and to the increased loan hereby authorized.

Act No. 3 of 1867 to apply.

No. 27—1874.  
Short title.

III. This Act may be cited as the "Uitenhage Water Service Increased Loan Act, 1874," and shall take effect from and after the promulgation thereof.

No. 28—1874.] AN ACT [July 31, 1874.

To Amalgamate the Laws relating to Masters, Servants, and Apprentices.

Preamble.

WHEREAS in several parts of the Act No. 15 of 1856, intituled "An Act to amend the Laws regulating the relative rights and Duties of Masters, Servants, and Apprentices," reference is made to other parts of the said Act: And whereas many of these references have become inapplicable by reason of the repeal of the said Act by the "Masters and Servants Law Amendment Act, 1873," and it is desirable that the said two Acts should be read together: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Act No. 18 of 1873 to be construed with Act No. 15 of 1856.

I. The said "Masters and Servants Law Amendment Act, 1873," shall be construed with and as part of the said Act No. 15 of 1856.

Short title.

II. This Act may be cited for all purposes as the "Masters and Servants Law Amalgamation Act, 1874," and the said Act No. 15 of 1856 may for all purposes be cited as the "Masters and Servants Law Act, 1856."

No. 29—1874.] AN ACT [July 31, 1874.

To further Facilitate the apprehension in this Colony of certain persons who have committed crimes in the Colony of Natal, in the Province of Griqualand West, in the Orange Free State, or in the South African Republic.

Preamble.

WHEREAS it is expedient in the interests of justice that further provision should be made for the extradition of criminals or accused persons who may have committed offences in the Colony of Natal, in the Province of Griqualand West, in the Orange Free State, or in the South African Republic, and who may have sought refuge in, or who may be within, this Colony: And whereas by Ordinance No. 4 of 1874, of the Province of Griqualand West, sufficient provision has been made in that Province as

to criminals and accused persons who have committed offences in this Colony, and who may be within the said Province: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly, as follows:

I. It shall be lawful for all Judges, Resident Magistrates, and Justices of the Peace within this Colony to countersign all warrants for the apprehension or re-capture of any criminals or accused persons which may have been issued by any Judge or Resident Magistrate, within the Colony of Natal, the Province of Griqualand West, the Orange Free State, or the South African Republic, and also to do or cause to be done all things necessary to effect or assist in the apprehension or recapture of any such criminals or accused persons, and for their detention and transmission in safe custody from this Colony to any prison within the said Colony of Natal, the said Province of Griqualand West, the Orange Free State, or the South African Republic, wherein such criminals or accused persons may be lawfully detained pending trial, and any warrant countersigned as aforesaid shall have the same force and effect in this Colony to all intents and purposes as if such warrant has been issued by the judge, resident magistrate, or justice of the peace countersigning the same.

Judges, Magistrates, and Justices of the Peace may countersign all warrants for apprehension, &c.

II. This Act shall commence and take effect as to the Colony of Natal when and so soon as the Governor shall, by Proclamation under his hand and the Public Seal of the Colony, declare and proclaim that the Legislature of the said Colony of Natal has made provision by law, similar to what is herein contained, for the extradition of criminals or accused persons charged with having committed offences in this Colony, and who may be within the said Colony of Natal; and shall commence and take effect as to the Orange Free State when and so soon as the Governor shall, by Proclamation as aforesaid, declare and proclaim that the Legislature of the said Orange Free State has made provision by law, similar to what is herein contained, for the extradition of criminals or accused persons charged with having committed offences in this Colony, and who may be within the said Orange Free State, and shall commence and take effect as to the South African Republic when and so soon as the Governor shall, by Proclamation as aforesaid, declare and proclaim that the Legislature of the said South African Republic has made provision by law, similar to what is herein contained, for the extradition of criminals or accused persons charged with having committed offences in this Colony, and who may be within the said South African Republic: Provided that in and by any such Proclamation as aforesaid which may be issued as to the said Orange Free State or South African Republic, it shall be lawful for the Governor

Commencement of Act.

Act, No. 19 of 1872 may be repealed in regard to the Orange Free State and South African Republic.

No. 29—1874.

to declare and proclaim that the Extradition of Criminals Act, 1872, if in force as to the country to which such Proclamation relates, shall cease to be in force therein, and thereupon the said last-mentioned Act shall cease to be in force in such country accordingly.

Short title.

III. This Act may be cited for all purposes as "The Inter-colonial Extradition Act, 1874."

No. 30—1874.]

AN ACT

[July 31, 1874.]

To Amend the Act No. 7 of 1854, entitled "An Act for Extending Trial by Jury to Civil Cases."

Preamble.

WHEREAS it is expedient to amend in some respects the Act 7 of 1854, entitled "An Act for extending Trial by Jury to Civil Cases": Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Second, fourth, tenth, and fourteenth sections of Act No. 7 of 1854 repealed. What civil cases may be tried by jury.

I. The second, fourth, tenth, and fourteenth sections of the aforesaid Act 7 of 1854 are hereby repealed.

II. From and after the commencement of this Act every question or matter of fact, or of mixed law and fact, in dispute between the parties to any civil case depending in the supreme court of this Colony, shall, if either party to the suit shall claim it in manner hereinafter mentioned, be tried by jury.

Manner in which trial by jury may be claimed.

III. It shall be competent for the attorney of either of the parties to any civil case depending in the supreme court, by giving notice in writing to the attorney of the opposite party within forty-eight hours after the pleadings in such case shall have been closed, to claim a trial by jury in the case then pending, and thereafter to serve a notice upon the attorney of the opposite side, calling upon him to attend a judge of the supreme court in chambers, at some time to be specified in such notice, not being later than twelve days after the closing of the pleadings, there to settle the issue or issues to be tried by jury: Provided that, where no such notice as first mentioned shall have been given forty-eight hours after the closing of the pleading, it shall be competent for either party to a suit to apply to the supreme court by motion for leave to try such case by jury: And provided that notice given as aforesaid, or leave obtained as aforesaid, shall not be withdrawn except by leave of the court upon motion: And provided that as often as any facts in dispute in any case shall be tried by jury, then all facts in dispute in the same case shall be tried by jury.



IV. The last Wednesday in every civil term shall be set apart for trials by jury in the supreme court.

No. 30—1874.

Day in civil term to be set apart for the same.

Sheriff to summon jury of thirty-six persons.

V. The sheriff of the Colony, after receiving any such notice from the registrar of the supreme court, as is provided in Section 13 of Act 7 of 1854, shall, seven clear days at least before the day named in such notice for the attendance of a jury in the said court, summon thirty-six men, whom he shall take from the list of grand jurors for the time being from which the names of men summoned to serve as grand jurors in criminal cases in the said court would then and of right be taken, in such manner as shall be directed and prescribed by any such general rule or order of the supreme court as may from time to time be duly issued and promulgated by the same court for summoning the jurors in civil cases by the sheriff of the Colony: Provided that until the promulgation of such rule or order as aforesaid, the sheriff shall take the names of the persons to be summoned in the same manner as is at present prescribed by the rules of the supreme court for taking the names of persons to be summoned to serve as grand jurors in criminal cases.

VI. This Act may be cited for all purposes as the "Trial by Jury in Civil Cases Amendment Act, 1874," and shall be read and construed as part of Act No. 7 of 1854, which may for all purposes be cited as "The Trial by Jury in Civil Cases Act, 1854."

Short title.

No. 31—1874.]

AN ACT

[ July 31, 1874.

To prevent the spread of the Scab Disease in Sheep and Goats.

WHEREAS it is expedient to adopt measures for the prevention of the spread of the Scab Disease in sheep and goats: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. The Governor may, from time to time, appoint inspectors of sheep and goats within any division of this Colony by a notice or notices to be published in the Government Gazette, and every person so appointed shall have full power at any time to inspect any sheep or goats within the division for which he shall have been appointed, wherever such sheep or goats may be depastured or kept, and shall have, exercise, and discharge, within the division for which he shall have been appointed, the several powers, authorities, and duties hereinafter mentioned; and if any person shall refuse to allow any inspector to enter upon his land or

Governor may appoint divisional inspectors of sheep and goats.

No. 31—1874.

premises, or to examine any sheep or goats belonging to him or in his care or possession, or shall attempt to impede or hinder the inspector from examining such sheep or goats, such person shall, on conviction, be liable to a fine of not less than two pounds and not more than five pounds.

Inspectors to inspect flocks infected with scab, & issue license.

II. So soon as it shall have been reported to, or otherwise come to the knowledge of, any such inspector that scab exists in any flock of sheep or goats within his division, it shall be the duty of such inspector to proceed without delay to inspect such flock, and if he shall find it so infected he shall issue to the owner a license to keep such flock for such period of not less than three months and not exceeding six months from the date of such license as such inspector may deem sufficient for the purpose of cleansing the same.

Flocks to be inspected after expiration of license, and fine imposed if still infected with scab.

III. So soon as may be after the expiration of such license, the inspector shall again inspect the flock, and if scab still exists therein the owner thereof shall be liable to a fine of sixpence for every sheep or goat found infected with the said disease: Provided, however, that no owner of any flock shall in any case be liable to any fine if he shall prove to the satisfaction of the inspector (or the magistrate if the case should be submitted to him) that he has taken every reasonable means in his power to cure the disease.

Inspection to be repeated, if necessary.

IV. Such inspection shall be repeated at the end of every successive three months until the scab shall be entirely eradicated from the flock: and in every case in which any infected sheep or goats shall be found in the flock at any such inspection, the owner shall be liable to a fine of threepence in addition to the said sum of sixpence for every sheep or goat in the said flock so found infected at each further period of three months, subject to the proviso contained in the third clause.

Diseased sheep and goats not to be allowed to stray.

V. It shall not be lawful for any person to depasture, drive, or suffer to stray beyond the limits of his own land, or land occupied by him, any sheep or goats infected with scab; and any person so doing shall be liable to a fine of not exceeding ten pounds for each offence: Provided that no person who shall have been proceeded against under the forty-fifth section of the Ordinance No. 16, 1847, for any trespass therein mentioned, shall be liable to be proceeded against under this section for any such trespass.

Punishment for concealment of disease.

VI. If with intent to cause it to appear that any sheep or goats are not infected with scab or to conceal the ownership of any sheep or goats, any person shall separate any of the sheep or goats of a flock from any others of the same flock, or conceal or destroy any sheep or goats or remove any brand therefrom, he shall, on conviction, be liable to a fine for every such offence of not exceeding five pounds.

Fines may be sued for in Magistrate's Court.

VII. All fines incurred under this Act may be sued for in the court of the resident magistrate of the district in which

the offender may reside, by and in the name of the inspector having jurisdiction in such district, the public prosecutor, or any person aggrieved.

No. 31—1874.

VIII. All such fines shall be paid to Her Majesty, her heirs and successors, and, unless remitted, shall be applied to the uses of the Government of this Colony.

Fines to go to the Crown.

IX. In the construction of this Act the word "sheep" shall include rams, wethers, ewes, and lambs, and two or more sheep kept on a farm shall constitute a "flock," and a flock shall be held to be infected if scab shall exist in any one sheep.

Interpretation clause

X. This Act shall only apply to, and be in force in, such divisions of this Colony as shall from time to time be notified by the Governor by proclamation published in the Government Gazette, and the Governor shall be authorized to publish any such proclamation at the request of the divisional council of any division, and, by the like request, to revoke or alter any such proclamation: Provided that, before any divisional council shall make any such request as aforesaid, three-fourths of the elected members thereof, present at a meeting to be specially called for the making such request, shall concur in making the same, and not less than three months' notice of such meeting, and of the object thereof, shall have been given by advertisement in some newspaper circulating in the division.

Act to be enforced at request of divisional council of any division.

XI. This Act shall commence and take effect from and after the first day of January, 1875, and may be cited for all purposes as the "Scab Act, 1874."

Short title.

No. 1—1875.]

AN ACT

[June 10, 1875.

To Repeal the Act No. 3 of 1874, and to make other provisions in lieu thereof.

WHEREAS the Native Chief Langalibalele, and one of his sons, named Malambuli, having been tried and sentenced in the colony of Natal to banishment and imprisonment, the former for life, and the latter for a period of five years, and the Lieutenant-Governor of the said Colony having applied to the Government of this Colony to permit the said persons to be sent to Robben Island to undergo their said sentence, it was considered expedient, as well in the interests of this Colony as of the said Colony of Natal, that the said application should be complied with, and the Act No. 3 of 1874 was therefore passed, authorizing the imprisonment at Robben Island of the said persons, who are now there imprisoned accordingly: And whereas, since the passing of the said Act, in consequence of representa-

Preamble.

No. 1—1875.

tions made to Her Majesty the Queen. Her said Majesty has been pleased to notify her intention to exercise her clemency towards the said Langalibalele and the said Malambuli, and her desire that they should be released from their said imprisonment at Robben Island, and located on the mainland of this Colony, but under such restrictions and provisions as shall prevent their return to the said colony of Natal during the period for which they were so sentenced as aforesaid: And whereas Her said Majesty's Government has applied to this Colony to aid in carrying out Her Majesty's said desire, and it is expedient to make provision accordingly, so far as is consistent with the interests of this Colony: And whereas it is highly desirable for the peace and security of South Africa that, notwithstanding the release of the said Langalibalele and the said Malambuli from Robben Island, all due precautions should be taken to keep them during the said periods within certain limits, so as to prevent them from proceeding to the said Colony of Natal or to the frontier of this Colony, and from coming in contact with the native tribes on the said frontier: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Native Chief Langanlibalele and his son Malambuli to be removed to location in Cape division.

I. It shall be lawful for the Governor to provide and set apart a suitable and sufficient location in the Cape division on the mainland of this Colony, for the residence of the said Langanlibalele and the said Malambuli during the said periods for which they respectively have been prohibited from returning to the said Colony of Natal; and, upon such location being provided, the said Langanlibalele and the said Malambuli shall be removed thereto.

Location to be defined by proclamation.

II. The said location shall be defined and fixed by proclamation to be published in the Government Gazette; but may, from time to time, by like proclamation, be changed and altered as may be found expedient.

Governor to frame regulations for their detention within the location.

III. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time to make such regulations as may be considered necessary in order to restrict the said Langanlibalele and the said Malambuli during the said periods to the said location, and to prevent them from proceeding beyond the limits thereof.

May be apprehended, if found beyond the location.

IV. In case the said Langanlibalele and the said Malambuli, or either of them, shall, during the said respective periods, proceed beyond the said location without the permission in writing of the Secretary for Native Affairs, or shall contravene any regulation which may be made as aforesaid, it shall be lawful for any person, with or without warrant, to apprehend them or him; and thereupon it shall be lawful for the Governor, with the advice of the Executive Council, to take such steps as may be considered necessary

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for the safe custody of the said offenders or offender during the remainder of the said periods.

No. 1- 1875.

V. Every person who shall aid or incite the said Langalibalele and the said Malambuli, or either of them, to escape or attempt to escape beyond the limits of the said location, or shall knowingly harbour the said Langalibalele and the said Malambuli, or either of them, when they have so escaped, shall, on conviction before any competent court, be liable to a fine of not exceeding £50, or to imprisonment with or without hard labour for not exceeding twelve months, or to both such fine and such imprisonment.

Persons aiding or inciting them to escape, liable to fine or imprisonment.

VI. Notwithstanding anything in this Act contained, it shall be lawful for the Governor, with the advice of the Executive Council, at any time to relieve the said Langalibalele and the said Malambuli, or either of them, from the operation of this Act, under such terms and conditions as may seem fit.

Langalibalele and his son may be relieved from operation of this Act when Governor in Council thinks fit.

VII. This Act shall commence and take effect from and after such date as shall be fixed by the Governor by Proclamation in the Government Gazette, and thereupon the said Act No. 3 of 1874 shall be and is hereby repealed.

When Act to commence.

No. 2- 1875.]

AN ACT

[June 30, 1875.

To regulate and provide for the Payment of Superannuation Allowances to Members of the Frontier Armed and Mounted Police Force.

WHEREAS it is expedient that due provision should be made for the Superannuation of Members of the Frontier Armed and Mounted Police Force: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. The twelfth section of the Act No. 3 of 1855, entitled "An Act for the better Organization and Regulation of an Armed and Mounted Police Force upon the Frontier of this Colony," is hereby repealed.

Section 12 of Act No. 3 of 1855 repealed.

II. It shall be lawful for the Governor, with the advice of the Executive Council, and under the conditions hereafter mentioned, to order that any member of the said force, of whatever rank, shall be superannuated, and thereupon to authorize and direct that such member shall receive from and out of the public revenue of this Colony a gratuity or yearly pension as follows, that is to say, if such member shall have served in the said force for a period less than fifteen years a gratuity equal to one month's pay for each year's service, the

Governor in Council may order superannuation of any member of the force.

Conditions under which members may be superannuated.

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No. 2-1875.

pay being taken to be that received by such member at the time of his superannuation, and if such member shall have served in the said force for a period of fifteen years, an annual pension equal to fifteen-fiftieths of the yearly pay of such member, which pay shall be taken to be the average of his yearly pay for the three years next preceding his superannuation, and an additional one-fiftieth of such yearly pay for each year such member shall have served in the said force beyond the said period of fifteen years; but no such member shall receive a pension equal to more than thirty-fiftieths of his yearly pay as aforesaid, unless in the cases hereafter mentioned, and provided that no member of the said force who shall be under the age of fifty years shall be capable of receiving any such gratuity or pension unless it shall be certified in writing by the surgeon of the said force, or some other competent medical officer, to be appointed by the Governor for the purpose, that such member from infirmity of mind or body is incapable of discharging the duties of his situation, and that such infirmity is likely to be a permanent one.

Gratuities to members disabled by injuries received in execution of their duty.

III. In case any member of the said force shall be disabled for the performance of his duty by reason of any wound or injury received by him when in the field and engaged with an enemy, or in the actual execution of his duty, or any member of the said force shall in the opinion of the Governor have merited the same, it shall be lawful for the Governor, with the advice of the Executive Council, to award to such member, whatever may be his age or time of service, such gratuity not exceeding an amount equal to three years' pay, or such yearly pension not exceeding the full pay of such member as to him may seem fit: Provided that the reasons for giving any such gratuity or pension shall be set forth in the warrant or authority granting the same, and a return showing the amounts and particulars of any payments under this section shall be laid on the table of both Houses of Parliament, at the then next ensuing session of Parliament.

Pension forfeited by making false claim for it, and not claimable during punishment for crime.

IV. If any member of the said force in receipt of a pension under this Act shall wilfully or knowingly have made, or caused to be made, any false statement or representation in order to obtain such pension, he shall forfeit all right and claim to such pension, and no pension shall be claimable by any pensioner during the time he may be undergoing punishment for any crime.

Note of calculating pensions or gratuities.

V. In calculating the amount of any gratuity or pension payable under this Act, if the person to receive the same shall at the time of his superannuation have been obliged to keep a horse or horses out of his pay, the sum of twenty pounds for the keep of each such horse shall be deducted from such pay.

VI. No pension payable under this Act shall be assign-  
 able or transferable, nor shall the sum be attached, arrested,  
 or levied upon for or in respect of any debt or claim due by  
 the recipient thereof, or his wife.

No. 2—1875.

Pension cannot be transferred, attached, arrested, or levied upon.

VII. Nothing in this Act contained shall be construed so  
 as to entitle any member of the said force to claim as a mat-  
 ter of right any gratuity or pension as aforesaid, or to  
 prevent any such person from being unconditionally dismissed  
 or discharged from the said force.

Members not of right entitled to pension or gratuity, &c.

VIII. This Act may be cited for all purposes as the  
 "Frontier Armed and Mounted Police Pension Act, 1875."

Short title.

No. 3—1875. ) AN ACT [June 30, 1875.

For the more effectual prevention of Cruelty to  
 Animals.

WHEREAS by the Act No. 10 of 1856 provision was  
 made for the prevention of cruelty to animals, and it  
 is expedient to repeal the said Act, and to make other and  
 more effectual provisions for promoting the object and pur-  
 poses thereof: Be it enacted by the Governor of the Cape  
 of Good Hope, with the advice and consent of the Legisla-  
 tive Council and House of Assembly thereof, as follows:—

Preamble.

I. The said Act No. 10 of 1856, intituled "An Act for  
 the prevention of Cruelty to Animals," is hereby repealed:  
 Provided that such repeal shall not affect any pending  
 proceedings under the said Act, which shall proceed as if the  
 said Act were still in force.

Act No 10 of 1856 repealed.

II. Every person who shall wantonly or cruelly beat, ill-  
 treat, overdrive, abuse, wound, or torture, or cause or procure  
 to be wantonly or cruelly beaten, ill-treated, over-driven,  
 abused, wounded, or tortured any animal, whether belonging  
 to himself or to another, shall be liable to be fined any sum  
 not exceeding ten pounds sterling, and in case of default to  
 be imprisoned with or without hard labour for not exceeding  
 three months, or to both such fine and such imprisonment.

Penalty for ill-tr. at- ing an animal.

III. The word "animal" in this Act shall be taken to  
 mean any horse, mare, gelding, bull, ox, cow, heifer, calf,  
 mule, ass, sheep, lamb, goat, pig, ostrich, dog, cat, or any  
 other domestic animal.

Meaning of word "animal."

IV. This Act may be cited for all purposes as the  
 "Cruelty to Animals Act, 1875."

Short title.

No. 4—1875.]

AN ACT

[June 3], 1875.

To enable Persons to deposit small savings at Interest, with the security of the Government for due repayment thereof.

Preamble.

WHEREAS it is expedient to give greater facilities than now exist for the deposit of small savings, and to make civil commissioners and other officers as hereafter mentioned available for that purpose, and to give the direct security of the public revenue to every depositor for repayment of all moneys deposited by him, together with the interest due thereon: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Governor to appoint persons to receive deposits.

I. Such civil commissioners and other officers in this colony as may be appointed in that behalf by the Governor, are hereby authorized to receive deposits from persons desiring to make such deposits and to repay the same under such regulations as the Governor, with the advice of the Executive Council, may prescribe in that respect.

Deposits to be entered and attested in Depositor's book.

II. Every deposit received by any civil commissioner or other officer as aforesaid shall be entered by him at the time in the depositor's book, and the entry shall be attested by him, and such entry shall be conclusive of the depositor's claim to the repayment thereof, with the interest thereon.

No deposit to be less than one shilling.

III. No such deposit shall be of less amount than one shilling nor of any sum not a multiple thereof.

Deposits from any one person not to exceed £100 in one year, nor £200 in the whole at any time exclusive of interest, nor £250 including interest.

IV. No civil commissioner or other officer as aforesaid shall receive from or on behalf of any depositor within any one year any sum or sums exceeding in the whole the sum of one hundred pounds, nor from or on behalf of any depositor any sum or sums which shall make the sum to which such depositor shall be entitled exceed the sum of two hundred pounds in the whole, exclusive of interest, and whenever the sum or sums standing in the name of any depositor shall amount in the whole to two hundred and fifty pounds, principal and interest inclusive, thenceforth no interest shall be payable on such deposit so long as it shall continue to amount to the said sum of two hundred and fifty pounds.

Deposits returnable on notice.

V. Any depositor, or party legally authorized to claim on account of a depositor, shall be entitled to repayment of any sum or sums that may be due to him after notice shall have been given at the office of the civil commissioner or other officer as aforesaid that repayment of such sum is required, and such notice shall be given at such time and in such form as may be prescribed by any regulation or regulations to be made as hereafter mentioned.



VI. In case any civil commissioner or other officer as aforesaid shall receive any deposit from any person under the age of twenty-one years, it shall be lawful for him to pay such person the whole or any part of such deposit and interest, and the receipt of such person shall be a sufficient discharge notwithstanding his or her minority.

No. 4—1875.  
Minors may make and receive deposits.

VII. It shall be lawful for any civil commissioner or other officer as aforesaid to pay any sum of money in respect of any deposit made with him by a married woman, or by a woman who may marry after such deposit, to such woman.

Married women may make and receive deposits.

VIII. The officers 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 Treasurer-General or such officers as may be appointed to assist in carrying this Act into operation.

Depositor's name not to be disclosed.

IX. The interest payable to the parties making such deposits shall be at such rate as may from time to time be fixed by the Governor with the advice of the Executive Council, not exceeding the rate of four 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 calendar month next following the day of deposit, and shall cease on the first day of the calendar month in which such deposit is withdrawn.

Governor to fix rate of interest not exceeding 4 per cent.

Mode of calculating.

X. Interest on deposits shall be calculated to the thirty-first day of December in every year, and shall be added to and become part of the principal money.

Interest to be made up to end of each year.

XI. The Governor, with the advice of the Executive Council, may make, and from time to time, as he shall see occasion, alter, 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 carrying this Act into execution; and all regulations so made shall be binding on the parties interested in the subject-matter thereof to the same extent as if such regulations formed part of this Act; and copies of all regulations issued by authority of this Act shall be laid before both Houses of Parliament within fourteen days from the date thereof, if Parliament shall be then sitting, and if not, within fourteen days from the next re-assembling of Parliament.

Governor to make regulations for carrying this Act into execution.

XII. Every civil commissioner or other officer as aforesaid shall keep a separate account of all moneys received and paid under this Act, and shall, not later than the third day of every month, transmit a transcript of such account for the month then expired, from the first to the last day of such month, to the Treasurer-General.

Officers receiving deposits to keep proper accounts and send monthly transcripts to Treasurer.

No. 4—1875.

Treasurer to keep separate accounts of moneys received under this Act, and to invest the same with advice of Governor in Council.

XIII. The Treasurer-General shall also keep separate accounts of all moneys deposited and paid under this Act, and shall from time to time, and as often as the state of the account will permit, invest any moneys to the credit of such account, in the purchase of stock or debentures issued by the Government of this Colony, at the market price thereof at the time of such investment, or in such other way as the Governor, with the advice of the Executive Council, may approve of, and may, as often as occasion may require, or as it may seem expedient, realize or vary any such investments.

Annual accounts to be laid before Parliament.

XIV. An annual account of all deposits received and paid under the authority of this Act, and the expenses incurred during the year ending the 31st day of December, together with a statement of the total amount due at the close of the year to all depositors, and of the amount of money invested under this Act, shall, after having been duly audited, be laid by the Treasurer-General before Parliament not later than the 31st day of March in every year, or if Parliament be not then sitting, not later than fourteen days after the then next meeting of Parliament.

How expenses to be paid.

XV. All expenses incurred in the execution of this Act shall be paid out of the moneys received under the authority of this Act.

Short title.

XVI. This Act may be cited for all purposes as the "Savings' Bank Act, 1875."

No. 5—1875.]

AN ACT

[June 30, 1875.

To Amend Ordinance No. 3, 1852, "For Regulating in certain respects the Appropriation of the Revenue of the Colony of the Cape of Good Hope by the Parliament thereof."

Preamble.

WHEREAS by Ordinance No. 3, 1852, forming the Schedule to the Order in Council passed at the Court of Buckingham Palace on the eleventh of March, 1853, it is enacted that, until Parliament shall otherwise direct, there shall be payable every year to Her Majesty, her heirs and successors, out of the revenue of the Colony, certain sums of money for defraying the expenses of the several services and purposes in the schedule to the said Ordinance annexed set forth: And whereas amongst the said services it is provided, under Schedule C, annexed to the said Ordinance, that there shall be payable as aforesaid, for public worship, the sum of £16,060: And whereas it is desirable that the different religious communities of the Colony should be left to their own efforts and resources for securing the means of

religious worship and instruction, and that, the interests of existing incumbents being duly protected, the support now given to Christian ministers from the public revenue should be withdrawn: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. Schedule C of the said Ordinance No. 3, 1852, shall be and is hereby repealed.

II. Notwithstanding the repeal of the Schedule C aforesaid, there shall continue to be paid from and out of the public revenue, to every minister of religion who shall, at the time of the taking effect of this Act, be in the receipt of any salary or payment, under or by virtue of the said schedule, from or out of such public revenue, the same salary or payment of which he shall be so in receipt, until he shall die, or shall cease to hold the office, or place, or situation held by him at the time of the taking effect of this Act: Provided that if any such minister as aforesaid shall die or shall cease to hold such office, place, or situation as aforesaid at any time within five years next after the taking effect of this Act, then the successor of such minister in such office, or place, or situation shall be entitled to receive, till the expiration of such five years, but no longer, the same salary or payment which such minister was in receipt of when he died or otherwise vacated the said office, place, or situation: And provided that as often as any minister who shall at the time of the taking effect of this Act be in receipt of any salary or payment from or out of the public revenue shall vacate the office, place, or situation then held by him for the purpose of accepting some other office, place, or situation become vacant, of which the minister was, when by death or otherwise be caused such vacancy, in the receipt from the public revenue of any salary or payments, then such minister supplying such vacancy shall be entitled to receive until he shall die or shall cease to hold the said office, place, or situation, the same salary or payment of which his immediate predecessor was in receipt when such vacancy occurred.

No. 5—1875.

Schedule C of Ordinance 3 of 1852 repealed.

Present incumbent to continue to receive salary until he dies or ceases to hold office.

But if he dies or ceases to hold office within five years, his successor to receive salary till the expiration of that period.

And if he vacates office to take another office to which a salary is attached, he may draw such salary until he dies or ceases to hold office.

No. 6—1875.]

AN ACT

[June 30, 1875.]

To Repeal the Proclamation of Lord CHARLES SOMERSET, of the 22nd August, 1822, and to substitute other provisions in lieu thereof.

WHEREAS it is expedient that the Proclamation of Preamble.  
His Excellency Lord Charles Henry Somerset, formerly Governor of this Colony, dated the 22nd day of

No. 6—1875.

August, 1822, should be repealed and the following enactment substituted therefor: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Proclamation 22nd August, 1822, repealed.

Issue of Bank Notes, &c., for less than £4 prohibited.

Not to apply to cheques in which the sum is written by hand in ink.

Penalty for contravening last section.

Penalty for issuing cheques, &c., in contravention of section 2.

I. The Proclamation aforesaid, bearing date the 22nd August, 1822, is hereby repealed.

II. From and after the taking effect of this Act, it shall not be lawful for any joint-stock bank to issue or utter in this colony any bank note, bank post bill, promissory note, or other document, whether the same shall be made payable to the bearer (or at sight, or on demand), or to the order of some payee named therein, and whereby the credit of such bank shall be pledged for the payment of such note or other document (such document not being a cheque as hereinafter described and authorized), for a less sum than four pounds sterling; and any bank note or other document issued or uttered, in contravention of this section, shall be null and void, for any purpose save as evidence in support of a prosecution for a penalty under this Act: Provided that nothing herein contained shall prevent any joint-stock bank from issuing cheques payable to bearer or order, drawn in ordinary form upon any other bank, or upon any person not being a banker, for sums less than four pounds sterling: Provided always that the sum for which any such cheque shall be drawn shall not be engraved, printed, lithographed, or set forth in any similar manner, but be written in ink in the ordinary handwriting of the person who shall write the same.

III. Any joint-stock bank which shall, after the taking effect of this Act, issue or utter in this Colony any bank note or other document, which is in and by the last preceding section prohibited to be issued or uttered, shall, upon conviction, forfeit for, or in respect of, every such bank note or other document so issued or uttered, the sum of ten pounds sterling.

IV. If any person or co-partnership, not being a joint-stock bank, shall issue or utter in this Colony any note, good for, cheque, or other document, whereby the credit of such person or co-partnership shall be pledged for the payment of such note or other document, which note or other document shall be for a less sum than four pounds sterling, and in which note or other document the sum for which the same is made shall not be written in ink in the ordinary handwriting of the person who shall write the same, but be engraved, printed, lithographed, or set forth in some similar manner, such person or co-partnership shall, for, and in respect of every such note, good for, or other document issued or uttered, in contravention of this section, forfeit, on conviction, the sum of ten pounds sterling, and such note, good for, or other document, shall be null and void for any

purpose, save as evidence in support of a prosecution for a penalty under this Act.

No. 6—1875.

V. All penalties under this Act may be prosecuted for in the court of resident magistrate in whose local jurisdiction the accused person may be, or in case the accused be a joint-stock bank, then in the court of resident magistrate within whose local jurisdiction any branch of the said bank may be, or in any other competent court, and it shall not be necessary that the party accused shall personally be present before the magistrate's or other court before which any charge under this Act may be brought, but in his absence, or on his appearance by attorney, the court may, on proof of the service of the summons containing the charge, and on proof of the offence, give judgment for the penalty against him or against such joint-stock bank, which may be levied in manner provided by Ordinance No. 6 of 1839.

Prosecution and recovery of penalties.

VI. Service of the summons at any branch office, or at the principal office of any such bank or banker as aforesaid, within the usual office hours, or on any servant, clerk, or cashier, of the said bank or banker, shall be deemed good service.

Service of summons.

VII. This Act shall take effect from the date of proclamation thereof, and may for all purposes be cited as the "Bank Notes Act, 1875."

Short title.

No. 7—1875.]

AN ACT

[June 30, 1875.

To Amend the Law relating to Masters, Servants, and Apprentices.

WHEREAS it is expedient to amend the law relating to Masters, Servants, and Apprentices: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. If the master of any servant or apprentice alleging matter of complaint against such servant or apprentice for any offence punishable under the "Masters and Servants' Law Act, 1856," or the "Masters and Servants' Law Amendment Act, 1873," shall make deposition on oath before a resident magistrate, or justice of the peace, that he believes (stating the grounds of his belief) that in order to secure the appearance of such servant or apprentice before the resident magistrate having jurisdiction to try the case, that the apprehension of such servant or apprentice is necessary, it shall be lawful for such resident magistrate or justice of the peace to issue his warrant for the apprehension of such servant or apprentice without any previous warning or

Servant or apprentice may be apprehended summarily on deposition of master.

No. 7--1875.

Penalty for malicious

summons: Provided, however, that if the master of any servant or apprentice shall make such deposition maliciously and without reasonable and probable ground for believing the same to be true, such master shall be liable to be fined any sum not exceeding five pounds, and in default of payment thereof to be imprisoned for any period not exceeding one month.

May be apprehended summarily for description.

II. If any servant or apprentice is charged under either of the aforesaid Acts with having, without lawful cause, departed from his master's service with intent not to return thereto, it shall be lawful for any resident magistrate or justice of the peace to issue his warrant for the apprehension of such servant or apprentice without any previous warning or summons.

Punishment for abusive language.

III. There shall be considered as inserted in the seventh section of the said "Masters and Servants' Law Amendment Act, 1873," after the paragraph of the said section numbered eight, the following as a ninth paragraph:

9. If he shall use any abusive or insulting language to his master, or to his master's wife, or to any person placed by his master in authority over him, calculated to provoke a breach of the peace.

Paragraph 5, section 4. Act 18, 1873, repealed.

IV. The paragraph numbered five of the fourth section of the said last mentioned Act is hereby repealed.

Accused competent to give evidence.

V. On the trial of any case in any court of resident magistrate wherein any master, servant, or apprentice is charged with having contravened any of the provisions of the said Masters and Servants' Act, such master, servant or apprentice, as the case may be, and his or her wife or husband, shall be competent, but not compellable, to give evidence on his or her own behalf, or on the behalf of the complainant in the said case.

Accused not compellable to enter the dock, but may be detained in custody.

VI. No master, servant, or apprentice charged with having contravened any of the provisions of the said Masters and Servants' Acts, and who is not immediately before the hearing of such charge in actual custody, shall be compelled to enter the dock or place usually assigned for prisoners under trial in the court, or shall be otherwise treated as under arrest, during the hearing of such charge: Provided that if, in the opinion of the magistrate before whom the charge is heard, it shall be necessary, in order to secure the attendance of such master, servant, or apprentice, that he should be placed in custody, it shall be lawful for such magistrate to cause such person to be arrested and detained in custody.

Officer in charge of any public work may prosecute.

VII. In case it may be necessary to prosecute or proceed against any person employed on any of the public works of this Colony for contravening any of the provisions of the said Masters and Servants' Acts, such prosecution or pro-

ceeding may be carried on by and in the name of any of the officers in charge of the work upon which such servant is employed at the time of such contravention. No. 7—1875.

VIII. This Act may be cited for all purposes as the Short title.  
 “Masters and Servants’ Act, 1875,” and shall be construed as one with the Masters and Servants’ Act, 1856, and the Act of 1873, amending the same; and the said Acts, the Master and Servants’ Law Amalgamation Act, 1874, and this Act, may be cited collectively as the “Masters and Servants’ Acts, 1856 to 1875.”

No. 8—1875.]

AN ACT

[June 30, 1875.]

To Amend the Law relating to the Sale of Wines and Spirituous and Fermented Liquors.

**W**HEREAS the vice of drunkenness prevails to a great Preamble.  
 extent, and it is expedient that the laws relating to the sale of intoxicating liquors should be amended and made more stringent: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. The forty-seventh section of the Ordinance No. 9 of 1851, intituled “An Ordinance for the better regulation of the Sale of Wines and Spirituous and Fermented Liquors,” the eighth section of the Act No. 10 of 1860, intituled “An Act to make better provision for the granting and withholding of Licenses to sell Wines and Spirituous and other Liquors,” and so much of any other ordinance or law in force in this colony as is repugnant to or inconsistent with any of the provisions of this Act, are hereby repealed: Forty-seventh section of Ordinance No. 9, 1851, and eighth section of Act 10 of 1860, repealed.

Provided, however, that every person who shall be the holder of a license in force at the time when any board or court shall hold a session, and which holder shall not, since the commencement of such license, have been convicted of any offence against or under any law relating to the sale of wines and spirituous liquors, shall be entitled, in case a license be refused to him, to obtain a license for a period of three months; and a judgment against any licensed dealer in an action upon his recognizances shall be deemed to be such a conviction as aforesaid, for the purposes of this Act; and the cost of a license for such period of three months shall be a proportionate part of the sum payable for a license for a year. When renewal of license is refused by any Court the holder is entitled to a license for three months unless there is a conviction against him.

II. From and after the 1st day of January next, the court mentioned in second section of Act No. 10 of 1860, shall Licensing Courts to be held twice a year only.

No. 8—1875.

be held twice a year, that is to say, upon the third Wednesday of the months of March and September in each year, and the said section and such portion of the twelfth section of Ordinance 9, 1851, as may be inconsistent with or repugnant to any of the provisions hereof, shall be and are hereby repealed.

Notices of applications under section 11, Ordinance 9 of 1851, to be published in newspapers.

III. Besides the affixing of notices as mentioned in the eleventh section of the said Ordinance No. 9 of 1851, the resident magistrate shall cause the same to be published in some newspaper circulating in the district in which the court is to be held at least twenty-one days before the day appointed for holding such court.

Chairman of licensing board to call attention of members to section 16 of Ordinance 9 of 1851 and section 10 of Act 10 of 1860.

IV. It shall be the duty of the chairman of every meeting of the licensing board to call the attention of the members of such board to the sixteenth section of the said Ordinance No. 9 of 1851, and the tenth section of the said Act No. 10 of 1860; and the provisions of the said sixteenth section shall apply to divisional councillors entitled to sit at the board as well as to the persons therein mentioned.

No retail license to be granted for places not being a town or village more than six miles from the seat of magistracy except under certain conditions.

V. No license shall be granted for the sale by retail of wines or spirituous or malt liquors at any place more than six miles from the seat of a resident magistrate, not being a town or village, unless the applicant for such license shall undertake to keep reasonable accommodation (including food) for man and horse, to be fixed by the said board, and the recognizance to be entered into or furnished by such applicant shall specify the accommodation which he shall during the continuance of his license be bound to keep.

No new license to sell liquor not to be consumed on the premises to be granted, unless petition in favour of application be signed by not less than one-third of inhabitants of ward or district.

VI. No license that is not a renewal of a license previously granted, shall be granted for the sale by retail of any liquor as aforesaid to be drunk or consumed on the premises unless a petition in favour of the granting of such license signed by not less than one-third of the persons resident in the district or ward of the city, town, or village, or in the field-cornetcy of the division (as the case may be) in which the premises in respect of which the grant of such license is applied for are situated, and who are registered as voters for the election of members of Parliament for the division in which such district or ward or field-cornetcy is situated, shall have been presented to the licensing board to which the application for such license is made.

Section 46 of Ordinance 9 of 1851 repealed, and other penalties substituted.

VII. The forty-sixth section of the said Ordinance No. 9 of 1851 is hereby repealed, and the following shall be considered as substituted in lieu thereof:

In every case in which any resident magistrate shall see cause to convict any person of any of the following offences, the person offending shall incur and be liable to the pains and penalties hereinunder respectively set forth, that is to say:



- For selling, dealing in, or disposing of wines, spirituous, or malt liquors without a license, for the first offence a penalty of not more than twenty-five pounds, and in default of payment thereof being forthwith made, or security given for the same, to imprisonment with or without hard labour for any period not exceeding three months, unless the fine imposed shall be sooner paid or levied, in which case the offender shall be liberated.
- For any second conviction of the offence last aforesaid, a penalty of not exceeding fifty pounds, and in default of payment or security as aforesaid being made or given, to imprisonment with or without hard labour for any period not exceeding six months, unless the fine imposed shall be sooner paid or levied, in which case the offender shall be liberated, and it shall be lawful for the convicting magistrate to adjudge that the subsisting license (if any) of the offender to keep a retail shop shall be forfeited.
- For a third or any subsequent conviction of the offence last aforesaid, a penalty of not exceeding one hundred pounds, with or without superadded imprisonment as hereunder mentioned, that is to say: In case the fine imposed shall be paid or secured forthwith, to imprisonment, with or without hard labour, for any period not exceeding six months, and in case the said fine shall not be paid or secured forthwith, to imprisonment with or without hard labour for any period not exceeding twelve months, either absolutely or until the said fine shall have been sooner paid or levied, as the convicting magistrate shall award; or such magistrate may award such imprisonment as aforesaid for any period not exceeding twelve months, with a condition that it shall cease and determine after a certain minimum extent of such imprisonment has been suffered, in case the fine imposed shall then be paid or levied; and it shall be lawful for the convicting magistrate to adjudge that the license (if any) held by the offender to keep a retail shop shall be forfeited, and that the offender be disqualified from taking out any other retail shop license during the remainder of the then current year, and also for any term of years or for ever from holding any license for the sale of intoxicating liquors.
- For the offence of contravening any of the provisions or covenants contained in the condition of any subsisting recognizance (not being a provision in regard to which any other penalty or punishment is by this Act or by any of the laws relating to wines and spirituous liquors provided), and which provisions were by any licensed person stipulated and agreed to be fulfilled and kept, a penalty of not exceeding twenty-five pounds, and in

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case the same shall not be paid or secured forthwith, to imprisonment, with or without hard labour, for any period not exceeding three months, or until the fine be sooner paid, and a third conviction within the space of three years shall *ipso facto* forfeit the subsisting licenses of the offender to sell wines and liquors and to keep a retail shop, if such licenses or either of them there be, and such offender shall be thereupon disqualified for holding any license to sell intoxicating liquors in future.

Provision of section 35 of Ordinance 9 of 1851, extended to shops, stores, &c.

VIII. The thirty-fifth section of the said Ordinance No. 9 of 1851 shall extend and apply to persons found drunk and lying down from the effect of intoxication as well in any street, road, lane, or public place within any town or village, as in or near any shop, store, hotel, canteen, road, or public place wherever situate.

Amount of recognizance under section 23, Ordinance 9 of 1851, increased.

IX. The recognizance to be entered into under and by virtue of the twenty-third section of the said Ordinance No. 9 of 1851 shall be in the sum of one hundred pounds, with two sufficient sureties in the sum of fifty pounds sterling each.

Penalty on sale of liquor to persons intoxicated.

X. Every person who shall sell or deliver any wine or spirituous or fermented liquor to any other person who shall at the time be visibly intoxicated, shall be liable to a penalty of not exceeding ten pounds, and in default of payment thereof being forthwith made or security given for the same, to imprisonment, with or without hard labour, for any period not exceeding three months.

Penalty on sale to persons under age of 15 years.

XI. Every holder of a retail wine and spirit license who sells, or allows any person to sell, to be consumed on the premises, any description of spirits to any person apparently under the age of fifteen years, or permits or suffers any person apparently under that age to drink any such spirits upon his premises, shall be liable to a penalty of not exceeding twenty shillings for the first offence, and not exceeding forty shillings for the second and any subsequent offence, and in default of payment of such penalty, shall be liable to be imprisoned with or without hard labour for the first offence for any period not exceeding one month, and for the second and any subsequent offence for any period not exceeding three months.

Penalty for adulterating liquors.

XII. Any person who shall wilfully mix or cause to be mixed with any wines, spirituous or fermented liquors, any injurious, poisonous, or deleterious ingredient or material to adulterate the same for sale, shall be liable upon conviction to the same pains and penalties as are hereinbefore provided for selling liquors without a license.

Penalty for selling, keeping, or exposing for sale adulterated liquors.

XIII. Every person who shall sell, or keep, or expose for sale any wine, spirituous, or fermented liquor, with which any ingredient or material injurious to the health of persons

drinking such wine or liquor has been mixed, shall be liable upon conviction to the same pains and penalties as are hereinbefore provided for selling liquors without a license.

No. 8—1875.

XIV. Notwithstanding anything in the nineteenth section of the said Ordinance No. 9 of 1851 contained, it shall be lawful for any person to take out more than one retail license to authorize the sale of liquors to be drunk or consumed on the premises: Provided that no more than one such license shall be taken out by any person for the same town or village.

Persons may take out more than one license to sell liquors, not to be consumed on the premises.

But not in the same town or village.

XV. For the purpose of the said Ordinance No. 9 of 1851, of this Act, and of every other Act relating to the sale of wines or spirituous or fermented liquors, any person shall be deemed to have capacity to prosecute as a private prosecutor any person contravening any of the provisions of the said Ordinance of this Act or of the said other Acts.

Any person may prosecute.

XVI. This Act may be cited for all purposes as the "Wines and Spirits Act, 1875," and shall be read and construed as one with the said Ordinance No. 9 of 1851, and with any other law relating to wines and spirits.

Short title.

No. 9—1875.]

AN ACT

[June 30, 1875.]

To Enable persons residing beyond the limits of this Colony to participate in certain of the benefits enjoyed by Her Majesty's subjects within this Colony under the University Incorporation Act, 1873.

WHEREAS it is expedient that persons residing beyond the limits of this colony should be enabled to participate in some of the benefits enjoyed under the University Incorporation Act, 1873, by persons who reside within the colony, and it is doubtful how far, as the law stands, they can do so: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. So much of the University Incorporation Act, 1873, as is repugnant to or inconsistent with any of the provisions of this Act is hereby repealed.

Repugnant laws repealed.

II. It shall be lawful for the Council of the University of the Cape of Good Hope to make provision for the examination as in the said Act mentioned, beyond this colony, of persons desiring to matriculate in, or to obtain any degree, certificate, or distinction from the said University, whether such person reside within the said colony or not.

Examinations may be held beyond this Colony.

III. It shall be lawful for the said Council to confer, after examination, and according to the bye-laws and regula-

Degrees may be conferred on persons duly examined, whether resident in this colony or not.

88 APPORTIONMENT OF QUITRENT AMENDMENT ACT.

No. 9—1875.

tions of the said University degrees and certificates, as in the said Act mentioned, upon duly qualified persons, whether such persons reside within this colony or not.

Bye-laws may be framed as to competition of non-residents for fellowships, &c.

IV. It shall be lawful for the said Council, from time to time, to frame bye-laws and regulations under which persons not resident in this colony may compete for and hold any fellowship, studentship, scholarship, exhibition, bursary, or other prize, which is or may be hereafter at the disposal of the Council: Provided that no such bye-laws or regulation shall be of any force or effect until they shall have been approved of by the Governor and laid upon the table of both Houses of Parliament at any time during the first Session which shall be held after the framing of the said bye-laws and regulations, and shall have been before the said Houses for a period of not less than fifteen days.

To be first approved of by the Governor and laid before Parliament for fifteen days.

Short title.

V. This Act may be cited for all purposes as the "University Extension Act, 1875."

No. 10—1875.] AN ACT [June 30, 1875.

To Amend in certain respects Act No. 7 of 1856.

Preamble.

WHEREAS it is expedient that provision should be made by law for apportioning the quitrent payable by or out of fixed property which may become or have become sub-divided amongst several owners in cases where the seller and purchaser or the owners shall be unable or unwilling to come to any such agreement as in the Act No. 7 of 1856 mentioned: Be it enacted by the Governor of the Cape of Good Hope, by and with the consent of the Legislative Council and House of Assembly thereof, as follows:—

Proceedings to be taken when joint owners cannot agree on the apportionment of quitrent under Act 7 of 1856.

I. In every case where the seller and purchaser or the owners of land subject to the payment of quitrent to Her Majesty the Queen shall be unable or unwilling to come to any agreement to fix and determine the shares or proportions of the said quitrent which should for the future be payable by such purchaser and seller respectively, or by such part-owners respectively, from or out of their respective shares or portions of such land in terms of the provisions of Act No. 7 of 1856, then it shall be lawful for such seller or purchaser, or for any part-owner, as the case may be, to request the civil commissioner of the division in which such land shall be situated to fix and appoint a day for the apportionment of such quitrent, and thereupon such civil commissioner shall fix and appoint a day for hearing the parties and apportioning the said quitrent, and upon the day so appointed the civil commissioner shall apportion the

quitrent to be thereafter paid by the purchaser and seller respectively, or by the part-owners respectively, as to such civil commissioner shall seem just and equitable: Provided, however, that no such apportionment shall be made unless the party who shall have requested the civil commissioner to fix and appoint such day as aforesaid shall have served a notice in writing of such hearing upon the purchaser or seller, as the case may be, or upon the remaining part-owners, not less than fourteen days previous to the day fixed for hearing: Provided, further, that it shall be competent for any party interested who shall have appeared before such civil commissioner to bring the decision of such civil commissioner under the review of the Supreme Court within three months after the date of such decision: Provided, further, that on no decision shall less than five shillings quitrent be payable.

II. The civil commissioner shall cause every such apportionment of quitrent as aforesaid to be recorded in a book, to be kept by him for that purpose, and shall endorse such shares and portions of quitrent upon the title deed or transfer deed or deeds under or by virtue of which the several shares or portions of such property shall be enjoyed by such purchaser or seller or part-owners respectively, and shall state and embody such shares and proportions of quitrent in any transfer deed by which such share or portion may be afterwards transferred.

Civil commissioner to keep record book of such apportionment.

III. This Act may be cited for all purposes as the “Apportionment of Quitrent Amendment Act, 1875.”

Short title.

No. 11—1875.] AN ACT [June 30, 1875.

To Amend in certain respects the law regulating the dealing in Gunpowder, Firearms, and Lead.

WHEREAS it is expedient to vest in the Judges of the Supreme Court discretionary powers in the infliction of penalties for any contravention of the provisions of the Ordinance No. 2 of 1853: Be it enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly, as follows:—

Preamble.

I. So much of Ordinance No. 2 of 1853, and of any subsequent Act as shall be repugnant to or inconsistent with this Act, shall be and the same is hereby repealed.

Repugnant law repealed

II. Where any fine or other penalty is provided by the said Ordinance for the infringement of any of the provisions thereof, the said Ordinance shall as to every sum payable by

Penalties under Ordinance 2 of 1853 to be construed as if words “not exceeding” were inserted before the amounts.

No. 11—1875.

way of fine and every term of imprisonment be construed as if the words “not exceeding” were inserted before every such amount of fine and every such term of imprisonment.

Short title

III. This Act may be cited for all purposes as the “Gunpowder and Firearms Amendment Act, 1875.”

No. 12—1875.] AN ACT [June 30, 1875.

To Authorize the Divisional Council of Cradock to borrow moneys, upon the security of Road Rates and Tolls, for Public Works.

Preamble.

WHEREAS the divisional council of Cradock is desirous of improving the means of communication in the said division by the construction of substantial roads and the erection of bridges: And whereas, from the nature of the country and the extent of work to be done, such works to be properly carried out will involve a larger outlay of money than could be met by immediate taxation under the powers by law vested in the said council:

And whereas it is expedient that the said council should be authorized to borrow moneys upon the security of road rates and tolls of the said division for the improvement and construction of the roads therein, and that provision should be made for the gradual extinction of the debt incurred for the cost of such works: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:

Repugnant laws repealed.

I. So much of the Act No. 9 of 1858, intituled “An Act to provide for the Management of the Public Roads of the Colony,” so much of “The Road Act (No. 10), 1864,” and so much of “The Road Act (No. 22), 1873,” as is repugnant to or inconsistent with the provisions of this Act, shall in so far as relates to this Act, but not otherwise, be and the same is hereby repealed.

Loan of £10,000 authorized.

II. It shall be lawful for the said council from time to time to borrow and to take up at interest such sum or sums of money, not exceeding ten thousand pounds sterling in the whole, as may be required for the purposes of this Act.

Conditions precedent to raising any part of loan.

III. No loan under this Act shall be capable of being raised except in pursuance of a resolution passed at an ordinary meeting of the said council, of which due notice shall have been given at some ordinary meeting previously held, and in which resolution two-thirds of the elected members shall concur, and no such loan shall be capable of being raised in any year in which the rates assessed by the said council shall

be less than one penny in the pound sterling upon the value of the property liable to be rated in the said division.

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IV. For the due payment of the moneys to be raised as aforesaid, and the interest thereof, the rates, tolls, and other revenues of the said council are hereby charged and hypothecated: Provided, however, that the moneys raised under the provisions of the Act No. 6, 1867, and the interest payable thereupon, shall be a first preferent charge upon all and singular the revenues which are by the said Act made liable to the payment thereof, and the moneys to be borrowed under this Act and the interest thereof shall be a second preferent charge upon the said revenues.

Security for repayment of loans and interest.

V. The said council shall grant written acknowledgments of, or for, such sums of money as may be borrowed as aforesaid, which acknowledgments shall be as near as is material in the form annexed to this Act, and shall be signed on behalf of the said council by three of its elected members thereto duly authorized by resolution of the said council.

Acknowledgment for loans to be given in form provided in schedule.

VI. As a fund for the payment of the interest upon and the gradual extinction of the loans to be raised under the authority of this Act, there shall be charged and chargeable upon, and set apart out of, the annual revenues of the said council as aforesaid an annual sum equal to the interest on the whole amount of such loans, and a further sum equal to one pound per centum on the total amount of the capital sum of such loans, and such sum shall be annually charged upon and payable out of the revenues of the said council so long as any portion of the money to be raised as aforesaid shall remain unpaid and unextinguished.

Fund for payment of interest and extinction of loans created.

VII. Such portion of the fund charged and chargeable annually on the revenues of the said council under the last preceding section as shall not be required for the payment of the interest for the time being due upon the loans raised under the authority of this Act shall be paid to a separate account to be kept in a bank to be chosen for that purpose by the council, and shall be applied in redeeming and cancelling the obligations or acknowledgments of the said council for moneys raised under the authority of this Act in such manner and form as shall be provided by the terms and conditions whereon such obligations or acknowledgments shall respectively have been granted; and all moneys so paid into a bank for the purpose aforesaid shall be drawn out by cheques to be signed by some member or members thereto specially authorized by resolution of the said council.

Fund to be applied to no other purpose and to be kept separate.

VIII. The said council shall keep a separate and distinct account of all moneys received and expended by virtue of this Act, and shall cause an abstract of the said account to be transmitted to the Colonial Secretary half-yearly, showing all moneys received and expended up to the 30th June and 31st December preceding.

Separate account to be kept and abstract rendered half-yearly to Colonial Secretary.

No. 12—1875.  
Accounts to be audited.

IX. The accounts in the last preceding section mentioned shall be audited and examined by the auditors to be from time to time appointed under the provisions of "The Divisional Councils Act, 1865," and the provisions of the eighty-third and eighty-fifth sections of the said Act shall extend and apply to all accounts, books, and papers connected with the said loan.

Public Bodies' Debts Act, 1867, to apply.

X. Every debt, liability, and obligation created by virtue of this Act shall be subject to the provisions of the "Public Bodies' Debts Act, 1867."

Provision for payment of cost of Act.

XI. It shall be lawful for the said council to pay the necessary costs, charges, and expenses of obtaining this Act, and carrying the provisions thereof into effect, out of the moneys to be raised under the provisions hereof.

And whereas the bridge erected by the said council across the Fish River at Cradock, under the provisions of the Act No. 6, 1867, was partially destroyed by flood in the month of December, One Thousand Eight Hundred and Seventy-four: And whereas it is expedient that the said council should be empowered and enabled to cause the same to be reconstructed and restored: Be it enacted as follows:

Repugnant parts of Act 6, 1867, repealed.

XII. So much of the Act aforesaid, No. 6, 1867, as is repugnant to or inconsistent with the provisions of this Act, shall be and the same is hereby repealed.

Fish River Bridge may be reconstructed out of moneys raised under this Act.

XIII. It shall be lawful for the said council from and out of the moneys to be raised under the authority of this Act to advance and pay such sums as may be necessary for the reconstruction and restoration of the said bridge.

Provision for payment of interest on money advanced for Fish River Bridge.

XIV. The interest upon the moneys paid and advanced under the last preceding section shall be payable out of the surplus, if any, of the tolls levied and raised at the said bridge under the provisions of the Act aforesaid, after payment of the interest accruing upon the existing debt contracted for the erection thereof, and any deficiency of such interest and the capital sum shall be refunded and repaid to the General Loan Account for the purposes in the preamble to this Act first abovementioned out of the fund to be provided under section thirteen of the Act aforesaid, No. 6, 1867.

Short title.

XV. This Act may be cited for all purposes as the "Cradock Divisional Council Loan Act, 1875."

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SCHEDULE, CRADOCK DIVISIONAL COUNCIL LOAN ACT, 1875.

Acknowledgment for Loan of £

We, the undersigned, members of the Divisional Council of Cradock, duly authorized thereto by resolution of the said Council, do hereby acknowledge that the Divisional Council



VICTORIA EAST DIVISIONAL COUNCIL LOAN ACT, 93

of Cradock is indebted to  
of

in the sum

No. 12—1875.

for so much money borrowed for the purposes mentioned in the  
"Cradock Divisional Council Loan Act, 1875," and certify that  
the said sum is secured by the said Act in manner and form as  
by the said Act is provided.

And we further covenant and agree in our said capacity that the  
principal and interest of the said debt shall be payable and paid by  
the said Council in manner following, that is to say (here insert  
the rate of interest, times of payment, and other conditions agreed  
upon).

Given under our hands at Cradock, this          day of          187

Entered

Secretary.

} Members of the  
Divisional Council of  
Cradock.

No. 13—1875.]          AN ACT          [June 30, 1875.

To Enable the Divisional Council of Victoria East to  
borrow moneys for the purpose of constructing  
a Road over the Hogsback, Division of Victoria  
East, upon the security of Road Rates and Tolls.

**WHEREAS** it is expedient that the divisional council of Preamble.  
Victoria East should be empowered to borrow moneys,  
upon the security of road rates and tolls of the said division,  
for the purpose of constructing a road over the Hogsback,  
in the divisions of Victoria East and King William's Town,  
by which the inhabitants would be benefited: Be it enacted  
by the Governor of the Cape of Good Hope, with the  
advice and consent of the Legislative Council and House of  
Assembly thereof, as follows:

I. So much of the Act No. 9 of 1858, entitled an "Act  
to provide for the management of the public roads of this Repugnant laws re-  
Colony," of the Act No. 10 of 1864, entitled an "Act to  
provide for the construction and maintenance of the main  
roads of this Colony," and of the Act No. 22 of 1873,  
entitled an "Act to amend the laws relating to the con-  
struction and maintenance of the main roads of the Colony,"  
as is repugnant to or inconsistent with any of the provisions  
of this Act, shall be and the same is hereby repealed.

II. It shall be lawful for the divisional council of Victoria Loan of not exceed-  
East to raise from time to time by way of loan, on the  
credit of any tolls to be levied, or rates under the Acts in the  
first section of this Act cited, any sum or sums that may at  
ing £2,000 authorized

## 94 VICTORIA EAST DIVISIONAL COUNCIL LOAN ACT.

No. 13—1875.

any time be required by the said divisional council for the purposes hereinbefore mentioned: Provided that no such loan as aforesaid shall be capable of being effected except under and by virtue of a resolution of the said council, at a meeting at which there shall be present not fewer than six elected members: Provided that no meeting shall be competent to pass any such resolution unless each of the members shall have had due notice (as required by the "Rules of Order" of the said divisional council) of the intention to hold such meeting, and of the purpose for which the same is called: And provided that no loan or loans or debts contracted by the said council under this Act shall at any time exceed the sum of two thousand pounds sterling.

Security for repayment of loan and interest.

III. The sums aforesaid are hereby charged upon and made payable out of all and singular the rates and revenues of the said divisional council, and it shall be lawful for the said divisional council to apply to the payment of interest or principal, or interest and principal of the moneys aforesaid, any such rates or revenues.

Acknowledgment for moneys borrowed to be given in form provided in schedule.

IV. The said divisional council shall grant to the party or parties, or company, society, or co-partnership, from whom they shall borrow such moneys as aforesaid, a written acknowledgment of or for the money so borrowed by such council for the purposes aforesaid, which acknowledgment shall in substance be in the form given in the schedule to this Act, and shall be signed on behalf of the said divisional council by three of its elected members appointed for that purpose by a resolution of the said council.

Public Bodies' Debts Acts, 1867, to apply.

V. All debts lawfully incurred by the said divisional council for the purposes of this Act shall be subject to the provisions of the "Public Bodies' Debts Acts, 1867."

Moneys borrowed under this Act to be kept separate.

VI. All moneys raised as aforesaid under this Act shall, on receipt thereof, be deposited in the bank, to be chosen for that purpose by the said council, to the credit of a separate account; and all sums required shall be drawn by cheques signed by the secretary to the said divisional council, and countersigned by such one of its elected members as shall be appointed so to do by the said council.

Separate accounts to be kept and abstract rendered half-yearly to Colonial Secretary.

VII. The said council shall keep a separate and distinct account of all moneys received and expended as aforesaid by virtue of this Act, and shall cause an abstract of the said account to be transmitted to the Colonial Secretary half-yearly, showing all moneys received and expended up to the 30th June and 31st December then next preceding, and all liabilities and assets on the same days.

Accounts to be audited.

VIII. The accounts in the preceding section mentioned shall be audited and examined by the auditors to be from time to time appointed under the provisions of "The Divisional Council Act, 1865," and the provisions of the eighty-third and eighty-fifth sections of the said Act shall

extend and apply to all accounts, books, and papers connected with the said loan.

No. 13—1875.

Toll may be erected on road constructed under this Act.

IX. It shall be lawful for the said council to erect and establish a toll upon the said road subject to and in accordance with the provisions of the twenty-second, twenty-third and twenty-fourth sections of the Act No. 9 of 1858 in that behalf, and the provisions of the fourteenth, fifteenth, sixteenth, and eighteenth sections of the said Act shall extend and apply to the toll-bar and toll on the said road.

X. All the necessary costs, charges, and expenses attending the procuring of this Act and the carrying the provisions thereof into effect shall be paid out of the money to be received under the provisions of this Act.

Provision for payment of cost of this Act.

XI. This Act may be cited for all purposes as the "Victoria East Divisional Council Loan Act, 1875."

Short title.

SCHEDULE.

We, the undersigned, members of the divisional council of Victoria East, duly authorized thereto by the said council, do hereby acknowledge that the said divisional council of Victoria East is indebted to —, in the sum of —, for so much money borrowed by the said council for the purposes set forth in the Victoria East Divisional Council Loan Act, 1875, and certify that the said sum is secured by the said Act, in manner and form as by the said Act provided. And we further covenant and engage in our said capacity that the principal and interest of the said debt shall be payable and paid in manner following, that is to say (here insert the rate of interest, times of payment, and other conditions agreed upon).

Given under our hands at Alice, this — day of —.

— } Members of the Divisional Council of Victoria East.

Witnesses.

No 14—1875.] AN ACT [June 30, 1875.

To Amend the Law relating to the Frontier Armed and Mounted Police Force, and to provide for the greater efficiency of the said Force.

WHEREAS it is expedient to amend in certain respects the law relating to the Frontier Armed and Mounted Police Force, and to make further provisions for securing the efficiency of the said force: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of

Preamble.

No. 14—1875.

the Legislative Council and House of Assembly thereof, as follows:—

Sixth and ninth sections of Act 3 of 1855 repealed.

I. The sixth and ninth sections of the Act No. 3 of 1855, intituled “An Act for the better Organisation and Regulation of an Armed and Mounted Police Force upon the Frontier of this Colony,” are hereby repealed.

Courts before which contraventions of the regulations may be tried.

II. Any policeman who may be charged with the offence of contravening any regulations already made, or which may hereafter be made, under and by virtue of the third section of the said Act No. 3 of 1855, or any of the offences in the schedule hereto, may be tried by and before:—1. Any of the superior courts of law in this Colony within the jurisdiction of which such offence shall have been committed. 2. The court of the resident 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:

Punishments on conviction.

1. If the convictions shall be before any of the said superior courts 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 five years; or to be imprisoned as aforesaid without the infliction of any fine; or to both such fine and such imprisonment.
2. If the conviction shall be before a court of resident magistrate, such court may sentence the offender to pay a fine not exceeding ten 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.

Board of officers to have jurisdiction under section 8 of Act 3 of 1855, and section 1 of Act 21 of 1856.

III. The said board of officers shall have the like jurisdiction and authority to hear and determine any offence mentioned in the eighth section of the said Act No. 3 of 1855, and in the first section of the Act No. 21 of 1856, intituled “An Act for better securing the efficiency of the Armed and Mounted Police Force upon the frontier of this Colony,” as if such board were the resident magistrate of the district within which such offence was committed,

Contravention of regulations may be tried by commanding officer instead of Courts under section 2, provided accused does not object.

IV. In case any policeman 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 policeman any sum not exceeding one pound, or to sentence him to imprisonment with or without hard labour for any period not exceeding fourteen days, or such officer may take proceedings

for the purpose of such policeman being tried under the second section of this Act: Provided that a policeman shall, if he so request, have a right to have such proceedings taken instead of being tried by such officer: And provided also that any officer who shall try any policeman under the provisions of this section shall forthwith after such trial forward the proceedings in, and full particulars of, the case to the commandant.

No. 14—1875.

V. Upon any policeman being charged with having committed any of the offences hereinbefore 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 commandant, 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 resident magistrate having jurisdiction in the case, or (as to offences in the second section hereof mentioned) before a superior court as aforesaid: Provided that nothing herein contained shall prevent the said officer or the commandant 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 resident magistrate, they shall be the same in all respects as in the case of an ordinary offender or supposed offender against the law, and the said policeman shall be in the same plight and condition as any other person charged with a criminal offence.

Mode of proceeding when offence is to be tried under section 2.

VI. The board of officers hereinbefore mentioned shall consist of not less than three officers of the said force, of whom the commandant may be one; and the said officers shall be selected and summoned by the commandant. The commandant, 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.

Contribution of board of officers under section 2.

VII. The proceedings before and at any trial by a board of officers shall, except otherwise herein mentioned, as near as may be, be the same as those from time to time prescribed as to criminal cases in a court of resident magistrate; and all the evidence which may be given before such board shall be taken down in writing by the president thereof, by whom also the witnesses shall be duly sworn; and any person so sworn

Mode of trial and proceedings before board of officers.

No. 14—1875.

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 by board of officers.

VIII. 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 resident magistrate in a criminal case pending in the court of such resident magistrate.

Certain judgments by board of officers to be subject to the revision of a judge of the Supreme Court.

IX. When and as often as any such board as aforesaid shall sentence any policeman 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 sentence, transmit the original proceedings in the case, together with such remarks, if any, as he may desire to append, to the Registrar of the Supreme Court, or if the trial has taken place within the jurisdiction of the Eastern Districts Court, to the Registrar of that court; and the provisions of the forty-seventh, forty-eighth, and forty-ninth sections of the Act No. 20 of 1856, intituled "An Act for Amending and Consolidating the Laws relative to the Courts of Resident Magistrates," shall, *mutatis mutandis*, extend and apply to such proceedings, as if the same had been proceedings in a case decided by a court of resident magistrate which, under the said forty-seventh section, would have had to be sent for review by a judge of one of the superior courts.

Certain offenders may be imprisoned in guard-room or police prison, by order of the commandant.

X. All policemen arrested for any offence under the said Acts No. 3 of 1855, No. 21 of 1856, or under this Act, and all policemen 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 commandant: 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 this Colony: And provided, also, that so long as any policeman shall be imprisoned in any guard-room or police prison as aforesaid, the same shall as to such policeman be deemed to be a public gaol, and the prisoner shall be

deemed to be a prisoner confined therein within the meaning of the Ordinance No. 24 of 1847, intituled "Ordinance for improving the Gaols of this Colony," but every board of officers aforesaid and the resident 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 or police prison as by the Ordinance aforesaid are given to the resident magistrate of the district, as to public gaols within his district.

No. 14—1875.

XI. No period during which any policeman shall be imprisoned for any offence for which he shall be afterwards convicted, or during which any policeman 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 policeman in the said force, unless the court or board aforesaid ordering such imprisonment shall otherwise direct.

Period of imprisonment not to count as service.

XII. Nothing in this Act contained shall prevent any member of the said force from being prosecuted otherwise than under the provisions of this Act in all cases in which he would by law, without this Act, be liable to such prosecution; but no member of the said force acquitted or convicted of any crime or offence, 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 acquitted or convicted from being dismissed from the said force or reduced in rank therein.

Offender need not be prosecuted under this Act, if otherwise punishable.

XIII. The portion, if any, of any forfeiture, penalty, or seizure to which any policeman might be entitled, as mentioned in the tenth section of the said Act No. 3 of 1855, shall belong to, and be paid for the use of, Her Majesty, her heirs, and successors, for the public uses of this colony, and the support of the Government thereof, instead of as in the said section mentioned.

Disposal of fines, &amp;c.

XIV. The term "commandant" in this Act shall mean the commandant of the said force, or the officer for the time being acting as such; the term "officer" shall include all members of the said force above the rank of sergeant; and the term "policeman" shall include all members of the said force below the rank of sub-inspector.

Interpretation of terms, &amp;c.

XV. This Act may be cited for all purposes as the "Frontier Armed and Mounted Police Act, 1875."

Short title.

## SCHEDULE OF OFFENCES REFERRED TO IN SECTION II.

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.

No. 14—1875.

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 and 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 firearms, making any signal or by other means whatsoever intentionally occasioning false alarm in action, camp, or quarters.

10. Casting away his arms in 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, piquet, or patrol, and without proper authority, releasing any prisoner committed to his charge, or suffering him to escape.

14. Being found drunk on any duty under arms.

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.

No. 15—1875.]

AN ACT

[June 30, 1875

To Amend in certain respect the Act No. 12, 1870, intituled "An Act for the Better Preservation of Wild Ostriches."

Preamble.

**W**HEREAS it is expedient that the Act No. 12 of 1870 intituled "An Act for the better preservation of Wild Ostriches," should be amended as hereinafter is provided: Be it enacted by the Governor of the Cape of Good Hope,



with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :— No. 15--1875.

I. The sixth and seventh clauses of Act No. 12 of 1870, intituled "An Act for the better Preservation of Wild Ostriches," are hereby repealed, and the following shall stand in lieu thereof:— Clauses 6 and 7 of Act 12, 1870, repealed.

II. No person shall at any time wilfully and without justifiable cause take away, disturb, destroy, or have in his possession (otherwise than is in the next section provided), the eggs or any of the eggs of any wild ostrich, under the penalty of any sum not exceeding ten pounds sterling for each egg, the information in each case being laid within six months from the time of the offence committed; and any person convicted under this section and failing to pay such penalty shall be liable to be imprisoned with or without hard labour for any period not exceeding twelve months, unless the fine be sooner paid. Penalty on taking away, &c., the eggs of wild ostriches.

III. It shall be lawful for any owner or occupier of land without having taken out any license, to catch and keep, or to cause or permit to be caught and kept, the young of any wild ostriches for the purpose of domestication, or to take or cause to be taken the eggs or any of the eggs of any wild ostrich at any time when the same shall be found upon the land of such owner or occupier, anything contained in this Act or any other law to the contrary notwithstanding: Provided, however, that the young ostriches so caught and kept have not attained the age of two months at the time of their capture. Owner or occupier may without license catch and keep young wild ostriches under two months old, or take egg: of wild ostriches found on his land.

IV. This Act may be cited for all purposes as the "Wild Ostriches Act, 1875." Short title.

No. 16—1875.]                      AN ACT                      [June 30, 1875.

To Enable the Commissioners of the Municipality of Graaff-Reinet to Borrow a Sum of Money not exceeding Twelve Thousand Pounds Sterling, for the purpose of providing the Inhabitants of the Town of Graaff-Reinet with a better and purer supply of Drink Water, and also of extending and improving the Waterworks within the Municipality.

**W**HEREAS the inhabitants of the municipality of Graaff-Reinet have been for a number of years and are still suffering great inconvenience and loss in consequence of the periodical flooding of Sundays River, from which the Preamble.

No. 16—1875.

town is supplied ; And whereas it is expedient that the commissioners of said municipality should be empowered to borrow a sum of money, not exceeding twelve thousand pounds sterling, for the purpose of increasing and improving the supply of water, making reservoirs, and laying pipes from the main watercourses to the different parts of the town of Graaff-Reinet : Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows :—

Commissioners authorized to borrow £12,000 on security of rates and revenues of municipality.

I. It shall be lawful for the commissioners of the municipality of Graaff-Reinet to borrow and take up such sum or sums of money, not exceeding in the whole the sum of twelve thousand pounds sterling, for the aforesaid purpose, and any amounts borrowed as aforesaid are hereby charged upon and made payable out of all and singular the rates and revenues of the said municipality, and shall be a first and preferent charge upon the same.

Whenever revenue is insufficient to pay principal or interest, or both, annual rate may be imposed on immovable property.

II. It shall be lawful for the commissioners of said municipality, whenever the general revenue is insufficient, to impose, for the purpose of providing for the payment of the principal or interest or principal and interest of such loan, a certain annual rate or tax upon the value of the immovable property of the inhabitants, not exceeding one penny in the pound, and every rate so imposed shall be levied in the same manner as if it had been imposed under the provisions of Ordinance No. 9, 1836.

Ratepayers entitled to have private pipes.

III. Every ratepayer shall be entitled at his own expense to have a private pipe laid from the main or branch pipe to his residence on payment in advance of such rate, and upon such regulations and stipulations as commissioners may decide.

Acknowledgment for money borrowed under this Act to be given in form in schedule.

IV. The commissioners aforesaid shall grant to the party or parties or company or society from whom they shall borrow such money, a written acknowledgment of or for the money so borrowed, not exceeding in the whole the above mentioned sum of twelve thousand pounds sterling, such acknowledgment to be in substance in the form annexed to this Act, and to be signed on behalf of the said commissioners by three of the commissioners for the time being, of whom the chairman for the time being of the board of commissioners shall be one.

Public Bodies' Debts Act, 1867, to apply.

V. All moneys borrowed for the purpose of this Act shall be borrowed under the provisions of the Public Bodies' Debts Act, 1867.

Separate account to be kept of moneys borrowed under this Act.

VI. The said commissioners shall keep or cause to be kept a separate and distinct account of all moneys borrowed under this Act, and of the expenditure of such moneys, and of all revenues arising from the water works contemplated by this Act, and shall, as long as any part of any debt contracted by

virtue of this Act shall be in existence, make an annual statement thereof up to 31st December, which statement shall be deposited in the town office for the information and inspection of resident householders.

No. 16—1875.

VII. The commissioners shall not be allowed to make any use of the borrowing powers under this Act before having first submitted a feasible plan, with estimate of the works contemplated in this Act, and approved of by the ratepayers of aforesaid municipality at a meeting called specially for that purpose by public notice of at least fourteen days.

Money borrowed under this Act not to be expended without approval of rate-payers.

VIII. The necessary costs, charges, and expenses for obtaining this Act and carrying the provisions thereof into effect, shall be paid by the commissioners out of the general revenue of aforesaid municipality.

How cost of this Act to be paid.

IX. This Act may be cited as the "Graaff-Reinet Municipal Water Act, 1875."

Short title.

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SCHEDULE.

We, the undersigned, Commissioners of the Municipality of Graaff-Reinet, do hereby acknowledge that the said Commissioners, in their said capacity, are indebted to \_\_\_\_\_ in the sum of £———, for so much money borrowed by the said Commissioners for the purposes set forth in the Graaff-Reinet Municipal Water Act, 1875; and certify that the said sum is and stands secured by the said Act, in manner and form as by the said Act provided; and we further covenant and engage in our said capacity that the principal and interest of the said debt shall be payable and paid in manner following, that is to say (here insert the rate of interest, times of payment, and other conditions agreed upon).

Given under our hands at Graaff-Reinet this \_\_\_\_\_ day of \_\_\_\_\_ 18——.

Witnesses :

D. D.  
E. E.

A. A. Chairman.

B. B. }  
C. C. } Commissioners.

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No. 17—1875.] AN ACT [June 30, 1875.

To Continue Act No 9, 1855, intituled "An Act for Incorporating the South African Association."

**W**HEREAS by the 51st section of the Act No. 9, 1855 Preamble. intituled "An Act for Incorporating the South African Association," it is enacted that the said Act shall continue in force for the term or period of twenty-one years from and after the promulgation thereof, which term or period will expire on the 12th June, 1876: And whereas it

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Act 9 of 1855 and Act 9 of 1868 repealed.	I. The Acts aforesaid No. 9, 1855, and No. 9, 1868, are hereby respectively repealed.
Repeal not to affect rights or claims existing at the time of taking effect of this Act.	II. Notwithstanding the repeal aforesaid, every right or claim of, or against, the said Association, existing at the time of the taking effect of this Act, shall survive for or against the said Association, continued under this Act, and shall be judged of as if this Act had not been passed.
Style or title of Association.	III. The said Association shall be carried on in Cape Town under the style or title of the "South African Association for the Administration and Settlement of Estates."
Its constitutional object.	IV. The constitution and object of the said Association shall be for the administration and settlement of such estates and other property as they shall be duly appointed to administer, as executors, administrators, tutors, curators, trustees, or agents, either under and by virtue of any last will or other testamentary disposition, or by virtue of any order or decree of any competent court, or by any power of attorney or other valid instrument.
Its capital stock.	V. The capital stock of the said Association shall consist of the sum of twenty-nine thousand four hundred pounds sterling, which shall be divided into eighty-four shares of three hundred and fifty pounds each.
Number of shares a person may hold.	VI. No shareholder shall be capable of holding more than one share, save and except any shareholder who shall at the taking effect of this Act be in possession of two shares.
Persons entitled to hold two shares, not to hold more than one after selling either or both.	VII. No shareholder entitled as aforesaid to hold two shares shall be capable of holding more than one share at any time, after he shall sell or assign to any person or persons either or both of his said shares.
How shares may be sold.	VIII. Any shareholder wishing to sell or assign his share in the capital stock of the Association, shall be bound to deliver the same to the directors, to be disposed of by them by public tender, for account and benefit of such shareholder, to such person as the said directors shall think proper, to the best advantage of the seller and the Association, and the said directors shall, on such sale being effected, as the agents of such shareholder, assign and transfer the said share to the purchaser thereof, by endorsement upon the certificate thereof, and thereupon such shareholder shall

cease to have any claim or interest therein: Provided that the said directors shall be entitled to deduct from the purchase amount a commission of one and a half per centum, together with all expenses incurred in advertising the sale of the said share.

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IX. In case of the insolvency of any shareholder, the trustee of his insolvent estate shall in like manner be bound to deliver the share of such insolvent shareholder to the directors, to be disposed of by them in the manner as provided in the preceding section.

Same course to be pursued in case of insolvency.

X. Any shareholder may bequeath the share or shares belonging to him at the time of his death, to his surviving widow (if any); and such share or shares shall be regarded and registered as if assigned to such widow, by endorsement upon the certificate thereof.

Shareholder may bequeath his share.

XI. In case any shareholder shall die, without having bequeathed his share or shares to his surviving widow, then the executor or other legal representative of the estate of such deceased shareholder shall be bound as aforesaid to deliver the said share or shares to the directors to be by them disposed of in like manner as provided in the 8th section of this Act.

If shareholder dies without bequeathing it, section 8 to apply.

XII. Any male shareholder shall have the right to demand that his name be submitted to the ballot, as a member at the then next ensuing general meeting, by giving notice to the directors to that effect, at least fourteen days before the day of holding such meeting.

Any male shareholder may be elected member.

XIII. No person not being a shareholder shall be eligible to become a member, until he shall have deposited in the hands of the directors the amount or value of the share which shall be required to constitute him, upon his election, a member, or until he shall have given security to the satisfaction of the directors that, in the event of his election, he shall pay for such share.

How person not being a shareholder may become a member.

XIV. A general meeting of the members of the Association shall be held on the last Monday in the month of January, April, July, and October, in each year, for the purpose of general business.

General meeting of members to be held quarterly.

XV. The directors for the time being shall call a general meeting of the members of the Association, whenever required so to do by a requisition, in writing, signed by not less than fifteen members, and setting forth the object for which such meeting is to be called. Such requisition shall be delivered to the secretary, at the office of the Association, and the meeting thereby required shall be called by the directors within five days after the delivery of such requisition, and a notice of such meeting shall be given to each member, not less than eight days before the day of meeting.

Directors to call a general meeting on requisition made by not less than fifteen members stating object.

XVI. The directors may, at any time, upon a previous notice of eight days, as is in the last preceding section men-

Directors may call a general meeting on notice of eight days for any special purpose.

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tioned, call a general meeting of the members of the Association, for the purpose of submitting to their consideration any question or matter concerning the interests of the said Association.

No other subjects to be considered at such meetings.

XVII. It shall not be competent at any general meeting held under the provisions of either of the two preceding sections, to consider any business other than that for the consideration of which such meeting shall have been convened.

No general meeting competent unless twenty members be present.

XVIII. No general meeting of members shall be constituted or be competent to enter upon any question or business whatever, unless twenty members shall be present, and all questions at any general meeting shall be decided by a majority of votes.

Every meeting may be adjourned.

XIX. Every general meeting duly constituted may, upon question put and carried, be adjourned till some future day, to be fixed upon by such meeting.

Each member to have one vote and no proxies allowed.

XX. No member shall be allowed to vote by proxy, and no member present shall have more than one vote.

Who to preside at general meetings.

XXI. The president, hereinafter in the 24th section of this Act mentioned, shall, when present, preside at all general meetings, and, in his absence, the director who shall, of the directors present, stand highest upon the list of directors, shall take the chair; and whenever it shall happen that the votes of the members shall be equally divided, then the member presiding shall, besides his individual vote, also have a casting vote.

Association to be managed by five directors.

XXII. The affairs of the Association shall be entrusted to, and carried on by, five directors, being members of the Association residing in or within ten miles of Cape Town: Provided, however, that when by death or other reason, the seat of any director shall become vacant, the remaining directors shall have full power to carry on the business of the Association, until the board shall be again composed of five members.

President to be elected from among themselves annually, who shall have a casting vote.

XXIII. The said five directors shall annually choose from among themselves a president, who shall (and in case of his absence the director next in seniority shall) preside at all their meetings; and in case of an equality of votes, the president or director so presiding shall have a casting vote.

First directors under this Act.

XXIV. The following members shall be the first directors under this Act, that is to say:—The Hon. James Christie, M.D., Jacobus Christoffel Overbeek, the Hon. Gilles Johannes de Korte, Gerhard Myburg and Isaac Horak de Villiers, of whom the said James Christie shall be president; and such directors shall remain in office until the 30th April, 1876; and thenceforth until some other directors shall be appointed in their room and stead.

Dates on which they respectively vacate office.

XXV. Upon the 30th April, 1876, the said Jacobus Christoffel Overbeek shall go out of office as a director and

shall, unless re-elected, be replaced by another member to be chosen by the general meeting of members to be held on the last Monday in the said month of April, and upon the 30th day of April, 1877, the said James Christie shall in like manner go out of office, and shall, unless re-elected, be replaced by another member to be chosen at the general meeting on the last Monday of the said last mentioned month, and upon the 30th day of April, 1878, the said Gilles Johannes de Korte shall go out of office, and shall, unless re-elected, be replaced by another member to be chosen as aforesaid, and upon the 30th day of April, 1879, the said Gerhard Myburgh shall go out of office, and shall, unless re-elected, be replaced by another member to be chosen as aforesaid, and upon the 30th day of April, 1880, the said Isaac Horak de Villiers shall go out of office, and shall, unless re-elected, be replaced by another member, to be chosen as aforesaid, and in like manner the senior director shall go out of office in each year, and shall, unless re-elected, be replaced by another member to be chosen as aforesaid at the annual meeting to be held as aforesaid: Provided that any member elected under and by virtue of the 31st section of this Act to supply any casual vacancy, shall, for the purpose of this section, be ranked in regard to seniority in the same place as that which was filled by the director by whom the vacancy was created. Directors vacating office as aforesaid shall be eligible to be re-elected.

XXVI. No member shall be capable of being a director who shall hold any office of profit under the Colonial Government; nor shall any two members, carrying on business as co-partners in any firm or related to each other in or within the second degree of consanguinity or affinity, both be capable of being directors at the same time. Who may not be elected director.

XXVII. The directors shall meet once in each week, and oftener, if necessary, at the office of the Association, in Cape Town, for the dispatch of business, and three directors shall form a quorum, and all questions or matters which shall come before the directors shall be decided by a majority of votes of the directors present. Meetings of directors

XXVIII. It shall and may be lawful for any two of the directors to make and execute, for and on behalf of the directors and the Association, any deed, inventory, liquidation, or distribution account, or any account, act, or instrument; and every such deed, inventory, account, act, and instrument shall be as valid and effectual, to and for all intents and purposes, as if the same had been made and executed by all the directors for the time being. Deeds, &c., may be executed by two directors on behalf of Association.

XXIX. Any director who shall cease to be a member, or who shall be absent from the board of directors for three months, except by leave of the said board, shall thereby become disqualified, and his office shall cease and become vacant: Provided that it shall not be competent for any Disqualifications for office of director.

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director to sell or in any manner dispose of his share or shares so as to cease to be a member, until he shall have obtained the consent so to do of a general meeting of the members, periodical or special, anything in the ninth section of this Act contained notwithstanding.

Mental incapacity or misconduct of director.

XXX. In case any director shall become mentally incapacitated, or in case the conduct of any director shall at any time be such that his continuance in office shall appear to, at least, fifteen of the members of the Association to be prejudicial to the interests of the association, and that notice thereof shall by them be given to the directors, in writing, the directors shall forthwith call a general meeting of the members for the purpose of determining whether such director shall continue in office, upon eight days' notice being given by the said directors to the said director and to the members severally, such notice to set forth the purpose for which such meeting is called; and it shall and may be lawful for the members present at such meeting, by a majority of votes, not less in number than a majority of all the members of the Association at the time being, to remove such director from his office.

Mode of filling vacancies caused by death, &c., of director.

XXXI. In case any director shall die or desire to resign his said office, or shall be removed as aforesaid, or be or become disqualified under or by virtue of the 26th or the 29th section of this Act, the surviving or other directors shall forthwith call a general meeting of the members for the purpose of electing a director in his place, of which meeting eight days' previous notice shall be given by the directors to the members severally, and of the purpose for which such meeting is called; and it shall and may be lawful for the members present at such meeting to elect a director in place and stead of such director, who shall continue in office until the expiration of the period for which such director so dying, resigning, being removed, or being disqualified, had been elected, and no longer: Provided that no director shall be allowed to resign, or be capable of resigning, until the members, at some general meeting thereof, shall have consented thereto.

Capital stock shall be vested in directors, who shall put it out at interest.

XXXII. The capital stock of the said Association, under the provisions of this Act, shall be vested in the hands of the directors, for the benefit of the Association, to be by the said directors lent out on interest upon good and sufficient security of landed or other property, as to the directors shall appear most conducive to the interests of the Association; and the said capital stock shall be liable to satisfy such claims and demands as have accrued or may accrue to any person against the said Association.

Special general meeting to be held May or June each year, to receive statements of accounts from directors.

XXXIII. The directors shall call a special general meeting, to be held in the month of May, or in the first week in June, in each year, of which meeting eight days' notice shall be given to the members severally, and the directors



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shall lay before such meeting, for its approval,—1st, a balance sheet of the books of the Association; 2ndly, an abstract from the balance sheet, showing, under appropriate headings, the gross liabilities of the Association, as also the capital and interests due to, and the other assets of the said Association, or under its administration; and 3rdly, a detailed account of profit and loss during the past year; all which accounts shall be settled and balanced up to the last day of April in each year, and shall, previous to such meeting, be examined and compared by the auditor or auditors, for the time being, with the books of the Association, and with the bonds and other securities in the hands of the directors, and shall, by such auditor or auditors, be attested as correct, and shall lie open for the inspection of the shareholders three days before such meeting: Provided that, in making up the accounts in this section mentioned, shareholders and members shall be allowed interest upon the book value of their shares, at the rate of interest for the time being current in this colony.

XXIV. As soon as the accounts in the last preceding section mentioned shall have been approved by the meeting in the said section mentioned, the directors shall appropriate and divide the net profits of the Association for the preceding year as exhibited by such accounts into four equal parts, whereof three parts shall form a dividend, to be divided among the members in proportion to the shares possessed by each, and the remaining part shall be set apart as a reserve fund to meet any loss that may be sustained by the Association: Provided, however, that should any loss have been sustained whereby the said reserve fund shall be absorbed, and the capital stock be reduced below the aforesaid sum of twenty-nine thousand four hundred pounds sterling, then no interest and no dividend shall be paid so long as the capital stock shall remain less than the sum of twenty-nine thousand four hundred pounds sterling: And provided also that when the said reserve fund shall amount to five thousand pounds sterling, then and so long as the said fund shall not fall below such last-mentioned sum no further additions need be made thereto, and in that case the whole of the net profits (after allowing interest to shareholders, as provided in section 33) shall be divided between the members in proportion to the shares possessed by each of them.

Mode of dividing profits after approval of accounts.

XXXV. As often as any person shall be registered as the holder of any share, then, until he shall be elected a member of the Association, he shall be entitled to receive interest on the book value thereof at the rate of interest for the time being current in this colony as the only profit or interest to be derived by such shareholder.

Shareholder not being a member to receive interest only on book value of his share.

XXXVI. It shall and may be lawful for the directors to purchase any share or shares which shall be offered, and

Directors may purchase shares for benefit of Association.

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to hold such share or shares for the benefit of the Association; and the said directors shall be entitled, in respect of such share or shares, to the same benefit and profits as any member is and shall be in respect of any share or shares held by him; and every share so purchased by the said directors shall be reported to the stated general meeting of members held next after such purchase, and shall be disposed of in such manner as such general meeting, or any subsequent general meeting, shall determine.

Auditors to be elected.

XXXVII. The members assembled at the general meeting, to be held on the last Monday in April in each year, shall elect one or more members, not being directors, to serve as auditor or auditors for the ensuing year.

Directors may appoint secretary, &c.

XXXVIII. The directors may from time to time appoint a secretary, cashier, bookkeeper, and such other officers as shall, to such directors, seem to be required, at such salary as they may fix from time to time, and to suspend or dismiss such officers, or any of them, from time to time as they may think proper.

Members to determine amount of remuneration.

XXXIX. The members may, at any general meeting, from time to time, determine the amount of remuneration which shall be paid to the directors and auditor or auditors.

List of shareholders to be laid before every general meeting.

XL. An alphabetical list of the names, additions and residences of all the shareholders in the capital stock, shall be made out, and laid upon the table at every general meeting of the members of the Association, which list shall be filed and kept by the secretary at the office, in Cape Town, where any person or persons shall, upon cause, from time to time, have liberty to inspect the same.

Directors to charge fees for administering estates.

XLI. It shall be lawful for the directors, acting for and on behalf of the Association, to charge the estates and properties administered by them with such fees and charges as shall be agreed upon, or which, when the same shall not be agreed upon, shall be just and reasonable.

How Association may sue and be sued.

XLII. The said directors, by and in the name of the secretary of the South African Association for the Administration and Settlement of Estates, shall and may prosecute or defend any action for or in respect of any sum or sums of money, dues, titles, claims, or demands whatsoever, of or relating to the affairs of the Association, or order the discontinuance or nonsuit thereof, and shall and may compromise or submit to arbitration the matters in question, or otherwise act in any manner as they shall think fit and conducive to the benefit of the said Association, and shall and may, subject to the provisions of the Ordinance Nos. 40 and 73, or of any law or act which may hereafter be enacted or then be in force in that behalf, prosecute any criminal action for any crime or offence committed against or with intent to defraud the said Association, and that no action or other proceeding shall abate, discontinue, or be rendered ineffectual, by

reason of the death, removal or resignation of such secretary, but that the secretary for the time being shall always be, and be deemed to be, the plaintiff, defendant, or prosecutor in any such action or proceeding, as the case may be; and, in like manner, the said Association may be sued by and in the name of the secretary aforesaid.

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XLIII. The directors are empowered and required forthwith to frame and establish all necessary bye-laws, rules, or regulations, as shall be necessary for the conduct of the said Association and the management thereof, and as shall not be contrary to this Act, or any other law: Provided, however, that all such bye-laws, rules, and regulations, shall be laid before the next ensuing general meeting of the members for their confirmation, disallowance, or amendment; and in the event of such bye-laws, rules, and regulations being confirmed, with or without amendment, the same shall continue in force until they shall be repealed, or amended by any subsequent general meeting, of which meeting, and the object thereof, not less than fourteen days' previous notice shall be given to the several members, which notice the said directors may give, when and as often as they shall think fit, and which notice the said directors shall be bound to give, when and as often as any three members shall, in writing, inform the secretary to the Association of their intention to move, at the next general meeting competent to entertain the question, that such bye-laws, rules, and regulations, or any of them, which such members specify, shall be repealed or amended; and as often as any such meeting shall repeal or amend any bye-law, rule, or regulation, the same shall be repealed or amended accordingly; and all such bye-laws, rules, and regulations, which shall in any way relate to the public business of the Association, or to the charges to be made in respect thereof, shall, within three weeks after the same shall have been passed or amended, be published in the Government Gazette of this colony, and when so published shall have the same force and effect as if herein inserted.

Bye-laws to be framed by directors and approved at general meeting, & published in Government Gazette.

XLIV. The Association hereby incorporated shall have a common seal for the use of the said Association, in transacting the business thereof, which seal shall be under the care and custody of the directors.

Association to have common seal.

XLV. The Association hereby incorporated shall continue to exist so long as there shall remain so many as thirty members; but it shall and may be lawful for the whole of the members, at any time, by their unanimous vote at a general meeting, duly held, and whereof one month's notice shall have been given by the directors to the several members residing within the colony, to declare that the said Association shall be dissolved, whereupon the same shall be dissolved accordingly, in such manner that the said Association shall not afterwards enter upon the administration of any estate

Duration of Association.

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or property ; or should the members be at any time reduced to twenty-nine or less, and three months thereafter elapse without the election of any new member, so as to compose thirty members at the least, the said Association shall be deemed to be in like manner dissolved : Provided, nevertheless, in either event the members of the Association at such time being shall continue to administer such estates as they shall have previously entered upon, until the same shall be finally settled : And provided that the capital stock of the said Association shall remain vested in the directors then being, or thereafter to be elected by the members, until such estates and property shall be finally administered and settled.

Construction of terms.

XLVI. In the construction of this Act, as often as months are mentioned, the same shall mean calendar months ; and when a notice of a certain number of days is mentioned, the same shall mean clear days ; and unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and the masculine gender shall include females as well as males.

This Act to be a public Act.

XLVII. This Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges, magistrates, and others, without being specially pleaded.

Time of taking effect.

XLVIII. This Act shall commence and take effect from and after the 15th of April, 1876, and shall continue in force for the term or period of twenty-one years thereafter.

No. 18—1875.]

AN ACT

[June 30, 1875.

For Enabling the Divisional Council of Tulbagh to borrow moneys, upon the security of Road Rates and Tolls, for the construction of a Road through the Karroo in the direction of Fraserburg.

Preamble.

WHEREAS it is expedient that the divisional council of Tulbagh should be empowered to borrow moneys, upon the security of the road rates and tolls of the said division, for the purpose of constructing a public road through the Tulbagh Karroo to the boundary of the said division, and in connection with a new line of road in course of construction by the divisional council of Fraserburg through the Verlaten Kloof, by which the inhabitants would be benefited : And whereas the annual amount of road rates to be levied under Act No. 9, 1858, is not sufficient to meet the first outlay of this work : Be it enacted by the Governor of the Cape of

Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

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I. So much of Act No. 9, 1858, intituled "An Act to provide for the Management of the Public Roads of this Colony," as is repugnant to or inconsistent with any of the provisions of this Act shall, so far as regards the provisions of this Act, be, and the same is hereby, repealed.

Repugnant laws repealed.

II. It shall be lawful for the said divisional council from time to time, to raise by way of loan, on the credit of any tolls to be levied or rates to be assessed under the Act No. 9 of 1858 aforesaid, or under the Act No. 10 of 1864, intituled "An Act to provide for the Construction and Maintenance of the Main Roads of the Colony," any sum or sums of money that may at any time be required by the said divisional council for the purpose of carrying into effect the object and purpose hereinbefore mentioned: Provided that no such loan as aforesaid shall be capable of being effected except under and by virtue of a resolution of the said divisional council, at a meeting at which there shall be present not fewer than five members, inclusive of the chairman: And provided that no meeting shall be competent to pass any such resolution unless each of the members shall have had, for at least fourteen days next before the day appointed for such meeting, a notice signed by the secretary to such council, stating that the question of such loan will come under consideration of such meeting, which notice the said secretary shall issue at the instance of the chairman of the said council: And provided that no loan or loans or debt contracted by said council under this Act shall at any time exceed the sum of one thousand pounds sterling: And provided that no such loan as aforesaid shall be capable of being effected in any year in which the road rates levied and collected under the said Act No. 9, 1858, shall be less than one penny in the pound on the value of the property liable to be rated in the said division of Tulbagh: And provided that, except as is hereinafter mentioned, no such loan shall be applied for the payment of any previous loan that may have been raised by the said council.

Conditions under which loan may be raised.

III. In every case in which it shall be resolved by said council to raise any such loans as aforesaid, the said council shall, by a notice in the Government Gazette, call for tenders for the sum or sums required, and in case it shall accept any of the tenders sent in, shall accept that which specifies the lowest rate of interest, and the bond, declaration, or obligation pledging the tolls or rates agreed upon to be pledged for ensuring the repayment of the sum or sums borrowed by said council, and the interest thereon, shall be signed by three members on behalf of such council, of whom the civil commissioner of the division shall not be one.

Tenders to be invited in Government Gazette for sums required.

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Moneys raised to be kept separate.

All moneys raised as aforesaid under this Act shall on receipt thereof be deposited in a bank, to be chosen by the said council, to the credit of a separate account, and all sums required shall be drawn by cheques, signed by the secretary and counter-signed by the chairman.

Separate account to be kept and abstract rendered half-yearly to Colonial Secretary.

V. The said council shall keep a separate and distinct account of all moneys received and expended by virtue of this Act, and shall cause an abstract of the said account to be transmitted to the Colonial Secretary half-yearly, showing all moneys received and expended up to the 30th June and 31st December then preceding, and all liabilities and assets on the same days.

Accounts to be audited.

VI. The accounts in the last preceding section mentioned shall be audited and examined by the auditors to be from time to time appointed under the provisions of the "Divisional Councils Act, 1865," and the provisions of the eighty-third and eighty-fifth sections of the said Act shall apply to all accounts, books, and papers connected with the same road.

Fund to be provided for repayment of loans.

VII. It shall be incumbent on the said council, and they are hereby required, after the payment of the interest on any loan or loans as aforesaid, and providing for the necessary repairs of the said road, to set apart the remainder, if any, of the tolls levied on the same road, and the further sum of one hundred pounds sterling annually from their general revenue, in order to provide a fund for the repayment of the capital sums of money raised as aforesaid, until the same are wholly paid off and discharged.

Provisions for payment of cost of Act.

VIII. All the necessary costs and expenses attending the procuring of this Act, and carrying the provisions thereof into effect, shall be paid out of the money to be received under the provisions of this Act.

Short title.

IX. This Act may be cited for all purposes as the "Tulbagh Divisional Council Loan Act, 1875."

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No. 19—1875.] AN ACT [June 30, 1875.

To Legalize the Loan of £1,000 borrowed by the Divisional Council of Worcester, expended in the construction of the road through the Hex River, and to amend Act No. 31, 1868.

Preamble.

WHEREAS by Act No. 31 of 1868, intituled "An Act for enabling the Divisional Council of the Division of Worcester to borrow moneys upon the security of road rates and tolls, for the improvement and construction of the road through Hex River Kloof," the divisional council of Worcester was empowered to borrow moneys upon

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the security of the road rates and tolls of the division of Worcester for the purpose of improving the public road passing through Hex River Kloof, commencing at Hex River Bridge and ending at a certain distance on the Karoo side of the Hex River Mountain, by which the inhabitants would be benefited: And whereas the said divisional council was in and by said Act authorised and empowered to raise by way of loan on the credit of any tolls to be levied or rates to be assessed, under so much as was not thereby repealed of the Act No. 9 of 1858, intituled "An Act to provide for the management of the public roads of the Colony," or under the Act No. 10 of 1864, intituled "An Act to provide for the construction and maintenance of the main roads of the Colony," any sum or sums of money that might at any time be required by the said divisional council for the purpose of carrying into effect the object and purpose of the said Act: Provided (amongst other things not necessary to be re-stated) that the amount of such loan, or any debt contracted by the said council under the said Act, should not exceed the sum of £5,000 sterling: And whereas the cost of making and completing the said road having proved to be far greater than the said sum of £5,000, the said divisional council borrowed on credit the further sum of £1,000, necessary to complete the said road, and expended the same in so completing it: And whereas it is just and right that this sum of £1,000 so borrowed and expended on the said road in excess of the sum of £5,000 mentioned in said Act No. 31 of 1868 should be repaid by the said district of Worcester, by means of a further rate to be levied in terms of the said section of said Act, for a further sum of £1,000 in addition to the sum of £5,000 in said section mentioned:

Be it therefore enacted by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

The said Act No. 31 of 1868 shall be and hereby is amended, by substituting in the second and fourth sections thereof the sum of £6,000 in lieu and stead of the sum of £5,000 in said sections mentioned to be raised under said Act: Provided always that any loan contracted under the terms and provisions of the said section of said Act No. 31 of 1868 and under this present Act shall not any time exceed the said sum of £6,000, inclusive of any loan already contracted under said Act.

Act 31 of 1868, amended by substituting £6,000 for £5,000.

For enabling the Commissioners of the Municipality of Beaufort West to borrow a further sum of money for the purpose of re-constructing and otherwise improving the Beaufort Reservoir, and for the payment of the moneys already raised for the construction thereof.

Preamble.

WHEREAS by the Act No. 4 of 1866-'67, intituled "An Act for enabling the Commissioners of the Municipality of Beaufort to secure a supply of Water for the inhabitants of such Municipality," provision was made for enabling the said commissioners to secure to the Cape of Good Hope Savings' Bank Society certain moneys lent and to be lent by the said Savings' Bank Society to the said commissioners, not exceeding in the whole the sum of £2,000 sterling, for the purpose of constructing a reservoir capable of storing such supply of water: And whereas by Act No. 5 of 1869, intituled "The Town of Beaufort Water Loan Act of 1869," provision was further made for enabling the said commissioners of the municipality of Beaufort to borrow a further sum of money, not exceeding in the whole the sum of £2,000 sterling, for the purpose of strengthening and otherwise improving the Beaufort reservoir, and for securing to the lender thereof the said further sum of £2,000 to be borrowed by the said commissioners under the said last mentioned Act, and for rendering the said sum of £2,000 sterling secured by the aforesaid Act No. 4 of 1866-'67, and the interest payable thereon, a first and preferent charge upon all and singular the revenues of every description which are by the said last mentioned Act made liable to the payment thereof, and for rendering the said moneys borrowed under the said Act No. 5 of 1869, and the interest payable thereon, a second preferent charge upon the said revenue: And whereas it is expedient to empower the said commissioners to borrow and take up such moneys as may be required for re-constructing, strengthening, and improving the said reservoir, and for paying off the moneys already raised under the said Acts, but not exceeding in the whole the sum of £6,000 sterling:

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Commissioners may borrow £6,000 for Reservoir.

1. It shall be lawful for the commissioners of the municipality of Beaufort to borrow and take up such sum or sums of money, not exceeding in the whole the sum of £6,000 sterling, as shall be required for re-constructing, strengthen-



ing, and improving the reservoir aforesaid, and for paying off the moneys already raised under the Acts No. 4 of 1866-'67 and No. 5 of 1869.

No. 20—1875.

II. The first ten sections of the Act aforesaid, No. 4 of 1866-'67, shall apply to the money to be borrowed under this Act, by whomsoever the same shall be lent, whether by the said Savings' Bank Society or by some other society, or by some company or co-partnership, or individual, precisely as if the said sections were, *mutatis mutandis*, herein again set forth and word for word repeated.

First ten sections of Act 4 of 1866-'67 to apply to such loan.

III. That the sum of £2,000 secured by the Act aforesaid, No. 4 of 1866-'67, and the interest payable thereupon shall be a first and preferent charge upon all and singular the revenues of every description which are by the said Act made liable to the payment thereof; and the moneys borrowed and secured under the said Act No. 5 of 1869, and the interest payable thereon, shall form a second preferent charge upon the said revenue; and the moneys to be borrowed under this Act and the interest thereof shall form a third preferent charge upon the said revenues until such time as the moneys secured and borrowed by the Acts aforesaid, No. 4 of 1866-'67, and No. 5 of 1869, shall have been repaid and satisfied, when the moneys to be borrowed under this Act shall be a first and preferent charge upon the said revenue.

Order of preference of Act 4 of 1866-'67, Act 5 of 1869, and this Act, on revenues liable for the payment of the moneys borrowed thereunder

IV. Nothing in the "Public Bodies' Debts Act of 1867" shall interfere with the preference over the revenue to arise from the said reservoir given by this and the said Acts No. 4 of 1866-'67 and No. 5 of 1869, nor with the powers given by the 4th to the 8th clause inclusive of the said Act 4 of 1866-'67, to assess a rate for payment of the money borrowed under the said Acts in case the revenue from the said reservoir shall be unequal to the repayment thereof; but, on the contrary, the provisions of the said sections shall be applicable to the money to be borrowed under this Act: Provided that if in the course of any proceedings under the "Public Bodies' Debts Act, 1867," at the instance of any creditor of the municipality of Beaufort, the Supreme Court shall make an order under the 4th section of the said Act No. 4 of 1866-'67, directing the Master of the said Court to inquire whether any, and if so, what debts other than the debt then in question are due by the said municipality, then and in that case the creditors under the said Acts No. 4 of 1866-'67, and 5 of 1869, and under this Act may appear and prove their debts respectively.

Public Bodies' Debts Act, 1867, not to interfere with such preference.

V. This Act may be cited for all purposes as the "Town of Beaufort Water Loan Act of 1876."

Short title.

118 ANTENUPTIAL CONTRACTS LAW AMENDMENT ACT.

No. 21—1875.

No. 21—1875.]

AN ACT

[June 30, 1875.

To amend the law relating to Antenuptial Contracts.

Preamble.

WHEREAS it is expedient that the sixth section of the Placaat of the Emperor Charles V., bearing date the fourth day of October, 1540, should be repealed, and that other provisions should be made relating to antenuptial contracts: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Sixth section of Placaat of Charles V., 4th October, 1540, repealed.

I. The sixth section of the Placaat aforesaid is hereby repealed, as also so much of any other law or usage as is repugnant to or inconsistent with any of the provisions of this Act.

No antenuptial contract valid unless registered, and a copy filed in Deeds Registry.

II. No antenuptial contract executed after the taking effect of this Act shall be valid or effectual as against any creditor or creditors of either of the spouses unless the same shall be registered in the Deeds Registry Office of this Colony, in conformity with established law and custom, and unless a duplicate original or notarial copy of such contract shall, at the time of the registration of the original, be deposited in the Deeds Registry aforesaid, there to remain for general information, and such duplicate or copy may be inspected by any person who shall, by payment of the fee for the time being payable for a search in the debt registry, be entitled to inspect the register of antenuptial contracts, and no separate or further fee shall be demandable, and no such antenuptial contract as aforesaid shall be registered, until such duplicate or notarial copy as aforesaid shall have been deposited.

When settlement of property under antenuptial contract may be impeached by creditors.

III. No antenuptial contract executed after the taking effect of this Act, whereby one of the intended spouses shall settle upon or for the benefit of the other intended spouse, or the children of their marriage, or of the descendants of any such children, or upon or for the benefit of such other spouse and of such children and descendants, any property, movable or immovable, shall, in case of the sequestration of the estate of the spouse who settled any such property, within two years from the time of the execution of such contract, be of any force or effect against or in competition with any creditor or creditors upon the insolvent estate of such spouse, whose debts or demands existed at the date of the registration of such contract, if it shall be proved that the same was made by the insolvent with intent to defraud or delay his creditors in obtaining payment of their debts.

When covenant of antenuptial contract to pay sum of money or annuity to other spouse at death, or any other time, may be impeached by creditors.

IV. When, by the terms of any antenuptial contract executed after the taking effect of this Act, one of the intended spouses shall covenant or agree for the payment out of his or her estate, at his or her death, or at any other

time, of any sum of money or annuity, or for the making of any other provision for the benefit of the other spouse, or for any of the purposes in the third section of this Act specified, no payment, transfer, alienation, cession, delivery, mortgage, pledge, or other act, in order to carry out such covenant or agreement, shall, in case of the subsequent sequestration of the estate of such covenanting or agreeing spouse, be of any force or effect against or in competition with any creditor or creditors upon the insolvent estate of such spouse, whose debts or demands existed at the date of such payment, transfer, alienation, cession, delivery, mortgage, pledge, or act, if it be proved that such payment, transfer, alienation, cession, delivery, mortgage, pledge, or act, was made with intent to defeat or delay any creditor or creditors of such spouse in obtaining payment of his or her or their debts, and a time when his liabilities, fairly calculated, exceeded his assets fairly valued: Provided, however, that no such payment, transfer, alienation, cession, delivery, mortgage, pledge, or act, shall be liable to be impeached or invalidated after five years from the making thereof: Provided, further, that nothing in this section contained shall extend to impair or affect the force or operation of any special conventional hypothecation granted by any spouse at the time of entering into such convention or agreement for securing the performance of the same.

No. 21—1875.

V. Every antenuptial contract *bona fide* executed and duly registered before the taking effect of this Act, whereby any property shall have been settled for all or any of the purposes in that behalf in the third section of this Act specified, shall be valid and effectual according to its legal order of ranking against or in competition with all creditors upon the insolvent estate of the spouse who made such settlement, save and except creditors whose debts or demands must be in existence at the time of the taking effect of this Act, all which last-mentioned debts and demands must be satisfied in full before any claims upon or by virtue of such contract shall be capable of being set up.

Position of contracts executed before passing of this Act.

VI. As often as by any antenuptial contract which, if executed before the taking effect of this Act, shall have been registered in conformity with established law and custom, and which, if executed after the taking effect of this Act, shall have been so registered, and shall also have had a duplicate or notarial copy thereof deposited as aforesaid, one of the intended spouses shall have covenanted and agreed for the benefit of the other spouse or for any other of the purposes in the third section of this Act specified, to effect a policy of assurance upon the life of either of the intended spouses, or to cede and assign over some such policy theretofore effected, and in either case to pay the annual premiums to become due upon such policy; then in case the estate of

Premiums on life policy of insolvent settled under antenuptial contract on spouse not to fall under 83rd or 84th section of Insolvent Ordinance.

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No. 21—1875.

the spouse who so covenanted and agreed shall become sequestrated as insolvent, no payment of such premiums made by such spouse shall be deemed or taken to fall under or come within the eighty-third or eighty fourth sections of the Ordinance No. 6 of 1843, commonly called the " Insolvent Ordinance."

Registration of antenuptial contracts to fall under provisions of Ordinance 27 of 1846.

VII. Every antenuptial contract as hereinbefore mentioned which shall hereinafter be executed in this Colony shall, as regards the period after the execution thereof within which the same must be tendered for registration, be deemed and taken to fall under or come within the provisions of the Ordinance No. 27 of 1846, intituled " Ordinance for Amending the Law relative to Conventional Hypothecations."

Residents in British Kaffraria to register contracts under this Act there also.

VIII. Besides the registration required by this Act in the Deeds Registry of this Colony of antenuptial contracts executed after the passing of this Act, if either of the spouses shall at the time of the execution of any such contract be resident in that part of this Colony to which the Deeds Registry of British Kaffraria applies, such contract shall also be registered, and a duplicate or copy thereof deposited, as in the second section of this Act mentioned, in the Deeds Registry of British Kaffraria.

No contract except notarial contracts to be registered unless executed beyond the Colony.

IX. No antenuptial contract executed in this Colony shall be capable of being registered in the Deeds Registry Office unless the same shall have been 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, and shall, if registered, and if a duplicate original, or copy thereof, attested by a notary public entitled to practise as such in this colony, be deposited as aforesaid, have in this Colony the same force and effect in regard to creditors in insolvency as if it had been executed before a notary public in this Colony.

Act not to affect position of woman married in partial community.

X. Nothing in this Act contained shall be construed so as to relieve any woman married under an antenuptial contract, not wholly excluding community of property and community of profit and loss, from liability to any creditor to whom she and her property, and the provision made for her benefit by such contract, would have been liable, by reason of the partial community subsisting between her and her husband in case this Act had not been passed; nor shall anything in this Act contained be construed so as to deprive any woman of any right of tacit hypothec or other privilege which she would otherwise by law possess upon her husband's estate in security for her property, owned by her before and at the time of her marriage, and kept by her out of community, which right shall be judged of as if this Act had not been passed.

Not to affect contracts fraudulently made.

XI. Nothing in this Act contained shall extend to protect

or make effectual any antenuptial contract or any provision in any antenuptial contract which would, by reason of some fraud thereby perpetrated or attempted, have been void or voidable by law in case this Act had not been passed.

No. 21—1875.

XII. The term "creditors" shall in the construction of this Act include and embrace persons to whom any insolvent spouse shall, together with any co-partner or other person, be jointly indebted, as well as persons to whom such spouse shall singly and alone be indebted: Provided, however, that nothing herein contained shall extend to alter or affect the ranking as between themselves of the creditors upon joint estates and separate estates as the same is provided for in the 34th and 36th sections of the said "Insolvent Ordinance": Provided, also, that as often as the separate estate of any such spouse as aforesaid, and the estate of any company or co-partnership of which such spouse is a partner, shall be concurrently under administration as insolvent, and the trustee of the separate estate and the trustee of the joint estate shall not agree between themselves as to which of them shall institute such legal proceedings as may have become necessary in reference to any such antenuptial contract as aforesaid, it shall be lawful for the Supreme Court, and (in regard to any such estates situate within the districts over which the Court of the Eastern Districts has jurisdiction) for the Court of the Eastern Districts, to decide upon motion which of the two trustees shall institute such proceedings.

Interpretation of terms.

XIII. This Act may be cited for all purposes as "The Antenuptial Contracts Law Amendment Act, 1875."

Short title.

No. 22—1875.] AN ACT [June 30, 1875.

To provide for the Holding of Inquests in certain Cases of Death.

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: And whereas it is expedient that such provision should be made: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. 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 seat of his magistracy the dead body of any person who died suddenly or was found dead, or is

Inquests within six miles of seat of magistracy to be held by magistrate.

No. 22—1875.

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, if necessary, ascertain the cause of death.

Magistrate to inspect body and note appearances.

II. 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.

To have body examined by a medical man.

III. 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.

Process of summoning witnesses.

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

Inquest for the district of \_\_\_\_\_

To \_\_\_\_\_, Chief Constable.

You are hereby required, in Her Majesty's name, to summon A. B., of (describe him particularly), that he appear before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 18—, 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 \_\_\_\_\_, 18—.

\_\_\_\_\_, Resident Magistrate.

Penalty for non-attendance of witness.

V. If any person summoned as a witness shall not attend pursuant to such 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 such sum, not exceeding £20, 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 \_\_\_\_\_, Chief Constable, 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 Her 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 \_\_\_\_\_, 18—.

— — Resident Magistrate.

VI. 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 me God."

Oaths of witnesses.

VII. All contempts committed by witnesses or others before or in regard of any inquest shall be visited in like manner *mutatis mutandis*, as contempts committed by witnesses and others before any court of resident magistrate.

Contempts at inquests.

VIII. 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.

IX. Nothing in this Act contained shall prevent any person authorized by law to issue warrants of apprehension, or authorized 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 Act had not been passed.

Inquest not to prevent issue of warrant and arrest of offenders.

X. 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 or preparatory examination.

Witnesses entitled to expenses.

XI. 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 a preparatory examination may be instituted against him. In all other cases the resident magistrate shall report to the Attorney-General or Solicitor-General, as the case may be, the parti-

Duty of magistrate.

No. 22—1875.

Sub-sections b and c of section 2 of Ordinance 9 of 1848, repealed.

Field-cornet to report deaths within six miles of magistracy, and to hold inquest himself in those beyond.

Field-cornet to inspect body and note appearances.

To have body examined.

To report case to magistrate without delay.

On receiving report magistrate may hold inquest.

culars of the case, and the conclusion in regard to it at which the resident magistrate shall have arrived.

XII. The provisions of the sub-sections marked b and c of the second section of Ordinance No. 9 of 1848, intituled an "Ordinance for regulating the duties and remuneration of Field-cornets," are hereby appealed.

XIII. As often as it shall come to the knowledge of any field-cornet that there is at any spot within his ward 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 field-cornet shall forthwith, if such spot be at a distance of six miles or less from the seat of any magistrate, report the fact to the resident magistrate of the district, but if such spot shall be more than six miles distant from the seat of any magistrate, such field-cornet 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.

XIV. In viewing the dead body the field-cornet 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 some other, and if by some other, who such other was, or how he may be discovered.

XV. It shall be the duty of the field-cornet, 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 civil commissioner of the division his expenses, precisely as if he had been summoned to give evidence at a criminal trial held at the place where he made such examination as aforesaid.

XVI. The field-cornet shall, without delay, report to the resident magistrate, in detail, the circumstances of the case, in order that such magistrate, or the clerk of the peace (should there be such an officer), 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.

XVII. 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 from the seat of his magistracy.

No. 22—1875.

XVIII. As often as any case investigated by any field-cornet shall be reported by him to any resident magistrate, and no inquest shall be held by such magistrate, and no preparatory examination 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 Attorney-General, or (as to cases within any of the districts in or over which the court of the eastern districts has jurisdiction) to the Solicitor-General, the report of the field-cornet, or a copy of it, together with such remarks upon the case, if any, as the resident magistrate shall think fit.

Duty of magistrate when no inquest is held or other proceedings taken.

XIX. The provisions of the sub-section marked c of the third section of the aforesaid Ordinance No. 9 of 1848, in regard to the payment of field-cornets for any inquest, shall apply *mutatis mutandis* to any inspection made by any field-cornet under the provisions of this Act.

Sub-section c of section 3 of Ordinance 9 of 1848 to apply to inspectors under this Act.

XX. This Act may be cited for all purposes as "The Inquests Act, 1875."

Short title.

No. 23—1875.]

AN ACT

[June 30, 1875.]

To enable one Judge of the Supreme Court to exercise at certain times the jurisdiction of the said Court.

WHEREAS by the thirty-third section of the Royal Letters Patent, commonly called the Charter of Justice, it is provided that for the conduct and decision of all civil suits, actions, and causes depending before the Supreme Court of this Colony, and of all questions, matters, and things arising in the course of any such civil suits, actions, or causes, any two of the judges of the said court shall form a quorum, and shall be competent to execute all and every the powers, jurisdictions and authorities thereby granted to and vested in the said court: And whereas it is expedient that during the vacation hereinafter specified, one judge of the said court should be competent to execute the said powers, jurisdictions, and authorities: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

No. 23—1875.  
 One judge competent  
 in vacation to exer-  
 cise powers of Su-  
 preme Court.

I. During any period which shall by any Act of Parliament or rule of court be fixed as a vacation of the said Supreme Court, during which the ordinary business of the said court shall be suspended, one judge of the said court shall be competent to execute all and every the powers, jurisdictions, and authorities, vested in the said Supreme Court, anything in the said thirty-third section of the said Charter of Justice, in the fifth section of "The Administration of Justice Act, 1864," or in any other Act or law to the contrary notwithstanding.

No. 24—1875.] AN ACT [June 30, 1875.

To repeal Act No. 10, 1871, intituled "Act for the Protection of Private Property in Domesticated Ostriches," and to make other provisions in lieu thereof.

Preamble.

WHEREAS it is expedient to repeal the Act No. 10 of 1871, intituled "Act for the Protection of Private Property in Domesticated Ostriches," and to substitute other provisions in lieu thereof: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Act 10 of 1871 re-  
 pealed.

I. The Act No. 10, 1871, shall be, and the same is hereby, repealed.

Rights of owners of  
 escaped domesticated  
 ostriches defined.

II. Whenever any ostrich which shall have been domesticated, and shall have been, as such, the lawful property of any person, while in his custody, or possession, or guardianship, either by himself or his servants or within the bounds of any inclosure within which it shall have been placed by such person, or by his orders, or with his consent, express or implied, shall have strayed or escaped from such custody, possession, guardianship, or inclosure, the property in such ostrich of the person who was the lawful owner or custodian thereof, respectively, and of every other person who had at the time of such escape or straying any property therein,—all of which persons shall, for the purposes of this Act, be designated by the term "owner of such ostrich," shall be deemed to continue therein unimpaired and unaffected by reason of such escape or straying as aforesaid, and any person who shall, without reasonable and justifiable cause, kill, injure, or convert to his own use any such ostrich, shall be liable to account in damages to the owner of such ostrich in respect to any damage done to such owner's property therein, or to restore such ostrich, or both to restore such

ostrich and to account in damages, as the case may be, in like manner, as if such ostrich were an ox or other domestic animal: Provided that nothing herein contained shall be held to prevent any person from being prosecuted for any criminal offence for which he may have become liable by reason of such killing, injury, or conversion.

No. 24—1875.

III. The owners or occupiers of land or in closures where domesticated ostriches are kept, may destroy, or cause to be destroyed, all dogs found at large in such inclosure or on such land: Provided, that if any owner or occupier, under colour of this Act, shall maliciously and without cause destroy any dog, he shall be liable to account for and pay such damages for the same as may be awarded in any court of resident magistrate.

Destruction of dogs found within inclosures for ostriches.

IV. Nothing in this Act contained shall be held to take away, limit, or curtail any right or property which but for this Act would have existed, or be held to belong to any person in any domesticated ostrich in respect of its being domesticated, or in the eggs of any domesticated ostrich, nor to take away any remedy, by way of action for trespass or otherwise, which any person on whose property any domesticated ostrich shall have trespassed, or whose property such ostrich shall have in any way injuriously affected, may have, or might but for this Act have had, against the owner of such ostrich in respect of damage done by such ostrich while remaining the property of such owner, nor to prevent any person from being prosecuted for any offence which he may have committed.

Certain existing rights not affected by this Act.

V. This Act may be cited for all purposes as the “Domesticated Ostriches Act, 1875.”

Short title.

No. 25—1875.] AN ACT [June 30, 1875.

To enable the Harbour Board of Port Elizabeth to raise a further Loan of £100,000, and to provide for the payment of the Interest thereof.

WHEREAS it is desirable that certain works, as recommended by Sir John Coode, for improving the harbour of Port Elizabeth, namely, the construction of the outer jetty, and the retaining bank in connection therewith on the south side of the breakwater, should be proceeded with, and to that end that the Board of Commissioners for the time being for the said harbour should be empowered to raise on loan such further sums of money as may from time to time be necessary for prosecuting the said works to completion, not exceeding in the whole the sum of one hundred thousand pounds sterling, under the guarantee of the general

Preamble.

No. 25—1875.

revenue of this Colony; and whereas it is expedient that provision should be made for raising by means of increased wharfage dues as hereinafter mentioned sums sufficient annually to keep down the interest on all sums of money for the time being due and owing by the said commissioners, as well as for the payment of the costs of managing and keeping in repair the said works and for completing the works now in progress; and whereas the Act No. 14 of 1867, intituled “Act to enable the Harbour Board of Port Elizabeth to raise a further Loan of Forty Thousand Pounds, and to provide for keeping down the Interest thereof,” has not been acted upon, and it is advisable to repeal the said Act: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Act 14 of 1867 repealed.

Further sum of £100,000 may be borrowed to complete harbour works.

Extent to which Act No. 10 of 1858 is to apply.

Dues which may be levied.

- I. The said Act No. 14 of 1867 is hereby repealed.
- II. It shall be lawful for the said board to borrow and take up from time to time upon interest, with the sanction of the Governor, and under the guarantee of the general revenue of this Colony, such sum or sums of money, not exceeding in the whole, in addition to the sums already borrowed by the said board under the authority of Parliament and still due, the sum of one hundred thousand pounds sterling, to be applied for the purpose of proceeding with and prosecuting to completion the said works so recommended as aforesaid; and, save and except as is hereinafter excepted, all the provisions of the Act No. 10 of 1858, intituled “An Act for enabling the Harbour Board of Port Elizabeth to levy certain Wharfage Dues,” so far as the same relate to the money thereby authorized to be borrowed, shall apply to the said sums hereby authorized to be borrowed as if the same were borrowed under the authority of the said Act.
- III. From and after the borrowing of the money, or any portion thereof, hereby authorized to be borrowed, it shall be lawful for the said board, and they are hereby required, to levy or cause to be levied upon all goods, articles, matters, and things, landed or shipped in Algoa Bay, and not by the schedule to this Act exempted from the payment of wharfage dues, the several dues or rates set forth in the tariff contained in the schedule to the Act annexed, instead of the dues or rates set forth in the tariff contained in schedule No. 1 of the aforesaid Act No. 10 of 1858, and all the provisions of the said Act No. 10 of 1858 shall apply and extend to the dues and rates set forth in the schedule hereunto annexed, precisely as if the said dues or rates had been inserted in the aforesaid schedule No. 1 to the said Act No. 10 of 1858, annexed.

## SCHEDULE.

No. 25—1875.

1. Upon all wool shipped or landed in Algoa Bay there shall be payable and be paid four pence halfpenny for and upon every one hundred pounds of the weight thereof.
2. Upon all goods, articles, matters, or things, except wool, shipped or landed in Algoa Bay, dues shall be payable and be paid at and after the rate of seven shillings and six pence for every one hundred pounds of the value thereof.

## EXEMPTIONS.

1. All public stores, naval, or military baggage and personal baggage of passengers.
2. Ship's stores outwards.
3. All goods shipped upon which dues had been paid on importation under this Act.
4. All goods shipped to or landed from any place without the Colony.
5. Bullion and coin.

No. 26—1875.]

AN ACT

[June 30, 1875.]

To amend the Act No. 7 of 1871, intituled "An Act for raising a sum of One Hundred Thousand Pounds Sterling to Improve the Harbour of East London, and for Levying Wharfage Dues at the said Harbour.

**W**HEREAS by the Act No. 7 of 1871, intituled "An Act to provide for raising a sum of One Hundred Thousand Pounds Sterling to Improve the Harbour of East London, and for levying Wharfage Dues at the said Harbour," power is given to raise and take up upon stock or perpetual annuities, bearing interest after the rate of five pounds per centum per annum on the said sum, but not more than fifteen thousand pounds thereof in any one period of twelve months: And whereas it is expedient that the yearly limit aforesaid should be removed, that the rate of interest should be reduced, that the said money should be able to be raised upon debentures as well as upon stock, and that the said Act should in other respects be amended: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows—

I. So much of the said Act No. 7 of 1871 as provides that not more than fifteen thousand pounds on the whole shall be raised during any one period of twelve months is hereby repealed.

II. It shall be lawful for the Governor to raise the said sum of one hundred thousand pounds, not only by stock

Preamble.  
Act No. 7 of 1871 amended.

Governor may raise £100,000.

K

No. 26—1875.

Provisions to be observed, if borrowed on debentures.

as in the said Act mentioned, but partly by stock and partly by debentures, or wholly by debentures.

III. In so far as the said borrowing shall be upon debentures, the following provision shall be observed ; such debentures shall be issued in this Colony, or in England, or partly in this Colony and partly in England, for sums not exceeding five hundred pounds nor less than one hundred pounds each, upon the best and most favourable terms that can be obtained, and the interest to accrue thereon shall be charged upon and made payable out of the general revenue of this Colony.

Rate of interest.

IV. The interest to be paid upon any stock which may be hereafter issued under the said Act, shall be after the rate of four pounds ten shillings per centum per annum, instead of five pounds per centum per annum as in the said Act mentioned.

Ninth and tenth sections of Act 7 of 1871, to apply to debentures under this Act.

V. The ninth and tenth sections of the said Act shall, *mutatis mutandis*, apply to debentures to be issued as aforesaid in like manner as if such debentures had been mentioned in the said sections as well as stock.

How value of goods, &c., to be ascertained.

VI. The person by whom any goods, articles, matters, or things chargeable with dues of wharfage at East London, shall be or be about to be landed or shipped at or in the harbour of East London, or his known agent, shall be bound to state to the principal officer of customs at East London, who shall be entitled to demand and receive the dues payable thereon, the value thereof ; and if it shall appear to the said officer that the same are not valued according to the actual value thereof, the said officer may require the person who shall have landed or shipped, or be about to land or ship any goods, articles, matters, or things, to make and subscribe a declaration, which declaration shall be in substance in the form in the second schedule to the said Act set forth ; and the value stated in such declaration shall be the value upon which dues shall be paid : Provided that it shall be lawful for such officer, as often as it shall be made to appear to him that the value of any goods, articles, matters, or things, landed at East London cannot be declared at or immediately after the time of such landing, to permit the same to be taken away without the payment of wharfage, but in every such case such officer shall take a bond or obligation for the payment of such wharfage, at or before such time as shall in that behalf be specified in such bond or obligation.

Punishment for false declaration.

VII. Any person who shall wilfully and corruptly make and subscribe any such declaration as aforesaid, knowing the same to be untrue in any material particular, shall be deemed to be guilty of the crime of contravening this section of this Act, and shall upon conviction thereof, be liable to such punishment as shall be by law provided for the crime of perjury.

No. 27—1875.]

AN ACT

[June 30, 1875.

No. 27—1875.

For enabling the Divisional Council of Clanwilliam to borrow Moneys, upon the security of Road Rates and Tolls, for the construction of a Road over the Pakhuis Mountain.

**W**HEREAS it is expedient that the divisional council of Preamble.  
Clanwilliam should be empowered to borrow moneys, upon the security of the road rates and tolls of the said division, for the purpose of constructing a public road over the Pakhuis Mountain by which the inhabitants would be benefited: And whereas the annual amount of road rates to be levied under Act No. 9, 1858, is not sufficient to meet the first outlay of this work: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. So much of Act No. 9, 1858, intituled "An Act to provide for the Management of the Public Roads of this Colony," as is repugnant to or inconsistent with any of the provisions of this Act shall, so far as regards the provisions of this Act, be, and the same is hereby, repealed. Inconsistent portion of Act 9, 1858, repealed.

II. It shall be lawful for the said divisional council from time to time, by way of loan, on the credit of any tolls to be levied or rates to be assessed under the Act No. 9 of 1858 aforesaid, or under the Act No. 10 of 1864, intituled "An Act to provide for the Construction and Maintenance of the Main Roads of the Colony," any sum or sums of money that may at any time be required by the said divisional council for the purpose of carrying into effect the object and purpose hereinbefore mentioned: Provided that no such loan as aforesaid shall be capable of being effected except under and by virtue of a resolution of the said divisional council, at a meeting at which there shall be present not fewer than five members exclusive of the chairman: And provided that no meeting shall be competent to pass any such resolution unless each of the members shall have had, for at least fourteen days next before the day appointed for such meeting, a notice, signed by the secretary to such council, stating that the question of such loan will come under consideration of such meeting, which notice the said secretary shall issue at the instance of the chairman of the said council: And provided that no loan or loans or debts contracted by said council under this Act shall at any time exceed the sum of three thousand pounds sterling: And provided that no such loan as aforesaid shall be capable of being effected in any year in which the road rates levied and collected under the said Act No. 9, 1858, shall be less than one penny in the pound on Conditions under which Council may borrow sum or sums not exceeding £20,000.

132 CLANWILLIAM DIVISIONAL COUNCIL LOAN ACT.

No. 27—1875.

the value of the property liable to be rated in the said division of Clanwilliam: And provided that except as is hereinafter mentioned, no such loan shall be applied for the payment of any previous loan that may have been raised by the said council.

Tenders to be invited for sum or sums required.

III. In every case in which it shall be resolved by said council to raise any such loans as aforesaid, the said council shall, by a notice in the Government Gazette, call for tenders for the sum or sums required, and in case it shall accept any of the tenders sent in, shall accept that which specifies the lowest rate of interest, and the bond, declaration, or obligation pledging the tolls or rates agreed upon to be pledged for ensuring the repayment of the sum or sums borrowed by said council, and the interest thereon, shall be signed by three members on behalf of such council, of whom the civil commissioner of the division shall not be one.

Moneys borrowed to be kept separate.

IV. All moneys raised as aforesaid under this Act shall on receipt thereof be deposited in a bank, to be chosen by the said council, to the credit of a separate account, and all sums required shall be drawn by cheques, signed by the secretary and countersigned by the chairman.

Separate accounts to be kept and abstract submitted half-yearly to Colonial Secretary.

V. The said council shall keep a separate and distinct account of all moneys received and expended by virtue of this Act, and shall cause an abstract of the said account to be transmitted to the Colonial Secretary half-yearly, showing all moneys received and expended up to the 30th June and 31st December then preceding, and all liabilities and assets on the same days.

Accounts to be audited.

VI. The accounts in the last preceding section mentioned shall be audited and examined by the auditors to be from time to time appointed under the provisions of the "Divisional Councils Act, 1865," and the provisions of the eighty-third and eighty-fifth sections of the said Act shall apply to all accounts, books, and papers connected with the same road.

Fund for repayment of loan.

VII. It shall be incumbent on the said council, and they are hereby required, after the payment of the interest on any loan or loans as aforesaid, and providing for the necessary repairs of the said road, to set apart the remainder, if any, of the tolls levied on the same road, and the further sum of one hundred pounds sterling annually from their general revenue, in order to provide a fund for the repayment of the capital sums of money raised as aforesaid, until the same are wholly paid off and discharged.

Provision for payment of cost of Act.

VIII. All the necessary cost and expenses attending the procuring of this Act, and carrying the provisions thereof into effect, shall be paid out of the money to be received under the provisions of this Act.

Short title.

IX. This Act may be cited for all purposes as the "Clanwilliam Divisional Council Loan Act, 1875."



No. 28—1875.]

AN ACT

[June 30, 1875.

No. 28—1875.

For applying a sum not exceeding One Million and Twenty-two Thousand Four Hundred and Seventy Pounds Sixteen Shillings and Three Pence Sterling for the Service of the Year 1875.

**W**HEREAS by the Act No. 22 of 1874, intituled “An Act for applying a Sum not exceeding Three Hundred and Eighty-six Thousand and Seventy-two Pounds Thirteen Shillings and Nine Pence Sterling for the Service of the year 1875,” the said sum of three hundred and eighty-six thousand and seventy-two pounds thirteen shillings and nine pence was charged upon the revenue of the Colony for the service of the Government of this Colony until the 30th June, 1875: And whereas it has become expedient in the present session of Parliament to take into consideration the requirements of the said service for the entire year 1875, as well that portion for which provision was made by the said Act as the remaining portion thereof: And whereas it is expedient in order to prevent confusion to repeal the said Act No. 22 of 1874, and to provide by one Act for the service of the year 1875: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

- I. The Act aforesaid, No. 22 of 1874, is hereby repealed.
- II. The public revenue of the Colony is hereby charged with a sum not exceeding one million and twenty-two thousand four hundred and seventy pounds sixteen shillings and three pence sterling for the service of the year 1875, in addition to the sums already by law provided for such service, which sum of one million and twenty-two thousand four hundred and seventy pounds sixteen shillings and three pence shall be applied in manner following, that is to say:
1. For the expenditure of the Civil Establishments, a sum not exceeding one hundred and fifty-nine thousand nine hundred and two pounds. Civil Establishments.
  2. For the expenditure of the Judicial Establishments, a sum not exceeding forty thousand six hundred and ten pounds ten shillings. Judicial Establishments.
  3. For the Expenditure of Educational Establishments, a sum not exceeding thirty-seven thousand seven hundred and seventy-eight pounds. Educational Establishments.
  4. For the expenditure of Medical Establishments, a sum not exceeding forty-five thousand nine hundred and seventeen pounds. Medical Establishments.

- No. 28—1875.
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|----------------------------------|-----|--|
| Police and Gaols Establishments. | 5.  | For the expenditure of the Police and Gaols Establishments, a sum not exceeding seventy-eight thousand four hundred and thirty-four pounds.  |
| Border Department (Aborigines).  | 6.  | For the expenditure of the Border Department (Aborigines), a sum not exceeding eight thousand seven hundred and seventy pounds.  |
| Pensions and Retired Allowances. | 7.  | For the expenditure on account of Pensions and Retired Allowances, a sum not exceeding six thousand six hundred and twenty-four pounds.  |
| Works and Buildings.             | 8.  | For the expenditure on account of Works and Buildings, a sum not exceeding ninety-six thousand seven hundred and thirty-six pounds.  |
| Roads and Bridges.               | 9.  | For the expenditure on account of Roads and Bridges, including Convict Expenditure, a sum not exceeding one hundred and eighty-three thousand and twenty seven pounds six shillings and three pence. |
| Miscellaneous Services.          | 10. | For the expenditure on account of Miscellaneous Services, including Parliamentary Expenses, a sum not exceeding seventy-five thousand four hundred and eighty-six pounds.                            |
| Interest.                        | 11. | For the expenditure on account of Interest, a sum not exceeding two hundred pounds.  |
| Colonial Defence.                | 12. | For the expenditure on account of Colonial Defence, a sum not exceeding one hundred and fifteen thousand and fifty pounds.   |
| Railways.                        | 13. | For the expenditure on account of Railways, a sum not exceeding eighty-two thousand two hundred and eighty-six pounds.   |
| Immigration.                     | 14. | For the expenditure on account of Immigration, a sum not exceeding seventy-five thousand pounds.   |
| Electric Telegraphs.             | 15. | For the expenditure on account of Electric Telegraphs, a sum not exceeding sixteen thousand six hundred and fifty pounds.  |

Total Amount  
£1,022,470 16s. 3d.

Amounting in the whole to one million and twenty-two thousand four hundred and seventy pounds sixteen shillings and three pence, as detailed in the schedule hereunto annexed.

Application of supplies.

The said aids and supplies shall not be issued or applied for any use, intent, or purpose other than the particular services for which the said amounts have been granted respectively by this Act.

No. 29—1875.]

AN ACT

[June 30, 1875.

No. 29—1875.

For applying a sum not exceeding Four Hundred and Forty-eight Thousand Nine Hundred and Ninety nine Pounds Thirteen Shillings and one Penny Sterling for the Service of the Year 1876.

**W**HEREAS it is expedient to provide further sums, in addition to those by law provided, for the services of the Government of this Colony until the 30th June, 1876: Be it therefore enacted by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

I. That a sum not exceeding four hundred and forty-eight thousand nine hundred and ninety-nine pounds thirteen shillings and one penny sterling shall be charged on the revenue of the said Colony, towards the service of the year 1876, and applied in the manner and for the purpose set forth in the schedule annexed to this Act, that is to say:—

1. For the expenditure of the Civil Establishments, a sum not exceeding seventy-nine thousand nine hundred and fifty-one pounds sterling. Civil Establishments.
2. For the expenditure of the Judicial Establishments, a sum not exceeding nineteen thousand eight hundred and ninety-nine pounds sterling. Judicial Establishments.
3. For the expenditure of the Educational Establishments, a sum not exceeding eighteen thousand eight hundred and eighty-nine pounds sterling. Educational Establishments.
4. For the expenditure of the Medical Establishments, a sum not exceeding twenty-one thousand eight hundred and eight pounds ten shillings sterling. Medical Establishments.
5. For the expenditure of the Police and Gaols Establishments, a sum not exceeding thirty-nine thousand two hundred and seventeen pounds sterling. Police and Gaols Establishments.
6. For the expenditure on account of the Border Department, a sum not exceeding four thousand three hundred and eighty-five pounds sterling. Border Department.
7. For the Expenditure on account of Pensions, Retired Allowances, and Gratuities, a sum not exceeding two thousand eight hundred and twelve pounds sterling. Pensions, Allowances, and Gratuities. Retired and
8. For the expenditure on account of Works and Buildings, a sum not exceeding twenty-eight thousand seven hundred and ninety-four pounds sterling. Works and Buildings.
9. For the expenditure on account of Railways, a sum not exceeding forty-one thousand one hundred and forty-three pounds sterling. Railways.

No. 29—1875. Roads and Bridges.	10. For the expenditure on account of Roads and Bridges, a sum not exceeding sixty-five thousand five hundred and twenty-one pounds three shillings and one penny sterling.
Miscellaneous and Parliamentary.	11. For the expenditure on account of Miscellaneous Services, including Parliamentary Expenses, a sum not exceeding twenty-six thousand nine hundred and fifty-five pounds sterling.
Interest.	12. For the expenditure on account of Interest, a sum not exceeding one hundred pounds sterling.
Colonial Defence.	13. For the expenditure on account of Colonial Defence, a sum not exceeding fifty-seven thousand five hundred and twenty-five pounds sterling.
Immigration.	14. For the expenditure on account of Immigration, a sum not exceeding thirty-seven thousand five hundred pounds sterling.
Electric Telegraphs.	15. For the expenditure on account of Electric Telegraphs, a sum not exceeding four thousand five hundred pounds sterling.
Votes not to be otherwise applied.	II. The said aids or supplies shall not be issued or applied for any use, intent, or purpose other than the particular services for which the said amounts have been granted respectively by this Act.

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SCHEDULE.

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For the Expenditure of the Civil Establishments :

His Excellency the Governor	£1,010	0	0
Colonial Secretary	..	680	0 0
Treasurer-General	.. ..	710	0 0
Auditor-General	.. ..	1,641	10 0
Registrar of Deeds	.. ..	830	0 0
Inspector-General of Chests, &c.	.. ..	507	10 0
Commissioner of Crown Lands & Public Works		1,232	10 0
Railway Service Working Department	.. ..	2,050	0 0
Engineer for Railways	.. ..	1,890	0 0
Telegraph Department	.. ..	5,457	0 0
Surveyor-General	.. ..	1,588	0 0
Department of Public Works, &c.	.. ..	5,619	10 0
Secretary for Native Affairs		260	0 0
Port Department	.. ..	2,265	10 0
Crown Agents for the Colo- nies	.. ..	125	0 0
Postal Service	.. ..	52,149	10 0

For the Expenditure of the Civil Establishments (*continued*):

Customs Department—			
Rents .. .. .	£830	0	0
Rents for Sundry Offices ..	905	0	0
Civil Commissioners, &c., Transport .. .. .	200	0	0
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	£79,951	0	0

For the Expenditure of the Judicial Establishments :

Supreme Court .. .. .	£2,926	0	0
High Sheriff .. .. .	121	10	0
Attorney-General .. .. .	10	0	0
Solicitor-General .. .. .	400	0	0
Divisional Courts .. .. .	8,827	10	0
Administration of Justice ..	5,000	0	0
Rent of Offices .. .. .	1,064	0	0
Transport .. .. .	1,550	0	0
	<hr/>		
	£19,899	0	0

For the Expenditure of the Educational Establishments :

Education (exclusive of Establishments) .. .. .	£18,624	0	0
Rents .. .. .	50	0	0
Transport .. .. .	215	0	0
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	£18,889	0	0

For the Expenditure of the Medical Establishments :

Medical Department .. .. .	£6,683	10	0
Hospitals .. .. .	14,850	0	0
Rents .. .. .	25	0	0
Transport .. .. .	250	0	0
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	£21,808	10	0

For the Expenditure on account of Police and Gaols :

Police and Gaols—Estab- lishments .. .. .	£26,612	0	0
Police and Gaols—Exclu- sive of Establishments	10,970	0	0
Rents .. .. .	250	0	0
Transport .. .. .	1,385	0	0
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	39,217	0	0

For the Expenditure on account of the

Border Department .. .. .	4,385	0	0
Pensions, Retired Allowances, & Gratuities	2,812	0	0
Works and Buildings .. .. .	28,794	0	0
Railways .. .. .	41,143	0	0
Roads and Bridges .. .. .	65,521	3	1
Miscellaneous Services .. .. .	26,955	0	0
Interest .. .. .	100	0	0
Colonial Defence .. .. .	57,525	0	0
Immigration .. .. .	37,500	0	0
Electric Telegraphs .. .. .	4,500	0	0
	<hr/>		

Total .. .. . £448,999 13 1

No. 30—1875.

No. 30—1875.]

AN ACT

[June 30, 1875.]

To Provide for the more effectual Audit of the Public Accounts of this Colony.

Preamble.

WHEREAS the present system of auditing the public accounts of this Colony does not afford a sufficient guarantee for the proper expenditure of public money, and is inadequate as a check upon the illegal application of the public revenue, and it is desirable that the Auditor-General should be placed more immediately in communication with the Parliament, and should be independent of the Executive Government: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Governor may appoint Controllor and Auditor-General, and Assistant.

I. Besides the Auditor-General, which officer shall hereafter be called the "Controllor and Auditor-General of Public Accounts," there shall be an officer to be called the "Assistant Controllor and Auditor," both of which officers shall be appointed by the Governor with the advice of the Executive Council, and neither of whom shall be capable, while holding the said offices, of holding any other office.

Their salaries.

II. There shall be paid out of the public revenue to the Controllor and Auditor-General of Public Accounts a salary of nine hundred pounds per annum, and to the Assistant Controllor and Auditor a salary of six hundred pounds per annum.

Tenure of office.

III. The said officers shall hold their offices during good behaviour, subject, however, to their removal on an address praying for such removal presented to the Governor by both Houses of Parliament: Provided that when Parliament is not sitting it shall be lawful for the Governor, with the advice of the Executive Council, to suspend both or either of the said officers, from their office for inability or misbehaviour; and when and so often as the same shall happen, a full statement of the cause of such suspension shall be laid before both Houses of Parliament within seven days after the commencement of the next session thereof; and if an address shall at any time during the session be presented to the Governor by both Houses of Parliament praying for the restoration of such officer to his office, such officer shall be restored accordingly, but if no such address shall be so presented it shall be lawful for the Governor, with the advice of the Executive Council, to confirm such suspension, and to declare the office of such Controllor and Auditor-General, or of such Assistant Controllor and Auditor, as the case may be, to be, and the same shall thereupon become, vacant.

IV. On any vacancy occurring in the office of Controller and Auditor-General, or Assistant Controller and Auditor, from death, resignation, or other cause, the Governor, with the advice of the Executive Council, may nominate and appoint a successor, who shall have the same powers, authorities, and duties, and who shall be paid the like salary as his predecessor.

No 30—1875.

Appointment of successors.

V. Anything which under the authority of this Act is directed to be done by the Controller and Auditor-General may in his absence be done by the Assistant Controller and Auditor, except the certifying and reporting upon accounts for the House of Assembly.

Authority of Assistant Auditor.

VI. The Controller and Auditor-General is hereby authorized to make from time to time such regulations, not inconsistent with the provisions of this Act, as may appear to be necessary and expedient for the purposes of this Act, and to enable him to exercise and perform the powers, authorities, and duties hereby imposed upon him: Provided that all such regulations shall be approved by the Governor, with the advice of the Executive Council, previously to the issue thereof, and the same shall be laid upon the table of both Houses of Parliament within seven days after the beginning of the session of Parliament next ensuing.

Regulations may be made subject to approval.

VII. After the passing of the Annual Appropriation Act, a copy of the said Act, together with a copy of the estimates to which the said Act refers, shall be forwarded by the Colonial Secretary to the Controller and Auditor-General, who shall thereupon notify to the Treasurer of the Colony, and to the several Ministers respectively, the sums authorized by Parliament for expenditure by the several departments under each Minister; and such sums shall be issued by the Treasurer, or by such persons as the Treasurer shall direct from time to time, on the requisition of the Minister charged with such expenditure, such requisition to be authorized and approved by the Controller and Auditor-General.

Proceedings of Auditor on receipt of estimates.

Duty of Treasurer thereafter.

VIII. The Controller and Auditor-General shall examine, inquire into, and audit the accounts of all persons entrusted with the collection, custody, receipt, payment, or issue of moneys belonging to the public revenue of this Colony, and all accounts of a public nature which he may be directed by the Government or required by Act of Parliament to examine, inquire into, and audit; and he is hereby empowered to call upon all persons in the service of the Government who may be in charge of public moneys, or of any public body whose accounts he may be directed or required to examine, inquire into, and audit, for all necessary or proper explanations respecting their receipts and expenditure, and respecting all matters necessary to enable him to discharge his duties under this Act; and he shall see that

Duties of Auditor.

No. 30—1875.

Annual accounts of Revenue and Expenditure to be presented to Parliament.

all payments are supported by proper vouchers or proof of payment and are properly authorized.

IX. The Controller and Auditor-General shall cause in every year an account of the revenue and expenditure of the Colony for the financial year ended the 30th June preceding to be prepared; and the said account, together with the report of the Controller and Auditor-General thereon, shall be laid before the House of Assembly by the Government on or before the 31st of March in the following year if Parliament be then sitting, and if not sitting, then within one week after Parliament shall be next assembled.

Annual "Appropriation Accounts" to be prepared for Parliament.

X. On or before the 30th September in every year, accounts of the appropriation of the several supply grants comprised in the Appropriation Act of each year shall be prepared by the several departments, and be transmitted for examination to the Controller and Auditor-General; and when certified and reported upon as hereinafter directed, they shall be laid before Parliament; and such accounts shall be called the "Appropriation Accounts" of the moneys expended for the services to which they relate; and the Government shall determine by what departments such accounts shall be prepared and rendered to the Controller and Auditor-General; and the Controller and Auditor-General shall certify and report on such accounts as hereinafter directed, and the report thereon shall be signed by the Controller and Auditor-General: Provided always, and it is the intention of this Act, that the Government shall direct that the department charged with the expenditure of any vote under the authority of the Government shall prepare the appropriation account thereof: Provided also that the term "department," when used in this Act in connection with the duty of preparing the said appropriation accounts, shall be construed as including any public officer or officers to whom that duty may be assigned by the Government.

Description of account.

XI. An appropriation account of supply grants shall exhibit on the charge side thereof the sum or sums appropriated by Parliament for the services of the financial year to which the account relates; and on the discharge side thereof the sums which may actually have come in course of payment within the same period; and no advance of the application of which an account may not have been rendered to and allowed by the accounting department, shall be included on the discharge side thereof.

A balance-sheet, if thought necessary by Controller and Auditor-General, or a statement showing the deposition of the balance, to accompany the appropriation account.

XII. The department charged with the duty of preparing the appropriation account of a grant shall, if required so to do by the Controller and Auditor-General, transmit to him, together with the annual appropriation account of such grant, a balance-sheet so prepared as to show the debtor and



creditor balances in the ledgers of such department on the day when the said appropriation account was closed, and to verify the balances appearing upon the annual appropriation account: Provided always that the Controller and Auditor-General may, if he thinks fit, require the said department to transmit to him in lieu of such balance sheet a certified statement showing the actual disposition of the balances appearing upon the annual appropriation account on the last day of the period of such account.

No. 30—1875.

XIII. Every appropriation account when rendered to the Controller and Auditor-General, shall be accompanied by an explanation, showing how the balance or balances on the grant or grants included in the previous account, have been adjusted, and shall also contain an explanatory statement of any excess of expenditure over the grant or grants included in such account, and such statement as well as the appropriation account shall be signed by such department.

The appropriation account to be accompanied by a statement explaining disposal of balance and cause of excess.

XIV. Every appropriation account shall be examined and reported on by the Controller and Auditor-General on behalf of the Parliament, and in the examination of such accounts the Controller and Auditor-General shall ascertain first, whether the payments which the accounting department has charged to the grant are supported by vouchers or proofs of payments, and second, whether the money expended has been applied to the purpose or purposes for which such grant was intended to provide; and in reporting on such accounts, he shall call attention to every case in which it may appear to him that a grant has been exceeded, or that money received by a department from other sources than the grants for the year to which the account relates, has not been applied or accounted for according to the directions of Parliament, or that a sum charged against a grant is not supported by proof of payment, or that a payment so charged did not occur within the period of the account, or was for any other reason not properly charged against the grant.

In what manner the examination of appropriation accounts shall be conducted by the Controller and Auditor-General.

XV. In conducting the examination of the vouchers relating to the appropriation of the grants for the several services enumerated in the schedule to this Act annexed, the Controller and Auditor-General, after satisfying himself that the accounts bear evidence that the vouchers have been completely checked, examined, and certified as correct in every respect, and that they have been allowed and passed by the proper departmental officers, may admit the same as satisfactory evidence of payment in support of the charges to which they may relate: Provided always, that if the Government should desire any such vouchers to be examined by the Controller and Auditor-General in greater detail, the Controller and Auditor-General shall cause such vouchers to be subjected to such a detailed examination as the Government may think fit to prescribe.

How the vouchers of appropriation accounts included in schedule shall be examined.

No. 30—1875.

How other vouchers are to be examined.

XVI. In conducting the examination of the vouchers relating to the appropriation of the grants for any services not enumerated in the schedule, the Controller and Auditor-General shall test the accuracy of the castings and computation of the several items of such vouchers: Provided always, that when any vouchers have been certified to be correct by any officers specially authorized to examine the same, it shall be lawful for the Controller and Auditor-General, with the consent of the Government, to dispense with a second examination of the particular items of such vouchers.

Duty of Auditor on failure of Government to submit report of appropriation accounts.

XVII. If the Government shall not within the time prescribed by this Act present to the Parliament any report made by the Controller and Auditor-General on any of the appropriation accounts or the annual account of revenue and expenditure, the Controller and Auditor-General shall forthwith transmit such report to the Speaker of the House of Assembly to be by him presented to the said House.

Treasurer and all Sub-Accountants to transmit monthly or when required by Controller & Auditor-General, accounts of moneys received and paid, &c., &c.

XVIII. The Treasurer of the Colony, the civil commissioners and all other persons in the public service of this Colony having the custody, receipt, or payment of public money, shall, when and as often as they may be required so to do by the Controller and Auditor-General, and at least once in every month, transmit to the Controller and Auditor-General a true and correct account of all moneys received, and of all moneys disbursed, issued or expended by such officer during the period to which such account relates, together with all vouchers and authorities relating to such account; and every such account shall be in the form from time to time directed by the Controller and Auditor-General, and shall be verified by the solemn declaration of the person whose duty it is to make out such account; and if any such person shall wilfully and corruptly make any such declaration knowing the same, or the account verified by it, to be untrue in any material particular, he shall be deemed to be guilty of the offence of wilfully making a false declaration, and shall, upon conviction thereof, suffer such punishment as shall be by law provided for the crime of perjury.

Treasurer and Sub-Accountants also to furnish such other accounts and returns as may be required.

XIX. The Treasurer of the Colony, the civil commissioners and all other persons in the last preceding section mentioned, shall also, when and as often as they may be required so to do by the Controller and Auditor-General, without delay, make out and transmit to him such other accounts and such returns as may be desired by him in order to enable him to perform his duties.

Person rendering any account or return to give such explanation regarding it as Controller and Auditor-General may require.

XX. If any account or return rendered or made to the Controller and Auditor-General shall appear to him to require explanation, it shall be the duty of the person rendering such account or making such return, upon being

requested so to do by the Controller and Auditor-General, to furnish him without delay with such explanation.

No. 30—1875.

XXI. As soon as any account shall have been signed and passed by the Controller and Auditor-General, he shall transmit to the accountant a certificate in which the total amount of the sums forming respectively the charge and discharge of such account, and the balance, if any, remaining due to or by such accountant, shall be set forth; and every such certificate shall be signed by him, and shall be valid and effectual to discharge the accountant, as the case may be, either wholly, or from so much of the amount with which he may have been chargeable as he may appear by such certificate to be discharged from: Provided always, that when any account not being an account current has been signed and passed by the Controller and Auditor-General, with a balance due thereon to the Crown, he shall not make out or grant any such certificate as aforesaid until the accountant has satisfied him either that he has discharged the full amount of such balance, and any interest that may be payable thereon, or that he has been relieved from the payment thereof, or of so much thereof as has not been paid by a warrant from the Colonial Secretary.

On passing an account the Controller and Auditor-General to grant in certain cases a certificate.

XXII. The Controller and Auditor-General and any person or persons duly authorized by him in that behalf in writing shall have free access at all convenient times to the books of account, vouchers, and documents relating to the accounts of accounting departments of persons, and may make or cause to be made extracts therefrom without the payment of any fee or charge.

Controller and Auditor-General, or person duly authorized by him, to have access to all books of account, &c.

XXIII. The Controller and Auditor-General is hereby empowered to call for all books, vouchers, and documents relating to any account forwarded to him in pursuance of this Act or otherwise for examination or audit, and also to examine witnesses touching the said account; and every public officer is hereby required to produce any such books, vouchers, and documents in his possession or control, and to give such attendance as the Controller and Auditor-General shall order or direct by summons under his hand, stating the object for which such public officer is required to attend, and specifying the books, vouchers, and documents to be produced.

Controller and Auditor-General empowered to call for all books, &c., and all public officers are required to produce them and give such attendance as may be required.

XXIV. Every public officer who without reasonable cause shall fail to attend as required by any such summons or to submit himself to examination or to answer any lawful question which shall be put to him by the Controller and Auditor-General, or to produce any such books, vouchers, or documents as aforesaid, shall for any such offence be liable to a fine not exceeding twenty pounds, to be recovered in the court of resident magistrate of the district in which the offender resides.

Penalty on failure of public officer to attend or to answer questions put by Controller and Auditor-General.

No. 30—1875.  
Accountants to have  
in all cases a right of  
appeal to the Govern-  
ment.

XXV. In all cases in which an accountant may be dissatisfied with any disallowance or charge in his accounts made by the Controller and Auditor-General, such accountant shall have a right of appeal to the Government, who, after such further investigation as they may consider equitable, whether by *viva voce* examination or otherwise, may make such order, directing the relief of the appellant wholly or in part from the disallowance or charge in question, as shall appear to the Government to be just and reasonable, and the Controller and Auditor-General shall govern himself accordingly.

Commencement  
Act. of

XXVI. This Act shall take effect from and after such date as the Governor shall, by proclamation published in the Government Gazette, fix and appoint for that purpose.

Short title.

XXVII. This Act may be cited for all purposes as the "Audit Act, 1875."

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### SCHEDULE.

Public Works Department.

Railway Department.

And such other departments as the Government, by their minute to be laid before Parliament, may direct.

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No. 31—1875.] AN ACT [June 30, 1875.

To Amend the Law relating to Pounds and Trespases.

Pream'le.

WHEREAS it is desirable that the laws relating to the impounding of certain animals should be extended to domesticated ostriches, and should be otherwise amended as hereafter mentioned: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Application of certain  
laws to domesticated  
ostriches.

I. The provisions of the Ordinance No. 16 of 1847, and of the Acts No. 1 of 1857 and No. 21 of 1867, shall apply to domesticated ostriches in like manner as if they had been expressly mentioned therein, as well as horses, horned cattle, and other animals; and the said laws shall be read as one with this Act: Provided that the mileage, pound fees, fees for herding, grazing, and feeding, and trespass money payable in respect of such ostriches as aforesaid, shall be according to the tariff in the schedule hereto, but the same power of altering, adapting, and abolishing the said payments respectively shall exist as with respect to the like payments under the said Ordinance No.

16 of 1874 ; but the rate of mileage shall not be more than one shilling nor less than fourpence per mile ; and the pound fees payable on delivery and receipt of each ostrich shall not be more than two shillings nor less than one shilling ; and the fees to be payable for herding, grazing, and feeding shall not be more than two shillings nor less than one shilling per diem for and in respect of any such ostrich ; and the rate of trespass money payable under the thirty-second section of the said Ordinance shall not be more than three shillings for each ostrich ; and the rate of trespass money payable under the thirty-third section of the said Ordinance shall not be more than one-third of whatever rate shall be then established in regard to the trespassers under the said thirty-second section mentioned.

No. 31—1875.

II. It shall not be lawful for any landowner or occupier of land to sell or dispose, either by public auction or otherwise, of any animal whatsoever that may at any time be found trespassing on his property, under a penalty not exceeding twenty pounds, to be recovered by the owner of the animal so sold or disposed of : Provided that payment of such penalty shall not deprive the lawful owner of any animal so sold of his right of suing such party for the value of such animal, together with any damages he may have sustained by reason of the detention and sale of such animal.

Penalty for selling animal found trespassing.

III. Any owner of animals which have become liable to be impounded for any trespass shall be entitled, before the same have been conveyed to the pound, to tender to the person complaining of such trespass such sum as he may consider adequate to cover and satisfy the damages caused by such trespass, together with any costs and expenses actually incurred by such complainant ; and in the event of such tender being refused, the complainant shall be condemned in the costs of all such legal proceedings as he may afterwards institute, and shall also be liable to pay any damages sustained by the persons tendering as aforesaid by reason of the detention of the said animals from the date of such tender, unless in either case the court before which the case is heard shall find that such damages, costs, and expenses exceed the amount so tendered : Provided that in case the amount of trespass money shall be fixed by law the amount to be tendered for trespass money shall not be less than the amount so fixed.

Owner of animals found trespassing may tender trespass money before they are impounded.

IV. This Act may for all purposes be cited as "The Pounds Act, 1875." Short title.

No. 31—1875.

## SCHEDULE.

	s.	d.
Mileage (see section 5 of Ordinance No. 16 of 1847)		
where the distance does not exceed ten miles, per mile .. ..	0	8
Where the distance exceeds ten miles, per mile .. ..	0	6
Pound fees (see section 6 of Ordinance No. 16 of 1847), for each ostrich .. ..	2	0
Grazing, &c., fees (see section 7 of Ordinance No. 16 of 1847), for each ostrich, per diem ..	1	6
Trespass Money under section 32 of Ordinance No. 16 of 1847, per head .. ..	1	6
Trespass Money under section 33 of Ordinance No. 16 of 1847, per head .. ..	0	4

No. 1—1876.

## AN ACT

[July 4, 1876.]

## For the better regulation of Convict Stations and Gaols.

Preamble.

WHEREAS it is expedient that provision should be made for the punishment of gaolers, constables, and the like, who, without lawful permission so to do, withdraw from their said offices: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows.

Officers not to resign or withdraw without permission, or a month's notice given.

I. No officer belonging to any convict station or gaol shall be at liberty to resign or withdraw himself from his office, unless expressly permitted so to do in writing, signed by the resident magistrate of the district in which such convict station or gaol is situate, or the superintendent of such convict station, or unless he shall give to such resident magistrate or superintendent one month's notice of his intention to resign such office; and every officer who shall so resign or withdraw himself without such leave or notice shall be liable to forfeit all arrears of pay then due to him, or to a penalty not exceeding £10, or to imprisonment for any term not exceeding one month, as to the resident magistrate of the district shall seem best and most expedient.

Penalty.

II. The term "officer" shall be construed to mean and include overseer, constable, gaoler, and turnkey.

Interpretation clause

TRANSFER OF DUTIES TREASURER-GENERAL, ETC. ACT. 147

No. 2—1876.] AN ACT [July 4, 1876. No. 2—1876.

To Amend the Law relating to the making out of lists of Jurors.

WHEREAS it is expedient that the Law relating to the making out of lists of Jurors should be amended as hereinafter mentioned: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. From and after the taking effect of this Act, the several Resident Magistrates in this Colony shall be charged with and are hereby authorized and required to perform all and singular the several duties which under and by virtue of the Ordinance No. 84, intituled "Ordinance for altering and amending the law relative to the qualification of persons liable to serve on grand and petit juries, and to the mode of making out and returning lists of the same," were empowered or required to be performed by Civil Commissioners precisely as if the Resident Magistrate of the district was named in the said Ordinance in place and stead of the Civil Commissioner.

Preamble.

Magistrates to perform duties required of civil commissioners under Ordinance 84 of 1831.

II. The second section of the Act No. 7 of 1861, intituled "An Act to amend the law relating to Grand and Petit Juries," is hereby repealed.

Section 2, Act No. 7, 1861, repealed.

III. If it shall happen in any district of this Colony, that by reason of any failure or neglect or other cause the jury list mentioned in the fifth and seventh sections of the said Ordinance No. 84 shall not be prepared and made out or affixed, or that the court in the seventh and eight sections of the said Ordinance mentioned shall not be held upon the day in that behalf in the said sections respectively directed, it shall be lawful for the Governor, by Proclamation, to fix and appoint some other convenient day for the preparing and making out or affixing such list, or the holding of such court (as the case may be), and such day shall thereupon be deemed and taken to be the day appointed by the said Ordinance.

Provision in case of failure or neglect to comply with sections 5, 7, and 8 of Ordinance 84 of 1831.

No. 3—1876.] AN ACT [July 4, 1876.

To Transfer to certain other Officers certain Duties performed by the Treasurer-General and other Officers, under the Ordinances relating to Auctioneers and Transfer Duty.

WHEREAS it is expedient that the duties and functions imposed upon the Treasurer-General by the second

Preamble.

No. 3—1876.

section of the Ordinance No. 13 of 1844, intituled “ Ordinance for transferring to certain other Officers duties of the Office of Collector of Taxes,” should be transferred to the Civil Commissioner of the Cape Division ; that Resident Magistrates should be empowered to perform certain duties under the Ordinance No. 6 of 1844, intituled “ Ordinance for regulating Sales by Auction,” that the provisions of the said last-mentioned Ordinance as to the recognizance therein mentioned should be amended, and that the payment of transfer duty in the Cape Division should be placed upon the same footing as the payment thereof in other divisions : Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

Repugnant laws repealed.

I. The third and fourth sections of the said Ordinance No. 13 of 1844, the ninth section of the Ordinance No. 18 of 1844, intituled “ Ordinance for regulating the Payment of Transfer Duty in this Colony,” and so much of any other parts of the said Ordinances and of the said Ordinance No. 6 of 1844, and of any other law in force in this Colony as is repugnant to or inconsistent with any of the provisions of this Act, is hereby repealed.

Duties and functions imposed on Treasurer-General by section 2, Ordinance 13, 1844, transferred to civil commissioner of Cape Division.

II. From and after the taking effect of this Act, all and singular the several duties and functions which by the second section of the said Ordinance No. 13 of 1844 were imposed upon and directed to be exercised by the Treasurer-General of this Colony or the Officer for the time being acting as such, shall be imposed upon and exercised by the Civil Commissioner of the Cape Division, and all bonds, vouchers, or rights of action, which shall at the time aforesaid be vested in or recoverable by the said Treasurer-General under and by virtue of the said second section of the said Ordinance shall vest in and be recoverable by the said Civil Commissioner.

Resident magistrate authorized to accept security from auctioneers, and grant certificates under section 7, Ordinance 6, 1844.

III. The Resident Magistrate of the district in which any person about to take out a license to exercise the trade or business of an auctioneer under the said Ordinance No. 6 of 1844 resides, is hereby authorized and empowered to accept the security and grant the certificate in the seventh section of the said Ordinance mentioned, and such security and certificate shall be of the same force and effect as if the same had been accepted and granted respectively by the officer now by law authorized to accept and grant the same.

Recognizances under section 8, Ordinance 6, 1844, to be entered into before civil commissioner or resident magistrate instead of collector of taxes, &c.

IV. The recognizance mentioned in the eighth section of the said Ordinance No. 6 of 1844, shall be entered into and acknowledged before and shall be signed by the Civil Commissioner of the division or the Resident Magistrate of the district in which the person who is to enter into the same resides ; and the form in the schedule to the said Ordinance prescribed and set forth shall as to all future recognizances



read as if the words "Civil Commissioner for the division of——, or Resident Magistrate for the district of——," were inserted in the recognizance instead of the words "Collector of Taxes in Cape Town, or Civil Commissioner for the division of——" as the person before whom the recognizance is acknowledged, and as if the Civil Commissioner of the Cape division was mentioned in the condition of the said recognizance in the place or stead of the Collector of Taxes as often as the last-mentioned name occurs in the said condition.

No. 3—1876.

V. The Transfer Duty payable upon or in respect of property changing proprietors situated in the Cape division shall hereafter be payable to the Civil Commissioner of the Cape division instead of to the said Treasurer-General, in like manner as Transfer Duty in other divisions is payable to the Civil Commissioner of those divisions, and the seventh section of the said Ordinance No. 18 of 1844 shall be read as if the words "except in regard to property situated in the Cape division" were omitted therefrom, and the reference to the Registrar of Deeds in the tenth and eleventh sections of the said Ordinance shall be considered as omitted.

Duty on transfer of land in Cape Division payable to the civil commissioner instead of Treasurer-General

No. 4—1876.]

AN ACT

[July 4, 1876.]

### To Encourage the Planting and Cultivation of Trees.

**WHEREAS** it is desirable that the planting of trees and the formation of plantations should be encouraged: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. Notwithstanding anything to the contrary in the forty-third section of the Act No. 9 of 1855 or in any other Law contained, it shall be lawful for any Divisional Council or the Commissioners of any Municipality or Town Council to apply such portion of their funds as may seem to them expedient to the encouragement of tree-planting, either by formation of plantations or by offering rewards to successful cultivators of trees, or by such other means as may appear best suited for the purpose.

Divisional Councils may apply funds to encouragement of tree-planting.

II. Every Divisional Council or the Commissioners of any Municipality or Town Council who shall expend any portion of their revenue for any of the purposes mentioned in the first section hereof shall cause a separate account of the moneys so expended to be kept, and such account shall be sent in on or before the first day of January in every year to the Commissioner of Crown Lands and Public

Separate accounts of moneys expended to be rendered on 1st January each year.

150 RAILWAYS ACT, 1874, AMENDMENT ACT.

No. 4—1876.

Works, or to such other officer as the Governor may, with the advice of the Executive Council, from time to time appoint to receive the same.

Half of expense incurred may be refunded from general revenue.

III. Upon the certificate of such officer as the Governor may from time to time appoint for that purpose, that the sums so accounted for have been duly and properly applied to the specified purpose, the Governor may, with the advice of the Executive Council, cause to be paid to such Divisional Council or the Commissioners of any Municipality or Town Council as aforesaid, from and out of the public revenue of the Colony, such sum, not exceeding two hundred and fifty pounds sterling in any one year, as shall amount to one-half the sum actually expended for any such purpose by such Divisional Council or the Commissioners of any Municipality or Town Council, as mentioned in the first section hereof.

No. 5 of 1876.]

AN ACT

[July 4, 1876.

To authorize the Construction of a Railway from the Bushman's River to Graham's Town, instead of a Railway from Graham's Town to the Little Fish River.

Preamble.

WHEREAS by the "Railways Act, 1874," a Railway is authorized to be constructed, equipped, maintained, and worked from Graham's Town to the Little Fish River (on the line to Cradock), and for the purpose of constructing and equipping the said Railway, the Governor was authorized to expend a sum not exceeding £328,000 sterling: And whereas it is expedient that a Railway from Bushman's River to Graham's Town should be substituted for the said first-mentioned Railway: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble of Act 19 of 1874 amended.

I. In lieu of the Railway No. 4, mentioned in the preamble of the said "Railways Act, 1874," the following shall be considered as inserted in the said preamble:—

4. From Bushman's River to Graham's Town.

Section 6 of Act 19 of 1874 amended

II. In lieu of the paragraph numbered 4 of the sixth section of the said Act, the following shall be considered as inserted:—

4. For the purpose of constructing and equipping the said Railway from Bushman's River to Graham's Town, a sum not exceeding two hundred and fifty-five thousand two hundred pounds sterling,

III. All and singular the other provisions of the said Act shall apply to the said Railway from Bushman's River to Graham's Town, as if the said Railway had been mentioned in the said Act, instead of the said Railway from Graham's Town to the Little Fish River.

No. 5—1876.  
Provisions of Act 19 of 1874 to apply to Bushman's River and Graham's Town Railway.

VI. This Act may be cited for all purposes as the "Graham's Town Railway Act, 1876."

Short title.

No. 6—1876.]

AN ACT

[July 4, 1876

To provide for the better and More Effectual Supervision and Management of Native Locations.

WHEREAS it is expedient that there should be more effectual supervision of Native Locations, and that better provision should exist for their management: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. It shall be lawful for the Governor, from time to time, to appoint a fit and proper person, to be called an Inspector, to supervise and manage every Native Location as hereinafter defined: Provided that no Inspector shall be appointed over less than one hundred huts or dwellings, unless the huts or dwellings are situated on land belonging to a private person: And provided also that the same person may be appointed as Inspector of more than one location.

Appointment of inspectors of native locations.

II. Every such Inspector shall be paid, from and out of the general revenue of the Colony, such salary as may from time to time be fixed by the Governor, but a sum equal to one-half of the said salary shall be paid and contributed in equal shares by the occupiers of huts or dwellings situated in the location or locations under such Inspector: Provided that no such occupier shall be liable to pay in respect of any hut or dwelling occupied by him, more than the sum of ten shillings in any one year: And provided also that where any Native Location is situated on land belonging to any private person, such private person shall pay in relief of the portion of the said salary to be borne by the general revenue, a sum equal to the sum to be paid by the occupiers of huts in such locations.

Inspectors' salaries.

III. The portion of any such salary to be paid by any such occupier of a hut or dwelling, and by any private person as aforesaid, shall be payable quarterly by such persons respectively to the said Inspector or such other person as may be authorized to receive the same by writing under the hand of the Colonial Secretary, at the office of the said In-

Collection of contributions to salaries.

No. 6 - 1896.

Inspector or such other place as the Governor shall by notice published in the Government Gazette appoint for that purpose, as regard each such location without the necessity of any demand being made therefor, and the said Inspector or other person receiving such money as aforesaid shall forthwith pay the same to the Civil Commissioner of the division in which the hut or dwelling in respect of which such payment is made is situated, and in case of default being made in payment of any such quarterly payment as aforesaid by any occupier or private person liable to pay the same as aforesaid for one month after the same shall have become due and payable, it shall be lawful for the said Inspector, or other person authorized to receive the same as aforesaid, to proceed to recover the same in like manner as is provided as to hut-tax by the Act No. 2 of 1869.

Recovery of arrear contributions.

Powers and authorities of inspectors.

Inspectors to keep a register of huts, population, stock, &amp;c.

IV. Every Inspector appointed under this Act shall have the same powers and authorities, and it shall be lawful for him to perform all such duties within the location or locations over which he has been appointed, as if he were a Field-cornet or Police Constable.

V. It shall be the duty of every such Inspector as aforesaid to keep a true and correct Register of the number of huts or dwellings within every location over which he is Inspector, together with the names and occupation of the occupants of such huts or dwellings, and the number, marks and other description of the horses, horned cattle, sheep, and goats belonging to every such occupier, and such Register shall be open to inspection at all reasonable times.

Inhabitants to give information required for registers.

VI. For the purpose of enabling every such Inspector to keep such Register as aforesaid, it shall be the duty of every inhabitant of such location to give to the Inspector of such location such information as he may require for the purpose, and every such person who shall, upon being required so to do by any such Inspector, neglect or refuse to give any such information, shall be liable to a fine of not exceeding two pounds, and in default of payment thereof, to be imprisoned with or without hard labour, and with or without spare diet, for not exceeding one month.

Penalty.

Changes in number of huts, &amp;c., to be reported to inspectors under penalty.

VII. It shall also be the duty of every such inhabitant as aforesaid, without any request so to do, forthwith to give notice to the said Inspector of any new hut or building erected by him in such location, of any horses, horned cattle, sheep or goats, which from time to time have come into the possession of such inhabitant, and of the way by which they came into his possession, and of the death of any person in the hut or dwelling of such inhabitant, and any such person who shall neglect to give any such notice as aforesaid shall be liable to the same penalties as in the last preceding section mentioned.

VIII. All horses, horned cattle, sheep or goats which may be found in any location, and which have not been so registered as aforesaid, or of whose arrival there no notice has been given to the Inspector of such location, and of the right to or ownership of which no satisfactory account shall be given to such Inspector, may be seized and taken possession of by him and impounded in the nearest accessible pound; and shall thereupon be dealt with and treated as other impounded animals in the said pound: Provided that no animals so impounded as aforesaid by any Inspector shall be delivered up by the poundmaster to any inhabitant of any such location without a written order for such delivery signed by the said Inspector.

No. 6—1876.

Cattle not registered may be impounded.

IX. It shall be lawful for any person who may feel himself aggrieved by any seizure so made by the said Inspector, or by his refusal to grant any such written order as aforesaid, to complain to the Resident Magistrate of the district, who shall inquire into and summarily adjudicate upon the matter of such complaint, and make such order thereon as to him shall seem proper.

Persons aggrieved by seizure of cattle may complain to resident magistrate.

X. Any person who shall obstruct any Inspector as aforesaid in the execution of his duty shall, on conviction, be liable to a fine of not exceeding five pounds, and in default of payment thereof to imprisonment with or without hard labour, and with or without spare diet, for not exceeding three months, or to such imprisonment without the option of paying a fine.

Penalty for obstructing inspector.

XI. In case any inhabitant of any Native Location as aforesaid shall be charged with having stolen any horse, head of horned cattle, sheep, or goat, or with having received any such animal, knowing it to have been stolen, the fact of the animal in respect of which the charge is made having been found in the possession of such person without the same having been registered as aforesaid (a reasonable time to enable such person to have had such animal registered as aforesaid having elapsed from the time he became possessed of the same) shall be *prima facie* evidence of the guilt of such person, and the onus of proving that he is not guilty shall be thrown upon him.

Possession by inhabitant of location of stolen stock to be *prima facie* evidence of his guilt.

XII. Any person having no right or authority to be in any Native Location as aforesaid may be directed to remove therefrom by order in writing signed by the Resident Magistrate of the district in which such location is situated, such person having been first summoned before the Court of such Resident Magistrate to show cause why he should not remove from such location, and no sufficient cause to the contrary having been proved to the satisfaction of such court, and any person who may be so ordered to remove as aforesaid, who shall disobey such order, shall be liable to be

Settlers on location without authority may be removed.

No. 6—1876.

summarily removed from such location by the Inspector of such location, or by any police constable.

Construction of terms

XIII. By Native Locations in this Act is meant any number of huts or dwellings exceeding five within an area of one square mile occupied by any of the Native races such, as Kafirs, Fingoes, Basutos, Hottentots, Bushmen, and the like such occupants not being in the *bonâ fide* employment of the owner of the land upon which such huts or dwellings are situated if the said land is private property, and such huts or dwellings not being situated within the limits of any Municipality.

Governor may make regulations for government of locations.

XIV. It shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation to be published in the Government Gazette, from time to time, to make, alter, and amend all such regulations not inconsistent with the provisions of this Act as may appear to be necessary and expedient for the better carrying the same into effect, and to provide that persons contravening any such regulations, may, on conviction, be sentenced to imprisonment with or without hard labour and with or without spare diet for any term provided by such regulations, not exceeding one month, or to pay a fine not exceeding five pounds, and in default of payment thereof to such imprisonment, hard labour and spare diet as aforesaid, and all fines so levied shall be paid into the public Treasury, and all such regulations and any alterations and amendments of the same when so published as aforesaid shall have the force of law for all purposes mentioned therein and allowed thereby.

This Act not to apply to locations in municipalities, except by special municipal regulations.

XV. This Act shall not apply to any Native Locations situate within the limits of any Municipality: Provided, however, that it shall be lawful for any municipality by any municipal regulations made as by law required to apply the provisions of this Act, or any of them, to any such Native Location, so far as they can be so applied.

Prosecution of offences.

XVI. All proceedings for any contravention of this Act or of any regulations made thereunder shall be had and taken in the Court of the Resident Magistrate of the District in which the offender resides, and may be instituted and carried on by the Inspector of the location in which the offence has been committed.

Act No. 10 of 1870 not affected by this Act.

XVII. Nothing in this Act contained shall affect the Act No. 10 of 1870, intituled "An Act to provide for the management of Native Locations and other Communities, and for the Regulation of Rights of Commonage."

Short title.

XVIII. This Act may be cited for all purposes as the "Native Locations Act, 1876."

No. 7—1876.]

AN ACT

[July 4, 1876.]

No. 7—1876.

For enabling the Municipality of Aliwal (Mossel Bay), to borrow a sum not exceeding £5,000 sterling, for the purpose of providing a supply of Pure Water for the use of the Inhabitants of the Town of Aliwal and of the Shipping frequenting the Port of Mossel Bay, and for the better Drainage of the said Town.

**W**HEREAS it is expedient to provide the inhabitants of Preamble.  
the town of Aliwal (Mossel Bay), and the shipping frequenting the Port of Mossel Bay, with a better supply of pure water than at present exists, and to provide a better system of drainage of the said town: And whereas at a public meeting of resident householders convened for the above purpose on the 22nd day of September, 1875, it was resolved by a majority of such householders then present that the Commissioners of the said municipality of Aliwal (Mossel Bay) be authorized to carry out the objects before mentioned at an expense not exceeding the sum of five thousand pounds sterling: Be it enacted by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. It shall be lawful for the Commissioners of the municipality of Aliwal (Mossel Bay) to borrow, from time to time, such sum or sums of money, not to exceed in the whole the sum of five thousand pounds sterling, for the purposes aforesaid, and to impose for the purpose of providing for the payment of the interest or principal or interest and principal, of the moneys aforesaid, rates upon the immovable property situate within the municipality, and liable to be rated for municipal purposes; and every rate so imposed by the said Commissioners shall be of the same force and effect, and be levied in the same manner, as if it had been a rate imposed by the provisions of Ordinance No. 9 of 1836, Section 28.

Municipality may borrow £5,000, and impose rates for extinction of debt.

II. The aforesaid sum of five thousand pounds sterling, or such lesser sum as shall have been borrowed for the purposes aforesaid, by the said Commissioners, is hereby charged upon and made payable out of the rates and revenues in the last preceding Section mentioned: Provided that it shall be lawful for the said Commissioners to apply to the payment of the interest or principal, or interest and principal of the said debt, any funds or moneys coming to them from any source whatever and not specially appropriated or required for any other object: Provided also, that nothing in this Section contained shall be construed to impair or

Money borrowed chargeable upon rates in last section authorized, or upon other available assets.

No. 7—1876.

affect the provisions of any of the next succeeding Sections of this Act.

Acknowledgment for moneys borrowed to be given in form provided in schedule.

III. The Commissioners aforesaid shall grant to the party or parties, or company, or society or co-partnership, from whom they shall borrow such moneys as aforesaid, a written acknowledgment of or for the moneys borrowed by the said Commissioners for the purposes aforesaid, not exceeding in the whole the aforesaid sum of five thousand pounds sterling; which acknowledgment shall, in substance, be in the form annexed to this Act, and shall be signed on behalf of the said Commissioners by three of the Commissioners for the time being, of whom the Chairman for the time being of the Board of Commissioners shall be one.

“Public Bodies’ Debts Act, 1867,” to apply.

IV. All moneys borrowed for the purposes of this Act shall be borrowed under the provisions of the “Public Bodies’ Debts Act, 1867.”

Separate accounts of moneys borrowed under this Act to be kept and submitted yearly for inspection of householders.

V. The Commissioners shall keep or cause to be kept a separate and distinct account of all moneys borrowed under this Act, and of the expenditure of such moneys and of all revenues arising from the waterworks contemplated by this Act, distinguishing sums received for private service pipes, or private watercourses, or from supplies of water for the shipping in the port, from sums received from rates imposed under the first Section of this Act upon the rateable property of the municipality; and of all moneys expended upon the construction and maintenance of the waterworks and the construction and maintenance of the drains or sewers contemplated by this Act; and the said Commissioners shall yearly and every year as long as any part of the debt contracted under the authority of this Act shall be in existence, prepare and deposit in the Office of the Municipality of Aliwal (Mossel Bay) for the inspection, at all reasonable times, of any resident householder of the municipality, an account showing the particulars aforesaid, and giving any other information which the said Commissioners shall deem it necessary or expedient to impart: Provided that every such account so to be prepared shall be made up to the 31st day of December in each year, and shall be deposited in the Office of the Municipality not later than the 1st day of March in the year next succeeding.

Provision for payment of costs of this Act.

VI. The necessary costs, charges, and expenses of obtaining this Act may be paid by the said Commissioners out of the money or moneys to be so borrowed as aforesaid.

Short title.

VII. This Act may be cited for all purposes as “The Town of Aliwal (Mossel Bay) Water and Drainage Act, 1876.”



## SCHEDULE.

No. 7—1876.

We, the undersigned Commissioners of the Municipality of Aliwal (Mossel Bay), do hereby acknowledge that the said Commissioners in their said capacity are indebted to \_\_\_\_\_ in the sum of £\_\_\_\_\_ for so much money borrowed by the said Commissioners for the purposes set forth in the "Town of Aliwal (Mossel Bay) Water and Drainage Act, 1876," and certify that the said sum is and stands secured by the said Act, in manner and form as by the said Act provided. And we further covenant and engage for and on behalf of the said Commissioners that the interest and principal of the said debt shall be payable and paid in manner following, that is to say (here insert, according to the agreement, the rate of interest and times of payment thereof and the date or dates or other conditions upon which the principal of the debt shall become payable).

Given under our hands at Aliwal (Mossel Bay), this \_\_\_\_ day of \_\_\_\_\_ 18\_\_.

A. B., Chairman of the Municipality.

C. D., }  
E. F., } Commissioners.

Witnesses :

G. H.

I. J.

No. 8—1876.]

AN ACT

[July 4, 1876.

For authorizing the Purchase of the Wynberg Railway, with its Appurtenances, and for working the same, and for raising the necessary Funds for such Purchase.

**W**HEREAS it is desirable, with a view to railway Preamble. extension and otherwise, that the line of railway known as the Wynberg Railway, and all the property of the Wynberg Railway Company (hereinafter called the company) should be purchased and worked by the Colonial Government : And whereas a provisional agreement for such purpose, as in the schedule hereunto, has been entered into between the said company and the Commissioner of Crown Lands and Public Works, acting for and on behalf of the said Colonial Government, and it is desirable that the said agreement should be confirmed, and that the Governor should be authorized to raise the funds necessary for concluding such purchase : Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

No. 8—1876.

Provisional agree-  
ment in schedule con-  
firmed.

Government vested  
with rights, &c. of  
late Wynberg Rail-  
way Company.

Lands held by Com-  
pany vested in the  
Government.

Company may be dis-  
solved by Proclama-  
tion in Gazette.

Loan authorized to  
pay debentures in  
agreement.

Provisions if loan is  
raised upon debentures.

Provisions if upon  
stock.

I. The provisional agreement in the schedule hereto is hereby ratified and confirmed, and shall be of the same force as if it had been set forth in so many enacting clauses in this Act.

II. From and after the taking effect of this Act the said Government shall be and is hereby vested with the same rights, powers, duties, functions and privileges as to working the said railway and otherwise, as theretofore the said company was vested with, and the said Government shall then and thereupon, with respect to any Acts relating to the said railway or railways generally, be in the like position in all respects as if the said railway were a railway belonging to a company, and the said Government were a board of directors of the said railway.

III. No formal transfer to the Government of the lands of the said company shall be necessary, but the same shall from and after the taking effect of this Act, vest in Her Majesty the Queen in Her Colonial Government as fully, absolutely, and effectually as if transfer and conveyance thereof had been duly passed according to the law and custom of this Colony.

IV. When the affairs of the said company have been completely wound up and liquidated, it shall be lawful for the Governor, upon a certificate to that effect, signed by the directors for the time being of the said company, by proclamation in the Government Gazette to declare that the said company shall be dissolved from and after such date as shall be fixed for the purpose in the said proclamation, and the said company shall be dissolved accordingly.

V. For the purpose of paying off the debentures in the said agreement mentioned, amounting to the sum of twenty-three thousand seven hundred pounds sterling, which will become payable on the fifteenth day of February, 1877, it shall be lawful for the Governor to raise the said sum either by debentures or stock, or partly by debentures and partly by stock.

VI. In so far as the said borrowing shall be upon debentures, the following provisions shall be observed:—Such debentures shall be issued in this Colony, or in England, or partly in England and partly in this Colony, for sums not exceeding five hundred pounds sterling, nor less than one hundred pounds each, upon the best and most favourable terms that can be obtained, and the interest to accrue due thereon, as well as the interest payable under the third clause of the said agreement, shall be charged upon and made payable out of the general revenue of this Colony.

VII. In so far as the said borrowing shall be upon stock, the following provisions shall be observed:—

1. Such stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be kept for that purpose by the Treasurer of

the Colony, such credit to be given in the first instance upon production and delivery to the said Treasurer, by such purchaser, or by his order, of a scrip certificate for the amount of stock for which such credit shall be claimed, such certificate being signed by the Colonial Secretary, and countersigned by the said Treasurer, and by the Controller and Auditor-General, and which scrip certificate shall be kept in the office of the said Treasurer.

2. Such stock shall bear interest after the rate of four pounds and ten shillings per centum per annum on the nominal amount of such stock, from the 15th day of April or the 15th day of October next preceding the issue of the said scrip certificate which shall last happen, and such interest shall be payable thereafter half-yearly, on the 15th day of April and the 15th day of October in each year; the first of such payment to be made on the half-yearly day which shall happen next after the opening of such credit in the books of the said Treasurer as aforesaid, and shall be paid on such days respectively or so soon thereafter as demand shall be made therefor by the lawful holder for the time being of such stock, to such lawful holder, or his duly authorized attorney, at the office of the Treasurer in Cape Town.
3. Such stock, together with the interest from time to time to accrue thereon, shall be and is hereby charged upon and made payable out of the general revenue of this Colony; and the Governor shall from time to time pay such interest, and may also out of such revenue or any moneys to be appropriated for that purpose from time to time buy up and cancel such stock or any part thereof.
4. Such stock shall be transferable by transfer in the books of the said Treasurer, and every person to whom any such credit as aforesaid shall have been given in the said books in the first instance, or to whom any such transfer shall thereafter have been made in the said books, shall be entitled to require and demand of the said treasurer a receipt or certificate stating the amount of such stock standing to his credit in such books.
5. There shall be paid into the treasury upon every transfer in the said books of any sums of such stock, a sum of two shillings and sixpence upon every hundred pounds to be transferred in such books, and on every other sum so transferred in the like proportion: Provided that instead of any fractional part of a penny which would under this provision be payable, a full sum of one penny shall be payable; and no transfer shall be actually made in such books as aforesaid unless and until such sum as shall be payable as aforesaid shall be paid.

No. 8—1876.

6. All such stock shall be put up for public tender in such amounts as may from time to time seem fit, and may be disposed of for the best terms which can be thus obtained. If more tenders than one offering the same terms shall be received for a greater amount of such stock than the amount for the time being about to be issued, it shall be lawful to accept any one or more of such tenders, or any part of such tenders as circumstances may make expedient.
7. The moneys realized by the issue and sale of such stock shall be carried to a separate account, and shall be expended, so far as shall be necessary, for the purposes mentioned in the preamble of this Act.

Formation of funds for payment of interest and gradual extinction of loan under this Act.

VIII. As a fund for the payment of the interest upon, and for the gradual extinction of, the debt to be raised upon debentures under authority of this Act, there shall be charged and chargeable upon, and set apart out of, the annual revenues of this Colony, an annual sum equal to the interest on the whole amount of such debentures as shall from time to time be issued under authority of this Act; and a further sum equal to one pound sterling per annum on the total amount of the principal or capital sum shall from time to time be raised upon debentures under the authority of this Act; and such sum shall be annually charged on and payable out of the revenues of the Colony, so long as any portion of the debt to be raised under authority of this Act upon debentures or any interest thereon shall remain unpaid and unextinguished, and such annual charge shall, so soon as such debt and interest shall have been all paid and extinguished, cease and determine.

Such portion of fund not required for payment of interest to be applied in cancelling debentures.

IX. Such portion of the fund which shall under the last foregoing section be charged and chargeable annually on the revenues of the Colony as shall not be required for the payment of the interest for the time being due upon debentures to be issued under authority of this Act, shall be applied in redeeming and cancelling such debentures in such manner and form as shall be provided by the terms and conditions whereon and whereunder such debentures shall be issued.

Redeemed debentures to be cancelled by Treasurer and advertised.

X. All debentures which shall be redeemed under the authority of this Act shall immediately on the receipt thereof be cancelled by or on behalf of the Treasurer of this Colony, and shall be duly advertised as so cancelled.

Debentures to value of £51,300 to be delivered to directors of company in payment of remaining portion of purchase amount.

XI. For the purpose of carrying out the fourth and fifth clauses of the said agreement, it shall be lawful for the Governor, and he is hereby authorized, to issue and deliver to the Directors of the said company for the time being debentures as in the said clauses mentioned not exceeding in amount fifty-one thousand three hundred pounds sterling, which debentures shall be signed by the Colonial Secretary

by command of the Governor, and countersigned by the Treasurer of the colony and the Controller and Auditor-General, and such debentures, together with the interest from time to time to accrue thereon, shall be and are hereby charged upon and made payable out of the general revenue of the colony; and the Governor shall from time to time pay such interest, and may also out of such revenue or any moneys to be appropriated for that purpose from time to time buy up and cancel such debentures. The interest on the said debentures shall be payable at the office of the Crown agents for the colonies, on the first day of January or on the first day of July next succeeding the issue thereof, whichever shall first happen, and thereafter on the first day of January and the first day of July in each year, until such debentures respectively shall be redeemed and cancelled. The first payment of interest shall include interest from the first day of January, 1876. All such debentures shall be transferable by delivery without endorsement; and payment of principal or interest due upon any such debenture to any person presenting the same shall be a good discharge for such principal or interest respectively to the Government, who shall not be bound to make any inquiry as to the title of such person to the debenture so presented.

XII. This Act may be cited for all purposes as the Short title.  
 “Wynberg Railway Purchase Act, 1876.”

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#### SCHEDULE.

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Agreement made and entered into the eleventh day of April,  
 One Thousand Eight Hundred and Seventy-six.

Between John Xavier Merriman, Esquire, Commissioner of Crown Lands and Public Works, and as such acting for and on behalf of the Government of the Colony of the Cape of Good Hope, hereinafter called the Government, of the first part, and the Wynberg Railway Company (Limited), incorporated by Act No. 35 of 1861, hereinafter called the company, of the second part.

First. The Government hereby agrees to buy, and the company hereby agrees to sell to the Government, and to put the Government in undisturbed possession of for the price or sum of seventy-five thousand pounds (£75,000) sterling, to be paid or satisfied in manner hereinafter provided, the whole of the Wynberg Railway from its junction with the Wellington Railway near Salt River, to and including its terminus at Plumstead near Wynberg, together with all the buildings, lands, furniture, and fittings of stations, fixed and movable plant appertaining to the railway as worked by and leased to the Government, and all rights and privileges of the company appertaining to the said railway, of whatever nature or kind whatsoever, and all matters

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and things whatsoever appertaining to the said railway as worked and leased aforesaid, in or to which the company has any right, title, or interest.

Second. In consideration of such purchase the Government hereby agrees to pay or satisfy the said sum of seventy-five thousand pounds sterling in manner following, that is to say :—

Third. The Government will take over and become responsible for the payment or satisfaction of the debenture debt of the company, amounting to twenty-three thousand seven hundred pounds sterling, together with the interest which shall accrue thereon half-yearly from the fifteenth day of August, one thousand eight hundred and seventy-five, which debenture debt bears interest as follows:—Seven thousand pounds sterling at the rate of five per cent. per annum, and sixteen thousand seven hundred pounds sterling at the rate of six per cent. per annum, and the whole of the capital of which is payable on the fifteenth day of February one thousand eight hundred and seventy-seven, at which date the Government undertakes to pay the same, with such interest as may then be due thereon, to the respective debenture holders.

Fourth. For the remainder of the said sum of seventy-five thousand pounds sterling, namely, fifty-one thousand three hundred pounds sterling, the Government will deliver to the directors of the company within a reasonable time, but not later than one month after the passing of the Act hereinafter mentioned, debentures, duly signed under the authority of Parliament, forming a charge upon and payable out of the general revenue of the colony. The debentures shall be issued for sums of one hundred pounds and fifty pounds each, or multiples of one hundred pounds and fifty pounds, and shall bear interest at the rate of four and a half per cent. per annum, from the first day of January, one thousand eight hundred and seventy-six, after which date no rent shall be payable by the Government to the company under the lease of the railway, if the Act hereinafter mentioned shall have been passed.

Fifth. The interest on the said debentures shall be payable half-yearly at London, and the principal shall be redeemable on the thirty-first day of December, one thousand eight hundred and ninety-nine, and shall be payable at London.

Sixth. In case this agreement shall be sanctioned and ratified by Act of Parliament in manner hereinafter mentioned, then and in such case from and after the promulgation of such Act, the whole of the said railway, together with all the buildings, land, furniture, and fittings of stations, fixed and movable plant appertaining to the said railway, as worked by and leased to the Government, and all rights and privileges of the company pertaining to the said railway, of what nature or kind whatsoever, and all matters and things whatsoever appertaining to the said railway, as worked and leased aforesaid, in or to which the company has any right, title, or interest shall vest in the Government absolutely; and all right, title, and interest of the company therein, and the lease of the railway and all and singular the provisions or matters and things therein contained, shall cease and determine.

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No. 8—1876.

Seventh. The Government will take over all the liabilities of the company in respect of the construction and working of the line.

Eighth. The Government will pay all expenses of transfer and of any Legislative Act which may be necessary to carry out this agreement, and the expenses of the liquidation of the said Wynberg Railway Company.

Ninth. The Government will use its best endeavours to obtain a ratification of this agreement by Act of the Colonial Parliament during its next session.

Tenth. In case such Act shall not be passed during such session, this agreement shall be void, and everything herein contained shall be of no effect.

In witness whereof the parties hereto have hereunto set their hands at Cape Town aforesaid.

JOHN X. MERRIMAN,  
Commissioner.  
R. H. ARDERNE,  
E. LANDSBERG,  
WILLIAM HALL,  
JOHN MILLER.

Signed in presence of

R. TRIMEN,  
E. TRILL,  
JOHN R. REID.

No. 9—1876.] AN ACT [July 4, 1876.

To Regulate the introduction into this Colony of articles or things which by reason of disease or otherwise might be injurious to the interests thereof.

**W**HEREAS certain cuttings of vines were lately introduced into this colony from places beyond the limits of the colony, where disease seriously affecting vines existed, or was supposed to exist, and there is no law prohibiting or regulating the introduction of such things, and it is necessary that some greater power than now by law exists should be given to meet such a case, and to prevent or regulate the introduction into this colony of articles or things which are either actually affected with, or are supposed to be affected with, some disease which it would be prejudicial to this colony to allow to be introduced, or come from places where any such disease affecting them exists or is supposed to exist: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

164 INTRODUCTION OF DISEASED ARTICLES ACT.

No. 9--1876.

Governor may, by proclamation, prohibit or make regulations concerning the introduction into this Colony of articles or things affected, or supposed to be affected, with disease.

I. If at any time there shall be reason to believe that any articles or things are about or likely to be introduced into this colony which, by reason of being affected or supposed to be affected with any disease, it would be detrimental to the interests of this colony to be allowed to be introduced at all, or without conditions or restrictions, or if by reason of any such disease existing or supposed to exist at any place beyond the limits of this colony, it may be thought expedient to prevent or regulate the introduction into this colony of any such articles or things from such places, it shall be lawful for the Governor, with the advice of the Executive Council, by proclamation to be published in the Government Gazette, either to prohibit absolutely the introduction into this colony of any such articles or things, or to make such regulations concerning the introduction thereof as may be deemed expedient.

Governor may alter or revoke such proclamation and provide penalty for contravening it.

II. It shall be lawful for the Governor, from time to time, to revoke or alter any such proclamation as aforesaid, and also in and by any such proclamation, as aforesaid, to provide that persons contravening the same or anything therein or in any schedule thereto contained, shall, on conviction, forfeit any sum not exceeding five hundred pounds sterling, and in default of payment thereof shall be liable to be imprisoned, with or without hard labour, for any period not exceeding two years, unless the fine be sooner paid.

Prohibited articles or things may be inspected.

III. It shall be lawful for any person duly authorized in that behalf under the hand of the principal officer of customs at any port, or the resident magistrate of any district, after the publication of any such proclamation as aforesaid, to inspect any article or thing in this colony mentioned or referred to in such proclamation, and supposed to be affected with any disease as aforesaid, for the purpose of ascertaining whether it is so affected, and any person who shall obstruct or impede any person so authorized in and about such inspection, shall, on conviction, forfeit any sum not exceeding fifty pounds, and in default of payment thereof shall be liable to be imprisoned, with or without hard labour, for any period not exceeding six months, unless the fine be sooner paid.

Penalty for obstructing or impeding such inspection.

Articles or things introduced into Colony in contravention of proclamation may be seized, &c.

IV. Any article or thing introduced into this colony after the publication of any such proclamation as aforesaid, and in contravention thereof, may be seized and detained, and, if necessary, destroyed by any order under the hand of the principal officer of customs at the port, or the resident magistrate of the district, where such article or thing may be found.

Owners of prohibited articles or things shipped before publication of proclamation to be indemnified.

V. If during the time any such proclamation as in the first section mentioned shall be in force, any article or thing whereof the introduction shall be so prohibited as aforesaid



or concerning the introduction of which regulations shall have been so made as aforesaid, shall arrive in this colony, having been dispatched from any place beyond this colony, before the publication in the Government or public Gazette of such place of any such proclamation as aforesaid, it shall be lawful for the Governor to indemnify from and out of the public revenue the owner of any such article or thing by paying to him or his agent the first cost of every such article or thing, together with freight, carriage, insurance, and any other charge which shall have been reasonably and properly incurred upon or about the same, whereupon such article or thing shall become the property of Her Majesty the Queen ; but it shall not be incumbent on any owner of such article or thing, not absolutely prohibited to be introduced as aforesaid, to accept such terms if he shall be willing to submit and carry out at his own expense the regulations under which by any such proclamation as aforesaid such article or thing may be introduced as aforesaid : Provided also that no compensation shall be made in respect of any such article or thing as aforesaid which shall have been dispatched from any place at any time after the publication of such proclamation as aforesaid, in the Government or public Gazette there, or in respect of any such article or thing as shall be found to be actually affected with any such disease as aforesaid, at the time of the arrival thereof in the colony.

No. 10--1876.]

AN ACT

[July 4, 1876.

To Improve the Administration of Justice in places distant from a Seat of Magistracy.

**W**HEREAS it is expedient that facilities should be given Preamble. for the trial of certain offences committed at places distant from the seat of a resident magistrate : Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

I. It shall be lawful for the Governor from time to time to appoint any person whom he may think proper to act as a special justice of the peace under this Act within such local limits as may be fixed and determined by him, not being within ten miles of the office of any resident magistrate. Appointment of special justices of the peace.

II. Every such special justice of the peace shall have and enjoy, and be at liberty to exercise, within the limits so fixed and determined as aforesaid, over and in respect of any person committing within such limits any of the offences following, that is to say : Their jurisdiction and powers.

No. 10—1876.

- (A). Assault, where no dangerous wound is given and no dangerous weapon is used.
- (B). Theft of any property not being a horse, mare, gelding, colt, filly, mule, ass, bull, cow, ox, heifer, calf, sheep, goat, or ostrich, and not exceeding in value the sum of two pounds sterling.
- (C). Attempt to commit either of the above offences, or being accessory to the commission thereof.
- (D). Receiving stolen goods (not being anything excepted in clause B. and not exceeding in value the sum of two pounds sterling), knowing them to have been stolen.
- (E). Contravention of the seventh and eighteenth sections of the Ordinance No. 25 of 1847, intituled "Ordinance for improving the Police of the Colony.
- (F). Contravention of any municipal regulation.
- (G). Contravention of the 35th section of the Ordinance No. 9 of 1851, intituled "Ordinance for the better regulation of the Sale of Wines and Spirituous and Fermented Liquors," as amended by the eighth section of the Wines and Spirits Act, 1875.
- (H). Contravention of any of the provisions of the Act No. 22 of 1867, intituled "An Act to amend the law relating to the issue of Passes to, and Contracts of Service with, Natives, and to the issue of Certificates of Citizenship, and to provide for the Better Protection of Property ;"

the same jurisdiction, power and authority as if he were the resident magistrate of the district in which the offence then under investigation was committed: Provided that it shall not be lawful for any such special justice of the peace to punish any offender in any higher or more severe manner than by fine not exceeding twenty shillings, or (and in default of payment of the fine) by imprisonment with or without hard labour, and with or without spare diet, and with or without solitary confinement, or either of them, for any period not exceeding fourteen days.

forms of summons,  
&c.

III. In any proceeding relative to the prosecution of any offence before any special justice of the peace under this Act, the form of summons to be served upon the defendant to appear to answer to the charge, the form of the process to obtain, and power to compel the attendance of witnesses, the form of recording the judgment or sentence of such justice of the peace, and all other forms and proceedings shall, as near as may be, be those from time to time directed and provided and had in regard to criminal cases in the courts of resident magistrates: Provided that in place and stead of the messenger of the court of resident magistrate there shall be inserted the name of any person whom such justice of the peace shall nominate and appoint (which person is hereby authorized to act in regard to any such summons or process as aforesaid,

as if the same were the summons or process of a resident magistrate's court of which such person was messenger): And provided that no heading other than the direction of the instrument to such person as aforesaid, and no signature other than that of the special justice of the peace, shall be necessary: And provided that no penalty for the non-attendance of witnesses shall exceed the sum of twenty shillings, and in default of payment of the fine the term of imprisonment shall not exceed the term mentioned in the second section of this Act.

No. 10. -1876.

Penalty for non-attendance of witnesses.

IV. Upon the day of hearing, the special justice of the peace shall inquire into the charge by hearing all such competent witnesses upon oath as may be produced in support or in disproof of the same, and shall faithfully take down the evidence and proceedings in writing, and note any objections which may be made to any evidence received, or to the rejection of any evidence refused to be admitted, and shall make or cause to be made a record, in a book to be kept for that purpose, of every such case, showing in separate columns the name of the prosecutor, the name of the person complained of, the nature of the alleged offence, the date when the complaint was made, the date when the defendant was lodged in prison, the day of hearing the judgment given, the sentence pronounced on conviction, and any remarks which such justice of the peace shall deem it proper to make.

Procedure in cases brought for trial.

V. In all cases brought before any special justice of the peace under this Act it shall be lawful for him, if he shall dismiss the charge on the ground that the same is unfounded and vexatious, to adjudge that the private prosecutor shall pay to the defendant the costs of his defence, the amount of such costs to be taxed and allowed by such justice of the peace, and not to exceed the costs which would have been payable were the case a civil one in a court of resident magistrate, and such costs shall be recovered, in default of payment thereof, together with the costs of recovering the same, to be also fixed and allowed by such justice of the peace, in like manner as directed by the forty-eighth section of the said Ordinance No. 9 of 1851, with regard to fines or penalties in that section mentioned.

Payment of costs in unfounded and vexatious cases.

VI. When, in the course of any trial before a special justice of the peace under this Act, it shall appear to such justice of the peace that the offence is, from its nature or magnitude, only subject to the jurisdiction, or more proper for the cognizance, of the court of resident magistrate of the district or other superior court, such justice of the peace shall stop the trial, and either transmit the proceedings in the case, with report thereon, to the resident magistrate of the district, or commence anew the examination of the person accused, and the witnesses, as in a preparatory examination,

When a trial should be stopped, and proceedings sent to resident magistrate, or a preparatory examination taken.

No. 10—1876.

Imprisonment of offenders.

and the proceedings upon and with respect and subsequent to such preparatory examination, shall be the same as those prescribed by law as to ordinary preparatory examinations.

VII. Any special justice of the peace acting under this Act shall have full power and authority, by warrant under his hand, to commit any person accused of having committed any of the offences in the second section hereof mentioned, whether before or during trial, and any person who may be committed for trial after preparatory examination, as in the last preceding section mentioned, to the nearest gaol or lock-up, to be there detained until liberated in due course of law ; and it shall also be lawful for such justice of the peace, upon the conviction of any such person as aforesaid, by and before him, by like warrant as aforesaid, to commit such convicted person to such gaol or lock-up, to be there safely kept until he shall have undergone the punishment awarded, or shall be otherwise lawfully discharged : Provided, however, that no person shall be committed to any gaol or lock-up before trial as aforesaid for any of the offences mentioned in subsections A and F of the second section of this Act, unless such special justice of the peace shall have good and reasonable grounds for believing that the offender intends to abscond for the purpose of defeating the ends of justice.

Appointment of special constables.

VIII. In case of there not being any ordinary constable or not sufficient ordinary constables available either to arrest or to convey to such gaol or lock-up any person accused, committed for trial, or convicted as aforesaid, it shall be lawful for the justice of the peace to appoint any proper person or persons to be a special constable or special constables for the arrest, custody, or conveyance, as the case may be, of such person to such gaol or lock-up, and every such special constable shall be paid at the same rate as if he had been appointed by a field-cornet under the Ordinance No. 9 of 1848.

Proceedings in cases summarily adjudicated to be forwarded to Registrar of Supreme or Eastern Districts Court, as the case may be.

IX. When and as often as any special justice of the peace shall exercise summary jurisdiction under and by virtue of this Act, he shall forthwith, after having disposed of the case, forward to the Registrar of the Supreme Court, or of the Court of the Eastern Districts (according as such case shall be disposed of in the Western or Eastern Districts respectively), the record of the proceedings in the case, together with such remarks, if any, as he may desire to append, and thereupon all and singular the provisions of the forty-seventh, forty-eighth, and forty-ninth sections of the Act No. 20 of 1856 shall, *mutatis mutandis*, and as far as the same are applicable, extend and apply to such record, the justice of the peace being considered as substituted in the said sections for the convicting resident magistrate ; and all matters required to be done in the said sections by the clerk of the resident magistrate shall be done by the said justice of the peace.

X. Every appointment of a special justice of the peace under this Act shall be notified in the Government Gazette, together with the local limits within which he is to exercise jurisdiction, and shall be during pleasure; and every such justice of the peace, upon his appointment, shall take and subscribe the like oaths as are prescribed in and by the Ordinance No. 32 for justices of the peace, and shall without any further appointment be in the same position as if he had been appointed a justice of the peace under the said Ordinance, all the provisions of which shall apply to such justice of the peace.

No. 10—1876.

Appointment of special justice and limits of this jurisdiction to be notified in Gazette.

Oaths to be taken.

XI. By "lock-up" in this Act is meant any building or part of a building in which any person lawfully arrested or detained in custody under this Act is placed while in such custody, whether before conviction or committed for trial, or afterwards, and every such lock-up shall, as to such person, be deemed to be a public gaol within the meaning of the Ordinance No. 24 of 1847, intituled "Ordinance for improving the Gaols of this Colony," and the Act No. 5 of 1856-'67, intituled "An Act for the better maintenance of discipline among persons under sentence of imprisonment with hard labour;" and the resident magistrate of the district in which such lock-up is situate, shall have the like jurisdiction and powers as to offences committed by any such prisoner while imprisoned in any such lock-up or kept to hard labour outside the precincts of such lock-up as by the said lastmentioned Ordinance and Act respectively are given to the resident magistrate of the district as to a public gaol within his district: Provided that it shall not be lawful for any such resident magistrate for any offence so committed to punish the offender in any higher or more severe manner than 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 three months, or by corporal punishment not exceeding twelve lashes.

Definition of term "Lock-up."

Jurisdiction of resident magistrates as to escaped prisoners, &c.

XII. The provisions of Act 2 of 1855, or such of them as may from time to time be in force, shall extend and apply to all towns and villages in this colony not being municipalities, wherein a justice of the peace appointed under this Act shall reside, as well as to the towns and villages mentioned in the said Act; and every such justice of the peace shall have, in such town or village, the same jurisdiction and powers as are by the said lastmentioned Act given to a resident magistrate, and the limits of every such town or village shall, for the purposes of this Act, be such limits as shall from time to time be fixed by any proclamation to be issued by the Governor, and published in the Government Gazette.

Provisions of "Public Nuisance Act, 1855," extended to places where special justices of the peace are appointed.

No. 10—1876.

Effect of this Act on existing powers of justices of the peace and resident magistrates.

Short title.

XIII. Nothing in this Act contained shall, except where expressly stated to the contrary, interfere with or affect any jurisdiction, powers, or authority already possessed by law by any justice of the peace, or with the jurisdiction, powers, or authority of any court of resident magistrate.

XIV. This Act may be cited for all purposes as "The Better Administration of Justice in Criminal Cases Act, 1876."

No. 11—1876.]

AN ACT

[July 4, 1876.

To Amend the Law relating to the Sale of Wines and certain other Liquors by Auctioneers.

Preamble.

WHEREAS it is expedient that auctioneers in the ordinary course of their employment should be authorized to sell wines, malt liquors, and spirituous liquors at the place where such liquors are deposited, notwithstanding that the licence held by them to sell such liquors would not authorize the sale thereof except upon the premises mentioned in the licence: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Repugnant part of Ordinance 9 of 1851 repealed.

I. So much of the Ordinance No. 9 of 1851, intituled "Ordinance for the better regulation of the Sale of Wines and Spirituous and Fermented Liquors," as is repugnant to or inconsistent with any of the provisions of this Act, is hereby repealed.

Auctioneers holding licences to sell wines or spirits may sell wherever the liquors are deposited.

II. It shall be lawful for any person holding a licence to exercise the trade or business of an auctioneer, and also a wholesale wine and spirit licence, who in the ordinary course of his business as such auctioneer, may be employed to sell by auction any liquors as aforesaid, to sell the same by wholesale upon the premises where such liquors are deposited, although such premises are not those mentioned in the wine and spirit licence held by such auctioneer: Provided the distributor of stamps or court who granted such wine and spirit licence could have granted the same for such premises.

No. 12—1876.]

AN ACT

[July 4, 1876.

No. 12—1876.

To make further provision for the purpose of improving the Harbour of East London.

WHEREAS by the Act No. 7 of 1871, as amended by Preamble.  
the Act No. 26 of 1875, the Governor was authorized to raise and take up, upon the security of the public revenue of this colony, a sum of not exceeding one hundred thousand pounds, for the purpose of improving the harbour of East London, and rendering the same more commodious and secure for shipping: And whereas it is expedient that the Governor should be authorized to raise and take up, upon the same terms and conditions as the said sum of one hundred thousand pounds was authorized to be raised, a further sum of one hundred thousand pounds for the purpose aforesaid: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. It shall be lawful for the Governor to raise and take up, upon the security of the public revenue of this colony, such further sum or sums of money, not exceeding in the whole the sum of one hundred thousand pounds, as may from time to time be necessary, for the purpose of completing the said harbour works at East London, and rendering the said harbour more commodious and secure for shipping; and all the provisions contained in the said Act No. 7 of 1871, as amended by the said Act No. 26 of 1875, with respect to the said sum of one hundred thousand pounds so authorized to be borrowed as aforesaid, shall apply to the said additional sum of one hundred thousand pounds, as if the whole sum of two hundred thousand pounds had been by the said Acts authorized to be borrowed. Further loan of £100,000 authorized.

II. This Act may be cited for all purposes as “The East London Harbour Loan Act, 1876,” and the said Acts No. 7 of 1871, and No. 26 of 1875, respectively, as “The East London Harbour Act, 1871,” and “The East London Harbour Amendment Act, 1875.” Short title.

No. 13—1876.]

AN ACT

[July 4, 1876.

To provide for the repayment of certain sums advanced by the Colonial Government for and in respect of the Kowie Harbour Works, and to make further provision for the purpose of improving the said Harbour.

WHEREAS by the seventh section of the Act No. 16 Preamble.  
of 1869, intituled “An Act for the dissolution of the

No. 13--1876.

Kowie Harbour Improvement Company," the Governor was authorized to take up and borrow, upon the credit of the general revenue of this colony, such sum or sums as should be necessary for the purposes in the schedule to the said Act specified, not exceeding in the whole the sum of forty thousand pounds: And whereas the money necessary for the said purposes, amounting to the sum of forty thousand four hundred and four pounds six shillings, has been advanced out of the general revenue of the colony, and the said borrowing powers have not yet been exercised: And whereas other sums of money, amounting in the whole to the sum of forty-five thousand three hundred and sixty-four pounds fifteen shillings and two pence, have been advanced out of the said general revenue for the purpose of carrying on the harbour works at the Kowie, and a further sum is required for the purpose of completing the said works, and it is expedient that in order to repay the said sums so advanced as aforesaid, and also to provide a further sum in order to complete the said works, the Governor should be empowered to raise, as hereinafter mentioned, a sum of not exceeding one hundred and fifty thousand pounds: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Section 7, Act 16 of 1869, repealed.

I. The seventh section of the said Act No. 16 of 1869 is hereby repealed.

Loan of £160,000 authorized.

II. It shall be lawful for the Governor to raise and take up, upon the security of the public revenue of this colony, either by debentures or stock, or partly by debentures and partly by stock, such sum or sums of money, not exceeding in the whole the sum of one hundred and fifty thousand pounds sterling, as shall from time to time seem to him fit and necessary for the purposes aforesaid.

Provisions if borrowing upon debentures.

III. In so far as the said borrowing shall be upon debentures, the following provisions shall be observed:— Such debentures shall be issued in this colony, or in England, or partly in this colony and partly in England, for sums not exceeding five hundred pounds, nor less than one hundred pounds each, upon the best and most favourable terms that can be obtained, and the interest to accrue due thereon shall be charged upon and made payable out of the general revenue of this colony.

Provisions if borrowing upon stock.

IV. In so far as the said borrowing shall be upon stock, the following provisions shall be observed:

1. Such stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be kept for that purpose by the treasurer of the colony, such credit to be given in the first instance upon production and delivery to the said treasurer, by such purchaser or by his order, of a



- scrip certificate for the amount of stock for which such credit shall be claimed, such certificate being signed by the Colonial Secretary and countersigned by the said Treasurer and by the Controller and Auditor-General, and which scrip certificate shall be kept in the office of the said Treasurer.
2. Such stock shall bear interest after the rate of four pounds and ten shillings per centum per annum on the nominal amount of such stock, from the fifteenth day of April, or the fifteenth day of October, next preceding the issue of the said scrip certificate which shall last happen, and such interest shall be payable thereafter half-yearly, on the fifteenth day of April and the fifteenth day of October in each year; the first of such payments to be made on the half-yearly day which shall happen next after the opening of such credit, in the books of the said Treasurer as aforesaid, and shall be paid on such days respectively, or so soon thereafter as demand shall be made therefor by the lawful holder for the time being of such stock, to such lawful holder, or his duly authorized attorney, at the office of the Treasurer in Cape Town.
  3. Such stock, together with the interest from time to time to accrue thereon, shall be and is hereby charged upon and made payable out of the general revenue of this Colony, and the Governor shall from time to time pay such interest, and may also, out of such revenue or any moneys to be appropriated for that purpose, from time to time buy up and cancel such stock or any part thereof.
  4. Such stock shall be transferable by transfer in the books of the said Treasurer, and every person to whom any such credit as aforesaid shall have been given in the said books in the first instance, or to whom any such transfer shall thereafter have been made in the said books, shall be entitled to require and demand of the said Treasurer a receipt or certificate stating the amount of such stock standing to his credit in such books.
  5. There shall be paid into the Treasury upon every transfer in the said books of any sums of such stock, a sum of two shillings and sixpence upon every hundred pounds to be transferred in such books, and on every other sum so transferred in the like proportion: Provided that instead of any fractional part of a penny which would under this provision be payable, a full sum of one penny shall be payable; and no transfer shall be actually made in such books as aforesaid unless and until such sum as shall be payable as aforesaid shall be paid.

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6. All such stock shall be put up for public tender in such amounts as may from time to time seem fit, and may be disposed of for the best terms which can be thus obtained. If more tenders than one offering the same terms shall be received for a greater amount of such stock than the amount for the time being about to be issued, it shall be lawful to accept any one or more of such tenders, or any part of such tenders, as circumstances may make expedient.
7. The moneys realized for the issue and sale of such stock shall be carried to a separate account, and shall be expended so far as shall be necessary for the purposes mentioned in the preamble of this Act.

Formation of fund for payment of interest and extinction of loan.

V. As a fund for the payment of the interest upon, and for the gradual extinction of, the debt to be raised upon debentures under authority of this Act, there shall be charged and chargeable upon, and set apart out of, the annual revenues of this Colony, an annual sum equal to the interest on the whole amount of such debentures as shall from time to time be issued under authority of this Act, and a further sum equal to one pound sterling per annum on the total amount of the principal or capital sum shall from time to time be raised upon debentures under the authority of this Act: And such sum shall be annually charged on and payable out of the revenues of the Colony so long as any portion of the debt to be raised under authority of this Act upon debentures or any interest thereon shall remain unpaid and unextinguished, and such annual charge shall, so soon as such debt and interest shall have been all paid and extinguished, cease and determine.

Portion of fund not required for payment of interest to be applied in redeeming debentures.

VI. Such portion of the fund which shall under the last foregoing section be charged and chargeable annually on the revenues of the Colony, as shall not be required for the payment of the interest for the time being due upon the debentures to be issued under authority of this Act, shall be applied in redeeming and cancelling such debentures in such manner and form as shall be provided by the terms and conditions whereon and whereunder such debentures shall be issued.

Redeemed debentures to be cancelled by Treasurer and advertised.

VII. All debentures which shall be redeemed under the authority of this Act shall, immediately on the receipt thereof, be cancelled by or on behalf of the said Treasurer, and shall be duly advertised as so cancelled.

Separate account to be kept. Moneys to be expended only for purposes mentioned in preamble.

VIII. All moneys raised under authority of this Act shall be carried to a separate account, and shall be expended so far as may be necessary for the purposes in the preamble to this Act mentioned and not otherwise.

Accounts to be submitted annually to Parliament.

IX. An account showing the amount of all stock and debentures issued from time to time under authority of this Act, and of the moneys realised by the issue and sale thereof,

and of the expenditure of all such moneys, or of so much thereof as shall for the time being have been expended, and an account of the amount of such stock and debentures for the time being outstanding, and of all such sums thereof as shall from time to time be brought in and cancelled, if any, vouched by the Controller and Auditor-General, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next Session thereof, and like accounts within fourteen days after the commencement of every succeeding Session thereof.

No. 13—1876.

X. This Act may for all purposes be cited as “The Kowie Harbour Loan Act, 1876.” Short title.

No. 14—1876.]                      AN ACT                      [July 4, 1876.

For enabling the Commissioners of the Municipality of Uitenhage to appropriate and dispose of certain lands for the purpose of raising funds for building a Town Hall, Library, Reading-room, Town Office, Market Office, and other necessary Buildings, for the use of the Resident Householders and Inhabitants of the said Municipality.

**W**HEREAS by a certain Title Deed, bearing date the first day of March, One Thousand Eight Hundred and Fifty-four, certain two pieces of land situated within the Municipality of Uitenhage, measuring together three morgen, sixty-seven square roods, six square feet, and seventy-six square inches, were granted in freehold to the Commissioners of the said Municipality, and unto the Commissioners of the said Municipality for the time being, on condition that the said land should not be appropriated for any other use than for that of a market-place: And whereas it is expedient that the said condition, in the said title deed contained, should for the purposes of this Act be annulled, and that a part of the before-mentioned site for the said market-place, bounded on the north-east by Caledon-street, south-west by Constitution-street, north-west by Market-street and south-east by Chase-street, for many years planted with trees and known as the “Park,” being in length four hundred and fifty-six feet and in breadth two hundred and forty-feet, and containing about one morgen and one hundred and sixty square roods, should be sold (with power to the aforesaid Commissioners to reserve a portion thereof at their discretion for a building site) in order to raise funds towards building, in conjunction with the committee for the

Preamble.

No. 14--1876.

time being of the Public Library at Uitenhage, a town-hall, library, reading-room, town-office, market-office, and other necessary buildings, on such reserved portion of the said "park" land, for the use of the resident householders and inhabitants of the said municipality, and the subscribers of the said Public Library: And whereas the said condition cannot be annulled, nor the proposed sale of the said land be effected for the purpose aforesaid, without the aid of Parliament: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Conditions of title deed annulled as to portion of land to be sold.

I. The condition contained in the said title deed, with regard to the particular and exclusive use of the said land, is hereby annulled as to the said part of the said land so to be sold as aforesaid.

Commissioners may sell land and apply proceeds to building of town-hall, &c., on reserved land.

II. It shall be lawful for the Commissioners for the time being of the said Municipality, to cause to be sold, by public auction, the said part of the said land beforementioned, the proceeds thereof, together with the proceeds to arise from the sale of certain land with a building thereon now vested in the committee of the said Library, to be applied exclusively for the purpose of building on such reserved portion of the said land, a town-hall, library, reading-room, town-office, market-office, and other necessary buildings, for the use of the resident householders and inhabitants of the said municipality for ever; and the said library committee, on behalf of the subscribers and others entitled to the use of the said library, shall have exclusive and independent control over the said library and reading-room proposed to be erected as aforesaid in conjunction with the other public buildings beforementioned, the remainder of such buildings to be under the control of the said commissioners.

Repairs to buildings to be erected to be paid for out of general revenue of municipality.

III. The necessary repairs that may be required to be made to the buildings about to be erected, from time to time, shall be made by, and at the discretion of, the commissioners of the said municipality, and may be paid for out of the general revenue and rates of the said municipality, save and except any repairs that may be required to be made, from time to time, to the interior of the library and reading-room so to be erected as aforesaid, which repairs shall at all times be effected by the said library committee at their own proper cost and charges.

Short title.

IV. This Act may be cited as the "Uitenhage Municipal Buildings Act, 1876."

No. 15—1876.]

AN ACT

[July 4, 1876.

No. 15—1876.

To amend the Law relating to Weights and Measures.

**W**HEREAS it is expedient that there should be uniformity Preamble.  
in the law relating to weights and measures, and that the town assizers or other persons employed in cities, towns, and villages, should be invested with certain powers under the Act No. 11 of 1858, intituled “An Act for regulating Weights and Measures in the Colony of the Cape of Good Hope:” Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. The sections of the Act No. 2 of 1855, intituled “An Act for Abating Public Nuisances and other Mischiefs of a Public Nature in certain Towns and Villages, not being Municipalities,” and numbered four to ten inclusive, are hereby repealed, as well as all municipal regulations and bye-laws relating to the assizing of weights and measures. Sections 4 to 10 of Act 2, 1855, repealed.

II. It shall be lawful for the Governor, upon the application of the commissioners of any municipality, to cause one or more sets of standard weights and measures, verified as in the sixth section of the said Act No. 11 of 1858 is mentioned, to be supplied to and deposited with and preserved by the town clerk of the municipality or such other person or persons on behalf of the said municipality as he shall direct and appoint; and every weight and measure so provided shall, until the contrary be proved, be deemed and taken to conform to and correspond with the copy or model of the standard weight or measure of the same description or denomination, deposited in the office of the Treasurer-General or other officer as in the said last-mentioned Act mentioned, and to be fit and proper for testing and ascertaining the correctness of other weights and measures (as the case may be): Provided always that such standard weights and measures so to be provided as aforesaid, shall not be deemed or taken to be unfit for the purposes aforesaid, by reason that they or any of them are not made of the same material as the copies or models deposited as aforesaid in the office of the Treasurer-General or other officer as aforesaid. Sets of standard weights and measures may be supplied to the municipalities. Such standards need not be of the same material as original copies.

III. The commissioners of the municipality where copies or models as aforesaid are deposited shall, upon reasonable notice, and at all reasonable times, cause such of them to be produced for inspection or for testing the correctness of any measure of weight, extension or capacity, as any person shall, in writing, request them to produce for that purpose, such person paying in respect of every such copy or model produced any sum to be fixed by the commissioners, not

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exceeding sixpence, which sum shall be paid to the treasury of the municipality.

Municipalities may appoint town assizers

IV. It shall be lawful for the commissioners of every municipality to appoint a town assizer or other person to assize and mark weights and measures within the limits of such municipality, and for the resident magistrate of the district to appoint an assizer or other person to assize and mark weights and measures within the limits of any town or village not being a municipality, the limits of such town or village being for the purposes of this Act such as shall from time to time be fixed by proclamation issued by the Governor and published in the Government Gazette: Provided that when limits have been or shall be fixed for any town or village under the said Act No. 2 of 1855, such limits shall, until altered as aforesaid, be the limits of such town or village for the purposes of this Act.

Assizers vested with powers under section 10 of Act 11 of 1858.

V. The town assizer, or other person so appointed as in the last preceding section mentioned, shall be considered as mentioned and included in the tenth section of the said Act No. 11 of 1858 as well as a resident magistrate, justice of the peace and chief constable.

An examination of weights and measures under section 10 of Act 11 of 1858 to take place at least once a year.

VI. An examination as in the said tenth section mentioned of all weights and measures shall take place at least once in every year, at such time or times, and at such place or places within their respective jurisdictions, as may be fixed for that purpose by the resident magistrate of the district, or by the commissioners of the municipality, as the case may be, of which time or times, and place or places, at least ten days' public notice shall be given by advertisement in some local newspaper, or, if none, by posting a notice on the court-house, market-house, or other public building or buildings; and all persons using within such district, city, town, or village, as the case may be, weights or measures for the purpose of trade or dealing, shall attend at the time and place so fixed to have their weights and measures assized, and in default of so attending shall be liable to a penalty of not exceeding five pounds sterling.

Charge for assizing.

VII. The charge for assizing each weight or measure, shall be fixed from time to time by the resident magistrate or commissioners of the municipality, as the case may be, but shall not exceed threepence sterling for each weight or measure, exclusive of any expense for repairing the same, and the charge for all weights and measures assized by the town assizer or other person appointed by the municipality shall be paid to the treasurer of the municipality.

Application of penalties.

VIII. All penalties and proceeds of forfeitures which by the said last-mentioned Act are directed to be paid to the colonial treasury, shall, when the proceedings producing the same have been taken by any officer or person acting for any municipality, be paid to the treasurer of such municipality.

IX. In the construction of this Act the word "municipality" shall be taken to include the municipal corporation of King William's Town, and the terms "commissioners of the municipality" and "commissioners" to include town council, borough council, and council of a municipality, and the term "town clerk" to include secretary of a municipality.

No. 15—1876.

Interpretation clause

X. This Act may be cited for all purposes as "The Weights and Measures Act, 1876," and shall be read as one with the said Act No. 11 of 1858, which may for all purposes be cited as "The Weights and Measures Act, 1858."

Short title.

No. 16—1876.] AN ACT [July 4, 1876.

To empower Resident Magistrates and others to cancel certain Adhesive Stamps.

WHEREAS by the fourteenth section of "The Stamp Act, 1864," the Distributor of Stamps in Cape Town, or the Civil Commissioner elsewhere, is empowered to cancel certain adhesive stamps, and it is advisable that such power should be extended as hereinafter mentioned: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. The power and duty of cancelling adhesive stamps by the said fourteenth section of the said Act given to and imposed upon the Distributor of Stamps in Cape Town, and the Civil Commissioners elsewhere, is hereby extended to all Resident Magistrates and senior clerks to Civil Commissioners, upon the tender to them at their offices, within such time as in the said section mentioned, of any such instrument with an adhesive stamp affixed thereon, as in the said section also mentioned, and Resident Magistrates and such clerks as aforesaid shall be considered as referred to in the fifteenth section of the said Act, as well as the said Distributor of Stamps and Civil Commissioners.

Adhesive stamps under section 14 of Act 3, 1864, may be cancelled by resident magistrates and senior clerks to civil commissioners.

No. 17—1876.] AN ACT [July 4, 1876.

To Facilitate Leases of Settled Estates.

WHEREAS it is expedient that the Supreme Court, the Court of the Eastern Districts, and Circuit Courts respectively, should have power in certain cases to authorize leases of Settled Estates when such courts re-

Preamble.

No. 17—1876.

spectively shall deem that such leases would be proper and consistent with a due regard for the interests of all parties entitled under the settlement: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Leases of settled estates may be authorized under certain conditions.

I. It shall be lawful for the Supreme Court and for the Eastern Districts Court and the Circuit Court, so far as relates to immovable property, within the jurisdiction of the Eastern Districts Court and Circuit Court respectively, if such Courts shall deem it proper and consistent with a due regard for the interest of all parties entitled under any settlement as hereinafter mentioned and described, and subject to the provisions and restrictions in this Act contained, to authorize leases of any settled estates or of any rights or privileges over or affecting any settled estates for any purposes whatsoever: Provided that the following conditions be observed:—

First,—Every such lease shall be made to take effect in possession at or within one year next after the making thereof, and shall be for a term not exceeding twenty-one years; or where the Court shall be satisfied that it will be beneficial to all persons interested to grant building leases for a longer term, then for such term as the Court shall direct.

Secondly,—On every such lease shall be reserved the best rent, or reservation in the nature of rent, either uniform or not, that can reasonably be obtained, to be made payable annually or oftener.

Thirdly,—Every such lease shall be in writing, and shall contain a condition for re-entry on non-payment of the rent for a period of not less than three months after it becomes due.

Court may impose any further conditions deemed expedient.

II. Subject and in addition to the conditions hereinbefore mentioned, every such lease shall contain such covenants, conditions, and stipulations as the Court shall deem expedient with reference to the special circumstances of the case.

Leases of the whole or any part of settled estates.

III. The power to authorize leases conferred by this Act shall extend to authorize leases either of the whole or any part of settled estates, and may be exercised from time to time.

Leases may be surrendered with leave of court.

IV. Any leases granted under this Act may by leave of any of the aforesaid Courts be surrendered, either for the purpose of obtaining a renewal of the same or not; and the power to authorize leases conferred by this Act shall extend to authorize new leases of the whole or any part of the property comprised in any surrendered lease.

Court may authorize new lease of property surrendered.

How power to authorize leases may be exercised by court.

V. The power to authorize leases conferred by this Act may be exercised by the Court either by approving of par-



particular leases or by ordering that powers of leasing in conformity with the provisions of this Act shall be vested in trustees in manner hereinafter mentioned.

No. 17—1876.

VI. When application is made to the Court, either to approve of a particular lease, or to vest any powers of leasing in trustees, the Court shall require the applicant to produce such evidence as it shall deem sufficient to enable it to ascertain the nature, value, and circumstances of the estate, and the terms and conditions on which leases thereof ought to be authorized.

Court may require applicants to produce evidence, &c.

VII. When a particular lease has been approved by the Court, the Court shall direct what person or persons shall execute the same as lessor, and the lease executed by such person or persons shall take effect in all respects as if he or they was or were at the time of the execution thereof absolutely entitled to the whole estate or interest which is bound by the settlement.

Court may appoint lessors in particular cases.

VIII. When the Court shall deem it expedient that any general powers of leasing settled estates conformably to this Act should be vested in trustees, it may by order vest any such power accordingly, either in the existing trustees of the settlement, or in any other persons, and such powers when exercised by such trustees shall take effect in all respects as if the powers so vested in them had been originally contained in the settlement.

Court may invest trustees with general power of leasing.

IX. Notice of any application under this Act shall be served upon all persons who, in the opinion of the Court to which application is made, ought to be so served, unless the Court shall think fit to dispense with notice. And such notice shall require the person served to notify, within a time to be specified therein, whether he assents to or dissents from such application, or submits his rights or interests, so far as they may be affected by such application, to be dealt with by the Court; and every such notice shall specify to whom and in what manner such notification is to be delivered or left. In case no notification shall be delivered or left in accordance with the notice and within the time thereby limited, the person to or for whom such notice shall have been given or left shall be deemed to have submitted his rights and interests to be dealt with by the Court.

Notices of application to be given.

X. It shall be lawful for the judges of the Supreme Court, or the major part of them, from time to time to make rules or orders for carrying the purposes of this Act into effect, and for regulating the form and mode of procedure and generally the practice of the Court in respect of the matters to which this Act relates, and such rules or orders may be rescinded or altered by the like authority. And all such rules or orders shall be subject to the provisions of the third and fourth sections of the Act No. 15 of 1867.

Supreme Court may make rules for carrying this Act into effect, &c.

No. 17—1876.  
 Interpretation clause

XI. The word “settlement,” as used in this Act, shall signify any deed, agreement, will, or other instrument, under or by virtue of which any immovable property or any estate, or interest in any such immovable property, stand limited to, or, in trust for any person or persons by way of succession, or for a life or lives, or for a term of years determinable with the death of any person; and the term “settled estates” as used in this Act, shall signify all immovable property and all estates or interests in any such immovable property, which are the subject of any settlement.

Short title. XII. This Act may be cited for all purposes as the “Settled Estates Leasing Act, 1876.”

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No. 18—1876.] AN ACT [July 4, 1876.

To Repeal the Act No. 19 of 1868, entitled “An Act to amend Act No. 8 of 1855, entitled ‘An Act to amend Ordinance No. 6 of 1853,’ entitled ‘An Ordinance for the General Management and regulation of the Customs in the Colony of the the Cape of Good Hope.’”

Preamble.

WHEREAS it is expedient that the said Act No. 19 of 1868 should be repealed: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Act No. 19, 1868,  
 repealed.

I. The said Act No. 19 of 1868 is hereby repealed.

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No. 19—1876.] AN ACT [July 4, 1876.

To apply a Sum of Money for the Service of the Year ending the 30th day of June, 1877.

BE it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Expenditure 1876-77,  
 £1,196,325.

I. The public revenue of the Colony is hereby charged for the service of the year ending on the 30th day of June, 1877, with the several sums in the Schedule and Supplementary Schedule hereunto annexed particularly mentioned, amounting in the whole to the sum of One Million One Hundred and Ninety-Six Thousand Three Hundred and Twenty-Five Pounds Sterling, which said sums shall be applied in the manner in the said Schedules expressed.

LOVEDALE MISSIONARY INSTITUTION LANDS ACT. 183

II. The Schedule and Supplementary Schedule hereunto annexed, with the notes, if any, to such Schedules, shall be deemed to be a part of this Act in the same manner as if herein contained. No. 19—1876.  
Schedules to be deemed part of Act.

III. The said aids and supplies shall not be issued or applied for any use, intent, or purpose, other than the particular services for which the said amounts have been granted respectively, by this Act and the Schedules thereto. Application of Supplies.

IV. This Act may be cited for all purposes as the "Appropriation Act, 1876." Short title.

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No. 20—1876.]                      AN ACT                      [July 4, 1876.

To remove certain Conditions and Restrictions at present imposed upon Lands held by the Lovedale Missionary Institution.

**W**HEREAS certain grants of Land in freehold have from time to time been made by the Government of this colony to and in favour of the several persons therein respectively named as trustees for the time being of the Lovedale Missionary Institution and of certain Schools attached thereto: And whereas certain conditions and restrictions are in such several grants imposed upon the lands thereby granted: And whereas large sums of money have been expended in the construction of buildings, which it is intended to increase, but which work the conditions and restrictions of the Grant tend to check, it is therefore desirable and expedient that such conditions and restrictions should be removed: Be it, therefore, enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows: Preamble.

I. So much and such parts of the Five several Deeds of Grant, mentioned and referred to in the Schedule to this Act annexed, as restrict the use of the Lands therein granted to the special purposes therein respectively named, shall be, and the same are hereby, cancelled and annulled. Restriction on the use of the lands mentioned in schedule cancelled.

II. It shall and may be lawful for the Trustees for the time being of the said Lovedale Missionary Institution to hold, possess, and enjoy the several Lands contained in the said Deeds of Grant as free property and to have the free use and occupation thereof, and to sell, alienate, or mortgage the same or any part thereof, as if the several conditions and restrictions mentioned and contained in such Grants had never existed. Lands to be enjoyed as freehold property in future.

No. 20—1876.

## SCHEDULE.

1. Deed of Grant in Freehold, dated 1st September, 1849, made by the Colonial Government to James Laing and James Weir, Missionaries of the Free Church of Scotland at Block Drift, and to the Missionaries for the time being of the said Free Church at that place, of a Piece of Land therein mentioned and described, and therein stated to be granted "for the purpose of being exclusively used as a Seminary and Mission of the said Free Church for religious instruction and agricultural and other useful occupation to the Aborigines, on condition that the Land thereby granted should revert to the Crown when it ceased to be used for that purpose."

2. Deed of Grant in Freehold, dated 22nd November, 1849, made by the Colonial Government to the Reverend Henry Calderwood and to Miss Hannah Howland Harding, as Trustees of the Female Seminary, attached to the Free Church of Scotland Mission School at Lovedale, and to the Trustees for the time being, of a certain Piece of Land therein mentioned, and described, and therein stated to be granted "for the purpose of being exclusively used as a Female Seminary and Mission of the said Free Church for religious instruction to the Aborigines, on condition that the Land thereby granted should revert to the Crown when it ceased to be used for that purpose."

3. Three several Deeds of Grant in Freehold, each dated 7th May, 1859, made by the Colonial Government to the Reverend William Govan, Resident Missionary of the Free Church of Scotland at Lovedale, and to his successors in the said office, in trust for the Lovedale Missionary Institution, of certain three Pieces of Land therein respectively mentioned and described, and therein respectively stated to be granted "on condition that the Land hereby granted should be used exclusively for Educational purposes."

No. 21—1876.]

AN ACT

[July 4, 1876.]

To amend the Law relating to the Jurisdiction and Powers of Resident Magistrates.

Preamble.

WHEREAS it is expedient to give increased jurisdiction and powers to resident magistrates in certain cases: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Repugnant laws and rules of court repealed.

I. So much of the Act No. 20 of 1856, intituled "An Act for amending and consolidating the Laws relative to the Courts of Resident Magistrates," and of any rule, order, or regulation of any such courts, and of any other Act in force

in this Colony, as is repugnant to or inconsistent with any of the provisions of this Act, is hereby repealed.

No. 21—1876.

II. The jurisdiction of every resident magistrate in cases founded upon a bill of exchange, promissory note, good-for, or other written acknowledgment of debt, commonly called a liquid document, not being a mortgage bond, is hereby extended to all such cases in which the sum demanded shall not exceed one hundred pounds sterling.

Jurisdiction in liquid cases (mortgage bonds) extended to £100.

III. It shall also be lawful for the defendant, or any two or more of the defendants, if more than one, who may have been summoned to appear before a court of resident magistrate in any such case as aforesaid, in which the sum demanded shall exceed forty pounds sterling, at any time before the hearing of such case, to give notice that he objects, or that they object, to the same being tried in the court of resident magistrate, and if such defendant or defendants shall thereupon give security, to be approved of by the resident magistrate, for the amount claimed, and such further sum, not exceeding the sum of one hundred pounds sterling, as may be fixed by the said resident magistrate for costs already incurred in the court of resident magistrate and which may be incurred in the superior court, all proceedings in the court of resident magistrate in any such action shall as to such defendant or defendants be stayed, and the said action, and all the proceedings therein, shall, if the plaintiff so wishes, be, as to such defendants, forthwith removed by order of the resident magistrate into such superior court in this colony, having jurisdiction, as the plaintiff may elect, and upon such removal, the summons in the court of resident magistrate shall, as to such defendant or defendants, stand as the summons in the court into which the case is removed, the return day thereof being the date of the order of removal, or if the removal is to a circuit court, the date of the first sitting of such circuit court: Provided, however, that it shall be lawful for the plaintiff, instead of requiring the said case to be removed, to issue a fresh summons against the said defendant or defendants in any competent court upon payment to the said defendant or defendants of the costs already incurred by him or them in such resident magistrate's court.

Liquid cases over £40 may, on objection of defendant, and security given, be removed to superior court.

Or, upon payment of costs already incurred by defendants, plaintiff may issue fresh summons in any competent court.

IV. The forty-second section of the said Act No. 20 of 1856, and the second section of "The Cattle Theft Repression Amendment Act, 1867," shall be read as if the words "without appeal or review" in the commencement thereof were omitted. And from and after the passing of this Act any person who shall be convicted by the judgment of any court of resident magistrate, and sentenced to any period of imprisonment, or to the payment of any fine, or to receive any number of lashes or cuts, may, if he think fit, appeal against such conviction and sentence to the Supreme Court,

Section 46, Act 20 of 1856, and Section 2, Act 17 of 1867, amended.

No. 21—1876.

or in the Eastern Districts, either to the Supreme Court or to the Court of the Eastern Districts or to the Circuit Court to be holden for the district in which the alleged offence was committed, as the person convicted may elect: Provided that within four days next after such conviction notice, in writing, be given to the clerk of the court of the resident magistrate, by or on behalf of the person convicted, of his intention to appeal, and of the court to which he elects to appeal: Provided, further, that no public or private prosecutor shall by virtue of this section be entitled to bring any case, either in appeal or under review, in any superior court which could not before the passing of this Act be brought under such appeal or review: Provided, also, that every such appeal, when made to the Supreme Court, or to the Court of the Eastern Districts, shall be prosecuted within forty-one days after the giving of such notice, and, when made to the Circuit Court, shall be prosecuted at the next ensuing Circuit Court, and, if not so prosecuted, such conviction and sentence shall be and become final, and it shall not be competent thereafter to bring the same before any superior court, either by appeal or review, anything contained in this Act or in the Charter of Justice to the contrary notwithstanding; and when any such appeal is made as aforesaid, the provisions of the forty-seventh section of the said Act No. 20 of 1856, in regard to the execution of any sentence of imprisonment for any period exceeding one month, or to pay any fine exceeding five pounds, or to receive any number of lashes or cuts, and the circumstances under which any such sentence may be suspended, shall apply, *mutatis mutandis*, to any sentence so appealed against.

Section 6, Act of 1874, amended. 17

V. The sixth section of the "Criminal Law Amendment Act, 1874," shall be read as if the words "where the number of lashes or cuts shall exceed twelve" were omitted therefrom.

Section 4, Act 16 of 1864, to apply to summary convictions of stealing or receiving stolen cattle.

VI. As often as any resident magistrate shall convict any person of stealing or receiving, knowing to have been stolen, any horse, mule, ass, head of horned cattle, sheep or goat, it shall be lawful for such resident magistrate to make such inquiry and give such judgment as in the fourth section of "The Cattle Theft Repression Act, 1864," is mentioned, in like manner precisely as if the person so convicted had been committed for trial by such resident magistrate under the said section, and the provisions of the said last mentioned Act shall thereupon, *mutatis mutandis*, apply to such judgment, and the proceedings subsequent thereto, as if the same were a judgment given under the said last mentioned Act, the quashing of any such conviction being taken to be for the purposes of the said last mentioned Act an acquittal of the person accused.

VII. Notwithstanding anything contained in the thirty-eighth and thirty-ninth sections of the said Act No. 20 of 1856, and in the Schedules to the said Act, it shall be lawful for the Judges of the Supreme Court, 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 Supreme Court), to fix and from time to time to alter the fees and charges to be taken and made by attorneys and enrolled agents for or on account of the work and labour by them expended in and about or in connection with the prosecuting or defending of any civil action or proceeding in any court of resident magistrate; the fees to be taken by the officers of the court of resident magistrate, and also the allowances to witnesses in civil cases for personal attendance and travelling expenses: Provided that until any such rule or order shall be made, and in so far as the same shall not extend, the fees and charges now by law fixed shall continue to be payable.

No. 21—1876.  
Fees of attorneys and agents and officers in magistrates' courts, and allowances to witnesses in civil cases, may be altered by rule or order of Supreme Court.

VIII. This Act may be cited as "The Resident Magistrates' Court Act, 1876," and the Act No. 20 of 1856 as the "Resident Magistrates' Court Act, 1856."

Short title.

No. 22—1876.] AN ACT [July 4, 1876.

To amend the Law relating to Attesting Witnesses.

WHEREAS by the Attesting Witnesses Act, 1874, certain amendments were made in the law relating to attesting witnesses, and it is expedient that further amendments be made in such law so as to make the same more in conformity with the law of England: And whereas it will be more convenient that for the purpose of such amendments the said Act should be repealed so that the remaining provisions thereof with the amendments thereto may appear in one Act: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. From and after the taking effect of this Act, the Act No. 16 of 1874, intituled "An Act to amend the Law relating to Attesting Witnesses," is hereby repealed.

Act No. 19 of 1874 repealed.

II. Every person, except as hereinafter excepted, above the age of fourteen years, who is or may be competent to give evidence in any court of law in this Colony, shall be competent and qualified to attest the execution of a will or other instrument: Provided that no person shall be qualified to attest any power of attorney, whereby he shall be appointed an attorney or agent, or under which he shall derive any benefit.

Who are competent to attest execution of a will or other instrument.

No. 22—1876.

Persons attesting execution of a will to forfeit any interest they may have conferred upon them in such will.

III. If any person shall attest the execution of any will or other testamentary instrument, to whom or to whose wife or husband any beneficial device, legacy, estate, interest, gift, or appointment of or affecting any property (other than and except charges and directions for the payment of any debt or debts), shall be thereby given or made, such device, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will or other testamentary instrument, or the wife or husband of such person, or any person claiming under such person, or wife or husband, be null and void.

Persons attesting execution of a will to forfeit any appointment made as executor, guardian, &c., in such will.

IV. If any person shall attest the execution of any will or other testamentary instrument, and such person, or the wife or husband of such person, shall in and by such will or other testamentary instrument be nominated or appointed executor, administrator, or guardian thereunder, the appointment of such person, or the wife or husband of such person, as such executor, administrator, or guardian, shall be null and void.

Short title.

V. This Act may for all purposes be cited as the "Attesting Witnesses Act, 1876."

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No. 23—1876.]                      AN ACT                      [July 4, 1876.

For enabling the Commissioners of the Municipality of Heidelberg to borrow Two Thousand Pounds for the purpose of opening up the Doorn River and diverting its course into a Canal.

Preamble.

WHEREAS the inhabitants of the municipality and town of Heidelberg have long experienced inconvenience from floods and inundations caused by the overflow of the Doorn River: And whereas facilities exist in the immediate neighbourhood of the said town for constructing a Channel or permanent Canal capable of carrying off all the surplus water of the Doorn River: And whereas the Commissioners of the municipality, acting in conformity with the desire and representation of the inhabitants, made arrangements for commencing the construction of such a Channel or Canal as aforesaid: And whereas to enable the said Commissioners to construct such Channel or Canal, and otherwise improve the present drainage of the said town of Heidelberg, it is proposed that a Special Rate should be levied on all immovable property within the Municipality of Heidelberg, to be called the "Canal Rate:" And whereas it is proposed that the said Commissioners should be empowered to borrow money on the security of the intended Canal Rate to enable them to construct the



intended work, but such objects cannot be obtained without the aid and authority of Parliament: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

No. 23—1876.

I. It shall be lawful for the said Commissioners to borrow from time to time such sum or sums of money, not to exceed in the whole the sum of Two Thousand Pounds sterling, for the purpose aforesaid, and to impose for the purpose of providing for the payment of the principal and interest of the moneys to be borrowed under this Act special rates upon the immovable property situate within the municipality and liable to be rated for municipal purposes, and every such rate so imposed by the said Commissioners for the purpose of this Act shall be of the same force and effect, and be levied in like manner, as if it had been a rate imposed in accordance with the provisions of the Ordinance No. 9 of 1836 or of the Act No. 13 of 1864: Provided that no such rate shall at any one time or within one calendar year exceed one penny in the pound on the value of such immovable property as aforesaid.

Loan of £2,000 authorized.

Commissioners empowered to levy special rates for payment of debt.

II. The Commissioners aforesaid shall, upon the receipt of any sum or sums of money, grant to the party or parties, or company, society, or partnership, from whom they shall borrow such money as aforesaid, a written acknowledgment of or for the moneys so to be borrowed by the said Commissioners for the purpose aforesaid, as in the last preceding section mentioned, not exceeding in the whole the said sum of £2,000 (two thousand pounds sterling), which acknowledgment shall be framed according to the Schedule A hereunto annexed, and shall be signed and subscribed for and on behalf of the Commissioners aforesaid by the Chairman and two Commissioners for the time being of the said municipality.

Acknowledgment for money borrowed under this Act to be given in form in schedule.

III. All moneys borrowed for the purpose of this Act shall be subject to the provisions of the Public Bodies' Debts Act, 1867.

"Public Bodies' Debts Act, 1867," to apply.

IV. The Commissioners shall keep or cause to be kept a distinct and separate account of all moneys borrowed under this Act, and of all rates to be levied under the provisions of the first section of this Act upon the rateable property of the municipality aforesaid, and of all moneys expended upon the construction and maintenance of the Canal contemplated by this Act, and shall, as long as any portion of the debt contracted by virtue of the provisions of the first section aforesaid shall remain unpaid, on the 31st (thirty-first) day of December, in each and every year, frame an account showing the particulars aforesaid, and deposit the same in the office of the said Municipality of Heidelberg, where it shall be open to inspection of any householder

Separate account to be kept.

And submitted annually for inspection of householders.

No. 23—1876.

thereof not later than three calendar months from the said thirty-first day of December.

Municipality may enter upon and take possession of land for proposed canal on payment of compensation.

V. It shall and may be lawful for the said municipality, and they are hereby authorized, to enter upon and to take possession of all such lands within the limits of deviation of the Canal aforesaid: Provided that the proprietor or person holding by lease or otherwise from the Crown the lands so taken possession of shall be paid by the said municipality the just value by way of recompense or compensation for the interest of the said proprietors, or lessees, in such land and for any damage which may be done by reason thereof.

In cases of disagreement, amount of compensation to be referred to arbitration.

VI. In the event of the said municipality and any such proprietor or the person claiming compensation not being able to agree upon the sum to be paid by the said municipality and accepted by such proprietor or person claiming compensation, then the said municipality shall cause to be served upon such proprietor or person claiming compensation a written notice offering as recompense or compensation whatsoever sum of money they shall deem sufficient, and requiring such proprietor or person claiming compensation to state, in writing, to the said municipality within three days, to be specified in the said notice, whether he is willing to accept the sum therein mentioned or not, and in case he shall refuse to accept the sum offered or shall neglect to reply to the said notice, then the said municipality shall, by another notice in writing, call upon such proprietor or person claiming compensation to refer to arbitration the amount of recompense or compensation to be paid to him by the said municipality, and for that purpose to transmit to the said municipality within ten days, to be specified in the said last-mentioned notice, the name of some person whom he shall select to be an arbitrator upon such arbitration, and the said municipality upon receiving the name of the person so selected shall nominate a second arbitrator, and the said arbitrators shall before proceeding in the arbitration choose a third arbitrator, and the said municipality shall cause a Deed of Submission to be prepared which shall be signed by the Chairman of the said municipality and by the said proprietor or person claiming such recompense or compensation as aforesaid, and which deed shall clearly set forth the matter to be determined by the said arbitrators; and the said arbitrators or any two of them shall be authorized to fix and determine the amount of compensation to be paid as aforesaid according to what they shall conceive fair and reasonable, and the award of the said arbitrators or any two of them shall be made a rule or order of the Supreme Court, and shall be binding and conclusive, and may be pleaded in bar of any action or proceeding at law brought for or on account of the subject-matter referred to arbitration,

and in case such proprietor or person as aforesaid claiming compensation or recompense shall neglect or refuse to name such person to be such arbitrator as aforesaid or to sign the said Deed of Submission, then it shall be lawful for the said municipality, and they are hereby authorized, to lodge in some Joint-stock Bank, in Cape Town, the sum of money offered by them aforesaid for or on account and at the risk of such proprietor or person as aforesaid, who shall at all times be entitled to draw the same out of the said bank as his absolute property; and the said municipality, upon so lodging the said sum, shall be authorized and entitled to use the land in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and had been paid accordingly; and thereupon, or upon payment of any sum which may be awarded or which may be agreed to be accepted as and for recompense or compensation as aforesaid, the said land shall be held and taken to be vested in the said municipality as fully, absolutely, and effectually as if transfer and conveyance thereof had been duly passed by the respective proprietors thereof, or parties interested therein in favour of the said municipality according to the law and custom of the Colony, or as if all Acts by law required for vesting in the said municipality a sufficient title thereto had been duly done and performed, and the said land shall be held and taken to be and shall be the free and absolute property of the said municipality: Provided that the cost of the arbitration as aforesaid shall be in the discretion of the arbitrators.

VII. The necessary costs, charges, and expenses of obtaining this Act may be paid by the said Commissioners out of the money or moneys to be borrowed as aforesaid.

Payment of costs of this Act.

VIII. This Act may be cited for all purposes as the "Heidelberg Canal Act, 1876."

Short title.

## SCHEDULE A.

We, the undersigned, do hereby acknowledge that the Commissioners for the time being of the Municipality of Heidelberg are truly and lawfully indebted to and on behalf of \_\_\_\_\_ in the sum of £——(here write amount in full) being the amount obtained on loan from the said \_\_\_\_\_ by the said Commissioners acting on behalf of the Municipality of Heidelberg aforesaid under the provisions of the Heidelberg Canal Act, 1876, and hereby undertake, covenant, promise, and agree to repay or cause to be repaid to the said \_\_\_\_\_ the said sum of £ —— with such interest as may be due thereon at the rate of —— per cent. per annum as follows, to wit (here insert when amount is to be paid and generally the conditions under which the loan was effected).

192 RIGHT OF PASSAGE FOR WATER ACT.

No. 23—1876.

Given under our hands, at Heidelberg, this ——— day of ——— 18

Witnesses

G. H.  
J. K.

A. B. } Chairman and Commis-  
C. D. } sioners of the Munici-  
E. F. } pality of Heidelberg.

No. 24—1876.) AN ACT [July 4, 1876.

To enable persons having a right to Water to convey such Water across the land of other persons.

Preamble.

WHEREAS it is expedient for the promotion of irrigation and the construction of hydraulic works that persons who have a right to water should be enabled to convey such water across the lands of other persons : Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :

Persons having a right to water may convey it across the land of others for purposes of irrigation or hydraulic works.

I. Every person shall be bound to give a passage across his land to water derived from springs, dams, reservoirs, or any other sources, by parties having a legal right to the same and wishing to employ it for irrigation, or for the use of hydraulic works: Provided, however, that no channel shall be made across any land whereon any building is erected so as to interfere with such building or through any orchard, vineyard, or garden, without the consent of the owner of such land.

Channel to be constructed and maintained by party claiming right of passage.

II. The channel required for the water shall be constructed and maintained entirely at the expense of the party claiming the right of passage ; and he shall have no right to demand the said passage through channels previously in existence and destined for the use of other waters. The proprietor of any land, however, whereon a channel carrying water of which he is the legal owner already exists, may prevent the opening of a new channel on the said land by offering to give a passage to the water of another through the pre-existing channel: Provided that this can be done without manifest injury to the party claiming the right of passage.

Where channel already exists, proprietor of land may prevent making of a new one.

Water may be led across existing channels.

III. It is also permitted to carry water across existing channels in such manner as may be most expedient and best adapted to the locality and to the condition of the said channels: Provided that the works which may be constructed for such purpose shall not stop, check, accelerate, or in any other way change the course or volume of the water flowing in such existing channels.

IV. In carrying water across any public roads, such works shall be constructed by the person exercising the right of passage as the divisional council of the division, or as to roads within a municipality, the commissioners of the municipality, or the town or borough council, as the case may be, in which the proposed crossing is situated, may consider necessary for the purpose of preventing danger or inconvenience to persons using the said road, and any works so constructed shall thereafter be maintained in repair by the person using the same.

No. 24—1876.

How water is to be carried across public roads.

V. Whoever desires to carry water across the lands of another shall be bound to prove that the quantity of water whereof he is the proprietor is sufficient for the purpose to which it is destined, and that with reference to the circumstances of the neighbouring lands, the slope and the other conditions of the channel, the course, the free escape of the water, and the line of passage demanded by him, is the most convenient, and at the same time is that which will cause the least possible injury to the property affected by it.

Conditions under which water may be carried across land of others.

VI. The party desirous of carrying water across the lands of another shall, unless it be otherwise agreed upon between him and the proprietor of such land, before the construction of such work is commenced, be bound to pay in advance, by way of compensation for the right of passage, the value of the land to be occupied, together with one-fifth of the said value in excess; and also recompense for incidental damages, including those due to the division of the property into two or more parts, or any other deterioration which may follow on the intersection of the land; and in the event of the parties not agreeing as to the amount of compensation, the dispute shall be decided by arbitration, in manner hereinafter set forth.

As to compensation for the right of passage of water.

VII. If the right of passage is claimed for any period less than ten years, the amount to be paid by the claimant shall be limited to one-half of the value of the land to be occupied with the one-fifth in excess, and compensation for damages as aforesaid, and the claimant shall further be bound to restore everything to its original state on the expiration of the term agreed upon. If the party who has obtained a temporary right of passage should desire to change it into a permanent one, any payment which may have been previously made shall be taken into account in settling the further compensation to be made for such permanent right.

Terms of compensation

VIII. All payments for compensation shall, in case the land to be compensated for is mortgaged, be made to the mortgagee in deduction of the mortgage, or with his consent to the proprietor of the land: Provided that if the land is owned by more than one person, and only the share of one or more such persons is mortgaged, a *pro rata* portion only of such compensation shall be paid to the mortgagee.

Payments for compensation when land is mortgaged.

No. 24—1876.

Payments for compensation when land is leased.

IX. In case the land over which the right of passage is claimed shall be under lease, the person desirous of exercising such right of passage shall also be bound to pay in advance to the lessee compensation for any injury to which he as lessee may be subject by reason of the exercise of such right, and such compensation, in case of the parties not agreeing as to the amount thereof, shall be settled by arbitration as hereafter mentioned.

Conditions on which land, &c., required by the Government for dams or other irrigation works may be taken.

X. If at any time the Government shall require or deem it expedient to take or use any land, or the bed of any river, stream, or river tributary, for the purpose of irrigating any land, or of constructing thereon any dam, reservoir, or other irrigation work, and there may not be any right or power by law to take or use such land or property without the consent of the proprietor thereof, it shall be lawful for the Government to take or use such land or property for the purpose aforesaid, and the proprietor thereof shall thereupon be entitled to compensation, to be settled in case of difference by arbitration as hereafter mentioned.

Manner of proceeding to arbitration.

XI. In case any proprietor or lessee of land required for the purpose of carrying out any such works as are hereinbefore referred to, and the Government or private individual interested should not agree upon the compensation to be respectively given and accepted, the Government or private individual, as the case may be, shall cause to be served upon such proprietor or lessee a written notice, offering as compensation whatever sum of money it or he shall deem sufficient, and requiring such proprietor or lessee to state in writing, to the Government or private individual, or to some, person by it or him appointed, within a certain limited time to be specified in the said notice, whether he is willing to accept the sum therein mentioned or not; and if such proprietor or lessee should refuse to accept the sum offered, or neglect to reply to the said notice, the said Government or private individual shall by another notice, in writing, call such proprietor or lessee to refer to arbitration the amount of compensation to be paid to him by the said Government or private individual, and for that purpose to transmit to the said Government or private individual, within a certain reasonable time, to be specified in the said lastmentioned notice, the name of some person whom he shall select to be an arbitrator upon such arbitration; and the said Government or private individual, upon receiving the name of the person so selected, shall nominate a second arbitrator, and shall cause a deed of submission to be prepared, which shall be signed by or on behalf of the said Government or private individual, and by the person claiming such compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, and shall contain amongst other things a direction to the said

arbitrators to set off against and deduct from the amount of such compensation as would otherwise be claimable, the amount at which they shall estimate the benefit and advantages derived or to be derived by the person claiming compensation or recompense by reason of the construction of irrigation or other works in regard to which the question has arisen, and such arbitrators shall, before entering on the arbitration, nominate an umpire, to whom, in any matter upon which the decision of the arbitrators may differ, reference, shall be made, and whose award, in case of such difference shall be final; and the award of such arbitrators or umpire, as the case may be, shall be binding and conclusive, and may be pleaded in bar of any action or proceeding at law brought for or on account of the same subject matter; and if the person as aforesaid claiming such compensation should neglect or refuse within a reasonable time in that behalf to name such person to be such arbitrator as aforesaid, or to sign the said deed of submission, the said Government or private individual may lodge, in some joint-stock bank in this colony, the sum of money offered by it or him as aforesaid in the first notice in this section mentioned for or on account and at the risk of such person as aforesaid, who shall at all times be entitled to draw the sum out of the said bank as his absolute property; and the said Government or private individual, upon so lodging the said sum, shall be authorized and entitled to take and use the land in question as freely as if the said sum had been agreed upon between the parties as the said sum to be paid, or had been awarded by arbitrators or an umpire under the provisions of this section, and as if all acts by law required for vesting in the said Government or private individual a sufficient title to the use of, or property in, the land aforesaid had been duly done and performed: Provided, however, that if any mortgage bond shall be existing on the said property the mortgagee shall be made a party to the said deed of submission, and shall receive the like notices as are hereinbefore provided to be given to the proprietor; and any payment to be made under any such award as aforesaid, and any deposit which may be made in any bank aforesaid shall, as the case may be, be made to and deposited in the name of the mortgagee.

XII. In case the Government or private individual shall require to take or use any land belonging to any minor or other person under guardianship or curatorship, the guardian or curator, as the case may be, shall be authorized in his capacity as such to treat and agree with the said Government or private individual for the purchase or hire of the land or water-way required, and to execute and contract which may be needful for carrying out any agreement which may be made, and in case of non-agreement to refer the

No. 24—1876.

Procedure in cases where land required belongs to a minor or other person under guardianship or curatorship.

No. 24—1876.

matter in difference to arbitration, as in the last preceding section mentioned ; but all moneys which shall, either by agreement or by arbitration, be payable by the said Government or private individual for or on account of any land or water-way in this section mentioned, shall be paid by the said Government or private individual to the Master of the Supreme Court administering the Guardians' Fund, who is hereby authorized to receive the same, and to place the same to the credit of the minor or other person entitled to such moneys ; and if in any case any person of full age shall, by way of fidei-commissary limitation or any limitation of a like nature, be entitled to a life or other limited interest in any such land as aforesaid, in which a minor or other such person as aforesaid under guardianship or curatorship shall also be interested in remainder or expectancy, then the whole compensation as fixed by contract or by arbitration shall be paid as aforesaid to the Master of the Supreme Court, and the person who was entitled to the life or other limited interest in the land shall be entitled for life or for the other period limited to draw the interest payable upon the sum so paid in : Provided, however, that if any such person shall desire to have his share of such sum apportioned and paid out, it shall be lawful for him to apply by motion to the Supreme Court for an apportionment of such sum, and such Court shall, in a summary manner, upon hearing the parties interested, apportion the said sum, and order the share of the applicant to be paid out to him, leaving the share of the minor or other person under disability in the hands of the said Master, to be administered in like manner as moneys in the Guardians' Fund, the property of minors or persons under disability, are therein administered ; subject, however, to such orders as the Supreme Court aforesaid may, upon the motion of any person having an interest, see fit to make in regard to such moneys.

Person availing himself of channel of another bound to pay proportion of value of land, compensation, charges for repairs, &c.

XIII. Any person who shall avail himself of the offer made in the second section hereof, to allow his supply of water to flow through the channel of another, shall be bound to pay, in proportion to the volume of water introduced by him, his share of the value of the land occupied by the works, of the excess of value, and compensation as aforesaid, to be fixed as aforesaid in case of difference ; and further, to defray in the same proportion the charges for repairs, maintenance, and every other expense, which the introduction of the said water may have rendered necessary.

Conditions on which volume of water passing over land may be increased,

XIV. In the event of the party who has obtained a right of passage for a certain quantity of water desiring to increase such quantity he shall be bound to show that the channel has sufficient capacity to contain the greater volume, and that no injury can result to the property subject to the servitude. When the introduction of the larger volume



of water requires the construction of new works, the nature and extent of the same must be determined, and the compensation paid prior to the commencement of the said works in manner hereinbefore provided as to original works.

No. 24—1876.

XV. Persons having the right to take or derive water from springs, dams, reservoirs, or any other sources, are bound to avoid injuring those situated above or below them respectively by the stagnation, or by the return or by the change of course of the said water. Whoever by neglect shall cause any damage in these ways shall be bound to repair the same, besides paying every other compensation for damages sustained by such neglect.

Persons taking water from springs, &c., bound to avoid injuring those above or below them.

XVI. In the event of any channel, constructed under this Act across the land of another person, being out of repair or in want of cleaning, the person having or claiming the right of passage of water through such channel shall be bound, upon receipt of a notice in writing from the proprietor of such land requiring him so to do, to repair or clean, as the case may be, such channel within a reasonable time, and in the event of his failing so to do, it shall be lawful for such proprietor to cause all necessary repairs or works to the said channel to be done, and to recover the cost thereof from the person having or claiming such right of passage as aforesaid, and any person having or claiming such right of passage as aforesaid, who shall knowingly allow or suffer any such channel to be out of repair or foul, shall be liable for all damage which may arise therefrom.

Cleaning and repair of channels running across land of others.

XVII. In cases where the waters flowing in any channel made under this Act for the benefit of individuals prevent the adjoining proprietors from passing freely to their property, or check the circulation of water in the irrigation or drainage of the same, the parties benefiting by the water shall be bound to construct and maintain in good order all bridges and other works necessary for intercommunication in a sure and convenient manner, and shall be further bound to construct and maintain such culverts, aqueducts, and other like works, as are required for the free progress of irrigation or drainage, except there shall be some agreement or legitimate title to the contrary.

Where water flowing in any channel interferes with rights of adjoining proprietors partly benefited to construct and maintain necessary culverts and other works.

XVIII. The establishment of a servitude such as before-mentioned shall involve the right of everything necessary to its use, including the right to clean and repair; but the right of passage for water shall not give the party exercising it the right of property either in the land at the sides or forming the bed of the channel, and all burdens attached to the land shall be borne by the proprietor of the land.

Servitude under this Act to include right of everything necessary to its use.

XIX. The word "person" in this Act shall include Government, Divisional Council, Municipality, Corporation and Joint-stock Company.

Interpretation clause

XX. This Act may be cited for all purposes as "The Right of Passage for Water Act, 1876."

Short title.

No. 1—1877.

No. 1—1877.] AN ACT [July 9, 1877.

To Apply a sum of not exceeding £100,000 towards the service of the year ending the 30th day of June, 1878.

**B**E it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

How to be appropriated.

1. The public revenue of the Colony is hereby charged towards the service of the year ending the 30th day of June, 1878, with a sum of not exceeding £100,000, which said sum shall be applied towards the service of the said year, in conformity with the Estimates for the Expenditure of the said year, which have been presented to Parliament.

No. 2—1877.] AN ACT [August 8, 1877.

To Provide for the making of Regulations for the Prevention of Obstructions, the Preservation of Order, and other Matters, at certain Ports in this Colony.

Preamble.

**W**HEREAS it is expedient that powers should be given to make regulations for the due and proper management of and the prevention of obstructions and the preservation of good order on the beach and banks of rivers and on wharfs, jetties, landing-places, and approaches thereto, at ports in this colony where no special law exists enabling such regulations to be made: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :

Harbour Board, or when no board exists Governor, may make regulations.

I. It shall be lawful for the Commissioners of any Harbour Board, or where no such board exists, for the Governor by and with the advice of the Executive Council, from time to time to make all such regulations as may seem fit and proper for the due and proper management of and the prevention of obstructions and the preservation of good order on the beach and banks of rivers and on the wharfs, jetties, landing-places, breakwaters, and other like erections, and on the approaches to such beach, banks or rivers, wharfs, jetties, landing-places, breakwaters, and other like erections in any port or harbour of this colony where no special law exists enabling such regulations to be made, and from time to time to alter and amend any such regulations: Provided that no regulations made by any such Commissioners as

Regulations by Harbour Board to be approved by Governor.

aforesaid, shall be of any force, unless and until the same be approved of by the Governor, with such advice as aforesaid: And provided, also, that before such regulations shall be submitted to the Government for confirmation, the same shall be published in the Government Gazette for a period of six weeks, so as to enable the public to submit to the Government any objection to such regulations.

No. 2—1877.

II. It shall be lawful for such regulations to provide that persons contravening any of the same may on conviction be sentenced by the resident magistrate of the district to pay a fine not exceeding £10 sterling, and in default of payment of any such fine to be imprisoned with or without hard labour for any period provided by such regulations during which the fine may remain unpaid, not exceeding three months; and all fines so to be levied shall be paid into the public treasury.

Penalty for contravening regulations.

III. All regulations which shall be made as aforesaid, as well as all alterations and amendments of the same, shall be published in the Government Gazette, and shall thereupon have the force of law for all purposes mentioned therein and allowed thereby.

Regulations to be published in Gazette.

IV. This Act may be cited as "The Ports and Harbours Regulations Act, 1877."

Short title.

No. 3—1877.]

AN ACT

[August 8, 1877.

To Amend the Law relative to the payment of Penalties for neglect to pay Transfer Duty.

**W**HEREAS it is expedient to abolish the payment of additional duties, commonly called fines, at present incurred for neglect to pay in proper time the transfer duties imposed by law, and to substitute an equitable rate of interest in lieu thereof: Be it enacted by the Governor of the Cape of Good Hope, with the advice of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. So much of sections thirteen and fourteen of Ordinance No. 18 of 1844, of section four of Act No. 11 of 1863 and of any other law in force within this colony as is repugnant to any of the provisions of this Act, are hereby repealed.

Repugnant laws repealed.

II. From and after the expiration of six months from the day of the sale or exchange of any landed property sold or exchanged after the taking effect of this Act, in respect of which transfer duty shall be payable, until payment of such duty interest thereupon at the rate of twelve per cent.

Interest to be charged instead of additional duties.

No. 3—1877.

per annum shall be charged, instead of the further or additional duties and interest mentioned in the aforesaid sections of the said Ordinance and Act respectively.

Short title.

III. This Act may be cited for all purposes as the "Transfer Duty Amendment Act, 1877."

No. 4—1877.]

AN ACT

[August 8, 1877.]

For the better Regulation of Electric Telegraphs.

Preamble.

WHEREAS by the eleventh section of "The Telegraph Act, 1872," it is enacted that the Chief Inspector of public works shall be considered as substituted in the Electric Telegraphs Act, 1861, for the superintendent of any line of telegraph in the said last mentioned Act mentioned: And whereas it is expedient that the General Manager of Electric Telegraphs, or the person for the time being in charge of the Telegraph Department in this colony, should be substituted for the said Chief Inspector, and that the Act relating to electric telegraphs should be declared applicable to all lines of electric telegraphs now or to be hereafter constructed in this colony by or on behalf of the Government thereof: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

General manager or person in charge of telegraphs substituted in Telegraph Act, 1861, for superintendent.

I. From and after the passing of this Act all and singular the provisions of "The Electric Telegraphs Act, 1861," and of the Act No. 5 of 1862, intituled "An Act for securing precedence to Public Telegrams," shall, *mutatis mutandis*, extend and apply to all lines of electric telegraph which now belong to, or which may hereafter be acquired, constructed, worked, or maintained by the Government of this colony, the General Manager of Electric Telegraphs in this colony, or the person for the time being in charge of the telegraph department in this colony, being considered as substituted in the said Telegraph Act, 1861, for the superintendent of any line therein mentioned, and all powers and authorities therein given to or bestowed upon private individuals or co-partnerships being vested in the Governor and persons duly authorized by him to exercise the same.

Short title.

II. This Act may be cited for all purposes as "The Electric Telegraph Act, 1877."

No. 5—1877.] AN ACT [August 8, 1877. No. 5—1877.

To Repeal so much of the "Telegraph Act, 1872," as empowers the Governor to raise Money.

WHEREAS, by the "Telegraph Act, 1872," the Governor was empowered to borrow a sum of twenty thousand pounds for the purposes in the said Act mentioned: And whereas the money required for the said purposes has been paid out of the general revenue of the colony, and the said borrowing powers need not therefore be exercised: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. So much of the "Telegraph Act, 1872," as empowers the Governor to borrow money, is hereby repealed.

Preamble.  
Borrowing power in  
Telegraph Act, 1872,  
repealed.

No. 6—1877.] AN ACT [August 8, 1877.

To Provide the means for paying for the Construction of a Bridge across the Great Kei River, and for the Construction and Equipment of a Line of Telegraph from Komgha to Natal, and for the Levying of Tolls on such Bridge.

WHEREAS it is expedient that a sum of money not exceeding fifty thousand pounds should be raised for the purpose of paying for the construction of the bridge now in course of construction across the Great Kei River, on the main line of road from King William's Town to Clarkebury, and that a sum not exceeding forty thousand pounds should be provided for the purpose of paying for the construction and equipment of a line of telegraph from Komgha to Natal, and that provision should be made for the levying of tolls on such bridge: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. It shall be lawful for the Governor, from time to time as he may deem expedient, to raise—either by debentures or stock, or partly by debentures and partly by stock—a sum of money not exceeding ninety thousand pounds, to be applied as follows, that is to say:—A sum not exceeding fifty thousand pounds, for the purpose of paying for the construction of the said bridge in the preamble of

Preamble.  
Governor may raise  
£90,000 by debentures  
and stock.

No. 6—1877.

this Act mentioned, and a sum not exceeding forty thousand pounds, for the purpose of constructing and equipping the line of telegraph in the said preamble also mentioned.

Provisions for borrowing on debentures.

II. In so far as the said borrowing shall be upon debentures, the following provisions shall be observed:—Such debentures shall be issued in this colony or in England, or partly in this colony and partly in England, for sums not exceeding five hundred pounds, nor less than one hundred pounds each, upon the best and most favourable terms that can be obtained, and the interest to accrue due thereon shall be charged upon and made payable out of the general revenue of this colony.

Provisions for borrowing on stock.

III. In so far as the said borrowing shall be upon stock, the following provisions shall be observed:—

1. Such shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be kept for that purpose by the Treasurer of the colony, such credit to be given in the first instance upon production and delivery to the said Treasurer, by such purchaser, or by his order, of a scrip certificate of the amount of stock for which such credit shall be claimed, such certificate being signed by the Colonial Secretary, and countersigned by the said Treasurer and by the Controller and Auditor-General, and which scrip certificate shall be kept in the office of the said Treasurer.
2. Such stock shall bear interest after the rate of four pounds and ten shillings per centum per annum of the nominal amount of such stock, from the 15th day of April or the 15th day of October next preceding the issue of the said scrip certificate which shall last happen, and such interest shall be payable thereafter half-yearly on the 15th day of April and the 15th day of October in each year, the first of such payments to be made on the half-yearly day which shall happen next after the opening of such credit in the books of the said Treasurer as aforesaid, and shall be paid on such days, respectively, or so soon thereafter as demand shall be made therefor by the lawful holder for the time being of such stock, to such lawful holder or his duly authorized attorney, at the office of the Treasurer in Cape Town.
3. Such stock, together with the interest from time to time to accrue thereon, shall be and is hereby charged upon and made payable out of the general revenue of this colony; and the Governor shall from time to time pay such interest,

- and may also out of such revenue or any moneys to be appropriated for that purpose from time to time buy up and cancel such stock or any part thereof.
4. Such stock shall be transferable by transfer in the books of the said Treasurer, and every person to whom any such credit as aforesaid shall have been given in the said books in the first instance, or to whom any such transfer shall thereafter have been made in the said books, shall be entitled to require and demand of the said Treasurer a receipt or certificate stating the amount of such stock standing to his credit in such books.
  5. There shall be paid into the Treasury upon every transfer in the said books of any sum of such stock a sum of two shillings and sixpence upon every hundred pounds to be transferred in such books, and on every other sum so transferred in the like proportion: Provided that instead of any fractional part of a penny which would under this provision be payable, a full sum of one penny shall be payable: and no transfer shall be actually made in such books as aforesaid unless and until such sum as shall be payable as aforesaid shall be paid.
  6. All such stock shall be put up for public tender in such amounts as may from time to time seem fit, and may be disposed of for the best terms which can be thus obtained. If more tenders than one offering the same terms shall be received for a greater amount of such stock than the amount for the time being about to be issued, it shall be lawful to accept any one or more of such tenders, or any part of any such tenders, as circumstances may make expedient.
  7. The moneys realized by the issue and sale of such stock shall be carried to a separate account, and shall be expended, so far as shall be necessary, for the purposes mentioned in the preamble of this Act.

IV. As a fund for the payment of the interest upon, and for the gradual extinction of, the debt to be raised upon debentures under authority of this Act, there shall be charged and chargeable upon, and set apart out of, the annual revenues of this colony, an annual sum equal to the interest on the whole amount of such debentures as shall from time to time be issued under authority of this Act, and a further sum equal to one pound sterling per centum on the total amount of the principal or capital sum

Creation of fund for the payment of interest on debentures.

No. 6—1877.

which shall from time to time be raised upon debentures under the authority of this Act; and such sum shall be annually charged on and payable out of the revenues of the colony so long as any portion of the debt to be raised under authority of this Act upon debentures, or any interest thereon, shall remain unpaid and unextinguished; and such annual charge shall, so soon as such debt and interest shall have been all paid and extinguished, cease and determine.

Balance of fund to be applied in redeeming and cancelling debentures.

V. Such portion of the fund which shall under the last foregoing section be charged, and chargeable annually, on the revenues of the colony as shall not be required for the payment of the interest for the time being due upon the debentures to be issued under authority of this Act, shall be applied in redeeming and cancelling such debentures in such manner and form as shall be provided by the terms and conditions whereon and whereunder such debentures shall be issued.

Redeemed debentures to be cancelled by treasurer and advertised.

VI. All debentures which shall be redeemed under the authority of this Act shall, immediately on the receipt thereof, be cancelled by or on behalf of the said Treasurer, and shall be duly advertised as so cancelled.

Master may invest in such stock or debentures.

VII. Notwithstanding anything herein contained, it shall be lawful for the Governor to dispose of to the Master of the Supreme Court, in his capacity of administrator of the Guardians' Fund, and the said Master is hereby authorized to invest, any unemployed moneys belonging to such fund in so much of any such stock, and so many of any such debentures, as he may apply for, on such terms as may be mutually agreed upon: Provided that every such investment shall be made with the same advice, or upon the same authority, as if such investment were a loan upon mortgage.

Accounts to be rendered to Parliament.

VIII. An account showing the amount of all stock and debentures issued from time to time under authority of this Act, and of the moneys realized by the issue and sale thereof, and of the expenditure of all such moneys, or of so much thereof as shall for the time being have been expended, and an account of the amount of such stock and debentures for the time being outstanding, and of all such sums thereof as shall from time to time be bought in and cancelled, if any, vouched by the Controller and Auditor-General, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and like accounts within fourteen days after the commencement of every succeeding session thereof.

Tolls may be demanded at bridge.

IX. From and after the opening of the said bridge for public traffic, such person or persons as shall be authorized in that behalf by the Governor shall be entitled to



demand and receive thereat such tolls as may from time to time be fixed by the Governor and notified in the Government Gazette.

No. 6—1877.

X. Any person entitled to demand and receive any toll payable as aforesaid, may prevent the passing over the said bridge of any person, animal, or vehicle, for or in respect of whom or which such toll shall be payable until the same be paid; and if any person liable to any toll, from whom it has been duly demanded, or who, by any act of his own, intended to prevent a due demand from being made, may have succeeded in preventing such demand from being made, and who without paying the said toll, and without the consent of the person entitled to demand the same, or without some other lawful authority, may have proceeded through or beyond the place where the same is of right demandable, shall incur a fine of not exceeding ten pounds, to be recovered by any person who will sue for the same by summary process in the nearest court of the resident magistrate, and in default of payment thereof shall be liable to be imprisoned and kept at hard labour for any period not exceeding one month.

Penalty for evading toll.

XI. This Act may be cited as the “Kei Bridge and Natal Telegraph Act, 1877.”

Short title.

No. 7—1877.]

AN ACT

[August 8, 1877.

To Provide for raising a further Sum of Money for the purpose of Constructing and Equipping the Railway from East London to King William’s Town, and from Blaney to Queen’s Town.

WHEREAS, by the “Railways Act, 1874,” the Governor was authorized to expend a sum of one million and sixty-nine thousand pounds sterling for the purpose of constructing and equipping a railway from East London *via* Blaney to King William’s Town, and from Blaney to Queen’s Town. And whereas by reason of the construction of works not contemplated at the time of the passing of the said Act, and otherwise, the said sum will not be sufficient for the due purpose, and it is expedient that the Governor should be authorized to raise and expend a further sum not exceeding one hundred and fifty thousand pounds for the said purpose: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

I. It shall be lawful for the Governor from time to time as he may deem expedient to raise, either by debentures or

Further sum of £150,000 may be raised.

No. 7—1877.

stock, or partly by debentures and partly by stock, a sum or sums of money not exceeding in the whole the sum of one hundred and fifty thousand pounds sterling, in addition to the said sum of one million and sixty-nine thousand pounds sterling, for the purpose of constructing and equipping the said railway.

Certain provisions of Railways Act, 1874, to apply to money borrowed under this Act.

II. All and singular the provisions of the eighth, ninth, tenth, eleventh, twelfth, thirteenth, and fourteenth sections of the said "Railways Act, 1874," relating to the money authorized to be borrowed by the said Act, shall apply, *mutatis mutandis*, to the sum of one hundred and fifty thousand pounds sterling hereby authorized to be borrowed, as if the same were borrowed under the authority of the said Act.

Short title.

III. This Act may be cited as "The East London and Queen's Town Railway Further Loan Act, 1877."

No. 8—1877.]

AN ACT

[August 8, 1877.]

### For the Promotion of Irrigation.

Preamble.

WHEREAS it is expedient to make provision for promoting the irrigation of lands in this colony and for the preservation and improvement by artificial means of the supply and storage of water, and for the purposes aforesaid to provide for the advance of public money to a limited amount: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Short title.

I. This Act may be cited for all purposes as "The Irrigation Act, 1877."

## PART I.

### THE CONSTITUTION OF IRRIGATION DISTRICTS.

Owners of lands may petition Governor to constitute irrigation districts.

II. It shall be lawful for any three or more owners of lands situate within any area for which in the opinion of such owners it is expedient that there should be a combined system of irrigation or that recourse should be had to artificial means of storing or supplying water, to present a petition, in writing, to the Governor, praying that such area be constituted an irrigation district: Provided that the persons signing such petition be owners of not less than one-tenth part in acreage of the land proposed to fall within such irrigation district.

Petition to state boundaries, &c., and to be notified in Government Gazette, &c.

III. Every such petition shall state the boundaries and approximate extent of the proposed irrigation district, and

the nature of the works (if any) proposed to be executed, and shall be supported by such evidence as the Governor may require; and the fact of such a petition having been presented, together with a copy or a summary thereof, shall be forthwith notified by the petitioners in the Government Gazette, and in some newspaper or newspapers published within the fiscal division or divisions in which the proposed district or any part thereof is situate, or, if there be no such newspaper, in some newspaper or newspapers circulating within such division or divisions.

IV. The Governor may, not later than six months after any such petition has been presented, dispatch an engineer or other competent person to the proposed irrigation district, who shall inquire into the allegations of the petition, ascertain the opinion of the owners of land situated within the proposed district in respect of the said petition, and generally the propriety or otherwise of constituting the said irrigation district, and what should be the boundaries thereof.

Governor may dispatch engineer or other person to proposed irrigation district to make inquiries.

V. The engineer or other person who may be charged with any such inquiry as aforesaid shall, before commencing the same, give such notice as the Governor may direct of his intention to make the same, and of a time and place at which he will be prepared to hear all persons desirous of being heard before him on the subject of such inquiry.

Engineer or other person to give notice of time and place of making inquiry.

VI. The engineer or other person as aforesaid shall, as soon as may be, report the result of his inquiries to the Governor, who may, if satisfied with the propriety of constituting the area mentioned in the petition, with such alterations of boundaries, if any, as he may think fit, an irrigation district, and that the owners of not less than two-thirds of the land within such district are in favour thereof, by proclamation in the Government Gazette, declare such district to be duly constituted an irrigation district, and the issue of any such proclamation as aforesaid shall be considered evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the issuing thereof have been complied with: Provided always that it shall be lawful for the Governor after the issue of any such proclamation as aforesaid, from time to time as he shall see fit, after causing due inquiry to be made as aforesaid, and with the consent in writing of at least two-thirds of the owners of land as aforesaid, to revoke any such proclamation or alter the boundaries of any such district.

Engineer or other person to report result of inquiry to Governor, who may proclaim the district an irrigation district.

Governor may revoke or alter such proclamation.

## PART II.

### THE CONSTITUTION AND PROCEEDINGS OF IRRIGATION BOARDS.

VII. The performance and superintendence of all acts, matters, and things relating to irrigation, and the storage

Management of irrigation districts to be vested in boards.

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and supply of water within an irrigation district, shall be vested in a board, to be called an irrigation board, and such board shall be a body corporate, and shall take and bear such name as may be given to it in and by any proclamation of the Governor published in the Government Gazette, and by that name shall sue and be sued, have perpetual succession and a common seal, hold property, and do all acts, and have and enjoy all the rights and privileges, which bodies corporate as such may in this colony do and have.

Number of members to be fixed by proclamation of the Governor.

VIII. Every such board shall consist of such number of members, not less than three and not more than seven, as the Governor from time to time by proclamation in the Government Gazette may fix.

Returning officer to give notice of day and place for election of members.

IX. As soon as may be after the issuing of any proclamation constituting any irrigation district, and not later than one month thereafter, the returning officer shall, by notice published in the Government Gazette, fix and appoint some day and place to be named in such notice for the election of members of the irrigation board for such district: Provided, always, that every such notice shall be published in the Government Gazette and in some newspaper or newspapers as in the third section mentioned for not less than thirty-one days before the day named in the notice for such election.

Who may vote at such election.

X. Every owner of land situated within an irrigation district, and liable to be rated as hereinafter mentioned, shall be entitled to vote at any election for members of the irrigation board for such district.

Qualification of members.

XI. Every owner of land situated within an irrigation district, and liable to be rated as hereinafter mentioned, shall be eligible to be elected as a member of the irrigation board for such district: Provided, always, that no person under the age of twenty-one years, and no insolvent who shall not have obtained his rehabilitation, and no person whose estate shall at the time of any election be under assignment for the benefit of his creditors, and no person who is a contractor under any subsisting contract with any irrigation board, shall be eligible to be elected a member of such board.

Nomination of candidates and proceedings thereupon.

XII. Upon the day which shall be appointed as aforesaid for proceeding to the election of a member or members of any irrigation board for any irrigation district, the returning officer shall hold a public court for the nomination of persons proposed as members of the said board; and every such person shall be nominated by some qualified voter for such district and seconded by some other such qualified voter; and if it shall happen that the number of persons so proposed is not greater than the number of members to be elected, the persons so proposed shall forthwith be declared to be duly elected, and their names shall

be forthwith published in the Government Gazette; but in case the number of persons so proposed exceeds the number of members to be elected, and any of the candidates, or any voter acting on behalf of any of the candidates, shall, after the result of a show of hands of the voters present shall have been declared, demand a poll, the returning officer shall, before adjourning such court for the purposes of such poll, fix and announce the place within the district, and the day, not being less than three and not more than seven clear days from the day of holding the said court, where and upon which such poll is to be taken: Provided always that if, after the demand of any poll as aforesaid and before the day fixed for taking the same, such demand shall with the consent of all the candidates in writing under their hands be withdrawn, such poll shall not be taken; and the person or persons who had been declared elected after such show of hands as aforesaid shall be forthwith deemed to have been duly elected a member or members of the said board.

XIII. Every person entitled to vote at any election of members of any irrigation board shall be entitled to vote in person or by proxy, and shall vote according to the following scale; that is to say:

If the property in respect of which he is entitled to vote be valued for divisional council purposes at a sum of not exceeding five hundred pounds, he shall have one vote for each candidate; and for every additional five hundred pounds or fractional part of five hundred pounds, an additional vote for each candidate in respect of each such sum of five hundred pounds or fractional part thereof; but no elector shall have more than ten votes for each candidate, and no elector shall be entitled to vote whose rates under this Act shall be due and in arrear for three months and upwards.

XIV. All proxies shall be appointed under the hand of the appointer; but no proxy shall be entitled to vote unless the instrument appointing him be deposited with the returning officer at the time of polling.

XV. Every poll shall be opened at eight o'clock in the morning of the appointed day, and shall close at five o'clock in the afternoon of the same day, and no vote shall be received before or after the hour fixed for opening and closing the poll respectively.

XVI. The returning officer shall enter or cause to be entered in a book or books the name and address of every voter and the manner in which he votes, and at the close of the poll he shall sum up the votes, and as soon as possible publish a list of the names of the successful candidates, together with the number of votes recorded in favour of

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each, in the Government Gazette, and in some newspaper or newspapers as in the third section mentioned, and by affixing a copy of such list to the outer door of the office of the board, and shall duly forward to each successful candidate a notice in writing informing him that he has been duly elected a member of the irrigation board of the district.

Equality of votes to be decided by lot.

XVII. If two or more persons, who cannot be both or all elected, shall be found to have each received an equal number of votes, the question as to which of such persons shall be elected shall be determined by lot, to be drawn in the presence of the returning officer and not fewer than five witnesses.

Members to vacate office every three years.

XVIII. The members of the first irrigation board of any district shall go out of office at the end of the third year from the day of the publication of the notice of their election, and in place of such members so going out of office a like number of other members, to be elected in like manner as the first members, shall come into and remain in office for three years, and at the expiration of such last mentioned time of three years shall in like manner go out of office and be succeeded by other members, who shall remain in office for a like term of three years, and so on for ever: Provided always that every member so going out of office shall be eligible to be re-elected.

Procedure at triennial election.

XIX. The returning officer shall, in regard to every such triennial election as aforesaid, publish or cause to be published in the Government Gazette and in some newspaper or newspapers as aforesaid, a notice similar in all respects to the notice for the first election of members, for the election of each new board: Provided always that he shall in every such notice fix some day for the election not later than seven days nor earlier than twenty-eight days next before the day on which such term of years shall expire: And provided also that every successive term of three years shall be reckoned from the day of the publication by the returning officer in the Government Gazette of the notice containing the names of the members last elected.

Members to vacate office in certain cases and for certain causes.

XX. If any member of any irrigation board shall die, or resign, or in writing refuse to act, or become insolvent, or assign his estate for the benefit of his creditors, or cease to be an owner as in the tenth section mentioned, or by reason of some mental or bodily infirmity become incapable of attending to the business of the board, or become a contractor with the board of which he is a member, or for three months from the time of his last attendance at a meeting of the board absent himself without the leave of the board first had and obtained from the meetings, whether ordinary or special, which may have been held within that period, unless he shall have been prevented by sickness or some other lawful and sufficient cause, to be judged of by

the board, then the office of such member shall, *ipso facto*, become vacant: Provided that every member prevented from attending such meetings as aforesaid by sickness or other cause shall be bound to report or cause to be reported to such board, not later than twenty-eight days next after the day on which the last of the said meetings shall have been held, the cause of his non-attendance; and if no such report shall have been received, or being received, shall be resolved by the board not to be lawful and sufficient, then the seat of such member shall as aforesaid become vacant: And provided that, in regard to special meetings of the board, absence from the same shall not be reckoned or regarded for the purposes of this section unless notice of the same shall have been given to the member who shall have absented himself in reasonable and customary time.

XXI. As often as any casual vacancy shall occur in any irrigation board upon any of the grounds in the last preceding section mentioned, or upon any other ground mentioned in this Act, all and singular the provisions of the several sections of this Act, from the eleventh to the seventeenth, both inclusive, shall, *mutatis mutandis*, apply to the election of a member to supply such vacancy: Provided that the dates to be fixed for such election shall be, as regards the filling up of casual vacancies, in the discretion of the returning officer: Provided, also, the person elected to fill such vacancy shall be competent to remain in office until the then next general election of members, but no longer.

Mode of supplying casual vacancies.

XXII. If it shall happen that by reason of any accident or other cause the returning officer of any district shall not, in regard to the election of a new district board for such district, after the first, give within the time in that behalf provided the notice in that behalf mentioned, or shall not give any other notice, or do any other act by any section of this Act required, whereby it shall happen that the names of at least a quorum of members of any new board cannot be published before the day on which the old board ought regularly to go out of office, it shall be lawful for the Governor to authorize such returning officer to publish or cause to be published such a notice as aforesaid, fixing such day or days for publishing any notice or doing any act as may be most convenient, and the members of the old or expiring board shall remain in office until the publication, in manner and form as in the sixteenth section of this Act directed, of the names of the members elected.

In case of failure of returning officer to give any notice or do any act under this Act, Governor may authorize him to do so.

XXIII. No board shall be deemed to be incomplete by reason of the neglect of any district to elect the fixed number of members of such board, nor by reason of any vacancy in such board, so long as there shall be a sufficient number of members of such board to form a quorum.

Board not to be deemed incomplete so long as there is a quorum.

XXIV. Within one month after the publication of the

First meeting of board,

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- Election of chairman.
- Casual vacancy of office of chairman. XXV. If any casual vacancy occurs in the office of chairman the board shall, as soon as they conveniently can after the occurrence of such vacancy, choose some other member of the board to fill such vacancy, and every such chairman so elected as last aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such vacancy had not happened.
- Secretary and other officers may be appointed. XXVI. Every irrigation board shall have a secretary and such other officers as shall be deemed necessary by such board, and such officers shall be appointed by such board and shall hold office during the pleasure of the board: Provided that the secretary and other officers appointed by any such board shall remain in office notwithstanding the occurrence of any number of general elections of members of such board, unless removed by such board: Provided, also, that every such board shall take from every officer employed by it who shall be charged with the receipt or disbursement of any of the fund of such board, such security as the board shall deem sufficient for the due performance of his duty.
- Place of meeting of board. XXVII. Every irrigation board shall meet together for the dispatch of business at such times and places within their district as they may think fit: Provided always that no business shall be transacted at any meeting unless at least one-third of the whole number when the said board shall consist of more than three members, and when the said board shall consist of three members only unless two of the members shall be present at the commencement and close of such business: And provided, also, that no order involving an expenditure of more than one hundred pounds shall be made by the board, unless at the least one month's previous notice, specifying the work to be undertaken, or the other matter to which such order relates, and naming a day upon which a meeting of the board is to be held for considering the matter to be ordered, has been sent by the secretary to each member of the board.
- Quorum.
- Notice to be given of consideration of any expenditure exceeding £100.



XXVIII. All questions for the consideration of the board at any meeting shall be decided by a majority of the votes of the members of the board who shall be present at such meeting, and in case of an equality of votes at any such meeting the chairman of such meeting shall have a second or casting vote; and the names of the members present, as well as of those voting upon each question at such meeting, shall be recorded in a minute-book to be kept for the purpose by the secretary to the board.

Questions to be decided by majority of votes.

Chairman to have a casting vote.

XXIX. A board may delegate any of their powers to committees consisting of such members of their body as they shall think fit, and any committee so formed may elect a chairman, meet, adjourn, and decide all questions submitted to them in the same manner as if each committee was a board formed under the provisions of this Act: provided always that all committees formed as aforesaid shall in the exercise of the powers delegated to them conform to any regulation that may be imposed on them by the board.

Committees may be formed.

XXX. Every board shall cause minutes to be made in books provided for the purpose of all appointments of officers made by the board, of the names of the members present at each meeting of the board and committees of the board, and of all orders made by the board and committees of the board, and of all resolutions and proceedings of meetings of the board and of committees of the board, and such minutes as aforesaid shall be signed by the chairman of each meeting of such board or committee; and any such minutes as aforesaid, if signed by any person purporting to be the chairman of any meeting of the board or committee of the board, shall be receivable in evidence without further proof.

Minutes of all proceedings to be kept.

To be signed by chairman.

XXXI. No member of any irrigation board shall have or receive any salary or allowances, or exact, accept, or receive any fee or reward whatsoever for, on account, or by reason of his office as such member, nor shall any member of an irrigation board become a contractor with the board of which he shall be a member for the doing of any work or the supplying of any materials, articles, or things required by such board; nor shall such member be directly or indirectly interested in any such contract as last aforesaid. Any person contravening this section of this Act shall incur and be liable to a penalty not exceeding one hundred pounds.

Admissible in evidence. Members not to receive any salary, &c.

XXXII. All acts done by any meeting of an irrigation board, or by any committee of an irrigation board, or by any person acting as a member of an irrigation board, shall, notwithstanding it may be afterwards discovered that there was some defect in the appointment of any such board, committee, or person, or that the member of the said board or committee or the said person were or was disqualified, be

Act done by board or committee, or person acting as member, not to be questioned for certain defects.

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as valid as if any such board, committee, or person had been and was duly appointed and qualified.

## PART III.

## GENERAL POWERS AND DUTIES OF BOARD.

Duties of board.

XXXIII. The charge and conservation of every natural river, stream, creek, and watercourse, and of every dam, reservoir, vley, and embankment within the limits of an irrigation district, which is by its nature common to two or more of the owners of land within such district, and the absolute control and regulation (so far as the same can be effected by artificial means) of the supply of water throughout the course of every such river, stream, creek, or watercourse within such limits as aforesaid, shall be vested in the irrigation board of such district.

Powers of board.

XXXIV. The powers of an irrigation board acting within the area for which the said board is constituted shall extend to the following acts: that is to say—

- (i) To cleansing, repairing, or otherwise maintaining in a due state of efficiency any existing natural river, stream, creek, or watercourse, or any existing dam, reservoir, vley, and embankment, which by its nature is common to two or more of the owners of land within such district, hereinafter referred to under the expression "maintenance of existing works."
- (ii) To deepening, raising, widening, straightening, or otherwise improving any existing natural river, stream, creek, and watercourse, and any existing dam, reservoir, vley, and embankment, which by its nature is common to two or more of the owners of lands within such district, hereinafter referred to under the expression "improvement of existing works."
- (iii) To making or erecting any new dam, reservoir, vley, watercourse, or embankment, erecting any machinery, or doing any other act not hereinbefore referred to which may be required or considered expedient for the storage, drainage, or supply of water, or the irrigation of the area comprised within the limits of the district, or for the use of travellers and travelling stock within the district, hereinafter referred to under the expression the "construction of new works."

Provided always that

- (a) No person shall by virtue of this Act be compelled to execute at his own expense any works which he would not have been compelled to execute if this Act had not passed.
- (b) No work shall be deemed to be a new work that is in substitution for an old one in cases where such old

work is so much out of repair or so insufficient as to make it expedient to construct a new work in place thereof.

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- (c) Full compensation shall be made for all injury sustained by any person by reason of the exercise by the board of the above powers.
- (d) The exercise of the foregoing powers shall be subject to the restrictions hereinafter mentioned.

XXXV. It shall be lawful for the board or their officers or servants, from time to time, to enter upon and take possession of such lands and premises within their district, covered or uncovered with water, as may be necessary to enable them to carry out the purposes of this Act; to purchase any such lands or premises; and to dig, get, and carry away out of and from any such lands any materials which may be necessary to enable them to carry out the said purposes; paying, however, such recompense or compensation to the owners, lessees, and occupiers of such lands, premises and materials, according to their respective interests therein, as may be agreed upon, or if no agreement, as may be settled by arbitration as hereinafter mentioned.

May enter upon and take possession of lands, &c.

XXXVI. It shall not be lawful for the board to remove or otherwise interfere with any mill-dam, weir, or other like obstruction whereby the level of the water is raised for milling or other purpose of profit so as to injuriously affect the supply of water, otherwise than with the consent of the owner and occupier of such mill-dam, weir, or other like obstruction, until their right to do so has been determined in manner hereinafter mentioned, and until compensation has been made to all parties entitled for the injury which may be caused by such removal or interference.

Restrictions.

XXXVII. For the purpose of determining the right of the board to remove or otherwise interfere with any such dam, weir, or other like obstruction, there shall be decided, if the owner and occupier consent, by the nearest or any resident magistrate, but if there be no such consent, by arbitration as hereinafter mentioned, the questions following, that is to say:

Questions to be decided by resident magistrate or by arbitration.

- (1) Whether the proposed removal or interference is necessary for the effectual carrying out of the provisions of this Act.
- (2) Whether the proposed removal or interference will cause any injury to the owner or occupier.
- (3) Whether any injury that may be caused by removal or interference is or is not of a nature to admit of being fully compensated for by money.

XXXVIII. The consequence of any such decision shall be as follows: that is to say—

Consequences of such decision.

- (1) If the decision is that such removal or interference is

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not necessary for the effectual carrying out of the provisions of this Act, the board shall not be entitled to make the same.

- (2) If the decision is that such removal is necessary for the purposes aforesaid, but that the injury to be caused thereby is not of a nature to be fully compensated for by money, the board shall not be entitled to make the same.
- (3) If the decision is that such removal or interference is necessary, and that any injury that may be caused can be fully compensated by money, the board shall be at liberty to make the same upon making such compensation as may be agreed upon, or if no agreement, as may be decided by such resident magistrate, or by arbitration as aforesaid.

Notice must be given by board before entering upon, purchasing, &c., any lands, &c.

XXXIX. The board, before entering upon, purchasing, or taking any lands, premises, or materials, or before removing or interfering with any mill-dam, weir, or other like obstruction for the purposes of this Act, shall publish once at least in the Government Gazette, and once at least in each of three consecutive weeks in some newspaper or newspapers as aforesaid, notice describing shortly the nature of the undertaking in respect of which the lands, premises, or materials are proposed to be entered upon, purchased, or taken, or the mill-dam, weir, or other like obstruction is proposed to be removed or interfered with, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of land and specifying the premises, mill-dam, weir, or other like obstruction that they require, and shall serve or cause to be served in manner hereinafter provided a copy of such notice on every mortgagee, if any, of such lands and premises as aforesaid or any part thereof proposed to be entered upon or purchased, and of the lands and premises from which such materials as aforesaid are proposed to be taken, or upon which such mill-dam, weir, or other like obstruction proposed to be removed or interfered with is situate, and shall also serve a notice on every owner or reputed owner and occupier of such lands, premises, mill-dam, weir, or other like obstruction as aforesaid, defining in each case the particular lands, premises, mill-dam, weir, or other like obstruction intended to be entered upon, purchased, taken, removed, or interfered with; and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of the entering upon, purchasing, taking, removing, or interfering with such lands, premises, materials, mill-dam, weir, or other like obstruction, and the amount, if any, claimed as compensation for such entry, purchase, tak-

ing, removal or interference : And every such notice as aforesaid shall be served

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By delivering the same personally to the person to be served or to his duly authorized agent, or by leaving the same at the usual or last known place of abode of such person.

**XL.** It shall be lawful for the board, on receipt of an answer from the owner and occupier of the lands, premises, materials, mill-dam, weir, or other like obstruction, proposed to be entered upon, purchased, taken, removed or interfered with, to proceed as follows, that is to say:—

Procedure on receipt of answer of owner and occupier of lands, &c., proposed to be entered upon, &c.

- (1) If the owner consents to the said entry, purchase, taking, removal or interference, and the sum demanded for compensation or recompense therefore appears to the board to be reasonable, the board may pay the said sum, and the owner and occupier shall thereupon execute such transfer, conveyance, or other instrument as may be necessary for vesting such lands, premises, mill-dam, weir or other matter, and all rights therein and thereto, and the possession thereof in such board : Provided that so often as such property as is hereinbefore described shall be under mortgage the payment referred to in this and in the forty-third section shall, to an extent not exceeding the amount of the mortgage and interest due thereon, be made to such mortgagee, or by his consent, to the owner.
- (2) If the owner and occupier do not consent to the said entry, purchase, taking, removal, or interference, or if they shall consent, but the sum demanded for recompense or compensation is in the opinion of the board excessive and unreasonable, the board may thereupon cause to be served upon such owner and occupier, in the same manner as hereinafter provided for the first notice, a second notice, stating that the board is unable to agree to the terms demanded, and proposing that all matters in dispute shall be referred to the nearest resident magistrate to be decided upon by him, and requiring an answer stating whether the owner and occupier as aforesaid consent to the appointment of the said resident magistrate as arbitrator in the matter.

**XLI.** If the parties interested as aforesaid shall consent to have the matters in dispute relating to the entry, purchase, taking, removal of or interference with the lands, premises materials, mill-dam, weir or other like obstruction by the board as aforesaid decided by the resident magistrate aforesaid, the same shall be referred to such resident magistrate, who shall thereupon, within three months from the date of such consent, proceed to adjudicate upon the matters in dispute between such parties and the board, and shall for

Disputes may by consent be referred to resident magistrate as arbitrator.

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the purposes aforesaid conduct such inquiry in the same way, and have all the authority, powers and jurisdiction, as if he were an arbitrator appointed under the provisions of this Act.

If parties will not consent, disputes to be decided by arbitration.

XLII. If the parties interested shall not consent to have the matters in dispute, relating to the entry, purchase, taking, removal of or interference with the lands, premises, materials, mill-dam, weir, or other like obstruction by the board as aforesaid, decided by the resident magistrate as aforesaid, the same shall be referred to arbitration in the manner hereinafter provided.

Mode of carrying out award of resident magistrate or arbitrator.

XLIII. Upon the publication of the award of the resident magistrate or arbitrator as aforesaid, or at such other time as shall be fixed in and by any such award, the board shall pay to the person or persons to whom the same may be awarded the sum or sums of money directed to be paid by the said award, as recompense or compensation for the entering upon, purchase, taking, removal of, or interference with any such lands, premises, materials, mill-dam, weir, or other obstruction; and the owner or occupier thereof shall thereupon execute such transfer, conveyance, or other instrument as may be necessary for vesting such lands, premises, mill-dam, weir, or other matter, and all their rights therein and thereto, and the possession thereof in the said board: Provided always that if the resident magistrate or arbitrator by his award, shall adjudge that the entering upon, purchase, taking, removal of or interference with such lands, premises, materials, mill-dam, weir, or other like obstruction, shall not be necessary for the purposes for which the board is constituted, or is necessary, but that such entry, purchase, taking, removal, or interference as aforesaid is not of a nature to be fully compensated by money, then and in that case the owner and occupier shall not, nor shall either of them, be called upon to execute any such instrument as aforesaid.

## PART IV.

### RATING POWERS OF BOARD.

Board may levy rates.

XLIV. It shall be lawful for any irrigation board to levy rates, to be called irrigation rates, for defraying all costs, charges, and expenses incurred or to be incurred by them under the authority of this Act, upon and in respect of all property situate within the district of such board which is irrigated, or capable of being irrigated by the said board, regard being had to the value to be derived by the owners respectively of such property from the irrigation works.

Rates to be fixed by board at a sum per acre.

XLV. All rates to be levied in pursuance of this Act shall be fixed from time to time by the board, and such rates shall be charged at a sum per acre.

XLVI. The board may, in suing for the recovery of rates, proceed against the owner or occupier, either separately or both of them in one and the same action, each for the whole rate, in any competent court, and recover the same by the judgment and process of such court: Provided always that any occupier of property on which a rate has been assessed who is not the owner thereof, or who has not entered into such occupation in pursuance of any agreement for becoming the owner thereof, shall, in the absence of any agreement to the contrary, be enabled to retain or recover from such owner the amount of any rate he may have so paid, but not any costs or expenses which he may have incurred or been condemned to pay in the course of any suit or action brought against him by the board for non-payment of any such rate: And provided, also, that any person who as occupier may have become liable for any rate as aforesaid shall continue to be liable for such rate, although he may have ceased to occupy the property in respect of which the rate had been imposed.

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Owner or occupier may be sued for rates.

Occupier may in certain cases recover from owner.

Occupier liable after ceasing to occupy.

XLVII. It shall be lawful for a board, besides the rates hereinbefore mentioned, to make reasonable charges to be paid by and recoverable from any person buying, receiving, or using any supply of water stored by or belonging to the board in pursuance of and by the authority of this Act.

Board may make reasonable charges for water.

XLVIII. Notwithstanding anything in this Act contained, no land within an irrigation district, which land before the taking effect of this Act has been irrigated or improved by any of the means contemplated by this Act, shall be liable to contribute towards the irrigation rate of the district, unless it shall appear to the board that the value of such land has been increased by any works at any time executed, or acts done, by such board under this Act; and thereupon it shall be lawful for the board to assess such lands to the irrigation rate of the district at such increased value but no more: Provided always that the owner of such land so assessed shall at all times have the same rights of appeal against such assessment as he would have if he were an ordinary ratepayer assessed to an irrigation rate under this Act.

Certain land exempted from contributing.

XLIX. Every board shall be bound to supply, free of all rates and charges, to the owner or occupier of any land within its district, who before the taking effect of this Act, by reason of tenure, prescription, or otherwise, shall be possessed of any right to any water from any river, stream, creek, water-course, dam, reservoir or water-channel, within such district as aforesaid, a quantity of water equal to that which he would have been entitled to from any such river, stream, creek, water-course, dam, reservoir, or water-channel, if this Act had not passed, such quantity, if not mutually

How rights of owners or occupiers of land to water to be dealt with.

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agreed upon between the board and the said owner or occupier, to be decided by arbitration as hereinafter provided; and if any such board shall neglect or refuse to supply such owner or occupier as aforesaid with such quantity of water as aforesaid, the said board shall become liable in respect of the same to an action for damages at the suit of such owner or occupier in any competent court: Provided always that it shall be lawful for the said board in all cases where, by reason of any works constructed or acts done by the said board in pursuance of this Act, the natural supply or flow of water which such owner or occupier shall be entitled to participate in as aforesaid shall have been improved or increased, to levy upon such owner or occupier a rate or rates in respect of such improved or increased supply or flow of water, subject always to the right of appeal which is hereby reserved to such owner or occupier in respect of such rate.

Board to appoint collectors and agents to receive rates and charges.

L. The board shall appoint collectors and agents for the purpose of receiving the rates and charges payable under this Act; and in case of refusal or neglect on demand to pay such rates or charges as have accrued due unto the respective persons appointed to receive the same as aforesaid, the said board may sue for and recover the same by action in the court of the resident magistrate of the district in which the defendant resides; or if the amount is beyond the jurisdiction of such court, in any other competent court; and may stop or cause to be stopped the water from flowing into the land or premises in respect of which such rates are in arrear by such means as the board shall think fit.

Board may also sue for recovery of.

Persons aggrieved by any order, rate, or act of board, may appeal.

LI. When any order or rate has been made by the board or any act done by them in pursuance of the powers of this Act, any person aggrieved by such order, rate, or act may, in case the amount which such person shall be liable to pay shall not exceed twenty pounds, appeal to the court of the resident magistrate, and in case the amount shall exceed twenty pounds, may appeal to the supreme court, or when the land is situate within any district over which the eastern districts court has jurisdiction, to the supreme court or to the said court of the eastern districts, or to the circuit court having jurisdiction in the matter, against any such order, rate, or act; and the said court of appeal may confirm, annul, or modify the same accordingly; but no such appeal shall be entertained unless it be made within three months next after the making of such order or rate or the doing of such act, nor unless notice in writing of such appeal, stating the nature and ground thereof, is served on the board twenty-one days at least previously to the day fixed for hearing such appeal, nor unless the appellants within ten days after the service of such notice shall enter into recognizances with two sufficient sureties, before a justice of the



peace conditioned duly to prosecute such appeal, and to abide by the order of the court thereof.

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## PART V.

### BORROWING POWERS OF A BOARD.

LII. It shall be lawful for a board from time to time to borrow and take up at interest on the credit of any rate to be assessed and levied as hereinafter provided, or on such other security as may be in the power of the board from time to time to offer, any sum or sums of money which may at any time be required by the board for the purpose of carrying into effect any of the objects or purposes of this Act; and for the purpose of securing the repayment of any sum or sums of moneys so borrowed on the credit of any rate or rates, together with such interest as aforesaid, to mortgage such rates or any part thereof to the person or persons who may advance such money: Provided always that no such loan as aforesaid shall be capable of being effected except under and by virtue of a resolution of the board at a meeting at which there shall be present not fewer than two-thirds of the members of such board: And provided, also, that no meeting of the board shall be competent to pass any such resolution unless each of the members shall have had at least twenty-one days' notice in writing of the day appointed for such meeting, signed by the secretary to the board, and stating that the question of such loan will come under the consideration of such meeting, which notice the secretary shall issue at the instance of any member of the board.

Board may borrow money on credit of rates or on other security.

LIII. Whenever it shall be resolved by any board to raise any such loan as aforesaid, the same shall, except it be made out of funds provided for that purpose by Parliament as hereinafter mentioned, be taken up by public tender, after notice in the Government Gazette, and in some one or more newspapers published in or near the district, of not less than two months, calling for tenders for the sum or sums required.

Loan to be raised by public tender except it be made out of funds provided by Parliament.

LIV. In all cases of moneys to be borrowed and taken up at interest by a board, under the provisions of this Act, it shall be lawful for such board to grant a security in the form of a debenture for such moneys under the seal of the said board to every person who shall advance the same; and every such debenture shall be numbered in the order of its execution, and shall set forth the amount for which it is issued and the rate of interest payable for the same, and the period to expire before the same shall upon notice become payable; and the moneys mentioned in each such debenture, with the interest thereon, shall be charged upon and paid by such board out of the rates to be levied by the board in respect of the provisions of this Act; and any such debenture

Moneys borrowed to be secured by debentures issued by the board.

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tures may be transferred by endorsement thereon; and all persons to whom any such debenture shall be given, or the person entitled thereto by endorsement as aforesaid, shall be entitled to the moneys accruing and payable in respect of such debenture.

Sinking fund to be formed for the payment of loans.

L V. In order to discharge the principal money borrowed under the provisions of the Act on the security of the rates of any district, or otherwise as aforesaid, the board of such district shall every year appropriate and set apart out of such rates respectively a sum not less than one-fortieth part of each of the sums so borrowed respectively, as a sinking fund, to be applied to paying off the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in the purchase of Government securities and to be increased by accumulation in the way of compound interest or otherwise, and shall from time to time pay off out of such sinking fund the said principal debts at such times and in such manner as shall have been agreed upon by and between the board and the persons originally advancing such sums.

Board may petition Governor for loan out of funds provided by Parliament.

LVI. In every case in which it shall be resolved by a board to raise any such loan as aforesaid the board may present a petition to the Governor, setting forth a description of the proposed works and the purposes for which such loan is required, together with maps and plans of the same, the estimated cost of constructing such works, the nature of the security for the proposed loan, and praying that such loan may be advanced to the board out of funds provided for that purpose by Parliament; and thereupon it shall be lawful for the Governor, if he, with the advice of the Executive Council, shall think fit, after having considered the said petition, to cause such steps to be taken and such inquiries instituted for the purpose of ascertaining the correctness of the said petition, the soundness of the securities offered, and otherwise, as may seem expedient, to cause to be advanced out of any such funds as aforesaid such sum or sums of money as he may direct, upon the security set forth in the petition, or such other security as may seem to him desirable or expedient; and all moneys so lent and advanced as aforesaid shall be repaid with interest thereon at such times and in such manner by the said board as the Governor shall direct: Provided always that the Governor shall at all times dismiss such petition if it shall appear to him from any cause proper to do so: And provided, also, that any money advanced in consequence of any such petition shall be a first charge upon the rates, land, or other matter upon the security of which such advance is made, and no such advance shall exceed one-half of the value of the said security, such value to be fixed and ascertained by such competent

Governor may grant or refuse loan.

person or persons as the Governor, with such advice as aforesaid, may appoint for the purpose.

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LVII. Whenever any sum or sums of money shall have been advanced by the Governor as aforesaid to any board under the provisions of this Act, it shall be lawful for the Governor from time to time to appoint competent officers to inspect all lands and works in respect of which such advances may have been made; and thereupon it shall be lawful for such officers at all times to enter and inspect such lands and works as aforesaid, and if such lands shall not have been irrigated, or such works executed in a satisfactory and workmanlike manner, the officers shall report the same to the Commissioner of Crown Lands and Public Works, who shall thereupon take such steps as shall to him seem proper.

Governor may appoint officers to inspect lands and works upon which loan has been made.

## PART VI.

### IRRIGATION BY PRIVATE OWNERS.

LVIII. It shall be lawful for the owner of any lands within the colony, not being within the limits of any irrigation district, who may propose to improve the same by works of irrigation or artificial storage of water, and may be desirous of obtaining an advance by way of loan from the Government for defraying the expense of such works, to make application to the Government for such advance, and such application shall be in writing, and shall contain such particulars of the land so proposed to be improved, the proposed manner of effecting such works, the estimated expense of effecting the same, and the estimated increase of the value of the lands to be produced by such works, as may enable the Governor to judge of the expediency of investigating or further proceeding upon such application, and every such application shall specify the estate or interest of the applicant in the lands to which such application shall relate, and shall state whether the advance applied for is intended to cover the whole or what portion of the expense of such works.

Owners of lands not within any irrigation district may apply to Governor for loan for works of irrigation or storage of water.

LIX. The Governor shall, before or after proceeding upon or considering any such application, require security by bond or otherwise to be given in such form as he may think fit by the person or persons making any application as aforesaid, for the repayment to the Government of such expenses as may be incurred in respect of the investigation and consideration of such application, and of inspecting and ascertaining from time to time the due execution of any works which may be executed as hereinafter mentioned, wholly or in part, out of funds advanced by the Government as aforesaid.

Governor to require security for repayment of expenses of considering and investigating such application.

LX. The Governor shall, if he shall think fit to entertain such application, cause the land, plans, estimates, and specifications of the proposed works to be inspected by

Governor may cause lands, plans, estimates, and specifications of proposed works to be inspected and reported on.

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an engineer or other competent person, who shall report his opinion thereon, and on the statements contained in the application, and if such engineer or person shall be of opinion that the proposed works will effect an improvement in the annual value of the land which will exceed the annual amount which can be charged thereon under this Act in respect of the advance applied for, and that the works are proposed to be effected in a substantial and durable manner, he shall annex to his report the plans, estimates, and specifications, or duplicates thereof, and the Governor may make such other inquiries and obtain such other information in relation to such application as he may think fit.

On receipt of report, Governor may grant a provisional certificate in certain cases

LXI. Upon receipt of such report and information as aforesaid, it shall be lawful for the Governor, if with the advice of the Executive Council he shall think that an advance in respect of the whole or a proportional part of the cost of such works would be expedient, to cause to be issued to the owner of the lands by whom such application shall have been made, or to the owner for the time being of such lands, a provisional certificate, declaring that upon its being shown to the satisfaction of the Commissioner of Crown Lands and Public Works that the proposed works have been executed according to the plans and specification of the same, in a substantial and durable manner, such commissioner will authorize the Treasurer-General to make an advance or advances to an amount not exceeding the amount of the whole, or of such proportional part, as in such provisional certificate shall be expressed, of the expenses which shall have actually occurred in the construction of such works as aforesaid, but limited not to exceed a certain sum in such provisional certificate to be expressed; and such provisional certificate may declare that so often as any part of the works as aforesaid expressed to be undertaken in such certificate shall have been completed to the satisfaction of the said commissioner, the Treasurer-General may cause an advance on account of such part of such works so executed to be made, but no such advance on account shall exceed in amount two-thirds of the sum then actually expended: Provided always that no such provisional certificate as aforesaid shall be issued until notice shall have been given by the Commissioner of Crown Lands and Public Works of the application for the advance to which such provisional certificate shall relate by advertisement for four successive weeks in the Government Gazette and in some one or more newspapers circulating in or near the district within which such land may be situate, and two months shall have elapsed from the publication of the last of such advertisements, nor until a copy of such notice as aforesaid shall have been served upon every mortgagee, if any, of such lands personally, and upon every other person who shall to the knowledge

Provisional certificate not to be issued until notice has been given in *Gazette* of the application.

Copy of notice to be served on certain persons.

of the Commissioner of Crown Lands and Public Works have any estate in or charge upon such lands as aforesaid.

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LXII. If within four months from the date of such service as aforesaid any person having any estate in or charge upon the land to which any such applications shall relate shall signify in writing to the Commissioner of Crown Lands and Public Works his dissent from such application, and state the nature of his estate in or charge upon such land, the said commissioner shall give notice of such dissent to the owner of the land by whom such application shall have been made, and such provisional certificate shall not be issued unless or until such dissent shall have been withdrawn.

Certain persons may dissent to such application within four months.

LXIII. The Commissioner of Crown Lands and Public Works shall from time to time cause the works to which such provisional certificate shall relate to be inspected by an engineer or other competent person to ascertain the due execution of such works, and such engineer or other person as aforesaid may require the production of such vouchers, bills of account, or other documents as may enable him to ascertain such due execution and the amount of the expense which shall have been actually incurred in the execution of such works.

Commissioner of Crown Lands and Public Works to cause such works to be inspected.

LXIV. When the Commissioner of Crown Lands and Public Works shall be satisfied by the report of such engineer or other person as aforesaid that the works referred to in any provisional certificate as aforesaid have been executed according to the terms and conditions of such certificate, or that such part thereof as under the terms of such certificate would authorize an advance on account has been so executed, and shall be satisfied by such report that such expense has been actually incurred as will justify the advance according to the terms of the said certificate, he shall, by writing under his hand addressed to the treasurer of the colony, specifying the sum to be advanced and the person to whom it is to be paid, and the land by reason of the irrigation whereof or the artificial storage of water whereon such advance is to be made, require the payment of such sum to the said person; and the treasurer, on receipt of such writing as aforesaid, shall thereupon advance such sum accordingly, and shall cause the same to be recorded in the books of his office.

If Commissioner is satisfied by report of such inspector he shall authorize the advance in terms of certificate.

LXV. Before the issue as aforesaid of any advance by virtue of a certificate under this Act, the owner of the land mentioned in such certificate shall pass or cause to be passed an instrument in writing before the Registrar of Deeds (which shall not be chargeable with stamp duty), charging such land with the payment to the civil commissioner of the district in which such land is situate, in respect of such advance of a rent-charge after the rate of eight pounds for every one hundred pounds of such advance, and so in propor-

Before any advance is issued the owner shall pass an instrument before registrar of deeds charging such land with a rent charge at the rate of eight per cent.

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tion for any lesser amount, and to be payable for the term of twenty-four years, to be computed from the issue of such advance, such rent-charge to be paid by equal yearly instalments, commencing from the date of the issue of any such advance as aforesaid to the civil commissioner aforesaid, and in case of the non-payment of any such rent-charge as aforesaid the same shall be recoverable by action in any competent court at the suit of the treasurer of the colony.

Such rent-charge to be preferent.

LXVI. Every such rent-charge as aforesaid shall be a first and preferent charge upon the land in respect of which it is payable, and no transfer of any such land shall be made in the office of the registrar of deeds until the receipt of the proper officer for the payment of the last yearly instalment of such rent-charge and the consent of the Commissioner of Crown Lands and Public Works shall have been produced to and deposited with the said registrar.

So long as rent-charge continues, the person bound to pay shall uphold the works and certify to the Commissioner the state of the works, &amp;c.

LXVII. So long as any land shall continue to be charged with any such rent-charge as aforesaid, the persons for the time being bound to pay the same shall be bound to uphold the works on account of which the land shall have been charged therewith, and shall once in every year certify to the Commissioner of Crown Lands and Public Works the state of such works, and in default of so keeping and upholding the said works shall be liable to an action at the suit of the said commissioner for such default and for any damage thereby occasioned.

## PART VII.

### ARBITRATION.

Mode of proceeding to arbitration where not otherwise specially provided under this Act.

LXVIII. In case of dispute as to the amount of compensation to be made under the provisions of this Act (except when the mode of determining the same is specially provided for), and in case of any other matter arising or existing which by this Act is authorized or directed to be settled by arbitration, unless both parties concur in the appointment of a single arbitrator, each party, on the request of the other, shall appoint an arbitrator to whom the dispute or matter shall be referred; and every such appointment when made on behalf of an irrigation board shall be under the seal of such board and signed by the secretary to such board, and on behalf of any other party, under his hand; and such appointment shall be delivered to the arbitrator or arbitrators, and shall be deemed a submission to arbitration by the parties making the same; and after the making of any such appointment the same shall not be revoked without the consent of both parties, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute or matter shall have arisen, and after a request in writing in which shall be stated the dispute or matter so required to be referred to

arbitration shall have been served by one party upon the other party to appoint an arbitrator, such last named party fail to appoint such 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 the award or determination of such single arbitrator, or of any arbitrator or arbitrators appointed in pursuance of this Act, shall be binding, final, and conclusive upon all persons and to all intents and purposes whatever.

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LXIX. If before the determination of any matter so referred any arbitrator shall die, or refuse, or become incapable to act, the party by whom such arbitrator was appointed may appoint, in writing, another person in his stead, and if he fail so to do for the space of seven days after notice in writing from the other party in that behalf, the remaining arbitrators may proceed *ex parte*, and every arbitrator so appointed shall have the same powers and authorities as were vested in the arbitrator in whose stead the appointment is made; and in case a single arbitrator shall die or refuse, or become incapable to act before the making of his award, or fail to make his award within twenty-one days after his appointment, or within such extended time, if any, as shall have been duly appointed by him for that purpose, the matters referred to him shall be again referred to arbitration under the provisions of this Act as if no former reference had been made.

Procedure in case arbitrator shall die or refuse or become incapable to act.

LXX. 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; and if such umpire shall die, refuse, or become incapable to act, they shall forthwith, after such death, refusal, or incapacity, appoint another umpire in his place, and the decision of every such umpire on the matters so referred to him shall be final.

If more than one arbitrator is appointed they must appoint an umpire.

LXXI. If the said arbitrators shall refuse or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, the resident magistrate of the district in which the land in respect of which the dispute arises is situate, or if the dispute is not in respect of land, the resident magistrate of the district in which the dispute arose, shall on the application of either party to such arbitration appoint an umpire, and the decision of such umpire on the matters on which the arbitrators differ shall be final.

In case of refusal or neglect so to do the resident magistrate may appoint umpire

LXXII. If when more than one arbitrator shall have been appointed either of the arbitrators refuse, or for seven days neglect to act, the other arbitrator may proceed *ex*

If one arbitrator refuses or neglects to act, the other may proceed *ex parte*.

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*parte*, and the decision of such other arbitrator shall be as effectual as if he had been a single arbitrator appointed by both sides.

If arbitrators neglect to make their award within prescribed time the umpire may determine the matter

LXXIII. If where more than 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 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: Provided always that unless by consent of all parties the time for making an award under this Act shall not be extended beyond a period of three months to be computed in the case of an arbitrator or arbitrators from the date of the appointment or last appointment of such arbitrator or arbitrators, or when an umpire has been chosen, from the date of the appointment of such umpire.

Time of making award limited to three months, unless by consent of parties.

Arbitrator or umpire may examine witnesses on oath and call for documents.

LXXIV. Any arbitrator or umpire appointed by virtue of this Act may require the production of such documents in the possession of either party as he may think necessary for determining the matters referred, and may examine the parties or their witnesses upon oath; and the costs of and consequent upon any reference under this Act shall be in the discretion of the arbitrator, arbitrators, or umpire, and any submission to arbitration under the provisions of this Act and any award made thereon may be made a rule of court on the application of any party thereto.

Award may be made rule of court.

Mode of making award.

LXXV. Every award under this Act shall be in writing under the hand of the arbitrator, arbitrators, or umpire, as the case may be, and in duplicate, and shall be transmitted by such arbitrator, arbitrators, or umpire to each party or the agent of each party; and where the Government is a party, to the Commissioner of Crown Lands and Public Works, and shall be deposited in his office; and no award made under the provisions of this Act shall be set aside for irregularity or error in matter of form.

Mode of estimating purchase money or compensation.

LXXVI. In estimating the purchase-money or compensation to be paid by any irrigation board or private owner under the provisions of this Act, regard shall be had by the arbitrators or umpire as the case may be, not only to the value of the land, premises, works, or materials, to be purchased, taken, removed, or interfered with, but also the damage, if any, to be sustained by the owner of such lands, premises, or works, by reason of the severing of such lands, premises, or works from the other lands, premises, or works of such owner, or otherwise injuriously affecting such other lands, premises, or works, by the exercise of the powers of this Act.



## PART VIII.

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## MISCELLANEOUS.

LXXVII. When any notice is required to be given by a board under this Act, such notice shall in all cases be sufficiently executed if signed by the secretary to the board; and every such notice purporting to be signed by such secretary shall be receivable in evidence before all legal tribunals and in all legal proceedings without further proof.

Notices to be signed  
by secretary.

LXXVIII. All notices served by or on behalf of a board on an owner shall, if due service thereof has been made, be binding on all persons claiming by, from, or under such owner to the same extent as if such notice had been served on such last-mentioned persons respectively.

Notices served on  
owner to bind all  
persons claiming  
under him.

LXXIX. Except when a special mode of service is provided by this Act, all notices required to be served by or on behalf of an irrigation board upon any owner of land shall be served personally on such owner, or be left at his last usual place of abode, if any such can after diligent inquiry be found; but in case any such person is absent from this colony, and his last usual place of abode cannot after diligent inquiry be found, such notices shall be left with the occupier of such land, or if there be no such occupier, shall be affixed upon some conspicuous place of such land.

Mode of service of  
notices on owners.

LXXX. If any owner of land upon whom notice is to be served is a corporation, joint-stock or other company or body of proprietors, such notice shall be left at the principal office of such corporation, company, or body; or if no such office can after diligent inquiry be found, it shall be served on some officer or agent, if any, of such corporation, company, or body; but if no such officer or agent can be found, it shall be left with the occupier of the land, or if there be no such occupier it shall be affixed on some conspicuous place on such land.

Mode of service of  
notices on corpora-  
tions, &c.

LXXXI. It shall be competent for every board constituted under this Act, from time to time, to make by-laws and regulations for the regulation of their own proceedings and those of their officers, and for the levying, making, and collection of all rates and charges authorized to be made by this Act; and for determining the times and seasons at which it may be expedient to permit or prevent the flow of water throughout the whole or any portion of any river, stream, creek, watercourse, or water channel in which locks, dams, or other obstructions or works may have been placed, commenced, or constructed by any board under this Act; and for regulating the use of water in any reservoirs, tanks, or dams constructed or maintained by the board under the provisions of this Act, or touching and concerning the supply and distribution of all water running in a natural

Boards may make by-  
laws and regulations.

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river or other course in their district, or in any artificial course or channel common to two or more of the owners of land in their district, or contained or collected in any dam, reservoir, vley, or common as aforesaid; and for enforcing by penalties, not exceeding ten pounds for any breach thereof, the observance of such by-laws and regulations; and from time to time to repeal or alter such by-laws or regulations, and make others: Provided that such by-laws and regulations be not repugnant to the provisions of this Act; and all such by-laws and regulations, on being confirmed by the Governor, with the advice of the Executive Council, and published in the Government Gazette, shall have the force of law, and shall be binding upon and observed by all persons, and shall be sufficient to justify all persons acting under the same; and copies of all such by-laws and regulations shall be kept in a conspicuous place in the chief office of the board, and shall be supplied to all officers and servants of the board, and to all persons resident within the district and rated by the board for the purposes of this Act, on their demanding a copy of the same and paying for the same a reasonable sum, not exceeding two shillings for each publication of any such by-laws and regulations.

Penalty for fraudulently taking water.

LXXXII. Any person fraudulently taking water from any river, stream, creek, watercourse, water-channel, reservoir, dam, vley, or other place belonging to, or under the charge of, or where water is conserved or stored by, a board under this Act, or for which water-rent is leviable by the said board, or fraudulently taking more water than he has engaged to pay for, shall, in addition to any other penalty or punishment, be chargeable with double rates for all water so taken.

Penalty for polluting water.

LXXXIII. No person shall, without the consent of the board, cause any filthy or unwholesome water or washings of manufactures or mines, or other foul, noxious, or poisonous liquid to flow into any river, stream, creek, watercourse, water channel, dam, reservoir, vley, well or drain within the district of or belonging to or in charge of such board; and any person so offending against this enactment shall incur a penalty not exceeding twenty pounds, and a further penalty of forty shillings for every day during which the offence is continued: Provided, always, that this section shall not apply to any person having a legal right to cause such water, washing, or liquid, as aforesaid, to flow into any existing river, stream, or watercourse: And provided, also, that neither the liability to nor the payment of any such penalty shall relieve the offender from any civil action to which he would be liable.

Penalty for obstructing, impeding, or interrupting a board or any officer, &c., inspecting or reporting under this Act.

LXXXIV. Any person who shall wilfully obstruct, impede, or interrupt a board or any officer thereof, or any person authorized by or on behalf of the Government to

inspect or report upon any lands, premises, or works under this Act, in the execution of any duty authorized under this Act, and any person who shall wilfully break down, destroy, or injure any lock, dam, reservoir, vley, embankment, or any other work erected or constructed or in course of erection or construction by or under the direction of a board under this Act, or shall knowingly or wilfully hinder the flow or cause the escape of any water in, or retained, or held by or in any river, stream, creek, or watercourse, water channel, dam, reservoir, vley, well, or drain within the district of and belonging to or in charge of any such board, or shall, except with the permission of the board, erect any new dam or other work in any such river, stream, creek, watercourse, water channel, dam, reservoir, vley, well, or drain, shall on conviction be liable to a penalty of not exceeding fifty pounds, and on default of payment thereof, to be imprisoned with or without hard labour for a period not exceeding six months.

LXXXV. All offences against any of the provisions of this Act, or against any of the by-laws or regulations framed by any board, and authorized according to the provisions of this Act, shall be heard and determined by the resident magistrate of the district wherein such offences shall have been committed; and all penalties and sums of money directed by this Act to be recovered shall be recovered in the same manner and before such resident magistrate as aforesaid; and all costs, charges, and expenses incurred by a board in instituting or defending any legal proceedings whatever, instituted or defended by them by virtue of the provisions of this Act in their character of an irrigation board, may be defrayed out of the rates leviable by them; and no member of a board shall be personally liable in respect of any such costs, charges, and expenses; and all penalties to be recovered under this Act by or at the instance of any irrigation board may be proceeded for by the secretary of the board or by some person appointed by the board, and shall be paid to such board.

Offences to be prosecuted in resident magistrate's court.

LXXXVI. Nothing in this Act shall alter, interfere with, or affect any lease, contract, or agreement that may have been entered into between any landlord and tenant before the passing of this Act.

Certain leases, &c., not affected by this Act.

LXXXVII. Every board constituted under this Act shall keep true and particular accounts of all moneys received and expended by them in execution of this Act, and shall within one month after the thirty-first day of December in each year render the accounts as aforesaid for such year, signed by the chairman and secretary of the board, to the Auditor-General, who, after examination of the same, shall cause them to be delivered to the Commissioner of Crown Lands and Public Works, by whom the same shall, as soon

Account of revenue and expenditure to be kept.

No. 8--1877.

as may be, be published in the Government Gazette, and laid before both Houses of Parliament.

Construction of terms

LXXXVIII. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction, that is to say :

The word "lands" shall extend to lands, premises, and tenements of any tenure.

The word "owner" in this Act shall be deemed and taken to mean the person who is registered as the owner in the deeds registry, or the person who, claiming through such registered owner, is entitled to be so registered: Provided that where any owner or mortgagee is a minor, or of unsound mind, or has assigned his estate for the benefit of his creditors, the tutor, guardian, curator, trustee, or assignee, as the case may be, of such minor, person of unsound mind, insolvent, or owner who has assigned his estate as aforesaid, shall be deemed to be the owner or mortgagee within the meaning of this Act; and where several persons are jointly appointed executors, tutors, curators, trustees, or assignees, they shall for the purposes of this Act be accounted as one owner. The concurrence of the owners of two-third parts of such land shall be deemed to be the concurrence of the whole.

The word "person" in this Act shall include the Government, divisional councils, municipalities, corporations, joint-stock and other companies and partnerships.

Returning officer.

LXXXIX. The returning officer for an irrigation district under this Act shall be the resident magistrate of the magisterial district in which the irrigation district is situated, or if an irrigation district extends to more than one magisterial district such resident magistrate or other person whom the Governor may appoint shall be the returning officer for such irrigation district.

Board to exercise powers given under Act 24, 1876.

XC. Every irrigation board constituted under this Act shall be competent to exercise all and singular the powers given to any persons by and under "The Right of Passage of Water Act, 1876."

No. 9—1877.] AN ACT [August 8, 1877.

To Authorize the leasing of Crown Lands supposed to contain certain Minerals.

**W**HEREAS in order to encourage the search for minerals Preamble.  
in crown lands it is advisable that power should be given to lease the same upon certain terms as hereinafter mentioned: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. So much of the Act No. 2 of 1860, intituled “An Repugnant laws repealed.  
Act for regulating the manner in which crown land at the Cape of Good Hope shall be disposed of,” and the schedule thereto; of the “Crown Land Act, 1864,” and of any other law in force in this colony as is repugnant to or inconsistent with any of the provisions of this Act, is hereby repealed.

II. All crown land containing, or supposed to contain, Leases not to exceed thirty-one years.  
mineral deposits, may be let on lease for mining purposes for a term not exceeding thirty-one years.

III. The extent of land to be included in any lease shall Extent not to exceed forty morgen.  
not exceed forty morgen.

IV. All such leases shall be executed by the surveyor-general on behalf of the government of the one part, and by the lessee of the other part. How to be executed

V. Every lessee of any such land shall be bound to pay Rent.  
an annual ground rent of five shillings per morgen for every morgen of land comprised in his lease, and shall also be bound to pay a sum to be fixed by the Governor with the advice of the Executive Council, of which notice shall be given in the Government Gazette, not exceeding ten shillings upon or for every ton of ore raised from the land comprised in his lease; and for the purpose of this Act, a ton shall be taken to mean 2,352 lb. weight.

VI. The payments aforesaid shall be made to the civil To whom rent to be paid.  
commissioner of the division in which the land is situated, or to such other person as the Governor shall from time to time nominate and appoint.

VII. Every lessee under this Act shall be bound to keep Lessee to keep certain books.  
a book or books in which shall be daily entered the true quantity of ore raised from the land leased under this Act; and all such books shall be open to inspection by the civil commissioner of the division, or any person authorized by him in writing to inspect the same, at all reasonable times; and if any such lessee as aforesaid shall not keep or cause to be kept such a book or books as aforesaid, or shall fail to enter or cause to be entered therein daily the quantity of ore raised as aforesaid, or shall refuse to allow inspection of any such book or books as aforesaid, he shall be liable Penalty.  
to a penalty of not exceeding £100, or to be imprisoned with or without hard labour for not exceeding six months.

No. 9—1877.

Lessee to make certain declaration every year.

VIII. Every lessee under this Act shall be bound, within fourteen days after the expiration of each year of his lease, to make, before a resident magistrate or justice of the peace, a solemn declaration in the form as near as may be in the schedule hereunto annexed, stating the true quantity of ore raised from the land comprised in his lease during the then expired year of his lease; and every person who shall make such a declaration, knowing the same to be untrue in any material particular, shall be deemed to be guilty of the crime of contravening this section, and shall upon conviction thereof be liable to be imprisoned with or without hard labour for not exceeding twelve months, or to a fine of not exceeding £100.

Penalty.

Lessee may sub-let with Governor's consent.

IX. Every lessee under this Act may, with the consent of the Governor signified by any writing under the hand of the surveyor-general, but not otherwise, assign his lease or sublet the land contained therein.

Lessee may be cancelled by Governor under certain circumstances.

X. If at the expiration of the first and of each succeeding term of three years during the continuance of any such lease as aforesaid there shall not have been raised from the land comprised in such lease during the three years which shall have last expired, a quantity of ore of not less than fifty tons, the Governor shall have the right, should it appear fit and proper to do so, with the advice of the Executive Council, to cancel the said lease, and resume the land comprised in it: Provided that it shall not be competent for the Governor to claim such redemption later than three months next after the expiration of the term of three years during which term the quantity of ore raised as aforesaid shall not have been fifty tons: Provided, also, that as often as the lessee shall satisfy the Governor that the land comprised in his lease has been, is being, or is about to be, worked in a fair *bonâ fide* manner, then such land shall not be resumed under the provisions of this section.

Holders of existing leases may obtain fresh leases under this Act.

XI. All persons holding, or being entitled to, existing leases or rights of occupation of crown lands for mining purposes, may, upon the taking effect of this Act, surrender such leases or rights, and thereupon obtain leases under this Act, to commence from the date of such leases.

Lessee not to mine or excavate beyond the limits of his land.

XII. No lessee shall be entitled to carry any mine or excavation, either above ground or under ground, made in or at the land comprised in his lease, beyond the limits of the said land; and the civil commissioner of the division, and any person authorized by him in writing, shall be at all times entitled to visit the land comprised in any lease granted under this Act, and to inspect the works there carried on.

Reservation in lease.

XIII. No lease granted under this Act shall convey to the lessee any right or title to any gold, silver, or platinum,

or to any precious stones, which may be found in or on the land comprised in his lease. No. 9--1877.

XIV. This Act may be cited for all purposes as the "Mineral Lands Leasing Act, 1877."

SCHEDULE.

I, A. B., do solemnly and sincerely declare that the quantity of ore raised from the land situate at \_\_\_\_\_, leased by me under the "Mineral Lands Leasing Act, 1877," during the year of my lease recently expired, is \_\_\_\_\_ tons and no more; and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the eighth section of the said "Mineral Lands Leasing Act, 1877."

(Signed) A. B.

Declared before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 187—  
(Signed) C. D., Resident Magistrate or Justice of the Peace.

No. 10—1877.]                      AN ACT                      [August 8, 1877.

To Provide for the disposal of Crown Lands in this Colony to certain Agricultural Immigrants.

**WHEREAS** certain agricultural immigrants have already been and may hereafter be introduced into this colony, and it is desirable that they should be located upon and acquire Crown land upon certain terms and conditions as hereinafter provided: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. So much of the Acts No. 2 of 1860, No. 19 of 1864, No. 4 of 1870, and of any other law in force in this colony as is repugnant to or inconsistent with any of the provisions of this Act, is hereby repealed.

II. It shall be lawful for the Governor, from time to time as he shall see fit, to cause to be set apart any area or areas taken from the Crown land of this colony, or any portion not exceeding three-fourths of an area which may have been surveyed or proclaimed under the "Agricultural Lands Act, 1870," for the purpose of locating thereon and disposing thereof to persons who have been or may be introduced into this colony as agricultural immigrants under or by virtue of any resolution of the Parliament of this colony.

III. When any such land has been set apart as aforesaid it shall be lawful for any person or persons duly authorized or appointed in that behalf by the Governor to lease the

No. 10—1877.

same or any part thereof to and among any such immigrants aforesaid upon the terms and conditions hereinafter mentioned, that is to say:—

Terms and conditions

1. The term shall be for ten years, commencing from the date of the lease.
2. The yearly rent shall be at the rate of one shilling per acre.
3. The rent shall be paid at the expiration of each year from the date of the lease into the office of the civil commissioner of the division in which the land is situated.
4. The lessee shall be bound before the expiration of the first two years of his lease to erect upon the land leased a dwelling-house of the value of not less than twenty pounds sterling, and every year after the expiration of the two first years to cultivate at least one acre of every ten acres leased.
5. On failure of any of the conditions hereinbefore contained it shall be competent for the Government to declare such lease to be forfeited, and the land and improvements thereon shall thereupon revert to the Government; and no forfeiture for non-payment of rent shall be enforced: Provided such rent be paid into the office of the civil commissioner of the division within three months from the same becoming due: Provided, further, that when the lease of any such land shall be forfeited as aforesaid such lease shall be put up to sale by public auction within six months of such forfeiture, and after deducting from the amount for which such lease shall be sold the arrears of rent and all other sums due or which may be due to the Government, as well as all expenses incurred in holding such sale, the sum of money remaining, if any, shall be paid to the lessee or to his lawful representatives.
6. So soon as a lessee shall have made the tenth annual payment of rent, he shall, on payment of the survey expenses and other expenses of title, receive a grant of the land at a perpetual quitrent of one per cent. per annum upon ten years' value thereof: Provided, however, that in no case shall the quitrent chargeable be less than ten shillings per annum.
7. If at any time during the term of such lease the lessee shall pay into the civil commissioner's office the rent for the unexpired portion of such term he shall receive a grant of the land under perpetual quitrent as aforesaid.

Terms on which grant on quitrent may be obtained.

IV. Any person who having received an allotment as aforesaid shall forthwith pay the whole purchase amount thereof, at the rate of ten years' annual rent, and the ex-



penses of survey and title, shall receive a grant of the said allotment on a perpetual quitrent as aforesaid. No. 10—1877.

V. No lessee shall be entitled to dispose of the lease or quitrent grant of any land obtained under the provisions of this Act before the expiration of five years from the date of his lease. Lessee not to dispose of lease or grant for five years after obtaining it.

VI. It shall not be lawful for any such immigrant as aforesaid, or any person claiming from or through any such immigrant, to be one under the provisions of this Act the lessee or holder of more than five hundred acres of land. No lessee to hold more than 500 acres.

VII. This Act may be cited for all purposes as the "Agricultural Immigrants Land Act, 1877." Short title.

No. 11—1877.]

AN ACT

[August 8, 1877.]

To Amend the Law relating to Roads.

**W**HEREAS it is expedient that the law relating to roads should be amended as hereinafter mentioned: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows: Preamble.

I. So much of the Act No. 9 of 1858, intituled "An Act to provide for the management of the public roads of the Colony," and of any other law in force in this Colony as is repugnant to or inconsistent with any of the provisions of this Act, is hereby repealed. Repugnant laws repealed.

II. The Governor may, with the advice of the Executive Council, at the request of the divisional council of any division, by proclamation to be published in the Government Gazette, declare any road or portion of a road situate in such division to be a main road; and such road shall thereupon be deemed for all purposes to be a main road as if it had been declared to be so by Act of Parliament; and any such proclamation may, with the like advice and request as aforesaid, be from time to time altered or revoked as may be thought expedient. Governor may proclaim certain roads main roads. May revoke or alter such proclamation.

III. It shall also be lawful for the Governor, with the advice of the Executive Council, at the request of any divisional council as aforesaid, and by proclamation as aforesaid, from time to time to declare that any main road or part of main road in the division of such divisional council now in existence, or which may hereafter be in existence, shall cease to be a main road; and such road, or part of a road, as the case may be, shall thereupon cease to be a main road accordingly. Governor may proclaim that certain roads shall cease to be main roads.

IV. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time, at the request of the divisional council of any division, by proclamation Governor may by proclamation close or divert any road.

No. 11—1877.

as aforesaid, to declare that any divisional or other public road, path, or track in such division shall be closed or diverted at such time as shall be specified in that behalf in any such proclamation; and such road, path, or track shall thereupon be closed or diverted, as the case may be, accordingly: Provided that no such request as aforesaid shall be made to the Governor until a notice in writing of the intention to make the same shall have been posted for general information at some conspicuous place outside of the building wherein the office of such divisional council is situated, and at the residence of each field-cornet of the division, and until notice of such intention shall have been published in the Government Gazette and in some newspaper published within the division, or, if none such, in some newspaper circulating within the division, for a period of not less than three months, which notice shall in some part thereof clearly describe the road, path, or track sought to be closed or diverted, and the situation thereof, and shall require any person objecting to the closing or diversion of such road, path, or track to lodge with the said divisional council, within three months after the date of the posting or first publication of such notice, his objections thereto in writing; and any objections which may be so lodged shall be transmitted to the Governor, together with any such request as aforesaid: Provided that the words path or track shall not be taken to mean trekpaths lawfully used in certain districts of the colony.

Provision as to fencing land over which road runs.

V. Whenever the owner or occupier of any land over which a public road, path, or track shall pass shall be desirous of fencing such land, he shall be at liberty to do so if he provides swing-gates in such fencing so as to allow persons entitled to use such road, path, or track free access thereto; and such gates shall at all times be kept in proper repair by the owner or occupier of such land.

Certain provisions of Ordinance No 9, 1846 applied to this Act.

VI. The provisions of the third, fourth, and fifth sections of the Ordinance No. 9 of 1846, intituled "Ordinance for the better preservation of the public roads and the prevention of accidents and injuries thereon," shall apply to all public roads: Provided that the provisions as to negligent, careless, or furious driving shall not apply to any public road in any town or village for which municipal regulations for the prevention of negligent, careless, or furious driving shall be provided.

Short title.

VII. This Act may be cited for all purposes as the "Roads Act, 1877."

No. 12—1877.] AN ACT [August 8, 1877.

For the better preservation of certain Trigonometrical Stations and Land Beacons.

WHEREAS certain Trigonometrical Stations have been Preamble.  
 accurately determined at various points in this colony, and beacons erected at such points at considerable expense: And whereas there is reason to believe that some of the said beacons have been injured or destroyed, and it is important, in view of the future extension of trigonometrical surveys as well as for other purposes connected with the survey and allotment of Crown land and the partition of private property, that the beacons aforesaid should be preserved and maintained: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. It shall be lawful for the Surveyor-General or any officer employed by him, by himself, his servants, horses, wagons, or other vehicles, and the animals drawing the same, to enter upon any land, whether belonging to the Crown or to a private individual, and to erect thereon any signals or beacons for the purpose of a trigonometrical survey of the colony or of any part thereof, or for the survey of Crown land under the provision of any Act or Acts applicable to the disposal of such land, or for the purpose of examining and, if necessary, repairing or recovering or causing to be recovered or repaired any signal or beacon that may be already in existence; and it shall also be lawful for the Surveyor-General or officer employed by him as aforesaid to take material for the purpose of such repairs from the farm whereon such signal or beacon is situated: Provided that no injury be done thereby to land which has been improved by cultivation or otherwise, or if such injury be done then the owner or owners of the said land shall be compensated, such compensation being determined in the manner set forth in the twelfth section of Act No. 9, 1858, entitled "An Act to provide for the management of the public roads of the colony."

Certain officers may enter on lands and erect signals or beacons.

II. If any person shall unlawfully and wilfully injure, remove, or destroy, or cause to be injured, removed, or destroyed, any signal or beacon already erected, or to be hereafter erected, for any of the aforesaid purposes, whether such signal or beacon be upon his own property or not, he shall be liable to a fine of not exceeding fifty pounds sterling, and, in case of non-payment thereof, to imprisonment with or without hard labour for any term not exceeding three months.

Penalty for injuring, removing, or destroying beacons.

No. 12—1877.

Penalty for obstructing, &c., duly authorized persons from entering lands.

III. If any person shall obstruct, hinder, or prevent the Surveyor-General, or any person duly authorized by him in that behalf, or the servants, horses, wagons, or other vehicles, and the animals drawing the same, of such Surveyor-General or other person from entering upon any land for any of the aforesaid purposes, or from erecting, repairing, or examining any signals or beacons as aforesaid, or from doing what may be required for the purpose of any such survey as aforesaid, he shall be liable to a fine of not exceeding twenty pounds sterling, and, in case of non-payment thereof, to imprisonment, with or without hard labour, for any term not exceeding two months.

Fines may be recovered in resident magistrate's court.

IV. All fines imposed under or by virtue of this Act may be recovered by criminal process in the court of the resident magistrate of the district in which the offender resides; but the person condemned may, if he feels himself aggrieved, appeal to the supreme court, the court of the eastern districts, or the circuit court for the district, as the case may be, first paying the penalty and giving security to the satisfaction of the resident magistrate for the costs of the appeal.

Appeal.

No. 13—1877.]

AN ACT

[ August 8, 1877.

To Amend the Law relating to the Dealing in Gunpowder and Fire-arms.

Preamble.

WHEREAS it is expedient that the law relating to the dealing in gunpowder and firearms should be amended as hereinafter provided: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Repugnant laws repealed.

I. from and after the taking effect of this Act the 16th section of the Ordinance No. 81, intituled " Ordinance for the better regulation of the trade carried on beyond the land boundaries of this colony between inhabitants thereof and the Kafirs and other natives residing in Africa," the 10th section of the Ordinance No. 7 of 1834, intituled " Ordinance for regulating the trade in gunpowder within this colony," the 2nd section of the Act No. 14 of 1866-'67, intituled " An Act to amend Ordinance No. 2 of 1853, relative to the issuing of licences and permits for the purchase of gunpowder, fire-arms, and lead, and to extend the operation of section 2 of the Act No. 14 of 1857," so much of the Ordinance No. 2 of 1853, intituled " Ordinance to regulate till the expiration of the year 1854 the dealings in

gunpowder, fire-arms, and lead," and so much of any other law in force in this colony as is repugnant to or inconsistent with any of the provisions of this Act, shall be and are hereby repealed: Provided that such repeal shall not affect anything done under any of the said repealed enactments, but the same shall be in the same position as if the said enactments were still in force.

No. 13—1877.

II. It shall be lawful for the Governor, with the advice of the Executive Council, when and as often as he shall see fit, by proclamation to be issued for that purpose and published in the Government Gazette, to prohibit, throughout the whole or such part or parts of this colony as he shall see fit, the issue of gunpowder and percussion caps, or either of such articles, from any bonding store or magazine, for such time as may be fixed in that behalf in any such proclamation; or to subject such issue, during such time as aforesaid, to such conditions, to be mentioned in any such proclamation, as may to him, with such advice as aforesaid, seem necessary or expedient; and any person who shall issue any gunpowder or percussion caps from any bonding store or magazine after the issuing of the same shall be prohibited as aforesaid, or who shall issue the same contrary to, or without observing, or performing, the conditions prescribed in any such proclamation, shall, upon conviction thereof, be liable to a fine of not exceeding five hundred pounds, or to be imprisoned with or without hard labour for not exceeding five years, or to both such fine and such imprisonment.

Governor may prohibit the issue of gunpowder and caps from stores and magazines.

III. No person shall give, sell, or barter, or give or grant any permit, licence, or certificate authorizing any gift, sale, or barter within this colony to any person usually residing beyond the boundaries of the same, and whom such person shall know, or shall have reason to believe, belongs to any of the native tribes beyond the said boundaries, any fire-arm, part of a fire-arm, gunpowder, or percussion caps, unless with the permission in writing to that effect of the Colonial Secretary or Secretary for Native Affairs, or of some person duly authorized in that behalf by either of such secretaries, under a penalty for each offence of not exceeding five hundred pounds, or imprisonment with or without hard labour for not exceeding five years, or to both such fine and such imprisonment.

Certificates not to be granted to certain persons without special permission.

IV. No person shall remove or convey, or cause or procure to be removed or conveyed, from any part of this colony to any place beyond the land boundaries thereof, any fire-arm or part of a fire-arm, or any gunpowder or percussion caps, not being for the private use of such person, without having a licence for conveying or removing the same signed by the Colonial Secretary or the Secretary for Native Affairs, or by some person duly authorized in that behalf by either of such secretaries; and it shall be lawful, as a condition of

Penalty.

Guns, &c., not to be removed beyond the boundary without licence.

- No. 13—1877. the grant of any such licence, for the person granting the same to impose such terms or conditions upon the grant of the same as to him may seem proper; and any person who shall remove or convey, or cause or procure to be removed or conveyed, from any part of this colony to any place beyond the land boundaries thereof, any fire-arm, part of a fire-arm, gunpowder, or percussion caps, not being for the private use of such person, without having a licence as aforesaid, or who shall fail to perform or who shall break any of the conditions upon which such licence was granted, shall be liable to a fine of not exceeding five hundred pounds, or to imprisonment with or without hard labour for not exceeding five years, or to both such fine and such imprisonment.
- Penalty.
- Interpretation clause V. In this Act, and in all other laws relating to the dealing in gunpowder, the word "gunpowder" shall, unless there is something in the context repugnant thereto or inconsistent therewith, be taken and construed to include cartridges containing gunpowder.
- Short title. VI. This Act may be cited as the "Gunpowder and Fire-arms Act, 1877."

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No. 14—1877.] AN ACT [August 8, 1877.

To Regulate the Postage payable in this Colony upon Letters and other matters arriving from certain other places.

- Preamble. **W**HEREAS it is expedient that power should be given to authorize the delivery in and passage through this colony, without any charge, of letters and other postal matters arriving in this colony from any place beyond the boundaries of the same, on which postage has been paid at such place: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:
- Repugnant laws repealed. I. So much of the "Postal Rates Act, 1868," and of any other law in force in this colony as is repugnant to or inconsistent with this Act, is hereby repealed.
- Governor may permit certain letters, &c., to be delivered free in this colony. II. It shall be lawful for the Governor, with the advice of the Executive Council, by proclamation to be published in the Government Gazette, to proclaim and declare that letters, books, newspapers, book-packets, patterns, and samples of merchandize, or all or any of such matters arriving in this colony from any place beyond the boundaries of the same, on which postage has been paid at such place, shall not be chargeable with postage on delivery in or for transmission in or through this colony.

III. Any such proclamation as aforesaid may, from time to time, be revoked or altered as to the Governor, with such advice as aforesaid, may seem fit.

*No. 14—177.*  
Governor may revoke or alter such permission.

IV. This Act may be cited as "The Postage Act, 1877."

Short title.

No. 15—1877.] AN ACT [August 8, 1877.]

To Amend the Law relating to Stamp Duties.

**W**HEREAS, by the "Resident Magistrates' Court Act, 1876," the jurisdiction of resident magistrates was in certain cases extended, and it is therefore necessary to provide for the stamp duties to be paid on documents falling within such extended jurisdiction: And whereas it is expedient in other respects to amend the law relating to stamp duties: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. The tariff numbered nineteen, headed "Magistrates' Courts," annexed to the schedule to "the Stamp Act, 1864," paragraph 4 of the tariff numbered fifteen in the same schedule headed "licences," and so much of the said Act, of "the Stamp Act, 1870," and of the schedules to the said Acts, as are repugnant to or inconsistent with any of the provisions of this Act or of the schedule hereto, shall be and are hereby repealed.

Repugnant laws repealed.

II. The tariff in the schedule to this Act contained and numbered nineteen shall take the place and be instead of the tariff numbered nineteen hereby repealed, and shall have the force of law accordingly; and all and singular the several explanations, conditions, directions and provisions contained in the said schedule to this Act shall be of the same force and effect as if the same had been contained in the body of this Act.

Substituting tariff in schedule for repealed tariff.

III. From and after the first day of January next no licence under "the Stamp Act, 1864," as or for an apothecary, chemist or druggist shall be issued to any person who has not obtained the licence enabling him to practice as such mentioned in the third section of the Ordinance No. 82, intituled "Ordinance for altering and amending the laws and regulations relating to medical practitioners and apothecaries in this colony"; and if any such licence under the said Stamp Act shall be issued to any such unlicensed person the same shall be void and of no effect.

Apothecary's licence to be issued to qualified practitioners only.

IV. A licence as an apothecary, chemist or druggist issued under the said Stamp Act, 1864, shall cover all dealings as an apothecary, chemist and druggist, as well as all dealings covered by a retail shop licence, and must be taken out by every surgeon, doctor of medicine, or other person selling

Apothecary's licence to cover certain dealings.

No. 15—1877.

or supplying any medicines other than patent and homœopathic medicines and medicines commonly known as “ Dutch medicines.”

Must be taken out by surgeons, &c.

V. Every wholesale and every retail licence shall authorize the sale of patent and homœopathic medicines, of the medicines commonly known as “ Dutch medicines,” and of any article or thing which although used as a medicine is not solely used as such and is not mixed or prepared for use as a medicine ; and no licence as an apothecary, chemist or druggist shall be necessary for the sale of any such things as in this section mentioned.

Medicines which may be sold under wholesale or retail licence.

Instruments insufficiently stamped may be rectified.

VI. If any instrument required to be stamped with a stamp or stamps of a particular amount or value shall be stamped with a stamp or stamps of less than the required amount or value, such instrument may afterwards be stamped with an adhesive stamp or stamps to make up the required amount or value affixed and cancelled as mentioned in the fourteenth section of the said “ Stamp Act, 1864 ;” and the double and treble duty mentioned in the said fourteenth section, and the stamps of not less than five times the value of the stamp in the eighteenth section of the said Act mentioned, shall be calculated upon the value of the deficiency of value or amount of duty instead of on the value or amount of duty originally required.

Procedure to compel notary to stamp any instrument.

VII. Besides the penalty mentioned in the sixteenth section of the said “ Stamp Act, 1864,” the notary public who has prepared or attested an instrument not stamped at all, or insufficiently stamped, so as to render him liable to the said penalty, shall be obliged, upon notice in writing given to him to that effect by any commissioner for the examination of notaries’ protocols, to cause such instrument to be forthwith properly stamped at his own expense ; and in case of his not doing so it shall be competent for the supreme court, upon the application of the attorney-general, to order him to do so, and in default of compliance with such order to suspend him for such period and upon such terms as to such court shall seem to be proper under the circumstances.

Altering tariff 2, in schedule to Stamp Act, 1870.

VIII. In the tariff numbered two, in the schedule to “ The Stamp Act, 1870,” headed “ Agreements,” there shall be substituted for the words commencing “ on every lease or agreement for lease,” and ending “ and for every additional £100 rent or fraction thereof, £0 10s. 0d.,” the following, that is to say : “ On every lease or agreement for lease of movable or immovable property, where the terms of hiring shall not be less than one year :

For every £100 given by way of fine or fore-gift, and in like proportion for any greater or less sum	...	...	...	£1	0	0
For £10 of rent and not exceeding £20	...	...	...	0	2	0





No. 16—1877.

No. 16—1877.]

AN ACT

[August 8, 1877.

To Provide for the Collection by means of Stamps of Fees payable in the Supreme Court and other Courts of this Colony, and in the Public Departments and Offices thereof.

Preamble.

**W**HEREAS it is expedient to provide for the collection by means of stamps of fees payable in the Supreme Court and other courts of law in this colony, and in the offices belonging thereto, and in the other public departments and offices of this colony: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Governor to give notice of day after which fees will be payable by stamps and not in money in any office.

I. It shall be lawful for the Governor, by notice published in the Government Gazette, to declare and direct that from and after the time specified in such notice all or any of the fees for the time being payable in money in any court of law or in any public department or office in this colony connected with the public service, or to any officer thereof, in so far as such fees are payable into or accountable for to the public revenue of the colony, shall be collected by means of stamps; and every such notice shall be in accordance with the form given in the schedule to this Act, with such variations as circumstances may require, and, from and after the time specified in any such notice, the fees therein mentioned shall be received by stamps denoting the amount of fees payable and not in money.

Stamps used to be adhesive. Documents to which the stamps are to be affixed.

II. All stamps to be used under this Act shall be adhesive.

III. When any fee comprised in any such notice is payable in respect of a document, the stamp denoting the amount of fee shall be affixed to such document; and when any such fee is payable otherwise than in respect of a document, the stamp denoting the amount of fee shall be affixed to such document as the Governor may require to be used.

Duty of officer in respect to fees payable by stamps

IV. Every officer whose duty it may be to receive any fee or sum of money for any matter or thing to be done or performed, and for which payment is to be made by stamps, shall, before doing or performing such matter or thing, see that there is affixed to the document, instrument, matter, or thing in respect whereof the fee or sum of money is payable, a stamp of value not less than the fee or sum of money payable for the performance of such matter or thing, and shall immediately cancel such stamp by writing, or stamping, or impressing in ink on the same, his name or initials, and the date of such cancellation, so as effectually to obliterate and cancel such stamp, and so as not to admit of the same being used again.

V. It shall be lawful, when and as often as occasion shall render it necessary so to do, to use two or more stamps for denoting or expressing the amount or value of any one stamp by this Act required; and all instruments stamped with any two or more stamps which shall together denote or express an amount or value not less than the amount or value of any single stamp so required shall be held and taken to be as good, valid, and effectual as if the said single stamp had been alone affixed.

No. 16-1877.

Two or more stamps may be used instead of a single stamp.

VI. Every instrument which shall be stamped with a stamp or with stamps denoting or expressing a greater value or amount than that of the stamp appointed for such instrument under or by virtue of this Act, shall be deemed and taken to be as good, valid, and effectual as if the particular stamp so appointed had been used.

Instruments over stamped to be good and valid.

VII. No document which ought to bear a stamp under this Act shall be of any validity unless and until it is properly stamped, but if any such document is through mistake or inadvertence received, lodged, filed, or used without being properly stamped, or if it shall appear upon any such document being tendered in evidence or for any other purpose that the same through mistake or inadvertence has not been properly stamped, it shall be competent for any court judge or resident magistrate, to order that the same be stamped with stamps of such amount beyond the fee due thereupon as may be thought reasonable, not exceeding five times the amount of the stamp which should have been affixed thereon as in such order may be directed; and on such document being stamped accordingly, the same, and every proceeding relative thereto, shall be as valid as if such document had been properly stamped in the first instance.

Documents to be properly stamped.

Penalty.

VIII. The Governor may, from time to time, make such regulations as may appear to be necessary for carrying out this Act, and for regulating the use of stamps under it, and particularly for prescribing the application thereof to documents from time to time in use or required to be used for the purpose of such stamps, and for ensuring the proper cancellation of stamps and keeping accounts thereof, and for issuing stamps in exchange for spoilt stamps; and all such regulations when published in the Government Gazette shall have the force of law, and shall be laid before both Houses of Parliament forthwith if Parliament be sitting, and, if not, then within twenty-one days after the commencement of the next session of Parliament.

Governor may make regulations.

IX. Nothing in this Act shall interfere with the exercise by any authority of any power of altering or otherwise regulating the amount of any fees for the time being payable in any court of law in this colony, or in any office connected therewith, or in any public department or office, or to the officers thereof.

Act not to interfere with power of altering, &amp;c., fees.

No. 16—1877.

Applying certain provisions of Stamp Act, 1864.

X. All and singular the provisions of the 4th, 5th, 6th, 7th, 8th, and 9th sections of the Stamp Act, 1864, shall apply, *mutatis mutandis*, to the stamps required under this Act, as if they were stamps required by the said Stamp Act, 1864, or the schedule thereto.

Short title.

XI. This Act may be cited for all purposes as “The Public Office Fees Act, 1877.”

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SCHEDULE.

Office of the Registrar of the Supreme Court.  
[Or as the case may be].

Notice under “The Public Offices Fees Act, 1877.”

Notice is hereby given, in pursuance of the provisions of the said Act, that from and after the———day of———, the fees for the time being payable in the office of the Registrar of the Supreme Court (or as the case may be), or to the officers thereof, shall be collected by means of stamps.

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No. 17—1877.] AN ACT | August 8, 1877

To Provide for the more Convenient Administration of the Extradition Acts, 1870 and 1873, of the Imperial Parliament.

Preamble.

WHEREAS by the Act of the Imperial Parliament, known as “The Extradition Act, 1870,” it is amongst other things enacted that the said Act when applied by order in Council shall, unless it is otherwise provided by such order, extend to every British possession, but with the following among other modifications, namely:

No warrant of a secretary of state shall be required, and all powers vested in or acts authorized or required to be done under the said Act by the police magistrates and the secretary of state, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone, and any prison in the British possession may be substituted for a prison in Middlesex:

And whereas by the said Act it is also enacted that

If by any Law or Ordinance made before or after the passing of the said Act, by the Legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, Her Majesty may by the order in Council applying the said Act in the case of any foreign state, or by any subsequent order, either

Suspend the operation within any such British possession of the said Act or any part thereof so far as it relates to any foreign state, and so long as such Law or Ordinance continues in force there and no longer;

Or direct that such Law or Ordinance or any part thereof shall have effect in such British possession with or without modifications and alterations as if it were part of the said Act:

And whereas by another Act of the Imperial Parliament known as "The Extradition Act of 1873," it is enacted that the said Act shall be construed as one with "The Extradition Act of 1870," and that the said two Acts may be cited together as "The Extradition Acts, 1870 and 1873:"

And whereas it is expedient to provide for the more convenient administration within this colony of "The Extradition Acts, 1870 and 1873," by conferring on the resident magistrates of the colony the like powers and authorities in relation to the surrender of fugitive criminals as are by the said Acts vested in police magistrates and justices of the peace in the United Kingdom: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. This Act may be cited as "The Extradition Act, Cape of Good Hope, 1877." Short title.

II. All powers vested in and acts authorized or required to be done by a police magistrate or any justice of the peace in relation to the surrender of fugitive criminals in the United Kingdom under "The Extradition Acts, 1870 and 1873," are hereby vested in and may in this colony be exercised by any resident magistrate in relation to the surrender of fugitive criminals under the said Acts. Certain powers vested in resident magistrates.

III. This Act shall not come into operation until Her Majesty shall by order in Council direct that this Act shall have effect within this colony, as if it were part of "The Extradition Act, 1870," but this Act shall thereafter come into operation as soon as such order in Council shall have been publicly made known in this colony. Act not to come into force until Her Majesty shall order.

No. 18—1877.] AN ACT [August 8, 1877.

To Repeal the Inter-Colonial Extradition Act, 1874.

WHEREAS doubts have been expressed as to the validity of the "Inter-Colonial Extradition Act, 1874," in so far as it relates to the colony of Natal and the province of Griqualand West, and the said Act has not yet taken effect Preamb! le.

250 PUNISHMENT OF CERTAIN OFFENDERS ACT.

No. 18—1877.

as to the Orange Free State or South African Republic, and there is reason to believe that a Bill is about to be introduced into the Imperial Parliament to amend the law with respect to fugitive offenders to and from the United Kingdom and Her Majesty's Colonies and Possessions abroad, and from one colony or possession to another, and it is therefore advisable to repeal the said Act: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Repealing Act 29,  
1874.

I. From and after the taking effect of this Act "The Inter-Colonial Extradition Act, 1874," shall be and is hereby repealed.

No. 19—1877.]

AN ACT

[August 8, 1877.

To Provide for the more effectual Punishment of certain Offenders.

Preamble.

WHEREAS it is advisable to extend the provisions of the Act No. 21 of 1869, intituled "An Act to make better provision for the punishment of Juvenile Offenders convicted in Courts of Resident Magistrates," to all convictions of juvenile offenders in courts of resident magistrates, and to provide that persons convicted of contravening the third section of the "Forest and Herbage Preservation Act, 1859," and the fourth and fifteenth sections of "The Regulation of Railways Act, 1861," may be punished by whipping: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Amending section 2  
of Act 21 of 1869.

I. The said Act No. 21 of 1869 shall be read and construed as if the words "for which the punishment of whipping might be lawfully inflicted in case of a second or subsequent conviction" in the second section thereof were omitted therefrom.

Act of amending 18,  
1859, and Act 19, 1861

II. Any person who may be convicted of any offence made punishable by the third section of the "Forest and Herbage Preservation Act, 1859," or by the fourth or fifteenth sections of "The Regulation of Railways Act, 1861," shall be liable in addition to or in lieu of the punishment provided for any such offence in or by the said sections to corporal punishment in any number of lashes, or cuts with a cane or rod, not exceeding twenty-five.

No. 20—1877.] AN ACT [August 8, 1877. No. 20—1877.

To Correct certain Errors in the Tenth Section of the Act No. 19 of 1874, the Eighth Section of the Act No. 8 of 1876, and the Fifth Section of the Act No. 13 of 1876.

**W**HEREAS in and by the tenth section of the "Railways Act, 1874," it is provided amongst other things that there shall be charged and chargeable upon and set apart out of the annual revenues of this colony a sum of one pound sterling per annum on the total amount of the principal or capital sum which shall from time to time be raised upon debentures under the authority of the said Act: And whereas a similar provision exists in the eighth section of the "Wynberg Railway Purchase Act, 1876," and the fifth section of "The Kowie Harbour Loan Act, 1876:" And whereas the sum so to be set apart should be, and was intended to be, equal to one pound sterling per centum per annum on the total amount of the said principal or capital sums, and not only one pound sterling per annum: And whereas in the said last-mentioned two sections the word "which" is omitted to be inserted after the words "capital sum," and it is advisable that the said errors should be corrected: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. In the tenth section of the "Railways Act, 1874," in the eighth section of the "Wynberg Railway Purchase Act, 1876," and in the fifth section of "The Kowie Harbour Loan Act, 1876," the words "per centum" shall be considered as inserted after the words "one pound sterling" instead of the words "per annum," and in the said eighth section of the said Wynberg Railway Purchase Act, and in the said fifth section of the said Kowie Harbour Loan Act, the word "which" shall be considered as inserted between the words "capital sum" and "shall," and the said sections shall be read and construed accordingly.

No. 21—1877.] AN ACT [August 8, 1877.

To Amend the Law with reference to Bankers' Books Evidence.

**W**HEREAS it is a serious inconvenience to bankers, and also to the public, to have the ledgers and other account-books removed from banks for the purpose of being produced in legal proceedings: And whereas it is expedient

No. 21—1877.

to facilitate the proof of the transactions recorded in such ledgers and books: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Entries in certain books admissible in evidence in certain cases.

I. From and after the commencement of this Act the entries in ledgers, day-books, cash-books, and other account-books of any bank shall be admissible in all legal proceedings as *primâ 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.

II. 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.

III. 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 Act, 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 a judge for liberty to inspect.

IV. On the application of any party to any legal proceedings who has received such notice, a judge 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 order may be made by such judge, at his discretion, either with or without summoning before 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.

Judge may order that entries and copies shall not be admissible.

V. On the application of any party to any legal proceedings who has received notice, a judge 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.

No. 21—1877.

VI. 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 a judge specially orders that such ledgers, day-books, cash-books, or other account-books should be produced at such legal proceedings.

Banks not compelled to produce any books unless ordered by judge.

VII. Nothing in this Act contained shall apply to any legal proceeding 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."

Act not to apply to proceedings to which bank is a party.

VIII. The word "bank" in this Act shall mean any joint-stock company trading as bankers in this colony. The words "legal proceedings" in this Act shall include all proceedings in courts of justice, both criminal and civil, and all proceedings by way of arbitration, examination of witnesses, assessment of damages, compensation or otherwise, in which there is power to administer an oath. The words "the court" in this Act shall mean the court, judge, resident magistrate, master of the supreme court, arbitrator, or other person authorized to preside over the said legal proceedings for the time being, and shall include all persons, judges, or officers, having jurisdiction and authorized to preside over or to exercise judicial control over the said legal proceedings or the procedure or any steps therein. The word "judge" shall mean any judge of the court, including a court of resident magistrate, in which the legal proceedings are pending.

Interpretation of terms.

IX. This Act may be cited for all purposes as the "Bankers' Books Evidence Act, 1877."

Short title.

No. 22—1877.]

AN ACT

[August 8, 1877.

To Establish a Register of Trade Marks in this Colony.

WHEREAS it is expedient to establish in this colony a register of trade-marks: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Preamble.

I. A register of trade-marks as defined by this Act and of the proprietors thereof shall be established and kept by the registrar of deeds in the office of the said registrar of deeds; and from and after the first day of July, one thousand eight hundred and seventy-eight, a person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of any trade-mark as defined

Register to be kept by Registrar of Deeds.

No. 22--1877.

by this Act until and unless such trade-mark is registered in pursuance of this Act.

How to be registered.

II. A trade-mark must be registered as belonging to particular goods or classes of goods, and when registered shall be assigned and transmitted only in connection with the goodwill of the business concerned in such particular goods or classes of goods, and shall be determinable with such goodwill, but subject as aforesaid, registration of a trade-mark shall be deemed to be equivalent to public use of such mark.

Effect of registration as first proprietor.

III. The registration of a person as first proprietor of a trade-mark shall be *primâ 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 Act as to its connection with the goodwill of a business.

Effect of registration as subsequent proprietor.

IV. Every proprietor registered in respect to a trade-mark subsequently to the first registered proprietor shall as respects his title to that trade-mark stand in the same position as if his title were a continuation of the title of the first registered proprietor.

Court may be applied to in certain cases to rectify register.

V. 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 Act, or otherwise in accordance with law, is entered on the register of trade-marks as a proprietor of such trade-mark, or if the registrar refuses to enter on the register as proprietor of a trade-mark the name of any person who is for the time being entitled to the exclusive use of such trade-mark in accordance with this Act, or otherwise in accordance with law, or if any mark is registered as a trade-mark which is not authorized to be so registered under this Act, any person aggrieved may apply in the prescribed manner for an order of the 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. Where each of several persons claims to be registered as proprietor of the same trade-mark, the registrar may refuse to comply with the claims of any such persons until their rights have been determined by the court, and the registrar may himself submit or require the claimants to submit in the prescribed manner their rights to the court. 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 authorized to be registered under this Act; also any question relating to the right of any person who is 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.

No. 22—1877.

VI. 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 classes of goods a trade-mark identical with one which is already registered with respect to such goods or classes of goods, and the registrar shall not register with respect to the same goods or classes of goods a trade-mark so nearly resembling a trade-mark already on the register with respect to such goods or classes 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 exclusive use of which would not, by reason of their being calculated to deceive or otherwise, be deemed entitled to protection in a court of equity in England, or any scandalous designs.

Certain trade-marks not to be registered without special leave of court.

VII. The registrar of deeds may from time to time, with the consent of the Governor, as to fees, 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 Act, and as to the registration of first and subsequent proprietors of trade-marks, and as to fees to be charged for registration, and also for the continuance of a trade-mark on the register or otherwise, 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 any 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 Act, and generally for the purpose of carrying into effect this Act, as he may deem expedient. Any rules made in pursuance of this section shall be forthwith laid before both Houses of Parliament if Parliament be then sitting, or if not then sitting then within ten days after the next assembling of Parliament, and shall be of the same validity as if they had been enacted by Parliament: Provided that if either House of Parliament resolve, within one month after such rules have been laid before such House, that any of such rules ought not to continue in force, any rule in respect of which such resolution has been passed shall after the date of such resolution cease to be of any force, without prejudice nevertheless to the making of any other rule in its place, or to anything done in pursuance of any such rules before the date of such resolution.

Registrar may make general rules.

VIII. The certificate of the registrar as to any entry, Effect of registrar's certificate.

No. 22—1877.

matter, or thing which he is authorized by this Act, or any general rules made thereunder, to make or do, shall be evidence of such entry having been made, and of the contents thereof, and of such matters and things having been done or left undone.

Definition of terms

IX. For the purposes of this Act:

A trade-mark consists of one or more of the following essential particulars, that is to say,

A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner ;  
or

A written signature or copy of a written signature of an individual or firm ; or

A distinctive device, mark, heading, label or ticket ;  
And there may be added to any one or more of the said particulars any letters, words, or figures, or combination of letters, words, or figures ; also

Any special and distinctive word or words, or combination of figures or letters, used as a trade-mark before the passing of this Act may be registered as such under this Act.

“Prescribed” means prescribed by general rules made in pursuance of this Act, and

“Court” means the supreme court, or as to matters within the districts over which the court of the eastern districts has jurisdiction, the court of the eastern districts, or any court which may be declared to be a court for the purposes of this Act, by such general rules as aforesaid.

Short title.

X. This Act may be cited for all purposes as the “Trade Marks Registration Act, 1877.”

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No. 23—1877.] AN ACT [August 8, 1877

For Authorizing the payment of certain allowances to Members of Parliament for the second Session held in the year 1875, not already provided for.

Preamble.

WHEREAS by the ninetieth section of the Ordinance for constituting a Parliament for this colony, commonly called the Constitution Ordinance, it is enacted that each member of the Legislative Council and each member of the House of Assembly, whose ordinary place of residence shall be situate at a greater distance than ten miles from the place in which the said Council and Assembly shall respectively assemble, shall be entitled to be paid from the public treasury of this colony the sum of one pound sterling per day for every day during which such member shall

be engaged in travelling to, and returning from, and attending at, any session of Parliament of the said colony: Provided that such payment shall in no case be made for more than fifty days in any one calendar year; and that every such member shall also be entitled to be paid a further sum of one shilling for every mile which he shall necessarily travel in coming to and returning from any such session: And whereas in the year 1875 there were holden two sessions of Parliament, which together extended for a longer period than fifty days: And whereas by resolution of both Houses of Parliament passed in the second of the said sessions holden in the month of November, 1875, the Government was authorized to pay to members of Parliament for their attendance at and travelling to and from, the said session, the same allowances as if it were an annual session: And whereas, under and by virtue of the said resolutions, there has been paid to the members of Parliament for and in respect of their attendance at the second session, at the said rate of one pound per day, the sum of fifteen hundred and fifty-nine pounds sterling, being beyond what would be payable under the ninetieth section of the said Ordinance, and the sum of two-thousand three hundred and fifty-six pounds seven shillings sterling for the travelling allowance of the said members to and from the said session, not provided for by the Appropriation Act of the said year, making together the sum of three thousand nine hundred and fifteen pounds and seven shillings sterling; and it is proper and expedient that an Act of Appropriation should be passed to authorize the amount so paid to be charged against the public revenue of this colony: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. Notwithstanding anything in the ninetieth section of the said Constitution Ordinance contained, the public revenue of this colony is hereby charged with the said sum of three thousand nine hundred and fifteen pounds seven shillings sterling in addition to the sums already provided for the service of the year 1875, which said sum shall be applied and accounted for in the manner hereinbefore mentioned.

Charging public revenue with £3,915 7s. for 1875.

No. 24—1877.] AN ACT [August 8, 1877.

To Apply a Sum of Money for the Service of the Year ending the 30th day of June, 1878.

**BE** it enacted by the Governor of the Cape of Good Hope, Proemble. with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

No. 24—1877.

Public revenue charged with additional sum of £1,037,838 for year ending 30th of June, 1878.

Money to be applied according to schedule.

Moneys not to be used or applied to any other purpose than that for which it was granted.

Short title.

Schedule.

I. The public revenue of the colony is hereby charged towards the service of the year ending the 30th day of June, 1878, with a sum of one million thirty-seven thousand eight hundred and thirty-eight pounds, in addition to the sum provided for by the Act No. 1 of 1877.

II. The money granted by this Act and by the said Act No. 1 of 1877, amounting in the whole to the sum of one million one hundred and thirty-seven thousand eight hundred and thirty-eight pounds, shall be applied for the purpose and services expressed in the schedule annexed hereto, and more particularly specified and set forth in the Colonial Estimates of the Expenditure for the year ending 30th June, 1878, with the notes to such estimates, submitted to and approved by Parliament.

III. The said aids and supplies shall not be issued or applied for any use, interest, or purpose other than the particular services to which the said amounts have been granted respectively by this Act and the aforesaid Schedule and Estimates.

IV. This Act may be cited for all purposes as the "Appropriation Act, 1877."

## SCHEDULE.

SUMMARY OF RECAPITULATIONS.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
I. Ministerial Department of the Colonial Secretary ..	369,402	366,005	735,407	647,164
II. Ministerial Department of Treasurer of the Colony	55,187	314,433	369,620	23,028
III. Ministerial Department of Commissioner of Crown Lands and Public Works .. ..	61,878	394,515	456,393	450,953
IV. Ministerial Department of Secretary for Native Affairs .. ..	38,973	12,240	51,213	16,693
Grand Totals	552,440	1,087,193	1,639,633	1,137,838

Less amount provided for by Act No. 1, 1877 .. £100,000

Toatl .. £1,037,838

For Authorizing certain Expenditure not provided for by Parliament in the Year 1873.

**W**HEREAS divers public moneys, amounting in all to Preamble. the sum of twenty-five thousand five hundred and thirteen pounds six shillings and eight pence sterling, brought to charge during the year 1873, have been paid by authority of the Governor of this colony, but without the previous authority of Parliament: And whereas these moneys have been found to have been duly applied to and expended upon certain necessary services of the civil government of this colony, and it is therefore necessary and expedient that an Act of Appropriation should be passed to authorize the amount so expended to be charged against the public revenue of this colony: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. The public revenue of the colony is hereby charged Public revenue charged with £25,513 6s. 8d. for 1873. with a further sum of twenty-five thousand five hundred and thirteen pounds six shillings and eight pence sterling in addition to the sums already provided for the service of the year 1873, which shall be applied and accounted for in the manner specified in the schedule hereunto attached.

SCHEDULE.

Schedule.

For the Expenditure of the Civil Establish- ment .. .. .	..	..	..	..	£2,061	5	1
Services exclusive of Establishments:							
Hospitals .. .. .	..	..	..	..	1,184	19	2
Police and Gaols .. .. .	..	..	..	..	6,033	2	8
Rent .. .. .	..	..	..	..	0	1	0
Transport .. .. .	..	..	..	..	1,651	13	7
Conveyance of Mails .. .. .	..	..	..	..	3,450	0	0
Works and Buildings .. .. .	..	..	..	..	1,074	7	6
Miscellaneous .. .. .	..	..	..	..	3,625	18	3
Telegraphic Services .. .. .	..	..	..	..	798	19	6
Parliamentary .. .. .	..	..	..	..	60	0	0
Special Payments .. .. .	..	..	..	..	5,572	19	11
Total .. .. .	..	..	..	..	£25,513	6	8

260 UNPROVIDED EXPENDITURE (1875) ACT.

No. 26—1877.

No. 26—1877. AN ACT [August 8, 1877.]

For Authorizing certain Expenditure not provided for by Parliament in the Year 1874.

Preamble.

WHEREAS divers public moneys, amounting in all to the sum of eleven thousand four hundred and forty-seven pounds nine shillings and ten pence sterling, brought to charge during the year 1874, have been paid by authority of the Governor of this colony, but without the previous authority of the Parliament: And whereas these moneys have been found to have been duly applied to and expended upon certain necessary services of the civil government of this colony, and it is therefore proper and expedient that an Act of Appropriation should be passed to authorize the amount so expended to be charged against the public revenue of this colony: Be it enacted by the Governor of the colony of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Public revenue charged with £11,447 9s. 10d. for 1874.

I. The public revenue of the colony is hereby charged with a further sum of eleven thousand four hundred and forty seven pounds nine shillings and ten pence sterling, in addition to the sums already provided for the service of the year 1874, which shall be applied and accounted for in the manner specified in the schedule hereunto attached.

SCHEDULE.

Schedule.

For the Expenditure of the				
Civil Establishment .. ..	£809	3	10	
Judicial Establishment .. ..	37	4	5	
Services exclusive of Establishments :				
Police and Gaols .. ..	1,224	13	7	
Works and Buildings .. ..	1,008	4	0	
Roads and Bridges .. ..	227	4	1	
Miscellaneous ... ..	877	8	10	
Parliamentary .. ..	370	10	2	
Special Payments .. ..	6,893	0	11	
	£11,447	9	10	

No. 27—1877.] AN ACT [August 8, 1877.]

For Authorizing certain Expenditure not provided for by Parliament in the year 1875.

Preamble.

WHEREAS divers public moneys, amounting in all to the sum of eighty-six thousand eight hundred and seventy-eight pounds four shillings and five pence sterling,



UNPROVIDED EXPENDITURE (1875) ACT. 261

No. 27—1877.

brought to charge between the first day of January, 1875, and the thirtieth day of June, 1876, have been paid by authority of the Governor of this Colony, but without the previous authority of Parliament: And whereas these moneys have been found to have been duly applied to and expended upon certain necessary services of the civil government of this colony, and it is therefore proper and expedient that an Act of Appropriation should be passed to authorize the amount so expended to be charged against the public revenue of this colony: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. The public revenue of the colony is hereby charged with a further sum of eighty-six thousand eight hundred and seventy-eight pounds four shillings and five pence sterling, in addition to the sums already provided for the service of the year 1875, which shall be applied and accounted for in the manner specified in the schedule hereunto attached.

Public revenue charged with £86,878 4s. 5d. for 1875.

SCHEDULE.

Schedule

For the Expenditure of the			
Civil Establishment .. ..	£6,777	5	4
Judicial Establishment .. ..	4,724	5	3
Medical Establishment .. ..	378	15	8
Border Department .. ..	84	15	6
Police and Gaols Establishment..	487	18	5
Pensions .. .. .	3,306	6	7
Services exclusive of Establishments:			
Education .. .. .	3,888	0	5
Hospitals .. .. .	4,175	5	6
Police and Gaols .. .. .	11,255	11	4
Rent .. .. .	2,768	3	3
Transport.. .. .	3,722	19	7
Conveyance of Mails .. .. .	15,178	10	10
Works and Buildings .. .. .	8,259	6	3
Convicts .. .. .	3,781	6	8
Miscellaneous .. .. .	14,221	12	3
Parliamentary .. .. .	986	11	7
Special Payments.. .. .	2,128	14	4
Interest .. .. .	752	15	8
	<hr/>		
Total .. .. .	£86,878	4	5

262 UNPROVIDED EXPENDITURE (1876) ACT.

No. 28—1877.

No. 28—1877.]

AN ACT

[August 8, 1877.

For Authorizing certain Expenditure not provided for by Parliament in the Half-year ending 30th June, 1876.

Preamble.

WHEREAS divers public moneys, amounting in all to the sum of seventy-four thousand three hundred and forty-eight pounds eight shillings and nine pence sterling, have been necessarily expended for the service of the half year ending 30th June, 1876, by authority of the Government of this colony, but without the previous authority of Parliament: And whereas these moneys have been found to have been duly applied to and expended upon certain necessary services of the civil government of this colony, and it is therefore necessary and expedient that an Act of Appropriation should be passed to authorize the amount so expended to be charged against the public revenue of this colony: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Public revenue charged with £74,348 8s. 9d. for year ending 30th June, 1876.

I. The public revenue of the colony is hereby charged with a further sum of seventy-four thousand three hundred and forty-eight pounds eight shillings and nine pence sterling in addition to the sums already provided for the service of the half-year ending 30th June, 1876, which shall be applied and accounted for in the manner specified in the schedule hereunto attached.

Schedule.

SCHEDULE.

VOTE.	SERVICE.	AMOUNT.	TOTAL.	GRAND TOTAL.
		£ s. d.	£ s. d.	£ s. d.
	MINISTERIAL DIVISION—No. I.			
	<i>Accounting Department of the Hon. the Colonial Secretary.</i>			
3	Colonial Secretary and Convict Department	...	233 9 0	
4	Convict, Maintenance and Discipline ...	...	903 13 1	
	<i>Judicial Establishment.</i>			
6	Attorney-General ...	...	8 6 4	
12	Transport ...	...	382 7 0	

UNPROVIDED EXPENDITURE (1876) ACT. 263

No. 28 -1877

VOTE.	SERVICE.	AMOUNT.	TOTAL.	GRAND TOTAL.
		£ s. d.	£ s. d.	£ s. d.
	<i>Police and Gaols.</i>			
14	Exclusive of Establishments ... ..	...	1523 2 10	
15	Rent ... ..	..	278 17 11	
	<i>Medical.</i>			
18	Hospitals ... ..	...	664 16 2	
20	Transport ... ..	...	0 17 9	
	<i>Miscellaneous Services.</i>			
23	General (including Census) ... ..	903 12 4		
	Expenses of President Brand ... ..	56 4 9		
	Scab Act ... ..	18 15 0		
			978 12 1	
24	Parliamentary Election Expenses ... ..	...	333 17 11	5308 0 1
	<i>Other Accounting Officers.</i>			
25	Controller and Auditor-General ... ..	...	834 17 2	
27	Postmaster-General ... ..	...	2563 14 6	
34	Legislative Council ... ..	...	185 17 8	
35	House of Assembly ... ..	...	2583 14 9	
36	Frontier Armed and Mounted Police ... ..	...	1810 10 8	7978 14 9
	MINISTERIAL DIVISION—No. II.			
	<i>Accounting Departments of the Hon. the Treasurer-General.</i>			
38	Treasury and Stamp Branch ... ..	...	545 6 4	
44	Interest and Commission ... ..	...	118 19 9	
46	Crown Agents ... ..	...	63 1 2	
45&51	Customs & other Refunds ... ..	...	756 17 2	
				1484 4 5

264 UNPROVIDED EXPENDITURE (1876) ACT.

No. 28 - 1877.

VOTE.	SERVICE.	AMOUNT.			TOTAL.			GRAND TOTAL.		
		£	s.	d.	£	s.	d.	£	s.	d.
	MINISTERIAL DIVISION—No. III.									
	<i>Accounting Department of the Hon. the Commissioner of Crown Lands and Public Works.</i>									
52	Department of Commissioner of Crown Lands and Public Works ...	...	...	...	70	17	5			
55	Miscellaneous Services	...	...	...	263	2	3			
55½	Special Services not provided for ...	...	...	...	42	1	0			
	<i>Other Accounting Officers.</i>									
57	Chief Inspector, Works and Buildings—Temporary Staging, Kowie	511	13	3	...	...	...			
	Public Buildings, Peddie	10	13	6	...	...	...			
	Other Works and Buildings ...	279	12	2	...	...	...			
					801	18	11			
63	Department of Railway Engineer ...	...	...	...	286	1	6			
65	Railway Engineer, Working and Maintenance	...	...	...	4333	0	3			
65½	Chief Resident Engineer, Port Elizabeth, Working and Maintenance	...	...	...	20624	9	0			
66	Telegraph Department	...	...	...	543	12	0			
67	Do. Maintenance	...	...	...	336	13	7			
67½	Do. Construction	...	...	...	30030	5	4			
								57332	1	3
	MINISTERIAL DIVISION—No. IV.									
	<i>Accounting Department of the Hon. the Secretary for Native Affairs.</i>									
68	Department of the Secretary for Native Affairs	...	...	...	627	7	1			
69	Border Department ...	...	...	...	1618	1	2			
								2245	8	3
					74348	8	9	74348	8	9

No. 29—1877.]

AN ACT

[August 8, 1877.]

No. 29—1877.

To Release a portion of the Estate Orangezigt of the entail of *Fidei Commissum*, and to authorize the Town Council of the City of Cape Town to acquire said lands for the purpose of constructing thereon one or more Reservoirs.

**W**HEREAS it is expedient to extend and improve the water-works of the Municipality of the City of Cape Town, and to construct a new reservoir or reservoirs to increase the supply of water of the said City: And whereas it is expedient that the Town Council of the said City of Cape Town should acquire for such purpose certain lands forming part of the estate Orangezigt, situate in Table Valley, the property of the family of Van Breda, held by them subject to the burthen and entail of *fidei commissum* under the provisions, conditions, and stipulations set forth and provided in the deed of transfer of the said estate, duly registered in the Registry of Deeds of this Colony from the Executors Testamentary of the estate of the late Michael van Breda, senior, to and on behalf of Dirk Gysbert van Reenen van Breda, and dated the 13th day of February, 1851: That is to say,—that the whole of the estate Orangezigt shall for ever, and for the utmost and longest time which the law of this Colony may permit such fiduciary limitations to subsist, be and remain an inalienable hereditary family estate of the family of “Van Breda,” to be possessed and succeeded to as hereinafter mentioned: That, at the death of said Dirk Gysbert van Reenen van Breda, the said estate shall devolve upon and be succeeded to by his eldest son, or his male descendants in a direct line, and such failing, in the indirect line of succession, and in case there shall be none such, then to his second son or his male descendants in the direct or indirect line as aforesaid, and so on until there be no more male descendants begotten by, or issued from, the said Dirk Gysbert van Reenen van Breda, and in case there should be no male descendants of the said Dirk Gysbert van Reenen van Breda, subject to the further conditions in the said deed of transfer expressed and declared.

And whereas Gerrit Hendrik van Breda, son of the said Dirk Gysbert van Reenen van Breda, the person now entitled to and in possession of the said estate, subject to the said burthen and entail, did on the 2nd day of June, 1876, enter into an agreement, in writing, with the said Town Council, whereby, after reciting that negotiations had been pending for the purchase by the Town Council of

Preamble.

No. 29. -1877.

certain portion of the said entailed estate Orangezigt, subject to an Act being obtained from Parliament to authorize the said Gerrit Hendrik van Breda to dispose of the same, and that the said parties having been unable to agree upon the purchase price, it was declared and agreed that the question as to what sum of money should be paid by the Town Council for the said land should be submitted to the award and final determination of certain three arbitrators in the said deed named, or any two of them: Provided that such award be made in writing before the 30th day of June, 1876: And whereas the said arbitrators accepted the burden of the said submission, and by an instrument, in writing, dated the 10th of June, 1876, under the hands of two of them, they, the said two arbitrators, appraised the value of the said land at the sum of one thousand seven hundred and fifty pounds, and awarded accordingly: And whereas it is expedient that the said Gerrit Hendrik van Breda should be authorized to sell, and the said Town Council to purchase, the said land, and that so far as relates to the said piece of land the entail of *fidei commissum* should be removed, and also that provision be made for securing the principal sum and the payment of the annual interest to the persons for the time being entitled to the possession and enjoyment of the said entailed estate Orangezigt: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Part of estate "Orangezigt," called Kampement, released from entail.

I. The burthen and entail of *fidei commissum* set forth in the deed of transfer in favour of the said late Dirk Gysbert van Breda, dated the 13th day of February, 1851, is hereby removed and annulled so far as relates to certain portion of the said estate Orangezigt, commonly known as the Kampement, containing 12 morgen and 190 square roods, or thereabouts, and more particularly described in the diagram framed by the surveyor, C. R. Borchers, and bounded northerly by Camp-street and vacant ground; easterly by vacant ground, Orange-street, and part of the remainder of the estate Orangezigt; southerly by vacant ground, and the remainder of the estate Orangezigt; westerly by vacant ground and a thoroughfare.

Said piece of land may be sold to Town Council for £1,750.

II. It shall be lawful for the said Gerrit Hendrik van Breda to sell, and for the said Town Council to purchase, the piece of land in the preceding section mentioned for the said sum of one thousand seven hundred and fifty pounds sterling, and for the said Gerrit Hendrik van Breda to give transfer thereof to the said council in full and absolute property, subject only to the conditions hereinafter mentioned.

III. The said sum of one thousand seven hundred and fifty pounds is hereby charged upon the revenues of the municipality of the city of Cape Town as a preferent debt ranking in order next after any debt heretofore contracted under the authority of any Ordinance or Act of Parliament; and shall continue until by any Act of Parliament, the decree of any competent court, or the happening of any event whereby the said estate Orangezigt shall pass free and discharged from the said entail to any person or persons in full and absolute property, and shall then be payable to such person or persons.

No. 29—1877.

The said sum to be a preferent charge on the revenues of the municipality.

IV. Interest upon the said sum of one thousand seven hundred and fifty pounds, calculated at the rate of six per centum per annum from the day upon which transfer of the said land shall be passed by the said Gerrit Hendrik van Breda to the said Town Council, shall be payable, and paid, half-yearly by the said council to the said Gerrit Hendrik van Breda so long as he shall be entitled to the use and enjoyment of the said estate Orangezigt, and thereafter to the person for the time being entitled to the use and enjoyment thereof so long as the said entail shall subsist.

And to bear interest at 6 per cent per annum.

V. The said land shall be used wholly and exclusively for the construction of one or more reservoirs thereon, wherein to store water for the supply of Cape Town and neighbourhood.

The land to be used for one or more reservoirs.

VI. The walls of any reservoir or reservoirs to be so constructed shall in no case exceed sixteen feet above the present surface of the said ground at its highest level, and before the commencement of any work the plan of the said reservoir or reservoirs shall be submitted for the approval of the Government.

Height of walls.

VII. This Act may be cited for all purposes as "The Orangezigt Purchase Act, 1877."

Short title.

No. 30—1877.] AN ACT [August 8, 1877.

For Constituting the Town of Uitenhage a Municipality.

WHEREAS it is expedient to repeal so much of the Ordinance No. 9 of 1836, entitled "An Ordinance for the creation of Municipal Boards in the Towns and Villages of the Colony," of the Ordinance No. 2 of 1844, entitled "An Ordinance for Amending Ordinance No. 9 of 1836," of the Ordinance No. 8 of 1848, entitled "An Ordinance for enlarging in certain respects the powers of Municipal Commissioners in regard to the common Pasture Lands of the Municipality," and of the Ordinance No. 5 of 1852, entitled "An Ordinance to enable Municipal Commissioners appointed under Ordinance No. 9, 1836, to purchase or

Preamble.

No. 30--1877.

hire immovable property for Municipal purposes," in so far as such Ordinances severally and respectively shall apply to the Municipality of Uitenhage, and to make other provisions in lieu thereof: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Repugnant laws repealed.

I. The said Ordinances No. 9 of 1836, No. 2 of 1844, No. 8 of 1848, and No. 5 of 1852, in so far as the same are applicable to the municipality of Uitenhage, shall continue to be of legal force and operative as heretofore until after the first election of councillors as provided for in and by this Act; and immediately upon and after the declaration of the names of the said councillors shall have been published as hereinafter provided, the said Ordinances, in so far as the same apply as aforesaid, shall be and are hereby repealed.

Boundary of municipality.

II. The municipality of Uitenhage shall comprehend the town and township of Uitenhage, including all common lands and property within the area formed by the following boundary lines,—namely: On the north by the farms Kruis River, Kamees and Hiltwacht; on the south by the farms Cuyler Manor and Little Grass Ridge; on the east by the farm Sandfontein; and on the west by the farms Mimosa Dale and Narroes.

Creating a body corporate.

III. There shall be in the said municipality a body corporate which shall take and bear the name of "The Mayor, Councillors, and Ratepayers of Uitenhage," and by that name shall have perpetual succession, and shall have a common seal, and shall by that name sue and be sued, and shall, by the council thereof, do all acts, and have and enjoy all the rights and privileges, which bodies corporate, as such, may in this colony do and have.

Constitution of council.

IV. The council of the said municipality shall consist of fifteen councillors, one of whom shall be the Mayor.

Municipality divided into seven wards.

V. The said municipality shall be divided into seven wards, to wit:—

No. 1. An area bounded by a part of Caledon-street and the Cuyler Manor road on the north-east; by Market-street and a line in continuation thereof on the north-west; and shall include the town commonage to the boundary of the municipality in every other direction.

No. 2. An area bounded by a part of Caledon-street on the north-east; by Baird-street and a line in continuation thereof on the north-west; by Market-street and a line in continuation thereof on the south-east; and shall include the town commonage towards and across the river Zwartkops, between the said lines, to the boundary of the municipality to the south-west.



- No. 3. An area bounded by a part of Caledon-street on the north-east ; by John-street and a line in continuation thereof on the north-west ; by Baird-street and a line in continuation thereof on the south-east ; and shall include the town commonage towards and across the river Zwartkops between the said lines, to the boundary of the municipality to the south-west.
- No. 4. An area bounded by a part of Caledon-street on the north-east ; by Cuyler-street and a line in continuation thereof on the north-west ; by John-street and a line in continuation thereof on the south-east ; and shall include the town commonage towards and across the river Zwartkops, between the said lines, to the boundary of the municipality to the south-west.
- No. 5. An area bounded by a part of Caledon-street on the north-east, that is to say, from the Malay Mosque (in a north-westerly direction) to the entrance to Bain's-road ; and on the south-east, by Cuyler street and Bain's-road, respectively, and lines in continuation of them (taking Bain's Graaff-Reinet-road, towards and up to the north-east boundary of the municipality, to be the line of extension for Bain's-road ; and a straight line in continuation of Cuyler-street, towards and across the river Zwartkops, up to the south-west boundary of the municipality, to be the line of extension for Cuyler-street), and shall include the town commonage to the boundary of the municipality in every other direction.
- No. 6. An area bounded by a part of Caledon-street on the south-west ; by the Cuyler Manor-road on the west and south-west ; by Church-street and the old Graaff-Reinet-road on the north-west ; and shall include the town commonage to the boundary of the municipality in every other direction.
- No. 7. An area bounded by a part of Caledon-street on the south-west ; by Bain's road to Graaff-Reinet on the north-west ; by Church-street and the old Graaff-Reinet-road on the south-east ; and shall include the town commonage between the lines of Bain's-road and the old Graaff-Reinet-road, up to the boundary of the municipality on the north-east.

VI. The said council may, from time to time, if they shall think fit, alter the boundaries of the said wards : Provided that the council shall, before making any such alteration, give, in the Government Gazette and one or more of the newspapers published in Uitenhage, public notice of the

Boundaries of wards  
may be altered.

No. 30—1877.

intention to make such alteration, and of the particular alteration intended to be made, which notice shall be published for not less than thirty-one days before any such alteration shall be made, and a copy of the same shall also be posted in some conspicuous place upon or near the town-hall.

Ward No. 1 to have three councillors and each of the other two.

VII. Three councillors shall be elected for Ward No. 1, and two for each of the other wards in manner hereinafter mentioned.

Qualification of voters at elections.

VIII. Every person of full age, who is the owner or occupier of any immovable property in any ward of the municipality of the yearly value of ten pounds sterling, in regard to which property no municipal rate shall, at the time of any election of councillors, or a councillor of such ward, be due and in arrear, shall be qualified and entitled to vote at such election, in respect of such ward: Provided that his name shall appear as a ratepayer in the assessment roll of such ward which shall have been made next or latest before the election at which such person shall be elected: Provided, also, that the assessment roll in existence at the time of the taking effect of this Act shall be deemed and taken to have been framed under this Act, and that all municipal rates assessed before the taking effect of this Act, and then due and in arrear, shall be deemed and taken to have been assessed under this Act.

Disqualification of voters.

IX. The following persons shall be disqualified from voting at any such election: Persons who have been convicted of treason, murder, rape, theft, fraud, perjury, or forgery, and who shall not have received a free pardon.

Qualification of councillors.

X. Every male person of full age who shall have been the owner or occupier of immovable property of the yearly value of twenty pounds sterling and upwards within the limits of the said municipality, for a period of not less than twelve months next before such election, and in regard to which property no municipal rate shall at the time of the commencement of the election be due and in arrear, shall be eligible to be elected a councillor: Provided that different premises or properties owned or occupied in immediate succession shall satisfy this section as fully and effectually as if they had been one and the same premises or properties.

Candidates to be invited by requisition

XI. No person shall be deemed a candidate at any election, nor qualified to be elected a councillor for any ward, until he shall have been invited to become such candidate by a requisition, signed by at least five qualified voters of such ward, and shall have transmitted such requisition, with his acceptance thereof, addressed to the town clerk, and delivered at his office between the hours of ten a.m. and three p.m., at least fourteen days before such election is appointed to take place.

XII. The town clerk shall, at least ten days before the day appointed the election in each ward, cause the names of the candidates for election thereat, together with the names of the persons who have signed such requisition, to be published in manner hereinafter mentioned. No. 30—1877.  
Names of candidates to be published.

XIII. On the second Wednesday in the month of September in every year, an election shall take place for councillors of the said municipality. Day of election.

XIV. The poll in every ward shall be taken by some person to be appointed for that purpose by the mayor, or, in case of the first election, by the resident magistrate: Provided that as often as the number of candidates nominated for any ward shall not exceed the number of councillors to be elected for such ward, no poll shall be deemed necessary for such ward, but the candidate or candidates so nominated shall be deemed and taken to be duly elected: Provided, also, that the resident magistrate or mayor, as the case may be, shall be the returning officer of the said municipality. By whom polls to be taken.

XV. Every candidate may, if he think fit, appoint a scrutineer to see that the votes are fairly taken and recorded. Scrutineers.

XVI. The election shall take place in the following manner:—Every ratepayer, qualified as aforesaid, may vote for any candidate for his ward, not being more than the number to be elected for the ward, by delivering to the polling officer a voting paper, containing the christian and surname of the candidate or candidates, and signed by the person voting, or by the polling officer at his request, and stating his place of abode and description. Mode of voting.

XVII. The polling officer shall receive such voting paper, and register the vote. Votes to be registered.

XVIII. The poll shall commence at eight o'clock in the forenoon and shall finally close at five o'clock in the afternoon of the same day. Duration of poll.

XIX. No inquiry shall at any election be permitted to be made as to the right of any person to vote, except as follows;—that is to say, the polling officer may, of himself, or at the request of any qualified householder, put to any voter the following questions, or either of them, and no other:— Questions which may be put to voters.

1st. Are you the person whose name appears as A. B. to the voting paper now delivered in by you?

2nd. Has the last municipal rate assessed upon the immovable property now occupied or owned by you been paid?

XX. If any person shall wilfully make a false answer to either of these questions he shall be liable to a penalty not exceeding ten pounds, to be recovered in the court of the resident magistrate, and in default of payment may be imprisoned for any period not exceeding one month. Penalty for false answers.

No. 30—1877.

Polling officer to transmit voting papers to returning officer.

XXI. The polling officer shall, at the close of the election, transmit in a sealed envelope the voting papers given for each candidate to the returning officer, who shall ascertain the number of the votes given for each candidate, and so many candidates, being equal to the number to be chosen, as shall have the greatest number of votes shall be declared duly elected; and such returning officer shall forthwith cause a list thereof, with the numbers of the wards for which such persons are elected, to be published in manner hereinafter mentioned.

Equality of voters to be determined by lot

XXII. In case of an equality of votes at any election of councillors the returning officer shall cause to be determined by lot which of the persons for whom an equal number of votes shall have been given shall be elected, in case such persons cannot be both or all of them elected.

Election of councillors and duration of office.

XXIII. At the first election of councillors under this Act, the ratepayers shall elect, in manner hereinbefore provided, three councillors for ward No. 1, and two for each of the remaining six wards, who shall enter upon their office on the first day of October following, and shall hold office as such councillors until the expiration of one year from the said date.

How office of councillor to become vacant.

XXIV. If any councillor shall die, resign, or become insolvent, or shall be absent without leave from the ordinary meetings of the council for a period of three calendar months, his office shall be declared vacant, and another councillor shall be elected in his place and stead, in manner hereinbefore provided, who shall hold office until the next annual election.

Election of mayor by first council.

XXV. On the Wednesday following the first general election under this Act, the councillors then elected under this Act shall choose from among themselves, by a majority of votes, the mayor of the municipality, who shall hold office for one year from the date of the councillors entering upon their office: Provided that in case of an equality of votes at any election of mayor the question between the candidates so equal shall be determined by lot.

Election of mayor by subsequent council.

XXVI. On the Wednesday following every subsequent yearly election, the newly-elected councillors shall choose from among themselves, by a majority of votes, the mayor of the municipality for the following year; and every such mayor shall hold office for one year from the date of the newly-elected councillors entering upon their office: Provided that in case of an equality of votes at any election of mayor, the question between the candidates so equal shall be determined by lot.

Mayor may resign.

XXVII. It shall be lawful for the mayor to resign his office: Provided that he shall give to the Council not less than one calendar month's notice of his intention so to do, whereupon the council shall forthwith elect one of their own

number as his successor in office or the remainder of his term of office.

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XXVIII. If any mayor shall die, become insolvent, or compound with his creditors, or assign his estate for the benefit of his creditors, or shall be absent from the municipality, without the permission of the council, for one calendar month, or shall neglect to attend the meetings of the council for the period of three calendar months without leave, such mayor shall be held to have vacated office, and the council shall forthwith elect out of their own number a successor for the remainder of the year.

How office of mayor may become vacant.

XXIX. On the Wednesday following the first and every succeeding yearly election, the council shall appoint from among the ratepayers two persons to be auditors of the municipality, who shall continue in office until the same day in the year following.

Appointment of auditors.

XXX. No person shall be eligible as an auditor who shall be a councillor, treasurer, clerk, or other officer of the municipality.

Disqualifications for auditor.

XXXI. If any auditor shall die, resign, or be declared insolvent, or shall assign his estate for the benefit of his creditors, or compound with his creditors, another auditor shall be elected in his stead, on a day to be fixed by the mayor.

Death, resignation, &c., of auditor.

XXXII. No person holding any office in the gift or disposal of the council shall, directly or indirectly, have any share or interest in any contract made by or with the council otherwise than as a shareholder in any bank with which such council may transact business, or in any joint-stock company which shall contract with the council for any purpose. And any person contravening the provisions of this section shall, if a councillor, be deemed to have *ipso facto* vacated office, and if a person holding any office in the gift or disposal of the council, he may be summarily dismissed from such office without notice and without any claim for compensation for loss of office.

Officers of council to have no interest in contracts.

XXXIII. The council shall have power and authority to do the following acts: To make and keep in repair the roads, streets, dams, sewers, drains, and bridges within the limits of the municipality; to excavate, construct, and lay water-courses, water-pipes, conduits, sluices, dams, reservoirs, aqueducts, and other works for supplying 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; to take order for the prevention and extinguishment of fires, and for that purpose to provide and keep fire-engines with pipes and utensils; to order, establish, alter, or remove markets, and to have or purchase any land, and to erect or purchase and keep in repair any building for the same; to assize

Powers of council.

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weights and measures, and appoint an officer for that purpose ; to grant permits and licences, and to levy tolls and dues as hereinafter provided ; to regulate the time and places for slaughtering sheep and cattle, and the state and condition of slaughter-houses, tanneries, and wool-washing establishments ; to appoint one or more competent persons to examine meat and other provisions exposed for sale, and who, in case such meat or other provisions be found unfit for food, shall be empowered to cause the same to be destroyed ; to prevent and abate nuisances, and generally to devise and carry out all such measures as shall appear to be to the advantage and convenience of the municipality ; to make regulations for the management of the common pasture-lands of the municipality, and for fixing the number and description of cattle which each ratepayer shall be allowed to depasture on such lands ; to establish and provide for the management of tolls and public pounds : Provided that no toll, due, or fee, or charge, for any permit or licence, or any punishment or penalty, shall be imposed by reason of anything in this section contained, unless the same shall have been imposed by some such municipal regulation as is in the thirty-fifth section mentioned.

Certain powers vested  
in the council.

XXXIV. The provisions of Act No. 3 of 1867, entitled “ An Act for enabling the commissioners of the municipality of Uitenhage to procure a better and purer supply of water for the inhabitants of such municipality ” ; Act No. 27 of 1874, entitled “ An Act to authorize and empower the municipality of Uitenhage to borrow a further sum under Act No. 3 of 1867,” and Act No. 14 of 1876, entitled “ An Act for enabling the commissioners of the municipality of Uitenhage to appropriate and dispose of certain lands for the purpose of raising funds for building a town-hall, library, reading-room, town office, market office, and other necessary buildings, for the use of the resident householders and inhabitants of the said municipality,” shall apply to the municipality constituted under this Act, and all powers and duties therein vested in or given to the commissioners for the municipality of Uitenhage are hereby vested in and given, *mutatis mutandis*, to the councillors elected under this Act.

Council may frame  
municipal regulations.

XXXV. It shall be lawful for the council, at any meeting at which two-thirds of the members shall be present, to frame, from time to time, all such municipal regulations as may seem meet for the good rule and government of the municipality : Provided that all municipal regulations in force in the municipality of Uitenhage at the time of the taking effect of this Act shall be of the same force and effect as if they had been duly framed, approved, and published under this Act, and shall continue to be in force and operative until such time as the same shall be altered or new ones published under this Act.

XXXVI. No municipal regulation shall be of force to subject any person to any fine, penalty, or payment, until it shall have been submitted to the Governor by the council, and shall have been approved of by him, with the advice of the Executive Council, and published in the Government Gazette.

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Regulations to be approved by Governor.

XXXVII. After any municipal regulation shall have been so published as aforesaid, it shall not be necessary, in any proceeding founded upon it, to prove that two-thirds of the council were present at the meeting at which it was framed, nor shall any evidence be received to prove the contrary.

Matters not necessary to be proved in regard to regulations.

XXXVIII. It shall not be competent, by means of any municipal regulation, to punish the contravention thereof in any higher or more severe manner than by a fine not exceeding five pounds: Provided that it shall be competent for any such municipal regulation to provide that, if the person convicted of contravening the same shall not forthwith pay the fine imposed upon him, he shall be liable to be imprisoned, with or without hard labour, for any period prescribed by such regulation: Provided, moreover, that such period shall not exceed three months.

Limitation of punishment under regulations.

XXXIX. All property which shall at the time of the taking effect of this Act be vested in the commissioners for the municipality of Uitenhage, elected under and by virtue of Ordinance No. 9 of 1836, shall from and after the taking effect of this Act become and be vested in the council elected under this Act, upon the like trusts and purposes for which the same was originally granted or transferred; and in like manner all liabilities, debts, contracts, or engagements incurred, made, or entered into, by the said commissioners, or their predecessors in office, on behalf of the municipality of Uitenhage, shall be taken over by the council.

Certain property vested in the council.

XL. The council elected under this Act may, with the consent of the Governor of this colony, testified by any writing under the hand of the Colonial Secretary, sell by public sale any of the land or property in the last preceding section mentioned for any purpose of a municipal nature which the council shall deem desirable and the said Governor shall approve of: Provided that the said council shall, before applying to the said Governor for his consent, give public notice, in the manner hereafter mentioned, of their intention to apply for such consent, in which notice so published shall be given a full and clear statement of the situation, nature, and extent of the land or property proposed to be sold, and of the object or purpose for which the money to arise from the sale is required: Provided, also, that when and as often as any land or property shall be sold under and according to the provisions of this section,

Council may sell certain lands.

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then such land or property shall be subject to such servitudes, conditions, and provisions as shall be inserted in the transfer-deed of the land or property sold: Provided, further, that the said council may, with such consent as aforesaid, alienate any of the land or property aforesaid in exchange for other land or property, but such council shall not, except with such consent, alienate any such land or property; and the provisions of this section in regard to the notice to be given before applying for a consent to sell shall extend to any application for a consent to an exchange.

Powers of council as to borrowing money.

XLII. The council elected under this Act may, with the consent of the Governor aforesaid, testified as aforesaid, raise by way of mortgage of any land or property vested in the said council, or by debentures or other securities charged upon such land or property, any sum of money which shall be required for any purpose of a municipal nature which the said council shall deem desirable and the said Governor shall approve of: Provided that the provisions of the last preceding section requiring the publication of notice of an intended sale shall, *mutatis mutandis*, apply to the case of an intended mortgage or issue of debentures: Provided, also, that as often as the said council shall raise money by the issue of debentures, to be charged upon any such land or property as aforesaid, the council shall execute to and in favour of any person or persons whom the said council shall propose, and the Governor aforesaid shall approve of, a mortgage of the land or property upon which it is intended that the said debentures shall be charged, to be held by such person or persons in trust for the holders of the debentures so issued, which holders shall, according to their respective amounts and interests, rank *pari passu* upon the proceeds of the land or property comprised in such mortgage.

Limitation as to amount.

XLIII. The sum of money to be raised under the last preceding section in any one year, reckoned from the 1st day of January till the 31st day of December, shall not exceed double the amount which shall be estimated as the probable sum to be yielded by the municipal rate assessed, or to be assessed, in manner hereinafter mentioned, for that year: Provided that no mortgage granted or debentures issued under the said last preceding section shall be invalidated or affected, either wholly or in part, by reason that the sum secured by such mortgage or debentures shall prove to have exceeded the sum which, under and according to the provisions of this section, ought to have been raised.

Security for loans.

XLIV. The council may, for any such purpose as is in the forty first section described, mortgage or charge by debentures the municipal rates of the said municipality in security for any sum of money to be borrowed by the said council: Provided that no sum of money shall be capable of being borrowed under the provisions of this section, unless



with the previous consent of a majority of the ratepayers of the said municipality present at a meeting to be convened by the council, upon a notice of not less than twenty-one days, to be published in the manner hereinafter mentioned: And provided that it shall not be lawful for the said ratepayers to sanction or for the said council to borrow upon security of the said rates any sum or sums exceeding at any one time the sum of three thousand pounds sterling.

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XLIV. Every mortgage aforesaid or power of attorney for authorizing the execution of a mortgage of any land or property under this Act shall be under the common seal of the corporation, and shall be executed by two councillors and be countersigned by the town clerk, and every debenture issued under this Act shall be executed in the same manner.

How mortgages or powers of attorney to be executed.

XLV. As often as any mortgage granted, or debenture issued, under any of the preceding sections of this Act shall be called up, or any debenture shall become payable, it shall be lawful for the said council to raise by a fresh mortgage of the same land, property, or rates which was or were mortgaged by such mortgage, or to raise by the issue of fresh debentures, any sum not exceeding the sum then required to be paid off; and the council may raise upon debentures moneys required to pay off mortgages, and conversely may raise by mortgage moneys required to pay off debentures, so long as the same land, property, and rates which were charged by the one form of security, and none other, shall be charged by the other or substituted form of security: Provided that it shall not be necessary for the council to obtain the consent of the Governor aforesaid for the granting of any mortgage or the issue of any debentures under the provisions of this section.

When mortgages or debentures are called in fresh ones may be issued.

XLVI. The council may lease, with the consent of the Governor any portion of the common pasture-lands belonging to the municipality for the purpose of erecting wool-washing establishments, for building, and for any other purpose, for a period not exceeding thirty-three years: Provided that no such lease shall be granted by the council until a notice in writing of the proposals of the council to grant such lease shall have been posted for general information at some conspicuous place of public resort, within the municipality, for a period of not less than fourteen days, and shall cause the same to be published in a local paper for the same period, which notice shall in some part thereof describe the part or portion of land proposed to be leased, and the object, terms, and conditions of the proposed lease, and shall require any person objecting to the proposed lease to lodge with the council within fourteen days from and after the posting and publication of such notice his objection thereto in writing, whereupon the council shall receive and consider the objections, if any, and shall grant or refuse the said lease as they

Council may let certain lands on lease for certain purposes.

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shall think fit : Provided, also, that all such leases shall contain a power to re-enter for non-payment of rent or non-performance of covenants.

Quarries.

XLVII. The council may, by public sale or tender, lease the privilege of working any quarries belonging to the corporation.

Power of lessee to sub let.

XLVIII. No lessee of any such land, or of any quarries, shall assign or sub-let the same without the previous consent of the council testified in writing first had and obtained.

Powers of council to treat for lands, buildings, &amp;c., required for making, widening or improving streets, &amp;c.

XLJX. In case the said council shall require to take or use any land, with or without the buildings, if any, erected thereon, for the purpose of making, widening, or improving any street, market, or public building, or to dig out or carry away any materials belonging to any person or persons within the said municipality, then, and in that case, it shall be lawful for the said council, and it is hereby authorized and empowered, to treat and agree with every such person or persons for the purchase or hire, as the case may be, of any such land, buildings, or materials as aforesaid, and generally to enter into such contract or contracts for the obtaining of any such land, buildings, or materials, upon such terms and conditions as the said council shall deem expedient ; and in case any such person or persons and the said council shall not agree upon the purchase money, or hire, or other recompense to be respectively given by the one party and accepted by the other, then the said council shall cause to be served upon such person or persons a written notice, offering as recompense or compensation whatever sum of money it shall deem sufficient, and requiring such person to state in writing to the said council, or to some person by it appointed, within fourteen days from the service of the said notice, whether he or they are willing to accept the sum therein mentioned or not ; and in case the person shall refuse to accept the sum offered, or shall neglect to reply to the said notice, then the said council shall, by another notice in writing, call upon such person or persons to refer to arbitration the amount of recompense or compensation to be paid to him or them by the said council, and for that purpose to transmit to the said council, within a certain reasonable time to be specified in the said last mentioned notice, the name of some person whom he shall select to be an arbitrator, upon such arbitration, and the said council, upon receiving the name of the person so selected, shall nominate a second arbitrator, and shall cause a deed of submission to be prepared, which shall be signed on behalf of the said corporation by the town clerk for the time being, and by the person or persons claiming such recompense or compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, together with a power to the said arbitrators, in case of a difference of opinion, to call in an umpire, whose

decision shall be final; and the award of such arbitrators or umpire, as the case may be, shall be made a rule of the Supreme Court of this colony or of the Court of the Eastern Districts, and shall be binding and conclusive, and may be pleaded in bar to any action or proceeding at law brought for, or on account of, the said subject-matter; and in case such person as aforesaid, claiming such recompense or compensation, shall neglect or refuse to name some person to be such arbitrator as aforesaid, or to sign the said deed of submission, then it shall be lawful for the said council, and it is hereby authorized, to lodge in some joint-stock bank in the colony the sum of money offered by it as aforesaid in its first notice in this section mentioned, for or on account, and at the risk, of such person as aforesaid, who shall at all times be entitled to draw the same out of the said bank as his absolute property; and the said council, upon so lodging the said sum, shall be authorized and entitled to take or use the said land, buildings, or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or had been an order by the arbitrators or umpire under the provisions of this section, and as if all acts by law required for vesting in the said council a sufficient title to the use of or property in the land, buildings, or materials aforesaid, had been duly done and performed.

L. In case the said council shall require to take or use any of the land, with or without the buildings, if any erected thereon, or to dig or carry away any of the materials in the last preceding section mentioned, of which the owner or owners shall be absent from the colony, and not represented by any agent duly accredited, or shall not be discoverable, then it shall be lawful for the said council, and it is hereby authorized, to cause a notice to be inserted in the Government Gazette, and one more newspapers published in the town of Uitenhage, for four successive weeks, describing as accurately as may be the materials, land, or buildings which are required to be taken or used, and calling by name on the owner or owners of the said land, buildings, or materials, if known, to take notice that the said council is ready and willing to treat with the owner or owners, or any persons duly authorized by him or them, for the recompense or compensation to be made or paid by the said council for the said land, buildings, or materials, and requiring such owner or owners to apply, within six months from the date of such notice, which shall be the day of its publication, to the said council, stating the recompense or compensation claimed; and if the owner or owners shall so apply within the said period, then the like proceedings in regard to the agreeing for, or otherwise determining, the recompense or compensation to be respectively given

Procedure in case owner of such land cannot be found.

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and received, shall in all respects be had and taken which are prescribed in the last preceding section, precisely as if the said owner or owners had from the first been in actual occupation; and in case such owner or owners shall not apply to the said council within the said period, then it shall be lawful for the said council to appoint some competent person, to be approved of by the civil commissioner of the division, to appraise the value of the land, buildings, or materials required, and such person shall make oath before some justice of the peace that he hath, to the best of his judgment, fairly appraised such value; and thereupon it shall and may be lawful for the said council to pay whatever sum such person shall have valued the land, buildings, or materials in question at into the guardians' fund, to the credit of the party or parties entitled thereto, subject to the same provisions in all respects which are provided by the Ordinance No. 105, bearing date the 5th of July, 1833, in regard to moneys placed in the said fund belonging to persons absent from the colony; and the said council, upon so paying the said sum, shall be authorized and entitled to take or to use the land, buildings, or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all acts by law required for vesting in the said council sufficient title to the use of or property in the said land, buildings, or materials aforesaid, had been duly done and performed.

Quorum.

LII. All acts hereby authorized or required to be done by the council, and all questions that may come before them, shall, except as hereinafter excepted, be done and decided by the majority of councillors who shall be present at any meeting at which not less than five members of the council shall attend: Provided that nothing herein contained shall extend to alter or affect the provisions of the thirty fifth and sixtieth sections of this Act.

Meetings of council.

LIII. An ordinary meeting of the council shall take place at least once in every fortnight, and all such ordinary meetings shall be open to the public.

Special meetings.

LIII. The mayor or any two 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 notified to every councillor, either personally, or at his usual place of abode, twenty-four hours at least before such meeting.

Chairman.

LIV. At every meeting of the council, the mayor, if present, shall preside; in case of his absence, the councillors present shall elect a chairman from amongst themselves.

Casting vote.

LV. In all cases of an equality of vote, the mayor or chairman shall have a second or casting vote.

LVI. Minutes of the proceedings of every meeting shall be entered in a book to be kept for that purpose, and shall be read at the next succeeding meeting, and signed by the person presiding thereat.

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Minutes of proceedings.

LVII. 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 may seem fit, for any purpose which, in the judgment of the council, would be better managed by means of a committee: Provided, always, that the proceedings of every such committee shall be submitted to the council for its approval; the mayor to be *ex-officio* member of all such committees.

Committees.

LVIII. It shall be lawful for the council, from time to time, to appoint fit persons (not being members of the council) to be town clerk and treasurer, and also to appoint such other officers as they shall think necessary for enabling them to carry into execution the provisions of this Act, and to pay all the officers so to be appointed such salaries as the council shall deem reasonable; and, unless it shall be otherwise stipulated in the contract of service, to remove all such officers, upon a notice of not less than three months, or in case of misconduct, without any notice.

Town clerk and treasurer, and other officers.

LIX. The said council are hereby empowered from time to time to appoint and employ such number of able-bodied street-keepers, location constables, policemen, overseers, labourers, and others, as shall be required for the protection of the inhabitants and property, streets and public places, within the municipality, by day and by night, and for other purposes; and to provide all such street-keepers, constables, and policemen with such clothing, arms, ammunition, and weapons, and shall appoint to them such duties and hours or times of duty, and shall also make such rules, orders, and regulations, relative to such street-keepers, constables, policemen, and others, and their duties, as shall be deemed fit.

Street-keepers, constables, policemen, &c.

LX. For the purpose of raising the means of making new roads, streets, market-places, bridges, drains, sewers, watercourses, reservoirs, aqueducts, and other waterworks; for the purchase of such lands or erection of such buildings as may be required in or about the execution of the powers hereby given to the council; for the purchase of water-pipes, fire-engines, and appurtenances; and for the effecting of all other permanent public works, and improvements within the municipality; for the purpose of raising the means for effecting the repairs of all such works as the council are hereby empowered to make or to have made; for the maintaining of waterworks, fire-engines, police establishments, markets and pounds; for the payment of salaries and all other ordinary current expenses required to be borne by the municipality,

Rates may be assessed for certain purposes.

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the council shall have the power to impose, levy, and recover all such market dues, water rates, and pound fees, as shall be deemed necessary and reasonable, and shall be authorized by any such municipal regulations as aforesaid; and shall also have the power, as often as shall be deemed necessary, to make and levy, in manner hereinafter provided, a rate or assessment upon all immovable property within the municipality, the value of such property to be ascertained in manner hereinafter provided: Provided that no rate shall be made or levied by the council unless there shall be present at the meeting at which such rate shall be imposed, at least ten members of the said council: And provided, also, that no rate or assessment, excepting water rates, shall be imposed upon any immovable property belonging to Her Majesty the Queen, nor on public prisons, or police-stations, alms-houses, or hospitals, nor on any buildings appropriated for public worship, nor upon burial-grounds, nor upon buildings and lands attached thereto solely appropriated to the purposes of education.

Who liable to be rated.

LXI. All persons owning or occupying property within the limits of the municipality, excepting such property as is hereinbefore excepted, shall be liable to be rated on account of such property to the municipal rate in such manner and to such extent as is hereinafter provided. Provided that nothing in this Act contained shall be taken to authorize the assessment of a rate both upon the owner and the occupier of any one property in respect of such property.

Appraisers to be appointed.

LXII. Within three months after the passing of this Act the council shall appoint one or more competent appraisers, not being members of such council, for the purpose of valuing all and singular the immovable property situate within the municipality.

Valuation to be open to inspection, &amp;c.

LXIII. As soon as any valuation as aforesaid shall be completed, it shall lie in the office of the town clerk 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 it will, upon some day and at some hour and place to be fixed by such notice, hold a court for the purpose of hearing and determining objections to such valuation: Provided that the notice shall be published fourteen days at least before the day appointed therein for the holding of such court: And provided, also, that it shall not be necessary in any suit or action for the recovery of any rate to prove anything further, in the nature of due notice of any such valuation as aforesaid, than the publication of the notice aforesaid in one or more of the local newspapers.

Objections may be made.

Court to be held to hear objections.

LXIV. 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 shall inquire into the merits of such objections, and shall confirm or correct 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 his proofs, or for the purpose of obtaining further evidence in regard to any case which shall have been partly heard.

LXV. The decision of the said court upon any objection to any valuation shall be final and conclusive, and shall not be capable of being reviewed or reversed by any court or proceeding whatever. Decision of court to be final.

LXVI. The council shall annually, in the month of September, make an estimate of the amount of money required for municipal purposes, and shall assess the rate accordingly, and give public notice thereof in one or more of the newspapers within the municipality; and shall in like manner, if any further or unforeseen expenditure shall become necessary during the same year, make a supplementary estimate thereof, and assess a second or further rate, whereof they shall give public notice in like manner: Provided that it shall not be lawful for the council in any one year to levy any rate or rates amounting in the aggregate to more than one penny in the pound, exclusive of any rate that may be assessed and levied under and by virtue of the provisions of Acts No. 3 of 1867 and No. 27 of 1874, on the value of the immovable property subject to such rates, without obtaining the consent of the majority of the ratepayers present and entitled to vote at a public meeting, to be called for the purpose of considering such rate or rates; of the object and the time and place of holding such meeting, at least seven days' notice shall be given by publication in one or more of the Uitenhage newspapers: Provided, also, that it shall be lawful for any two or more ratepayers, entitled to vote at such meeting, to demand a poll, which poll shall be taken on a day to be fixed by the mayor, not later than seven days from the date of the meeting, of which day not less than three days' notice shall be given in one or more of the local papers, and which poll shall commence at eight o'clock a.m., and be closed at five o'clock p.m. of such day. Annual estimate to be framed.

LXVII. Every rate so assessed as aforesaid shall become due and payable upon a certain day, to be fixed by the council, of which day and the amount of which rate the said council shall give at least fourteen days' notice in one of the local newspapers: Provided that it shall not be necessary in any suit or proceeding for the recovery of any such rate to prove anything further as to due notice having been given than the publication of the announcement thereof in one of the newspapers aforesaid. When rate to become due.

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Payment of rate.

LXVIII. When the council shall have announced in one of the local papers the day on which any rate duly assessed under this Act will become due and payable, it shall be incumbent upon all persons liable to such rate to pay the amount thereof so due to any person whom the council may have authorized to receive the same, on or before the day fixed in the said announcement for the payment of the same, which shall on non-payment thereof be recoverable at the suit of any such collector, by action in the court of the resident magistrate of Uitenhage: Provided, also, that any occupier who shall have paid any such rate shall be entitled to recover the same from the owner, unless there be any agreement between them to the contrary.

Who may be sued for rate.

LXIX. The council may, in suing for the recovery of rates, proceed against the owner, or in the case of his absence from the district of Uitenhage, his agent or the person receiving the rents for him, or the occupier, either separately or together in one and the same action, each for the whole rate, in any competent court, and recover the same by the judgment and process of such court: Provided that no occupier of any immovable property shall be liable for any rate which had become due and payable thereon at any time before he entered on the occupation thereof: And provided, further, that any person who as occupier may have become liable for any rate as aforesaid shall continue to be liable for such rate although he may have ceased to occupy the property in respect of which the rate had been imposed.

Statement of arrear rates to be published.

LXX. The council may once in every year publish in one or more of the newspapers of the municipality a statement of every sum in arrear, and of the property in respect of which the same is due.

Valuations to be triennial.

LXXI. The first valuation to be made as aforesaid, for the purposes of this Act, shall subsist and be in force for three years from the date of the first assessment under this Act; at the expiration of which term, and of each successive term of three years, a fresh valuation shall be made in the same manner as is hereinbefore directed with regard to the first valuation.

New buildings and additions to buildings may be valued.

LXXII. In case any new buildings shall be erected during any such period of three years, or in case of any addition to, or alteration of, any buildings then already rated, increasing the value thereof, it shall be lawful for the council to proceed to have the land and such buildings thereon valued or re-valued as the case may be, in the same manner as is hereinbefore provided with regard to the first valuation, and after such valuation is completed, the property so valued or re-valued shall be in the same plight and condition as to future rates as if it had been included in the first or then preceding general valuation.



LXXIII. It shall be lawful for the council, by any municipal regulation as aforesaid, to impose such tolls or dues as may be reasonable upon all persons making use of any road, bridge, or market-place within the municipality, which the council is hereby empowered to make and maintain; and in case of the non-payment of such tolls or dues, to recover the same by legal process, or in such other manner as may be by the municipal regulations be in that behalf provided.

No. 30—1877.

Tolls.

LXXIV. No toll shall be payable by any officer or soldier, or member of any volunteer corps, being in proper staff or regimental or military uniform, dress or undress, and on duty, or by any member of the Frontier Armed and Mounted Police Force, of any burgher force, of any police force appointed under the Divisional Police Act, 1873, or any judicial or civil officer, mail-carrier, or other Government servant, whilst travelling on public duty; and further, that no more than one toll shall be payable in any one day, to be computed from twelve o'clock on one night until twelve o'clock in the next succeeding night, for and in respect of the same vehicle or animal.

Exemptions from payment of tolls.

LXXV. The treasurer of the said municipality shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and of the several matters in respect whereof such sums shall have been received and paid; all such accounts, with all vouchers and papers relating thereto, together with a full abstract or balance-sheet thereof, shall yearly, at such times as the council shall appoint, be handed by him to the auditors and to such members of the council as the mayor shall name, for the purpose of being examined and audited; and such abstract or balance-sheet, when found correct, shall be signed by the auditors, and shall be forthwith published by the treasurer in one or more of the newspapers published within the municipality.

Treasurer to keep proper books and accounts.

LXXVI. Every notice calling a public meeting of the ratepayers, and every notice or other document or thing required by this Act to be published, shall (except when otherwise provided) be so published by causing a copy thereof to be inserted in one or more of the newspapers within the municipality, and a copy of the same shall also be affixed in some conspicuous place upon or near the town-hall: Provided, always, that the mayor shall call a meeting on receiving a requisition to that effect signed by not less than twenty duly-qualified ratepayers.

Publication of notices.

LXXVII. All fines and penalties imposed by this Act, or by any municipal regulations made by virtue thereof, shall be prosecuted for in any competent court by the council in the name of the "Municipal Council of Uitenhage," and all such penalties and fines, when recovered, shall be paid to the treasurer of the municipality for municipal purposes: Pro-

Recovery of fines and penalties.

- No. 30—1877. —————  
 vided that no such prosecution as aforesaid shall be commenced later than three months from and after the date of the act or omission upon which such prosecution shall be founded: And provided, also, that in all such prosecutions the town clerk may appear on behalf of the council.
- Storing of Gunpowder &c. LXXVIII. The storing of kerosene, gunpowder, or other explosive material shall not be permitted, except by Her Majesty's Government for public purposes in such places as may be approved by Her Majesty's officers, or by other persons in such place as may be approved of and licensed by the said council for that purpose.
- Burial-grounds. LXXIX. So soon as any burial-ground or portion thereof within the limits of the municipality shall become so crowded as to be, in the opinion of two-thirds of the council, dangerous to the public health, the council shall be empowered to give six months' notice that burials therein shall cease, and after the expiration of the said term of six months, any person or persons causing any interment to be made therein shall be liable to pay a fine not exceeding fifty pounds, to be recovered in any competent court.
- Short title. LXXX. This Act may for all purposes be cited as "The Uitenhage Municipality Act, 1877."

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No. 31—1877.] AN ACT [August 8, 1877.]

To Enable the Municipal Council of Port Elizabeth to provide the Inhabitants of the Town of Port Elizabeth with Water, and for that purpose to take Water from the Van Staden's River, to acquire Government and other lands required for the construction of the necessary Waterworks, and to erect a line of Telegraph along or near to the line of such Waterworks.

- Preamble. **W**HEREAS it is desirable that the inhabitants of the town of Port Elizabeth should be supplied with good water, and the municipal council thereof have caused surveys to be made, and are advised that the same can be obtained from the Van Staden's River, in the district of Uitenhage: And it is expedient that the works necessary to accomplish that object should be constructed either by the said council or by a joint-stock company or co-partnership of individuals or an individual with whom the said council may contract either for the whole or any portion of the said works, or the material therefor: And that to enable the said council to procure the necessary funds, the said council shall be empowered to issue debentures from time to time for any sum

or sums of money not exceeding in the aggregate the sum of one hundred and fifty thousand pounds: And that in order that the said council may be enabled to pay the interest on the said debentures as well as to contribute annually a sum not less than one per cent. on the said capital by way of a sinking fund in order to enable the said council to pay off the said debentures, the said council should be empowered in each and every year to impose, levy, and collect such a rate or assessment as will produce an amount sufficient to pay such interest and contribution as aforesaid:

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. It shall be lawful for the said council, from time to time, to borrow and to take up at interest such sum or sums of money, not exceeding in the whole one hundred and fifty thousand pounds sterling, as may be required for the purposes of this Act, and to charge the municipal rates of the said municipality as security for any such sum to be borrowed by the said council.

Borrowing powers conferred.

II. The said council shall be empowered to take, impound divert, appropriate, and convey from the Van Staden's River in the district of Uitenhage, such a supply of the water of the said river as they may require for the purposes of this Act. And for the purpose of enabling them so to do, it shall and may be lawful for the Governor of this colony, and he is hereby authorized, to give and grant to the said council in full and free property all Government land on which the said Van Staden's River takes its rise, or all such Government land as is situate at or immediately adjoining the point on the said river from whence it is intended that such supply shall be so taken, impounded, diverted, appropriated, and conveyed: Provided, however, that if such taking, impounding, diversion, appropriation, or conveyance, shall deprive any person of any water or right of water which he may, at the time of the taking effect of this Act, possess or be entitled to, in reference to the said Van Staden's River, or in any way interfere with, or lessen such water, or right to water, such person shall be entitled to recompense or compensation, to be settled in case of difference, as in the ninth section of this Act provided.

Powers conferred on Council in regard to Van Staden's River.

III. The said council is hereby empowered to construct and make all such works as may in the opinion of the said council be necessary and expedient for the purpose of impounding, storing, diverting, appropriating, taking, or conveying the said water, whether by reservoirs, dams, water-courses, or leadings, pipes, conduits, drains, ditches, or other means, and to erect such buildings as may be deemed requisite for the purposes of the said works, for securing an adequate supply of water for the inhabitants of the said

Council may construct necessary works for securing supply of water.

No. 31—1877.

town of Port Elizabeth and for the shipping visiting that port.

May construct line of  
Telegraph.

IV. The said council is hereby further empowered to construct and maintain a line of telegraph between Port Elizabeth and the source of the said water supply in such manner as the said council may determine, and to enter into any contract or contracts with any joint-stock company or co-partnerships of individuals, or an individual, for the performance of the whole or any portion of the works in this and the preceding section mentioned and set forth.

Powers of council in  
regard to lands and  
materials for carry-  
ing on works.

V. The council is hereby empowered to enter upon, occupy, enclose, take, and use for the purposes of this Act any land belonging to Her Majesty the Queen, commonly called "Crown Lands," or any land set apart for church purposes, commonly called "Glebe Lands," and also to enter upon, occupy, enclose, take, and use any land the private property of any person or persons whomsoever, which may be required for the purposes of this Act, and may agree as hereinafter provided for the purchase or hire of such private land, or may take, carry away, or use for the purposes of the said works any stone, clay, gravel, or other material requisite for carrying out the said works, and may break up or excavate any land for the purpose of laying down, repairing, inspecting, maintaining, or removing any reservoir or reservoirs, pipe or pipes, or other works, and may either compensate the owners of such lands as hereinafter provided, or enter into any contract relative to obtaining such lands or materials, or for laying down any pipe or pipes, or other works, upon such terms and conditions as may be mutually agreed to.

Lands may be taken  
for protecting sources  
of rivers, &c.

VI. It shall be lawful for the said council to acquire and take possession in the manner hereinbefore and hereinafter provided of any land, whether belonging to Her Majesty the Queen, commonly called "Crown Lands," or land belonging to private persons, that may be required for the purpose of protecting the sources of the said Van Staden's River, or the sources of supply from whence the water may flow into the reservoirs, dams, places or place where the said works may take off the water of the said river.

May lay down pipes,  
&c.

VII. The said council are hereby further empowered to lay down pipes or construct conduits under or along any public road or street or under or along any ground set apart in the diagram or conditions of sale of any sale of land as a street or thoroughfare, without making or being liable to make any compensation in respect thereof.

Right of way over  
lands.

VIII. It shall be lawful for the said council at all times by themselves, their engineers, contractors, or workmen, and with carts or carriages, to have free access and right of way to, over, and along the line of works, and to and from all other property of the said council acquired under the

provisions of this Act, for the purpose of adding to, repairing, relaying, or supervising the said works, or for any other purpose whatsoever that may be deemed expedient by the said council in or about carrying out the purpose of this Act.

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IX. If any person or persons from whom any water or right of water, land, or any stone, gravel, or other material may be required to be taken for the purposes of this Act, and the said council shall not agree upon the purchase money, or hire, or other recompense to be respectively given and accepted, then the said council shall cause to be served upon such person or persons a written notice, offering as recompense or compensation whatever sum of money they shall deem sufficient, and requiring such person or persons to state, in writing to the said council, or to some other person by them appointed, within a certain limited time to be specified in the said notice, being not less than fourteen clear days after the service of such notice, whether he is willing to accept the sum therein mentioned or not,—and if such person or persons should refuse the sum offered, or neglect to reply to the said notice, then the said council or other person aforesaid shall, by another notice in writing, call upon such person or persons to refer to arbitration the amount of recompense or compensation to be paid to him or them by the said council or other person aforesaid, and for that purpose to transmit to the said council, or other person as aforesaid, within a reasonable time to be specified in the last mentioned notice, the name of some person whom he shall select to be an arbitrator,—and the said council, or other person as aforesaid, upon receiving the name of the person so selected, shall nominate a second arbitrator, and the said two arbitrators shall, before proceeding in the arbitration, choose a third arbitrator, the said three arbitrators to sit together, and the said council or other person as aforesaid shall cause a deed of submission to be prepared, which shall be signed by the said council or other person aforesaid, and by the person claiming such compensation or recompense as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, and the award of the said arbitrators or a majority of them shall be binding and conclusive, and may be pleaded in bar of any action or proceeding at law brought for or on account of the matter referred to their arbitration. And if any person as aforesaid claiming such recompense or compensation for land or materials shall neglect or refuse to name some person to be such arbitrator as aforesaid, or to sign the said deed of submission, then the said council or other person aforesaid may lodge in some joint-stock bank in the colony the sum of money offered by them as aforesaid in their first notice in this section mentioned, for or on account and at the risk of such person as aforesaid, who shall at all times be entitled to draw the same out of the

Mode of acquiring lands or materials.

No. 31-1877.

said bank as his absolute property; and the said council or other person aforesaid, upon so lodging the said sum, shall be authorized and entitled to take and use the land or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or had been awarded by the arbitrators under the provisions of this section, and as if all acts by law required for vesting in the said council or other person aforesaid a sufficient title to the use of or property in the land or materials aforesaid had been duly done and performed.

As to lands or materials of minors or persons under curatorship.

X. In case the said council or other person aforesaid shall require to take or use any land or to dig out or carry away any materials belonging to any minor or other person under guardianship or curatorship, then the guardian or curator, as the case may be, shall be authorized in his capacity as such guardian or curator to treat and agree with the said council or other person aforesaid for the purchase or hire of the land or materials required, and to execute any contract which may be needful for carrying out any agreement which may be made, and in case of non-agreement to refer the matter in difference to arbitration, as in the last preceding section mentioned. But all moneys which shall either by agreement or by arbitration be payable by the said council or other person aforesaid for or on account of any land or materials in this section mentioned, shall be paid by the said council or other person aforesaid to the Master of the Supreme Court administering the Guardians' Fund, who is hereby authorized to receive the same, and to place the same to the credit of the minor or other person entitled to such money; and if in any case any person of full age shall by way of *fidei commissary* limitation, or any limitation of a like nature, be entitled to a life or other limited interest in any such land aforesaid, in which a minor or other such person aforesaid, under guardianship or curatorship, shall be also interested in remainder or expectancy, then the whole value of the land or materials as fixed by contract or by appraisement shall be paid as aforesaid to the Master of the Supreme Court, and the person who was entitled to the life or other limited interest to draw the interest payable on the sum so paid in: Provided, however, that if any such person shall desire to have his share of such sum apportioned and paid out, it shall be lawful for him to apply by motion to the Supreme Court for an apportionment of such sum, and such court shall in a summary manner, upon hearing the parties interested, apportion the said sum and order the share of the applicant to be paid out to him, leaving the share of the minor or other person under disability in the hands of the said Master, to be administered in like manner as moneys in the Guardians' Fund, the property of minors or persons under disability, are therein administered: Subject, how-

ever, at all times to such orders as the Supreme Court aforesaid may, upon motion of any person having an interest, see fit to make in regard to such money. And in case the said council shall require to take or use any land or materials, as in the last preceding sections mentioned, of which the owner or owners shall be absent from the colony and not represented by any agent duly accredited, or shall not be discoverable, then it shall be lawful for the said council, and it is hereby authorized, to cause a notice to be inserted in the Government Gazette and one or more local papers for four successive weeks, describing as accurately as may be the land or materials which are required to be used or taken, and calling by name on the owner or owners of the said land or materials, if known, to take notice that the said council is ready and willing to treat with the owner or owners or any person duly authorized by him or them, for the recompense or compensation to be made by the said council for the said land and materials, and requiring such owner or owners to apply within six months from the date of such notice which shall be the day of its publication, to the said council, stating the recompense or compensation claimed, and if the owner or owners shall not apply within the said period then the like proceedings in regard to the agreement for or otherwise determining the recompense or compensation to be respectively given and received shall in all respects be had and taken which are prescribed in the last two preceding sections, precisely as if the said owner or owners had from the first been in actual possession: And in case the owner or owners shall not apply to the said council within the said period, then it shall be lawful for the said council to appoint some competent person, to be approved of by the civil commissioner of the division, to appraise the value of the land or materials, and such person shall make oath before some justice of the peace that he hath to the best of his judgment fairly appraised such value, and thereupon it shall be lawful for the said council to pay whatever sum such person shall have valued the land or materials in question into the Guardians' Fund to the credit of the party or parties entitled thereto, subject to the same provisions in all respects which are provided by the Ordinance No. 105, bearing date the 5th July, 1833, in regard to moneys placed in the said fund belonging to persons absent from the colony: And the said council, upon so paying the said sum, shall be authorized and entitled to take or use the land or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all acts by law required for vesting in the council sufficient title to the use of or property in the land or materials as aforesaid had been duly done and performed,

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Penalty for injuring,  
&c. buildings or other  
works.

XI. Any person who shall wilfully injure, damage, disturb, obstruct, or interrupt any building, line of telegraph, erection, conduit, re-ervoir, dam, watercourse, drain, ditch, pipe or pipes, or other work or works, or shall obstruct, hinder, or prevent the forming, constructing, completing, or maintaining the works contemplated by this Act, shall, upon conviction, forfeit for the use of the said council a sum not exceeding one hundred pounds, or be imprisoned with or without hard labour for any period not exceeding six calendar months, or to both fine and imprisonment: Provided that nothing in this section contained shall be held or taken to exempt such person from any civil or criminal liability for any of the aforesaid acts to which he would have been subject if this Act had not been passed, but no person shall be prosecuted both under this Act and any other law for or in regard to one and the same act.

Penalty for polluting  
water.

XII. Any person who shall bathe or wash himself in any dam or reservoir belonging to the said municipal council, or in any stream flowing into such dam or reservoir, or shall wash, throw, or cause to enter therein any dog or other animal, or who shall place or throw any rubbish, dirt, filth, or other noisome thing in any such dam, reservoir, or stream, or wash or cleanse therein any wool, leather, or skin of any animal, or any clothes or other thing, shall for every offence, on being convicted thereof, forfeit for the use of the said council a sum not exceeding five pounds, and in failure of the payment of such fine, the party convicted shall be liable to be imprisoned with or without hard labour for any period not exceeding twenty-one days.

Tariff of charges

XIII. The council are hereby empowered from time to time to make and publish a tariff of charges by which the supply of water by private water-leadings and the supply of water to the shipping visiting the port of Port Elizabeth shall be regulated, and the payment for all private water-leadings and for the supply of water to the said shipping shall be in accordance with such tariff: Provided, nevertheless, that the said council, or any person duly authorized by them, shall have access at all reasonable times to inspect and regulate all such private water-leadings.

By-laws.

XIV. It shall be lawful for the said council, at any meeting at which a majority of the members shall be present, to frame from time to time such by-laws as they shall deem necessary for regulating the system of water-supply to the town of Port Elizabeth, such by-laws to be submitted for the approval of the Governor in manner provided by the Act No. 14 of 1868, entitled "An Act for constituting the Town of Port Elizabeth a Municipality."

Annual rate may be  
levied.

XV. In order to pay the interest and to establish the sinking fund hereinafter mentioned, and to provide for all other claims arising under this Act, the council shall be em-



powered and compelled to impose, levy, and collect a sufficient annual rate or assessment over and above what the said council is already empowered to impose and levy upon the annual rental, or if no rental be paid then upon the estimated annual value of the whole of the immovable property within the limits of the said municipality; and every rate or assessment so imposed and made by the said council shall be of the same force and effect and be levied in the same manner as if it had been a rate imposed under the provisions of the said Act No. 14 of 1868, so far as the same are applicable: And all rates so imposed and assessed under the provisions of this Act shall be and be deemed to be a charge upon the property so assessed, and be recoverable against the present or any future owner or occupier thereof: Provided that it shall be lawful for the said council to apply for the payment of interest or principal or interest and principal of the moneys aforesaid any funds or moneys coming to the said council from any source whatever and not specifically appropriated or required for any other object.

XVI. The amounts for assessment entered on the tenants' assessment roll in force within the said municipality for each and every year shall be the amounts on which the rate shall be levied for the purposes of this Act so far as the properties included in such tenants' assessment roll are concerned, but for any or all properties not included in such tenants' assessment roll, and for all properties not liable to assessment under the said Act No. 14 of 1868, the annual value shall be made and determined annually by some competent person to be appointed by the council: Provided that such valuation shall lie open for public inspection at the office of the council for the space of one calendar month from the levying of the said annual rate, and the council shall give notice in one or more of the newspapers published within the said municipality that the same lies open for inspection, and the provisions of the 66th section of the Act No. 14 of 1868 shall apply to the hearing and deciding upon objections to such valuation.

XVII. Every such rate or assessment so made and assessed as aforesaid shall become due and payable upon some certain day to be fixed by the said council, of which day and of the amount of the rate or assessment so to become payable not less than fourteen days' notice shall be given, and such notice shall be published by causing the same to be inserted in one or more of the newspapers published within the said municipality, and causing a copy of the same to be affixed in some conspicuous place in or near the town hall.

XVIII. As soon as any rate shall be assessed as aforesaid the council shall appoint under the corporate seal a person to collect the same, and which rate shall, on non-payment

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thereof, be recoverable as a separate and distinct rate at the suit of such collector by action in the resident magistrate's court having jurisdiction within the said municipality, or in any resident magistrate's court in which such defaulter shall reside.

Applying Public Bodies' Debts Act, 1867.

XIX. All moneys borrowed and debts lawfully incurred by the said council under the provisions and for the purposes of this Act shall be subject to the "Public Bodies' Debts Act, 1867."

Council to keep accounts of revenue and expenditure.

XX. The council shall keep or cause to be kept a separate and distinct account of all moneys borrowed under this Act and of the expenditure of such moneys and of all revenues arising from the water-works contemplated by this Act, distinguishing sums received for rates imposed under the provisions of this Act, and of all moneys expended upon the construction and maintenance of the water-works contemplated by this Act: And the said council shall yearly and every year, so long as any part of the debt contracted under the authority of this Act shall be in existence, prepare and deposit in the office of the municipality, for the inspection at all reasonable times of any householder of the municipality, an account showing the particulars aforesaid, and giving any other information which the said council shall deem necessary or expedient to impart: Provided that every such account shall be made up to the 31st December in each and every year.

Fund for payment of moneys borrowed.

XXI. In order to provide a fund for the payment of all moneys borrowed under the provisions of this Act, and for the gradual extinction of the debt to be incurred under the authority of this Act, there shall be set apart an annual sum equal to the interest of the whole amount of such debentures as shall be issued under authority of this Act, and a further sum of not less than one pound sterling per centum on the total amount of the principal or capital sum which shall be raised under the authority of this Act, and such last mentioned sum shall be annually invested as and by way of a sinking fund, and applied towards the redemption of the said debt so long as any portion of the same or any interest thereon shall remain unpaid and unextinguished.

Costs of this Act.

XXII. The necessary costs, charges, and expenses of obtaining this Act may be paid by the said council out of the moneys to be so borrowed as aforesaid.

Interpretation terms.

XXIII. The word "municipality" used in this Act shall mean the municipality of Port Elizabeth as established by the said Act No. 14 of 1868; the word "council" the Municipal Council of Port Elizabeth.

Short title.

XXIV. This Act may be cited for any purpose as "The Port Elizabeth Water Supply Act, 1877."

To Authorize the Divisional Council of Port Elizabeth to borrow moneys upon the security of Road Rates and Tolls within the Division of Port Elizabeth.

**W**HEREAS the bridge known as the Rawson Bridge, Preamble. situate within the division of Port Elizabeth, crossing the Zwartkop's River, dividing the divisions of Port Elizabeth and Uitenhage, and connecting the main road from Port Elizabeth with the eastern and north-eastern frontier towns, was on the 22nd day of February, 1876, carried away: And whereas it is expedient that a bridge should be constructed in the place of the one so destroyed: And whereas the Colonial Government, upon a representation of the necessities of the case, has agreed to bear one moiety of the total cost of the construction of the said bridge: And whereas it is expedient that the said Council should be authorized to borrow moneys upon the security of Road Rates and Tolls of the said division for the payment of one moiety of the cost of the construction of the said bridge, and the provision should be made for the gradual extinction of the debt incurred for the cost of such construction: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. So much of the Act No. 9 of 1858, intituled "An Repugnant laws re- Act to provide for the management of the public roads of pealed. the Colony," so much of the Road Act No. 10, 1864, and so much of the Road Act No. 22, 1873, as is repugnant to or inconsistent with the provisions of this Act, shall in so far as relates to this Act but not otherwise, be repealed.

II. It shall be lawful for the said council from time to time to borrow and take up at interest such sum or sums of money as may from time to time be required by the said Divisional Council for the purposes hereinbefore mentioned, not exceeding in the whole a sum of five thousand pounds sterling. Borrowing powers conferred.

III. It shall not be competent for the said divisional Mode of raising loan. council to raise any loan under this Act except in pursuance of a resolution passed at an ordinary meeting of the said Council, of which due notice shall have been given at some ordinary meeting previously held, and in which resolution two-thirds of the elected members shall concur, and no such loan shall be raised in any year in which the rates assessed by the said council shall be less than one penny in the pound sterling upon the value of the property liable to be rated in the division.

IV. For the due payment of the moneys to be paid as Security for loan. aforesaid, and the interest thereof, the rates, tolls, and other

296 PORT ELIZABETH DIVISIONAL COUNCIL LOAN ACT.

No. 32—1877.

revenues of the said council are hereby charged and hypothecated.

Acknowledgments to be given for sums borrowed.

V. The said council shall grant written acknowledgments of or for such sums of money as may be borrowed as aforesaid, which acknowledgments shall be as near as is material in the form annexed to this Act, and shall be signed on behalf of the said council by three of its elected members duly authorized by resolution of the said council.

Fund for payment of interest and extinction of loan.

VI. In order to provide a fund for the payment of the interest upon and for the gradual extinction of the loans to be raised under the authority of this Act, there shall be charged and chargeable upon and set apart out of the annual revenues of the said council as aforesaid an annual sum equal to the interest on the whole amount of such loans, and a further sum equal to twenty-five per cent on the total amount of the capital sum of such loans, and such sums shall be annually charged upon and payable out of the revenues of the said council so long as any portion of the money to be raised as aforesaid shall remain unpaid and unextinguished.

Application of the said fund.

VII. Such portion of the fund charged and chargeable annually on the revenues of the said council under the last preceding section as shall not be required for the payment of the interest for the time being due upon the loans raised under the authority of this Act shall be paid to a separate account in a bank to be chosen for that purpose by the council, and shall be applied in liquidation of the obligations or acknowledgments of the said council for moneys raised under the authority of this Act, in such manner and form as shall be provided by the terms and conditions whereon such obligations or acknowledgments shall respectively have been granted; and all moneys so paid into a bank for the purpose aforesaid shall be drawn out by cheques to be signed by some member or members specially authorized by resolution of the said council.

Accounts to be kept.

VIII. The said council shall keep a separate and distinct account of all moneys received and expended by virtue of this Act, and shall cause an abstract of the said account to be transmitted to the Colonial Secretary half-yearly, showing all moneys received and expended up to the 30th June and 31st December preceding.

Accounts to be audited.

IX. The accounts in the last preceding section mentioned shall be audited and examined by the auditors to be from time to time appointed under the provisions of "The Divisional Councils' Act, 1865," and the provisions of the eighty-third and eighty-fifth sections of the said Act shall extend and apply to all accounts, books, and papers connected with the said loans.

X. Every debt, liability, and obligation created by virtue of this Act shall be subject to the provisions of the "Public Bodies' Debts Act, 1867."

XI. It shall be lawful for the said council to pay the necessary costs, charges, and expenses of obtaining this Act, and carrying the provisions thereof into effect, out of the moneys to be raised under the provisions thereof.

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Costs of this Act.

XII. This Act may be cited for all purposes as the "Port Elizabeth Divisional Council Loan Act, 1877."

Short title.

SCHEDULE.

Schedule.

PORT ELIZABETH DIVISIONAL COUNCIL LOAN ACT, 1877.

Acknowledgment for Loan of £————

We, the undersigned, members of the Divisional Council, duly authorized by a resolution of the said council, do hereby acknowledge that the Divisional Council of Port Elizabeth is indebted to ——— in the sum of ——— for so much money, borrowed for the purposes mentioned in the "Port Elizabeth Divisional Council Loan Act, 1877," and certify that the said sum is secured by the said Act in manner and form as by the said Act is provided.

And we further covenant and agree in our said capacity that the principal and interest of the said debt shall be payable and paid by the said council in manner following, that is to say—(Here insert the conditions).

Given under our hands at Port Elizabeth this——day of ———18

———— }  
 ————— } Members of the  
 ————— } Divisional Council  
 of Port Elizabeth.

Entered :  
 ————— Secretary.

No. 33—1877.] AN ACT [August 8, 1877.

To Declare the validity of certain valuations of Im-  
 movable Property situate in the Division of  
 Worcester.

WHEREAS William Quin and Jacobus Wouter Henry Meiring were on the 14th day of April, 1875, appointed valutors in terms of the 27th and 42nd sections of Act No. 9 of 1858, for the purpose of valuing the immovable property situate in the division of Worcester : And whereas a valuation was in the month of May, 1875, made by the said Quin of the immovable property situate in

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the town and field-cornetcy of Worcester, and by the said Meiring of the immovable property situate in the rest of the said division, both which valuations were considered at a court held on the 21st day of July, 1875, in terms of the provisions of the 34th and 35th sections of the said Act No. 9 of 1858, whereupon it was decided by the said court that the valuation made by the said Quin should be set aside, and that the immovable property in the said town and field-cornetcy of Worcester should be revalued by the aforesaid Meiring and Johannes Gerhardus de Wet:

And whereas the said Meiring and De Wet made a valuation of the said property on the 9th day of August, 1875: And whereas a court was held on the 13th day of November, 1875, at which the valuations made by the said Meiring in the said month of May, 1875, and by the said Meiring and De Wet on the 9th day of August, 1875, were considered, corrected and confirmed: And whereas doubts have arisen as to the validity of the valuations so considered, corrected and confirmed by the said court as aforesaid, and it is desirable that the said doubts should be removed, and that the said valuations should be declared valid: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

Valuation of 9th August, 1875, to be held valid.

I. That the valuation of immovable property, situate in the town and field-cornetcy of Worcester, made by Jacobus Wouter Henry Meiring and Johannes Gerhardus de Wet, on the 9th day of August, 1875, and the valuation of the immovable property situate in the rest of the division of Worcester, made by the said Meiring in the month of May, 1875, shall, in the form in which the said valuations were confirmed by the court of the Divisional Council for the said division held on the 13th day of November, 1875, be as valid and effectual for all purposes as if the same had been made in strict conformity with the provisions of the 27th, 34th, 35th, and 42nd sections of Act No. 9 of 1858: Provided that nothing in this Act contained shall be construed so as to affect the decision of any question which may at the time of the taking effect of this Act be actually pending in any court of law in this colony.

Short title.

II. This Act may be cited for all purposes as "The Worcester Valuation Act, 1877."

To Legalize the Loan of Twelve Hundred and Fifty Pounds Sterling borrowed by the Municipality of Worcester, and expended in the Construction of Waterworks, for the purpose of providing a supply of Pure Drink Water for the use of the Inhabitants of the Town of Worcester, and the Locations of the Poorer Classes adjoining thereto, and laying down Water Pipes throughout said Town of Worcester, and erecting a Reservoir and Filtering Bed for such purposes; as also for enabling the said Municipality to borrow a further sum of Seven Hundred and Fifty Pounds Sterling, required for completing the Waterworks aforesaid; and to amend Act No. 23 of 1873.

**W**HEREAS by Act 23 of 1873, intituled “ An Act for Preamble enabling the Municipality of Worcester to borrow a sum of money not exceeding two thousand and two hundred pounds sterling, for the purpose of providing a supply of Pure Drink Water for the use of the Inhabitants of the Town of Worcester and the locations of the poorer classes adjoining thereto, and laying down water pipes throughout said Town of Worcester, and erecting a reservoir and filtering bed for such purpose,” the Municipality of Worcester was empowered to borrow moneys for the purposes aforesaid, which said sums were to be charged upon, and made payable out of, all and singular the rates and general revenues of the said Municipality :

And whereas the said Municipality was, in and by said Act, authorized and empowered to raise by way of loan, from time to time, such sum or sums of money, not to exceed in the whole the sum of two thousand and two hundred pounds sterling, for the purposes aforesaid, which said sum was to be charged upon, and made payable out of, all and singular the rates and general revenues of the said Municipality :

And whereas the cost of constructing and completing the water-works aforesaid having been estimated to exceed the said sum of two thousand and two hundred pounds sterling, the said Municipality has borrowed on credit the further sum of twelve hundred and fifty pounds sterling, which sum has been expended on the construction of the said water-works :

And whereas a further sum of seven hundred and fifty pounds sterling will be required by the said Municipality to complete the said water-works :

And whereas it is just and right that the said sums of twelve hundred and fifty pounds sterling and seven hundred

No. 34—1877.

and fifty pounds sterling respectively (making together the sum of two thousand pounds sterling), borrowed and required for completing the said water-works, should also be made a charge upon, and payable out of, all and singular the rates and general revenue of the said Municipality :

Be it therefore enacted by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

Act 23 of 1873 amended.

I. The said Act No. 23 of 1873 shall be and hereby is amended by substituting in the title and in the first, fifth, and sixth sections thereof the sum of four thousand and two hundred pounds sterling, in lieu and stead of the sum of two thousand and two hundred pounds sterling in the said title and sections mentioned : Provided always that any loan already contracted or which may hereafter be contracted, under the terms and provisions of said Act No. 23 of 1873, and of this present Act, shall not exceed the sum of four thousand and two hundred pounds sterling.

Short title.

II. This Act may be cited for all purposes as “ The Municipality of Worcester Loan Amendment Act of 1877.”

No. 35—1877.] AN ACT [ August 8, 1877.

To Amend the “ Heidelberg Canal Act, 1876.”

Preamble.

WHEREAS by the “ Heidelberg Canal Act, 1876,” the commissioners of the municipality of Heidelberg are empowered to borrow for the purposes of the said Act a sum not exceeding two thousand pounds, and to impose, for the purpose of providing for the payment of the principal and interest of the moneys to be borrowed, special rates upon the immovable property situate within the said municipality and liable to be rated, not exceeding at one time or within one year one penny in the pound : And whereas a rate not exceeding in one year one penny in the pound upon the value of the property liable to be rated would be insufficient to provide for the payment of the interest on the amount required to be borrowed, and a fund for repayment of the principal : And whereas it expedient to remove the restriction to impose for the purpose of the said Act rates not exceeding one penny in the pound in any one year, and otherwise to amend the said Act : Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

Amendment of Act 23 of 1876.

I. The following proviso to the first section of the said



Act, to wit, "Provided that no such rate shall at any one time, or within one calendar year, exceed one penny in the pound on the value of such immovable property as aforesaid," shall be, and the same is hereby, repealed.

No. 35—1877.

II. All moneys borrowed by the commissioners of the municipality of Heidelberg for purposes of the "Heidelberg Canal Act, 1876," are hereby charged upon and made payable out of the rates to be imposed under the first section of the said Act: Provided that it shall be lawful for the commissioners to apply to the payment of the interest or principal, or interest and principal of the said debt, any funds or moneys coming to them from any source whatever, and not specially appropriated or required for any other purpose.

Payment of moneys borrowed under Act 23 of 1876.

III. It shall be lawful for the Supreme Court, in case any petition shall be presented to such court under the provisions of the "Public Bodies' Debts Act, 1867," for enforcing payment of any judgment for the recovery of money borrowed under the provisions of the "Heidelberg Canal Act, 1876," to assess and impose such rates exceeding one penny in the pound as to such court shall seem fit, anything in the third section of "Public Bodies' Debts Act, 1867," to the contrary notwithstanding.

Supreme Court may impose rate if necessary.

IV. The necessary costs, charges, and expenses of obtaining this Act may be paid by the said commissioners out of the money to be borrowed under the said Act.

Costs of this Act.

V. This Act may be cited for all purposes as the "Heidelberg Canal Amendment Act, 1877."

Short title.

No. 36—1877.]

AN ACT

[August 8, 1877.]

To enable the Commissioners of the Municipality of Hanover to borrow a sum of Money not exceeding Two Thousand Pounds Sterling for the purpose of constructing a Covered Watercourse in the said Municipality or otherwise improving the Water Supply of the Village of Hanover, and of repaying Moneys already borrowed and expended for that purpose.

WHEREAS the inhabitants of the Municipality of Hanover have been for a number of years, and still are, suffering great inconvenience in consequence of a very deficient and defective supply of pure water: And whereas it has been considered expedient that the said water supply should be improved: And whereas the commissioners of the municipality, acting in conformity with the desire and

Preamble.

No. 36—1877.

representations of the inhabitants, have borrowed certain moneys for the improvement of the said water supply, and have expended them upon the same: And whereas it is expedient that the said commissioners should be empowered to borrow a sum of money, not exceeding two thousand pounds sterling, for the purpose of constructing a covered watercourse in the said municipality, or otherwise improving the water supply of the village of Hanover, and of repaying the moneys heretofore borrowed and expended by them for the said purposes as aforesaid :

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

Borrowing powers.

I. It shall be lawful for the commissioners of the municipality of Hanover to borrow and take up such sum or sums of money, not exceeding in the whole the sum of two thousand pounds sterling, for the purposes aforesaid, and any amounts borrowed as aforesaid are hereby charged upon and made payable out of all and singular the rates and revenues for the said municipality, and shall be a first and preferent charge upon the same.

Special rate may be levied.

II. It shall be lawful for the commissioners of the said municipality, whenever the general revenue of the municipality is insufficient, to impose for the purpose of providing for the payment of the principal or interest, or principal and interest of such loan, a certain annual rate or tax upon the value of the immovable property of the inhabitants, not exceeding two-pence in the pound, and every rate so imposed shall be levied in the same manner as if it had been imposed under the provisions of Ordinance No. 9, 1836.

Acknowledgments to be given for moneys borrowed.

III. The commissioners aforesaid shall grant to the party or parties or company or society from whom they shall borrow such money a written acknowledgment of or for the money so borrowed, not exceeding in the whole the abovementioned sum of two thousand pounds sterling, such acknowledgment to be in substance in the form annexed to this Act, and to be signed on behalf of the said commissioners by at least three of the commissioners for the time being.

Applying Act 11 of 1867.

IV. All moneys borrowed for the purpose of this Act shall be borrowed under the provisions of the "Public Bodies' Debts Act, 1867."

Account to be kept

V. The said commissioners shall keep or cause to be kept a separate and distinct account of all moneys borrowed under this Act, and of the expenditure of such moneys, and shall, as long as any part of any debt contracted by virtue of this Act shall be in existence, make an annual statement thereof up to the 31st December, which statement shall be deposited in the office of the civil commissioner or resident magistrate, or of the said municipality, for the information and inspection of resident householders.

VI. The necessary costs, charges, and expenses for obtaining this Act and carrying the provisions thereof into effect, shall be paid by the commissioners out of the general revenue of the municipality. No. 36—1877.  
Costs of this Act.

VII. This Act may be cited as the “ Hanover Municipal Water Act, 1877.” Short title.

— — — — —  
SCHEDULE.

We, the undersigned commissioners of the municipality of Hanover, do hereby acknowledge that the said commissioners, in their said capacity, are indebted to ————— in the sum of ————— pounds sterling for so much money borrowed by the said commissioners for the purposes set forth in the Hanover Municipal Water Act, 1877; and certify that the said sum is and stands secured by the said Act, in manner and form as by the said Act provided; and we further covenant and engage in our said capacity that the principal and interest of the said debt shall be payable and paid in manner following, that is to say (here insert the rate of interest, times of payment, and other conditions agreed upon). Schedule.

Given under our hands at Hanover, this ——— day of ——— 18 .

A. A., Chairman.  
B. B. }  
C. C. } Commissioners.

Witnesses :  
D. D.  
E. E.

—————  
No. 37—1877.]            AN ACT            [August 8, 1877.

To Legalize the Loan of One Thousand Pounds, borrowed by the Divisional Council of Tulbagh, and for enabling the said Divisional Council to borrow a further sum of Six Hundred Pounds for the construction of the Verlaten Kloof Road, and to Amend the Act No. 18, 1875.

WHEREAS by the Act No. 18 of 1875, intituled “ An Act for enabling the Divisional Council of Tulbagh to borrow Moneys upon the security of Road Rates and Tolls for the construction of a Road through the Karroo in the Division of Fraserberg,” the Divisional Council of Tulbagh was empowered to borrow moneys upon the security of road rates and tolls of the said division for the purpose of constructing a public road through the Tulbagh Karroo to the boundary of the said division, and in connection with a Preamble.

304 TULBAGH DIVISIONAL COUNCIL LOAN ACT.

No. 37—1877.

new line of road in course of construction by the divisional council of Fraserberg through the Verlaten Kloof, by which the inhabitants would be benefited :

And whereas the costs of making and completing the said road having proved to be far greater than was contemplated, and the annual amount of road rates to be levied under the Act No. 9, 1858, and Act No. 10, 1864, not having sufficed to meet the additional outlay, the said divisional council borrowed on credit the further sum of one thousand pounds required to complete the said road, and expended the same in completing said road :

And whereas it is expedient that the said divisional council should be empowered to borrow upon the security of the road rates and tolls of the said division a further sum of six hundred pounds for the purpose of constructing a second section of the above mentioned road through the Karroo to the Verlaten Kloof lying within the boundaries of the division of Worcester, but it has not been deemed just that any portion of the cost of the said section should be required to be defrayed by the divisional council of Worcester :

Be it therefore enacted by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :

Borrowing powers.

I. It shall be lawful for the divisional council of Tulbagh aforesaid to raise by way of loan on credit of any tolls to be levied or rates to be assessed under the Act No. 9, 1858, or under the Act No. 10, 1864, a further sum not exceeding one thousand six hundred pounds, to be appropriated as follows : the sum of one thousand pounds to meet certain expenditure already incurred in completing the section of the said road described in the Act No. 18 of 1875, and the sum of six hundred pounds to meet the costs of construction of the said section of the road aforesaid, lying within the limits of the division of Worcester.

Certain sections of Act 18 of 1875 applied.

II. All and singular the provisions contained in the sections, from No. 2 to No. 8, inclusive, of the said Act No. 18, 1875, shall be and are hereby made applicable to the said sum of one thousand six hundred pounds, to all intents and purposes as if the same were inserted herein.

Short title.

III. This Act may be cited for all purposes as the "Tulbagh Divisional Council Loan Act, 1877."

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No. 38—1877.]

AN ACT\*

No. 38—1877.

To Provide for the Annexation to the Colony of the Cape of Good Hope of the Country situated between the Bashee and the Kei, commonly known as Fingoland and the Idutywa Reserve, and the Country situated between the Umtata and the Umzimkulu, commonly known as Nomansland, and for the government of the said Territories.

**W**HEREAS by resolution of both Houses of the Par- Preamble.  
liament of this colony, passed in the session of Parliament held in the year of our Lord 1875, it was resolved that it is expedient that the country situated between the Bashee and the Kei, known as Fingoland and the Idutywa Reserve, and the country situated between the Umtata and the Umzimkulu, commonly known as Nomansland, should be annexed to this colony: And whereas by Her Majesty's letters patent, bearing date at Westminster the 12th day of June, 1876, and passed under the Great Seal of the United Kingdom of Great Britain and Ireland, the Governor for the time being of this colony was authorized by proclamation under his hand and the public seal of this colony to declare that from and after a day to be therein mentioned, the said territories or so much thereof as to him after due consideration and consultation with his ministers should seem fit, should be annexed to and form part of this colony, and was authorized and directed to determine, and by proclamation to signify the limits of the said territories so annexed: Provided that no such proclamation should be issued until the legislature of this colony should have passed a law providing that the said territories should on the day aforesaid become part of this colony and subject to the laws in force therein: And provided, also, that the application of the said laws to the said territories might be modified either by such proclamation as aforesaid or by any law or laws to be from time to time passed by the legislature of this colony for the government of the said territories so annexed: And whereas it is expedient that a law should be enacted providing that the said respective territories shall on the day to be mentioned in that behalf in a proclamation or proclamations of the Governor as aforesaid become part of this colony; but, in consequence of the said territories being for the most part occupied by natives who are not yet sufficiently advanced in civilization and social progress to

\* This Act was reserved for the signification of Her Majesty's pleasure thereon, and had not been promulgated at the time that this volume was printed. [Oct. 1, 1878.]

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be admitted to the full responsibility granted and imposed respectively by the ordinary laws of this colony to and upon other citizens thereof, subject to the laws in force therein only as the same may from time to time be applied and modified as hereinafter mentioned and hereinafter provided: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Governor may proclaim date from which Fingoland, Idutywa Reserve, and Nomansland shall become part of the colony.

I. From and after such day as the Governor, with the advice of the Executive Council, shall, pursuant to the powers in that behalf contained in the said letters patent, by proclamation under his hand and the public seal of this colony, fix in that behalf the territory between the Bashee and the Kei Rivers, commonly known as Fingoland and the Idutywa Reserve, and the territory between the Umtata and Umzimkulu Rivers, commonly known as Nomansland, or so much of the said respective territories as shall be defined in or by any such proclamation, and with the limits and name in any such proclamation signified, shall become and be part of the colony of the Cape of Good Hope, and subject to the laws in force therein except as the application of the same to the said respective territories may be modified by any such proclamation: Provided that for the purposes in this section mentioned it shall be lawful for the Governor with the advice aforesaid to issue one or more proclamations as may seem fit.

Provision as to laws

The laws at present in force in these territories may, until otherwise provided by Parliament, be repealed, altered, amended, and modified by Governor in Council.

II. From and after the annexation of the said respective territories to this colony as aforesaid, the laws which may be in force therein under and by virtue of the last preceding section may, until it shall be otherwise provided by Act of Parliament, be repealed, altered, amended, and modified, and new laws applicable to the said territories respectively may be made, and may be repealed, altered, amended, and modified by the Governor with the advice of the Executive Council, by proclamation published in the Government Gazette; and no Act passed or to be passed by the Parliament of this colony shall extend or be deemed to extend to the said territories or any or either of them unless such Act shall be extended thereto in express words either contained therein or in some other Act of Parliament, or unless the operation thereof shall be extended to any or either of such territories by the Governor with the advice of the Executive Council by such proclamation as aforesaid, and in such case any such proclamation may be amended or repealed from time to time by the like proclamation, and no proclamation published in the Government Gazette after any proclamation or proclamations as in the last preceding section mentioned shall be deemed to extend or apply to the said territories or any or either of them unless the same shall be declared in express words

No colonial Acts to apply unless expressly provided in such Act, or unless it is extended to these territories or any of them by Governor in Council.

contained in such or some other proclamation as aforesaid to extend or apply thereto: Provided always that all such laws made under or by virtue of this Act shall be laid before both Houses of Parliament within fourteen days after the beginning of the session of Parliament next after the proclamation thereof as aforesaid, and shall be effectual unless in so far as the same shall be repealed, altered, or varied by Act of Parliament.

No. 38—1877.

III. The courts of this colony shall have jurisdiction to take cognizance of, try and determine, any cause or entertain any matter, civil or criminal, which the Governor, with the advice of the Executive Council, may from time to time by any proclamation published in the Government Gazette, extending to the said territories or any or either of them, declare to be cognizable by such courts respectively, the subject matter whereof shall have occurred within the local limits of such territory, or the parties whereto or any of them are or is or may be resident within such limits in like manner as if such subject matter had occurred, and such parties were resident, within the limits heretofore forming the limits of this colony; and all persons who may be lawfully sentenced to undergo imprisonment with or without hard labour by any court or magistrate in any or either of the said territories, may by order of the Governor with the advice aforesaid, be removed to undergo the said sentence or any part thereof to any convict station or gaol within the said limits.

Governor in Council may authorize colonial courts to try any case, civil or criminal, arising in these territories.

And may authorize removal of prisoners sentenced therein to convict stations therein.

IV. This Act may be cited as the "Transkeian Annexation Act, 1877." Short title.

No. 39—1877.] AN ACT\*

To Make provision for the Annexation to this Colony of the Province of Griqualand West.

WHEREAS it is expedient that the province of Griqualand West should be annexed to and form part of the Colony of the Cape of Good Hope, and that provision should be made by the Legislature of the said colony for such annexation, and for the representation in the Parliament of the said colony of the inhabitants of the said province, as hereinafter is provided: Be it enacted by the Governor of the Cape of Good Hope, with the advice

Preamble.

\* This Act was reserved for the signification of Her Majesty's pleasure thereon, and had not been promulgated at the time that this volume was printed. [Oct. 1, 1878.]

No. 39—1877.

and consent of the Legislative Council and House of Assembly thereof, as follows :—

Repugnant laws repealed.

I. So much of the Constitution Ordinance, of the Royal Letters Patent, commonly called the “ Charter of Justice,” of “ the Administration of Justice Act, 1864,” and of any other law in force in this colony at the time of the taking effect of this Act as shall be repugnant to or inconsistent with any of the provisions of this Act, shall be and the same are hereby repealed.

Annexing Griqualand West.

II. From and after the taking effect of this Act, the said province of Griqualand West, within the boundaries thereof as then fixed and determined, shall become annexed to and thenceforth be portion of the colony of the Cape of Good Hope.

Griqualand West to be a new electoral province for the purposes of Legislative Council elections, returning one member, which Council shall, in future, consist of twenty-two members instead of twenty-one.

III. The entire of the said province of Griqualand West shall, for the purposes of election to the Legislative Council of the Cape of Good Hope, be and become from and after the annexation of the said province to the said colony, a new electoral province of the said colony, and such new electoral province shall be entitled to return to the Legislative Council of the said colony one member ; and the entire of the said Council shall consist, from and after the said annexation, of twenty-two elective members instead of twenty-one as heretofore.

Griqualand West to be divided into two electoral divisions.

IV. Within three months after the taking effect of this Act, there shall be formed out of the said province of Griqualand West two new electoral divisions to become and be electoral divisions of the colony of the Cape of Good Hope, with such boundaries as may be defined by the Governor, with the advice of the Executive Council of the said Colony, by proclamation to be published in the Government Gazette within the time aforesaid.

Each division to return two members to House of Assembly.

V. Each of the said electoral divisions shall be entitled to return to the House of Assembly of the colony of the Cape of Good Hope two members.

Member of Council and members of Assembly to be elected as soon as may be, and for that purpose the province and divisions to be treated as if they had members and these members had died or resigned.

VI. As soon as may be after the taking effect of this Act, the member to be returned as aforesaid for the said new electoral province to the said Legislative Council, and the members to be returned as aforesaid for the said two electoral divisions to the said House of Assembly, shall be elected ; and for the purposes of such respective elections the said electoral province and the said electoral divisions respectively shall be treated and considered as if members had been returned for the same to the said Legislative Council and the said House of Assembly respectively, and their seats had become vacant by death or resignation, and the fact of the occurrence of such vacancies had been duly notified to the Governor ; and the like proceedings shall, *mutatis mutandis*, be taken to fill the said seats as would take place if the said electoral province and the said electoral



divisions respectively had been immediately before the taking effect of this Act a province and electoral divisions respectively of the said colony, and the members elected to fill such seats shall be in the same position in all respects as other members of the said respective Houses of Parliament of the said colony: Provided that in case of a dissolution of either House of Parliament before any such election as aforesaid, but after the taking effect of this Act, the said new electoral province and the said two electoral divisions respectively shall in regard to the general election of members be treated in all respects as any other electoral province or electoral division of the said colony entitled to return members to the Parliament thereof.

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Members elected to be treated in all respects as other members of Parliament.

VII. All the provisions existing at the time of the taking effect of this Act with regard to the election and qualification of members of the said Legislative Council and House of Assembly shall, so far as may be, be in force and apply to the election and qualification in time to come of members of the Legislative Council and House of Assembly respectively for the new electoral province and divisions respectively of the said colony after such annexation as aforesaid.

Provision as to election and qualification of members.

VIII. All persons for the time being registered as voters under any law of the said province of Griqualand West, and who, immediately before the annexation of the said province to the said colony, would have been entitled to vote for a member or members of the Legislative Council of the said province, shall be entitled, after such annexation as aforesaid, to vote for a member of the Legislative Council and for members of the House of Assembly, as the case may be, of the said colony, at the first election thereof respectively under the provisions of this Act, and shall remain so entitled to vote in like manner as they would be entitled to vote for members of the said Legislative Council and House of Assembly respectively, if duly registered as voters for some electoral division heretofore within this colony until the next general registration of voters throughout the colony which shall take place after the annexation of the said province, when all and singular the provisions of the laws for the time being in force in the said colony relative to the registration of voters and the conduct of elections for members of the Legislative Council and House of Assembly respectively shall apply to the said electoral province and the said two electoral divisions hereby created, and to persons residing therein, as if the said province were a province of the said colony, and as if the said two electoral divisions were electoral divisions of the said colony, and for such purposes the list of registered voters in each of the said electoral divisions for the time being in force shall be deemed to be for the purpose of such general registration as aforesaid, the registered list of voters for the time being for

Provision as to voters.

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each of the said electoral divisions: Provided, however, that the qualification of voters in that part of the said colony formed by the said province shall, after the said annexation thereof, remain the same as before the said annexation until Parliament shall otherwise provide: And provided, also, that above the formation of the said electoral divisions mentioned in the fourth section of this Act, the lists of registered voters then in force in the said province shall be divided so as to make the same conformable to the formation of the said new divisions.

Number of puisne judges of Supreme Court increased to five, of which the recorder of Griqualand to be one.

IX. From and after the annexation of the said province to the said colony, the supreme court of the said colony shall consist of one chief justice and five puisne judges, instead of four as heretofore, the additional judge being the recorder for the time being of Griqualand; and in case of any vacancy in the said office of recorder, such vacancy may be filled up in like manner as by law provided with respect to a vacancy in the office of any other judge of the said supreme court: Provided that nothing in that section contained shall be construed so as to confer on the said recorder any larger jurisdiction or powers within the said province than he shall have possessed immediately before the said annexation, or to render his consent or assistance necessary to the making, alteration, or amendment of any rules or orders of the supreme court or court of the eastern districts.

High Court to have concurrent jurisdiction in Griqualand with Supreme Court.

X. The proclamation of His Excellency Sir Henry Barkly, bearing date the 27th day of October, 1871, making provision for the due and effectual administration of justice within the territory of Griqualand West shall, except as hereinafter provided, continue and have the same force and effect after the said annexation as if the same had not taken place; but the high court thereby created shall have and exercise concurrent jurisdiction only in the said province with the supreme court of the colony of the Cape of Good Hope, and in lieu of any right of appeal which may exist at the time of such annexation from any decision of the said high court, or of any circuit court within the said province, such appeal shall be made, in the first instance, to the said supreme court; and all and singular the provisions of the law of this colony as to appeals from the court of the eastern districts of the Cape of Good Hope to the said supreme court shall, *mutatis mutandis*, apply to appeals from the said high court or such circuit court as aforesaid, to the said supreme court, precisely as if the judgment, decree, sentence, rule, or order appealed from had been a judgment, decree, sentence, rule, or order of the said court of the eastern districts: Provided that in case of any judgments of the said high court or such circuit court as aforesaid against which appeals shall have been duly noted,

Appeals to Supreme Court.

Law of this colony as to appeals from Eastern Districts Court to apply.

Provision as to pending appeals

but such appeals not yet transmitted to the privy council at the time of the taking effect of this Act, it shall be lawful for the parties to such suits, if they shall agree so to do, to carry such appeals to the supreme court instead of to the said privy council; and the same right of appeal to the privy council shall exist as to a decision of the said high court of such circuit court as aforesaid as shall at the time of the taking effect of this Act exist in regard to a decision of the said court of the eastern districts.

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XI. All appeals from decisions of the land court of Griqualand West which shall be pending in the high court at the time of the taking effect of this Act, or which may thereafter be lawfully noted may, after the taking effect of this Act, by consent of all the parties to any such appeal, be removed into the said supreme court instead of being proceeded with in the said high court; and such appeals shall, in case of such removal, be carried on, tried, heard, and determined in the said supreme court in like manner as nearly as may be as if the same were appeals from decisions of the said court of the eastern districts to the said supreme court.

Provision as to pending appeals from Land Court.

XII. Except as is otherwise provided by this Act, the duties, powers, and authorities of the sheriff for the said province shall continue to be the same after as immediately before such annexation as aforesaid: Provided that nothing herein contained shall be construed so as to prevent the sheriff for the colony from exercising, by himself or his lawful deputies, within the said province, such duties, powers, or authorities as he might immediately before such annexation as aforesaid have lawfully exercised within this colony.

Duties of sheriff.

XIII. As often as in or by any proclamation, ordinance, act, or other instrument having the force of law within the said province at the time of the said annexation, any right, power, duty or function, shall be vested in the master of the high court, in regard to the registration of wills and the administration of the estates of deceased persons, and in regard to the administration of insolvent estates, and in regard to any matter or thing whatsoever, such right, power, duty or function, shall not, except as is otherwise provided by this Act, be deemed or taken to be vested in the master of the supreme court, but shall continue to be vested in the master of the said high court: Provided that all letters of administration or of confirmation which shall be granted, and all other matters or things which shall be lawfully done by the master of the supreme court by virtue of the powers and jurisdiction vested in him before the annexation, shall, in regard to any property, movable or immovable, found or situated within the said province, have the same force and effect as within any other portion of the said colony: Provided, further, that it shall be the duty of the

Duties of master.

No. 39—1877.

master of the said high court, forthwith after any order for sequestration of any estate, or any deed purporting to be a testamentary disposition, or any death notice, or any inventory of the estate of any deceased person or persons, or any account or plan of distribution of the estate of any minor, lunatic, or deceased person or of any insolvent estate shall have been delivered or transmitted to him, and forthwith after granting any letters of administration or of confirmation, and forthwith after security shall have been found or given for any executor, tutor, or curator to forward to the master of the supreme court a true copy of such order, deed, death notice, inventory, account, plan or other instrument, for the purpose of being duly registered by the said master of the supreme court: Provided, however, that it shall not be necessary for the master of the said high court to forward any duplicates or copies of accounts lodged with and filed by him in his office to the resident magistrates of the respective districts in which the estates to which such accounts respectively relate were situated.

Removal of suits or actions.

XIV. As often as any suit or action shall be brought or depending in the supreme court, or in the court of the eastern districts, or in the said high court of Griqualand West respectively, and it shall be made to appear to the court before which such suit or action may be pending, that the same may be more conveniently or more fitly heard or determined in another of the said courts, it shall be lawful for the court before which such suit or action is pending, to order the same to be removed to such other court, and such order shall be certified by the court granting the same to the court into which this suit or action shall be intended to be removed; and thereupon it shall be lawful for such lastmentioned court to proceed in such suit or action in like manner as if the same had been originally commenced and prosecuted in such lastmentioned court.

Execution of judgments of High Court against property in this colony.

XV. When and as often as any judgment, decree, or order for the payment of money shall be made by the high court of Griqualand in respect of or in relation to any civil suit, action, or proceeding in which the party defendant shall have been duly served with the process of the said court, or shall have appeared in pursuance of any process thereof, it shall be lawful for the supreme court, and it is hereby required, upon inspection of such judgment, decree, or order, and upon proof to be made by the return of the officer proper to make such return to the process of execution of the said high court, and the said judgment, decree or order remains either wholly or in part unsatisfied, to issue process of execution upon such judgment, decree, or order against any property, movable or immovable, belonging to the party against whom such judgment, decree, or order shall have been obtained, and situate else-

where in the colony than in the said province of Griqualand West, and to cause such process to be executed in such manner as process could or might have been issued and executed upon any original judgment, decree, or order of the like nature of the said supreme court: Provided that it shall not be necessary to prove the handwriting of such officer as aforesaid to any such return as aforesaid.

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XVI. In every case in which any judgment, decree, or order, or other record of the high court aforesaid, or of any circuit court within the said province, shall require to be proved, inspected, or in any manner referred to in any other court, a copy of such record certified under the seal of the said high court, or as to any such record of any circuit court as aforesaid, 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.

Copies of records to be received in evidence.

XVII. In all cases depending in the said high court, the process of the said court for summoning, whether as a party or a witness, any person residing or being within the said province of Griqualand West to appear in such court, shall be of the same force and effect as if such court were the supreme court, and such process that of the supreme court, and in regard to the summoning of witnesses residing or being elsewhere in this colony than in the said province, the process of the said high court shall be of the same force and effect as the process of the eastern districts court in regard to the summoning of witnesses residing or being elsewhere in this colony than in any of the eastern districts.

Provision for summoning parties or witnesses residing out of the province.

XVIII. The rules and orders in force in the said high court of Griqualand immediately before such annexation as aforesaid shall, except as is otherwise provided by this Act, remain in force thereafter: Provided that such rules and orders may be amended, added to, or rescinded by the judges of the supreme court, including the said recorder, proceeding in like manner as by law is or shall be required in regard to the framing and confirmation of rules and orders of and for the said supreme court.

Rules of the court.

XIX. From and after the taking effect of this Act in regard to all criminal cases which may then or thereafter be pending within that part of the said colony which was theretofore the province of Griqualand West, and in regard to the prosecution of crimes and offences which may have been or may be committed therein, all and singular the rights, powers, and functions conferred or imposed by law upon the attorney-general of the said province or of the said colony shall and may, within that part of the said colony which was theretofore the province of Griqualand West, be exercised by the attorney-general of the colony

Prosecution of crimes

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of the Cape of Good Hope, or by an officer to be called the crown prosecutor for Griqualand West, such officer to be appointed by the Governor of the said colony, with the advice of the Executive Council thereof.

Courts of resident magistrates.

XX. From and after such annexation as aforesaid the districts of resident magistrates existing in the said province at the time of such annexation, and the courts of resident magistrates established in such districts, shall become and be districts and courts of resident magistrates of this colony, and be in the same situation and condition as if such courts had been created by the "Resident Magistrates' Court Act, 1856": Provided that nothing in this Act contained shall be deemed or taken to affect or alter any of the laws of the said province specially relating to the jurisdiction of such courts or to the procedure of practitioners therein: And provided, also, that all appeals from any decision of any of such courts after such annexation may be made either to the said high court or to the said supreme court; and all decisions of any of such courts which are required by law to be sent for revision by a judge of a superior court shall be sent for revision to the judge of the said high court as theretofore.

Admission of advocates and attorneys.

XXI. From and after such annexation as aforesaid, every advocate and attorney duly admitted and enrolled in the supreme court of the colony of the Cape of Good Hope, or in the said court of the eastern districts, shall be entitled, upon proof of such admission and enrolment, and that he is still entitled to practise therein, to be admitted and enrolled as an advocate or attorney, as the case may be, in the said high court of Griqualand, without the payment of any fee or charge, and every advocate and attorney duly admitted and enrolled in the said high court shall be similarly entitled, upon proof as aforesaid, to be admitted and enrolled as an advocate or attorney, as the case may be, in the said supreme court and court of the eastern districts; and service rendered under articles by any clerk to any attorney of either of the said courts before such annexation shall for the purpose of entitling the articulated clerk so serving to be admitted and enrolled as an attorney of either or both of the other said courts be reckoned as if the attorney to whom such service was rendered had been, when the articles were executed, an attorney of such court; and every notary public who shall have obtained authority to practise as such in the said province shall after such annexation as aforesaid, upon proof of such authority, and that he is still entitled to practise therein, be entitled to receive the authority of the supreme court of this colony to practise as such notary public in this colony, without examination, and without the payment of any fee or charge; and the provisions of this section relative to service rendered under articles by any clerk to an attorney as aforesaid before such annexation shall, *mutatis mutandis*,

apply to the service rendered under articles to a notary public of Griqualand West, in like manner as if such notary public had during such service been duly authorized to practise as such by the said supreme court.

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XXII. All land surveyors duly admitted to practise as such in the said province at the time of the passing of this Act shall, from and after the said annexation, be entitled to practise as land surveyors as well in the said province as throughout the said colony in like manner as if they had been duly admitted to practise in the said colony.

Land surveyors.

XXIII. The fiscal divisions into which the said province shall be divided at the time of the taking effect of this Act shall thereupon become and be fiscal divisions of the colony of the Cape of Good Hope: Provided that it shall be lawful for the Governor, with the advice of the Executive Council, at any time before the commencement of the session of Parliament next after such annexation, by proclamation in the Government Gazette, to alter such divisions or to increase or diminish the number thereof in such manner as to him may seem fit.

Fiscal divisions.

XXIV. So soon as may be after the taking effect of this Act, unless divisional councils shall before then have been established in the said province, elections of divisional councillors shall take place in the several fiscal divisions into which the said province may then, or shall in pursuance of the provisions of the last preceding section, be divided, so that the said province in that respect may be in the same position as the other fiscal divisions of this colony, and all and singular the provisions of the Acts of this colony relating to divisional councils shall, from and after the taking effect of this Act, as far as may be apply to the said divisions of the said province and to elections of divisional councillors therein as aforesaid, and where in any of the said Acts any dates or times are fixed for the performance of any matter or thing relating to the nomination or election of divisional councillors or otherwise, it shall be lawful for the Governor, with the advice of the Executive Council, in regard to the first election of councillors for such divisions which shall take place under this Act, to fix such dates and times as to him may seem fit.

Divisional councils to be established.

XXV. Any divisional council existing in the said province at the time of the taking effect of this Act, or which may be elected pursuant to the last preceding section, shall, from and after the taking effect of this Act, or from and after its election, as the case may be, be in the same position in all respects as any other divisional council in this colony, and the members thereof shall be in the same position in all respects as if they had been elected at the last general election of divisional councillors in this colony.

Divisional councils to be in same position as if elected at last general election in this colony.

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Qualification of members of divisional council.

XXVI. Until the land in the said province shall be valued for assessment for road purposes, every person registered as a voter for the said province, or for either of the electoral divisions formed under the fourth section of this Act, and not being disqualified as in the fourteenth section of "The Divisional Councils Act, 1865," shall be eligible to be elected as a member of the divisional council of the division for which, or for any part of which, he shall be so registered; and after any such valuation shall be made registration in the deeds registry of the said province shall be deemed for the purposes of the qualification of members of divisional councils within that part of the said colony to be registration in the land register of the said colony.

Laws of the province.

XXVII. All laws in force in the said province at the time of the annexation thereof as aforesaid, in so far as the same shall be repugnant to or inconsistent with any of the provisions of this Act, shall from and after such annexation stand repealed; but all other laws shall remain in force within that portion of this colony formed by the said province until the same shall be altered or repealed by law: Provided that nothing in this Act contained shall affect the decision of any question which may at the time of taking effect of this Act be pending in any court of the said province.

No double duties, licences, &amp;c., to be levied.

XXVIII. When by any law which at the time of the taking effect of this Act may be in force in the said province any duty, licence, charge, or payment may be leviable or payable within the said province, which is the same as shall then be leviable or payable in this colony, no double duty, licence, charge, or payment shall be levied or payable; but the duty, licence, charge, or payment which is leviable or payable in this colony alone shall be levied and paid.

Deeds registry.

XXIX. Nothing in this or any other law which shall be in force in this colony at the time of such annexation as aforesaid shall be construed so as to introduce into that part of the colony formed by such annexation, the operation of the deeds registry of the Cape of Good Hope: and the deeds registry of the said province shall, in regard to that part of the colony formed by such annexation, remain and be of the same force and effect after such annexation as before such annexation; and no deed of transfer or hypothecation executed by any person domiciled in that part of the colony formed by such annexation shall be registered otherwise than in the local deeds registry there established, or if registered elsewhere, shall derive any benefit from such registration.

Revenue of province to become payable to Colonial Government.

XXX. All quitrents, taxes, duties, dues, and revenue of every kind and nature whatsoever payable to or claimable by the local Executive Government of the said province at the time of the annexation thereof as aforesaid shall become,



be, and continue claimable by and payable to the local Executive Government of the colony of the Cape of Good Hope, and shall be collected and accounted for in the like manner as the like quitrents, taxes, dues, and revenue, according to the nature and kind thereof respectively, are or ought to be collected in the several divisions of this colony; and all liabilities of the said province at the time of such annexation as aforesaid shall thenceforth be deemed to be liabilities of the colony of the Cape of Good Hope.

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XXXI. It shall be lawful for the Governor to pay to all persons holding offices of profit under Her Majesty the Queen in the said province at the time of the annexation thereof as aforesaid, whose offices shall by reason of such annexation be abolished, such compensation for loss of office as shall be awarded by the Governor, with the advice of the Executive Council, in conformity with the established regulations of Her Majesty's service, and to be approved of by one of Her Majesty's Principal Secretaries of State.

Compensation to officers for loss of office through abolition.

XXXII. From and after such annexation as aforesaid, and until the session of Parliament next after such annexation, it shall be lawful for the Governor, with the advice of the Executive Council, to pay to persons holding office in the said province at the time of such annexation, salaries at and after the same rate as those which shall be payable to them next before such annexation, and also to make such necessary payments as may be required for carrying on the affairs of the said province.

Until next session of Parliament Governor in Council authorized to pay salaries of officers of province.

XXXIII. This Act shall commence and take effect when and so soon as the Governor, with the advice of the Executive Council, shall by proclamation published in the Government Gazette declare and announce that all matters and things necessary to be done and to happen in order to enable the said annexation to be completed and perfected have been done and happened.

Act to take effect when proclaimed in Government Gazette

XXXIV. This Act may be cited as the "Griqualand West Annexation Act, 1877."

Short title.

No. 40 of 1877.] AN ACT\*

To Empower the Governor to raise a sum of not exceeding One Hundred and Seventy-Five Thousand Pounds for the purpose of liquidating certain liabilities of the Province of Griqualand West.

WHEREAS in case of the annexation of the province of Griqualand West to this colony, it is advisable that

Preamble.

\* This Act was reserved for the signification of Her Majesty's pleasure thereon, and had not been promulgated at the time that this volume was printed [Oct. 1, 1878.]

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the Governor should be empowered to raise a sum of not exceeding one hundred and seventy-five thousand pounds, in order to pay off certain liabilities of the Government of the said province, as in the schedule hereto annexed: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Governor to raise  
£175,000 debentures  
or stock.

I. It shall be lawful for the Governor to raise and take up upon the security of the public revenue of this colony, either by debentures or stock, or partly by debentures and partly by stock, such sum or sums of money not exceeding in the whole the sum of one hundred and seventy-five thousand pounds sterling, as shall from time to time seem to him fit and necessary, for the purpose of liquidating the debts and liabilities in the preamble of this act mentioned.

Provisions to be ob-  
served in borrowing  
on debentures.

II. In so far as the said borrowing shall be upon debentures, the following provisions shall be observed:—

Such debentures shall be issued in this colony or in England, or partly in this colony and partly in England, for sums not exceeding five hundred pounds, nor less than one hundred pounds each, upon the best and most favourable terms that can be obtained, and the interest to accrue due thereon shall be charged upon and made payable out of the general revenue of this colony.

Provisions to be ob-  
served in borrowing  
on stock.

III. In so far as the said borrowing shall be upon stock the following provisions shall be observed:—

1. Such stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be kept for that purpose by the treasurer of the colony, such credit to be given in the first instance upon production and delivery to the said treasurer, by such purchaser, or by his order, of a scrip certificate for the amount of stock for which such credit shall be claimed, such certificate being signed by the Colonial Secretary and countersigned by the said treasurer and by the Controller and Auditor-General, and which scrip certificate shall be kept in the office of the said treasurer.
2. Such stock shall bear interest after the rate of four pounds and ten shillings per centum per annum on the nominal amount of such stock, from the 15th day of April or the 15th day of October next preceding the issue of the said scrip certificate which shall last happen, and such interest shall be payable thereafter half-yearly on the 15th day of April and the 15th day of October in each year; the first of such payments to be made on the half-yearly day which shall happen next after the opening of such credit in the books of the said treasurer as aforesaid, and shall be paid on such days, respectively, or so soon thereafter, as demand shall

be made therefor by the lawful holder for the time being of such stock, to such lawful holder or his duly authorized attorney, at the office of the treasurer in Cape Town.

3. Such stock, together with the interest from time to time to accrue thereon, shall be and is hereby charged upon and made payable out of the general revenue of this colony; and the Governor shall from time to time pay such interest, and may also out of such revenue or any moneys to be appropriated for that purpose from time to time buy up and cancel such stock or any part thereof.
4. Such stock shall be transferable by transfer in the books of the said treasurer, and every person to whom any such credit as aforesaid shall have been given in the said books in the first instance, or to whom any such transfer shall thereafter have been made in the said books, shall be entitled to require and demand of the said treasurer a receipt or certificate stating the amount of such stock standing to his credit in such books.
5. There shall be paid into the treasury upon every transfer in the said books of any sum of such stock a sum of two shillings and sixpence upon every hundred pounds to be transferred in such books, and on every other sum so transferred in the like proportion: Provided that instead of any fractional part of a penny which would, under this provision, be payable, a full sum of one penny shall be payable; and no transfer shall be actually made in such books as aforesaid, unless and until such sum as shall be payable as aforesaid shall be paid.
6. All such stock shall be put up for public tender in such amounts as may from time to time seem fit, and may be disposed of for the best terms which can be thus obtained. If more tenders than one offering the same terms shall be received for a greater amount of such stock than the amount for the time being about to be issued, it shall be lawful to accept any one or more of such tenders or any part of any such tenders as circumstances may make expedient.
7. The moneys realized by the issue and sale of such stock shall be carried to a separate account, and shall be expended, so far as shall be necessary, for the purposes mentioned in the preamble of this Act.

IV. As a fund for the payment of the interest upon, and for the gradual extinction of, the debt to be raised upon debentures under authority of this Act, there shall be charged and chargeable upon, and set apart out of the annual revenues of this colony, an annual sum equal to the interest on the

Fund for payment of interest and gradual extinction of debt.

No 40 · 1877.

whole amount of such debentures as shall from time to time be issued under authority of this Act, and a further sum equal to one pound sterling per centum on the total amount of the principal or capital sum which shall from time to time be raised upon the debentures under the authority of this Act; and such sum shall be annually charged on and payable out of the revenues of this colony so long as any portion of the debt to be raised under authority of this Act upon debentures or any interest thereon shall remain unpaid and unextinguished, and such annual charge shall, so soon as such debt and interest shall have been all paid and extinguished, cease and determine.

Fund not used in payment of interest to be applied in redeeming debentures.

V. Such portion of the fund which shall, under the last foregoing section, be charged and chargeable annually on the revenues of this colony as shall not be required for the payment of the interest for the time being due upon the debentures to be issued under authority of this Act, shall be applied in redeeming and cancelling such debentures in such manner and form as shall be provided by terms and conditions whereon and whereunder such debentures shall be issued.

Redeemed debentures to be cancelled.

VI. All debentures which shall be redeemed under the authority of this Act shall, immediately on the receipt thereof, be cancelled by or on behalf of such treasurer, and shall be duly advertised as so cancelled.

Guardians' fund may be used in purchasing stock or debentures.

VII. Notwithstanding anything herein contained, it shall be lawful for the Governor to dispose of to the master of the supreme court, in his capacity of administrator of the guardians' fund, and the said master is hereby authorized, to invest any unemployed moneys belonging to such fund in so much of any such stock and so many of any such debentures as he may apply for, on such terms as may be mutually agreed upon: Provided that every such investment shall be made with the same advice, or upon the same authority, as if such investment were a loan upon mortgage.

Accounts to be laid annually before Parliament.

VIII. An account showing the amount of all stock and debentures issued from time to time under authority of this Act, and of the moneys realized by the issue and sale thereof, and of the application of all such moneys or of so much thereof as shall for the time being have been applied, and an account of the amount of such stock and debentures for the time being outstanding, and of all such sums thereof as shall from time to time be bought in and cancelled (if any) vouched by the Controller and Auditor-General, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and like accounts within fourteen days after the commencement of every succeeding session thereof.

Short title.

IX. This Act may be cited as the "Griqualand West Loan Act, 1877," and shall commence and take effect from

and after the annexation of the said Province of Griqualand West to this colony, and not sooner ; and so soon as this Act shall take effect the said Ordinance of Griqualand West No. 1, 1877, shall stand repealed.

No. 40—1877.

SCHEDULE.

Schedule.

To be paid to the Government of the Orange Free State for final settlement of all disputes as to the boundaries of the Province of Griqualand West, a sum not exceeding	£90,000	0	0
To be paid to H.M. Government for the cost of removal of troops, 1875, a sum not exceeding .. .. .	20,000	0	0
Miscellaneous purposes, including cost of raising this loan .. .. .	15,000	0	0
To be paid to bank, for overdrafts, about ..	20,000	0	0
To be paid to the Government of the Cape of Good Hope for advances, about .. ..	30,000	0	0
Total .. ..	£175,000	0	0

No. 1—1878.] AN ACT [August 2, 1878.

To Apply a Sum of not exceeding £100,000 towards the Service of the Year ending the 30th day of June, 1879.

**B**E it enacted by the Governor of the Cape of Good Hope, Preamble.  
with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :

I. The public revenue of the colony is hereby charged How to be appropriated.  
towards the service of the year ending the 30th day of June, 1879, with a sum of not exceeding one hundred thousand pounds sterling, which said sum shall be applied towards the service of the said year, in conformity with the estimates for the expenditure of the said year, which have been presented to Parliament.

No. 2—1878.] AN ACT [August 2, 1878.

To Impose an Excise Duty upon Spirits Distilled or Manufactured within the Colony of the Cape of Good Hope.

**W**HEREAS it is expedient, for the purpose of increasing Preamble.  
the revenue of the colony, to impose a duty upon

Y

No. 2—1878.

spirits distilled or manufactured therein: Be it therefore enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Distilleries to be registered.

I. It shall not be lawful for any person to distil or manufacture spirits of any description or kind whatsoever without first registering his name, and the place where he resides, and upon which he desires to carry on his distillery, with the distributor of stamps of the district in which such place is situated, who shall keep a registry of all such names and places.

Fee to be paid for registration.

II. The person so registering shall pay to the distributor of stamps a fee of two shillings and sixpence, to be applied as hereinafter mentioned, and the said distributor of stamps shall thereupon grant to such person a certificate of registration, to which shall be affixed a stamp or stamps of the value aforesaid, which certificate shall be in the form No. 1 in schedule A to this Act annexed.

Registration to be a licence.

III. The registration hereinbefore provided for shall be taken to be a licence to distil or make any brandy, rum, gin, whiskey, or any other spirits, spirituous liquors, or strong waters of any description whatever.

Strength of spirits defined.

IV. All spirits, as in the last section defined, shall be deemed and taken to be of the degree of strength indicated by the description of hydrometer usually known as Sykes's hydrometer, which instrument shall, for all purposes connected with the working of this Act, be the only recognised test.

Penalty for distilling without being registered.

V. Any person who shall distil or manufacture any spirits as defined in this Act without having been registered, as by this Act required, shall, upon conviction, forfeit and pay a penalty not exceeding ten pounds, and not exceeding fifty pounds for every succeeding offence; and in addition to such penalty for every offence beyond the first, such person shall be liable to imprisonment with or without hard labour, for any period not exceeding six months, and to seizure and confiscation of the still and all other apparatus used in distilling and manufacturing such spirits.

One fourth of penalty to go to informer.

VI. Any person who shall give such information as shall lead to the conviction of any person distilling or making spirits without being registered as hereinbefore provided for, or otherwise contravening any of the provisions of this Act, shall be entitled to receive one-fourth of the fine inflicted on the person so convicted: Provided, however, that where more than one person shall give such information, such fourth of such fine shall be equally divided among such persons.

Returns to be made by distillers.

VII. Every registered distiller shall be obliged, between the first day of May and the first day of June, and also

between the first day of November and the first day of December in every year, to make and to lodge at the office of the civil commissioner of the division in which he may be registered, or to deliver to any excise officer, or other person appointed by Government to receive the same, a written return setting forth the quantity of spirits computed according to proof, distilled by him under such registration since the date thereof, or since the next preceding return under this Act, as the case may be, the quantity of such spirits sold, or used in fortifying his wines, or otherwise disposed of, and the names and addresses of the persons to whom such spirits were sold, and the quantity thereof; and any person making any false, or wilfully misleading, statement in such return, and any person neglecting or refusing to make and lodge or deliver such return as is required by this section shall, upon conviction, be liable for each offence to a fine of not exceeding fifty pounds, and to forfeit all his rights as a registered distiller: Provided, always, that if more than one person shall carry on any distillery business in co-partnership, the return hereinbefore mentioned may be made by any one of such persons: Provided, also, that where any distillery is carried on by any person as manager or agent, for and on account of the owner of such distillery, the said return may be made by such manager or agent, but the penalties hereinbefore provided for any false or wilfully misleading statement in such return, including the penalty or forfeiture of rights as a registered distiller, shall apply to the owner of the distillery, as if the return had been made by him personally.

VIII. Upon every imperial gallon of spirits, the produce of this colony, which shall be sold, consumed, or otherwise disposed of save as hereinafter excepted, by any distiller registered under this Act, there shall be payable to the colonial revenue an excise duty at the rate of one shilling per gallon if the spirits do not exceed the strength of proof, with a proportionate increase in case the spirits be of greater strength.

Duty to be paid on spirits distilled, 1s. per gallon.

IX. Every distiller registered under this Act shall be at liberty to deliver spirits distilled or manufactured by him to any person upon production to, and deposit with, him by such person of a receipt from a duly authorized officer for the payment of the excise duty payable upon such spirits; and such distiller shall also be at liberty to deliver, without production or deposit of the said receipt, spirits so distilled or manufactured as aforesaid into any bonding store or warehouse duly licensed or appointed as such for the purposes of this Act, and the proprietor or person in charge of such bonding store or warehouse shall thereupon give to the said distiller a receipt for the

Distiller to deliver only on production of receipt for duty.

No. 2—1878.

Provisions as to bonding spirits.

same, in the form number three in schedule A to this Act annexed: Provided, always, that no spirits shall be removed from any such bonding store or warehouse by any person except upon payment of the excise duty thereon, or other compliance with the provisions of this Act as to the said excise duty, or for the purpose of removal to some other bonding store or warehouse duly licensed or appointed under this Act: Provided, further, that every such distiller as aforesaid shall be liable to the Colonial Government for, and shall pay to the said civil commissioner or other duly authorized officer at the time of the lodgment or delivery of the return in the seventh section mentioned, the amount of the excise duty upon all spirits liable to duty, but upon which the said duty has not been actually paid, or which have not been deposited in a duly licensed or appointed bonding store or warehouse as aforesaid, or retained in the distillery or store of the said distiller: Provided, moreover, that upon all spirits deposited in a duly licensed or appointed bonding store or warehouse, and upon all spirits retained by any such distiller as aforesaid, after the lodgment or delivery of the said return, an allowance shall be made for evaporation and wastage, as provided by schedule B to this Act annexed.

Governor to make conditions as to bonding.

X. The Governor, acting by and with the advice of the Executive Council, shall have power, by proclamation in the Government Gazette from time to time, to declare upon such condition and terms as he shall think fit, such stores or warehouses as may be necessary for the purposes of this Act, to be licensed bonding stores or warehouses as aforesaid and in the same manner to revoke or suspend any of such licenses whenever he may deem it proper so to do. And the annual licence to be paid for keeping such bonding store or warehouse is hereby fixed at one pound sterling, anything to the contrary in the Stamp Act of 1864 notwithstanding.

Export of spirits regulated.

XI. Whenever any person shall be desirous of exporting from this colony by sea any spirits, the collector of customs or other officer appointed in that behalf shall, on the application of such person, grant his permission in writing signed by him for the export of such spirits duty free to such port as shall be named in such permission: Provided always, that the Governor, acting by and with the advice of the Executive Council, may from time to time, by proclamation in the Government Gazette, declare that export of spirits produced in the colony shall not be allowed duty free to any port or ports named in such proclamation.

No duty payable on spirits destroyed by fire, &amp;c.

XII. In case any spirits shall be destroyed by fire, or other inevitable accident, no duty shall be payable on any spirits so destroyed, neither shall any duty be payable for



or in respect of any spirits lost by the leakage or bilging of any vessel: Provided the said leakage or bilging shall not occur through the default of the person liable for such duty.

No. 2--1878.

XIII. In all cases where spirits produced within this colony shall be used for the purpose of strengthening or fortifying wine produced within this colony, an allowance or drawback shall be made upon such spirits; but such allowance or drawback shall not be greater than in the proportion of twenty-five gallons of spirits, computed at the strength of proof, to one hundred gallons of wine in case of wines exported beyond the seas, and fifteen gallons of spirits, computed at the strength of proof, to one hundred gallons of wine in case of all other wines.

Drawback on spirits used in fortifying wines.

XIV. In case any registered distiller or trader shall desire to take any spirits from the place of distillation for the purpose of trading with them as now by law allowed, either in this colony or beyond the same, he shall be obliged before removing such spirits to apply to the civil commissioner of the division wherein the said spirits may be deposited, or to some other duly authorized person, for a permit so to do, and upon payment of the duty imposed by this Act upon the quantity of spirits which he shall desire to remove for the purposes aforesaid, the civil commissioner or other duly authorized person shall grant a permit to remove such quantity and no more: Provided always, that should such registered distiller or trader desire to remove spirits for the purpose of trading under bond, the said civil commissioner or other duly authorized person shall be empowered to grant a special trading permit on security by bond to the satisfaction of the said civil commissioner, or other duly authorized person, of the said distiller or trader, or one or more responsible persons for the full amount of the duty involved, and such bond shall expressly declare the date and place where the whole of the said duty will be paid, and on any failure in fulfilment thereof the party or parties bound thereby shall be liable jointly and severally for the full amount of the bond: Provided that such date shall not be longer than four months from the date of such bond, and that the place so named shall be the office of the said civil commissioner or other person duly authorized as aforesaid.

Spirits may be removed without payment of duty for trading, provided sufficient security for duty be given.

XV. Any person who, having obtained the permit in the last preceding section mentioned, shall remove more than the quantity of spirits therein specified, or any person who shall remove spirits without having obtained the said permit, shall, upon conviction of either of such offences, forfeit a sum not exceeding twenty-five pounds for the first offence, and not exceeding one hundred pounds for each subsequent offence.

Penalty for removing more than quantity named in permit.

No. 2—1878.

Duty payable on all stocks in hand exceeding 100 gallons.

XVI. On the taking effect of this Act, all colonial spirits above the quantity of one hundred gallons in the hand of distillers and dealers of every description shall be chargeable with the duty payable under this Act; and every such distiller and dealer shall, within thirty days after the taking effect of this Act, make and lodge with the civil commissioner of the division within which he carries on business, or other officer specially appointed to receive the same, a return, in writing, of the quantity of colonial spirits which he shall have had in store, on hand, or belonging to him, as such distiller or dealer as aforesaid, on the day of the taking effect of this Act; and such distiller or dealer as aforesaid shall, within six months thereafter, pay to the said civil commissioner or other officer specially appointed to receive it, the amount of such duty: Provided, always, that the provisions contained in this Act as to the delivery of spirits to purchasers who shall have obtained receipts for the duty thereon, as to the deposit of spirits in a licensed bonding warehouse, as to trading permits, and as to allowances of every description, shall apply to such spirits, and any person contravening the provisions of this section shall be liable to a penalty of not exceeding fifty pounds.

Governor to appoint excise officers.

XVII. For the purpose of carrying out the provisions of this Act the Governor shall, by and with the advice of the Executive Council, appoint a sufficient number of officers.

Powers of entry, &c., given to excise officers.

XVIII. It shall be the duty of such officers to prevent all contraventions of the provisions of this Act; and for that purpose it shall be lawful for such officers, at all reasonable times, to enter upon the premises where any distillery is carried on, whether registered or not, and all places where spirits liable to duty under the sixteenth section of this Act shall be stored or kept, to inspect the machinery employed therein, to gauge the casks or other vessels containing or intended to contain spirits, to test the strength of any spirits which they may find on such premises, to demand the production of any bonding store or warehouse receipts and duty paid receipts, and generally to do all such acts, and make and prosecute all such enquiries, as may lead to the discovery of any contravention of the provisions of this Act; and all resident magistrates, justices of the peace, field-cornets, police constables, and others, are hereby required to be aiding and assisting in preventing any contravention of the provisions of this Act.

Penalty for obstructing officers in execution of their duty.

XIX. Any distiller or other person refusing admission to distillery, or other premises as aforesaid, to any such officer who shall have demanded the same, or in any way hindering or obstructing such officer in any of the duties hereinbefore assigned to him, shall, upon conviction, be liable to a fine of not exceeding twenty pounds.

XX. The return required by the seventh section of this Act, and the bonding store or warehouse receipt and the permits respectively hereinbefore provided, shall be as nearly as may be in the forms numbered severally 2, 3, and 4, in schedule A to this Act annexed.

No. 2—1878.

Forms of returns.

XXI. All penalties under this Act may be recovered in the court of the resident magistrate of the district in which the offence was committed, and in default of payment thereof the person or persons convicted may, in case where no provision has been previously made in this Act in that behalf, be imprisoned with or without hard labour for any term not exceeding six months, unless such fine be sooner paid.

Penalties—how to be recovered.

XXII. It shall be lawful for the Governor, acting by and with the advice of the Executive Council, to make all such rules and regulations as may be deemed necessary from time to time for carrying the provisions of this Act into effect: Provided that the same shall not be repugnant to the provisions of this Act, and all such rules and regulations shall be published in the Government Gazette.

Governor to make rules for carrying out this Act.

XXIII. This Act may be cited as the "Excise Duty Act, 1878."

Short title.

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SCHEDULE A.

No. 1.—CERTIFICATE OF REGISTRATION.

A. B., of \_\_\_\_\_, in the division of \_\_\_\_\_, has this day been registered as a maker and distiller of spirits upon the said place \_\_\_\_\_, subject to all the conditions and provisions affecting the registration contained in Act No. 2 of 1878.

Given at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 18—.

C. D., Distributor of Stamps.

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No. 2.—FORM OF DECLARATION AND RETURN.

I, A. B., of \_\_\_\_\_, in the district of \_\_\_\_\_, licensed distiller, do hereby declare that I have not made or distilled, since the date of registration (or last return, as the case may be), any greater quantity of spirits than \_\_\_\_\_ gallons, that I have sold and delivered spirits to the following persons, in the following quantities, and to no other persons and in no other quantities, that is to say (Here state name and address of each person to whom sale made and quantity sold). That I have used upon my own premises, by mixing the same with wines for the purpose of strengthening or fortifying the same, during the same period, \_\_\_\_\_gallons and no more.

No. 2—1878.

## SPECIFIC RETURN UNDER ABOVE DECLARATION.

Date.		Proof Gallons	Date.		Proof Gallons.
	Quantity distilled or manufactured since registration (or last return, as the case may be) .. ..			Quantity delivered since registration (or last return, as the case may be) upon duty paid receipts ..	
	Quantity in hand at date of last return.. ..			Quantity deposited in a licensed bonding store or warehouse as per receipts ..	
				Quantity used in fortifying — gallons of wine	
				Quantity exported	
				Quantity lost by waste or evaporation .. ..	
				Quantity remaining in hand on this date ..	
				Quantity upon which duty is now payable ..	
	Total ..			Total ..	

Dated the ——— day of ———, 18—.

A. B.

## No. 3.—BONDING STORE RECEIPT.

I, A. B., of ———, certify that I have this day received from C. D., of ———, in the district of ——— gallons of spirits for deposit in a duly licensed bonding store or warehouse situate at ———.

Dated this ——— day of ———, 18—.

A. B.

No. 4.—PERMIT TO REMOVE SPIRITS FOR TRADING.

No. 2 - 1878.

A. B., of \_\_\_\_\_ in the district of \_\_\_\_\_, is hereby authorized to remove from \_\_\_\_\_, \_\_\_\_\_ gallons of spirits for the purpose of trading therewith within or beyond the boundaries of this colony.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 18—

G. H.

SCHEDULE B.

WASTAGE ALLOWANCE ON SPIRITS IN WOOD.

For any period.	Per cent.
Not less than 3 months and not exceeding 6 months ..	4 gallons.
Exceeding 6 months and not exceeding 12 months ..	5 gallons.
"    12    "    "    "    18    "    ..	6 gallons.
"    18    "    "    "    2 years    ..	7 gallons.
"    2 years and upwards    ..    ..    ..	8 gallons.

On the quantity, if not overproof, and on the strength, if overproof, and the fractional parts amount to fifty-hundredths of a gallon, one gallon to be allowed for such fraction.

No. 3—1878.] AN ACT [August 2, 1878.

For the Amendment of the Law relating to Wills and other Testamentary Dispositions.

**WHEREAS** some doubts have arisen with respect to the Law relating to Wills and other Testamentary Dispositions and the execution and attestation thereof: Preamble.

Be it therefore enacted by the Governor of the Colony of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. From and after the taking effect of this Act no notarial will, whether made before or after the passing of this Act, shall be deemed or taken to be invalid, null or void, by reason that the same was not read over by the notary before whom such will was passed, or by any other person, to the testator in the presence of the subscribing Notarial wills to be valid though not read over in presence of witnesses.

*No. 3—1878.*

witnesses to such will: Provided that nothing herein contained shall alter to affect any judgment or sentence in regard to any notarial will, pronounced by any competent court before the taking effect of this Act.

Repeal of inconsistent laws.

II. Every existing Law, Ordinance, or Act of Parliament, in conflict or inconsistent with the provisions of this Act, shall be, and the same is hereby, repealed, so far as such conflict or inconsistency may exist, but not further or otherwise.

Short title.

III. This Act may be cited for all purposes as the "Wills Attestation Amendment Act, 1878."

No. 4—1878.]

AN ACT

[August 2, 1878

For the Better Regulation of the Public Service of the Colony.

Preamble.

WHEREAS it is expedient that regulations be made for the better management, in certain respects, of the public service of this Colony:

Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Governor empowered to remove any civil servant, except a judge, above 60 years of age.

I. It shall be lawful for the Governor, with the advice of the Executive Council, and if to him it shall appear expedient, to call upon any person holding an office of profit under the Government of this colony, other than a judge of the supreme court thereof, who shall have attained the age of sixty years, to vacate such office, on condition of being paid the pension to which such person may be entitled in consideration of his past services, by virtue of any regulations in force for the time being; and thereupon the office held by such person shall be deemed to be vacant, and some other person may be duly appointed to fill the same.

No. 5—1878.]

AN ACT

[August 2, 1878.

For the Establishment of a Colonial Yeomanry Force.

Preamble.

WHEREAS it is expedient to make better provision for the defence of this colony, and for that purpose to establish a mounted yeomanry force therein: Be it therefore enacted by the Governor of the Cape of Good Hope,

by and with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:

No. 5—1878

I. It shall be lawful for the Governor aforesaid, to cause fit and able men, of European extraction, not exceeding in number three thousand, who are willing to serve, to be enrolled and embodied as mounted yeomanry, for the defence of the said colony, and for general military service within the said colony or beyond the borders thereof, wherever the interests of the colony may require.

Enrolment of not more than 3,000 men as colonial yeomanry.

II. There shall be three regiments of such mounted yeomanry, each not exceeding one thousand in number, of which number as many as the Governor shall deem fit shall be specially trained to artillery practice.

Three regiments to be formed.

III. The said several regiments shall respectively be as follows, that is to say: There shall be for the divisions of King William's Town, East London, Victoria East, Peddie, Albany, Bathurst, and Alexandria, one regiment, to be styled the First Cape Yeomanry Regiment; for the divisions of Queen's Town, Aliwal North, Albert, Middelburg, Cradock, Fort Beaufort, Wodehouse, Stockenstrom, and Bedford, one regiment, to be styled the Second Cape Yeomanry Regiment; and for the divisions of Graaff-Reinet, Somerset East, Uitenhage, Port Elizabeth, and Humansdorp, one regiment, to be styled the Third Cape Yeomanry Regiment.

Divisions represented in each regiment.

IV. The head-quarters of the said First Cape Yeomanry Regiment shall be stationed at King William's Town; of the said Second Cape Yeomanry Regiment at Queen's Town; and of the said Third Cape Yeomanry Regiment at Uitenhage; but the Governor may hereafter, whenever it may appear desirable so to do, order and direct that the head-quarters of any of the said regiments be changed to a more convenient place.

Stations of each regiment.

V. The Governor shall have the power of appointing a qualified person to be commandant-general of all the colonial forces, who shall be responsible for the efficiency of such forces.

Governor to appoint commandant-general.

VI. Every person enrolled and embodied in any of such regiments of yeomanry as aforesaid, shall be resident within some one of the said several divisions for which such regiment shall be raised as aforesaid, and in enrolling and embodying men under this Act they shall be chosen with a view, as nearly as may be, to convenient access to places of muster as in this Act provided.

Men enrolled must be residents of divisions represented by their regiment.

VII. It shall and may be lawful for the Governor, as occasion shall require, to appoint for every such regiment the following permanent staff, that is to say:—One commanding officer to be styled colonel, one adjutant or instructor of musketry, one paymaster and quarter-master, one sergeant-major, five staff-sergeants, and two clerks:

Officers to be appointed.

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Provided, always, that the said Governor may at any time, if he so thinks fit, accept the resignation of, and may displace, remove, or dismiss, all or any of such persons; and in all cases of vacancy by resignation, death, removal, or otherwise, it shall and may be lawful for the said Governor to appoint other persons to fill such vacancies.

Commissions to be issued.

VIII. It shall and may be lawful for the Governor, from time to time as occasion may require, to appoint and issue commissions to a sufficient number of captains, lieutenants, and surgeons for every such regiment.

Non-commissioned officers—how removable.

IX. It shall and may be lawful for the commanding officers of the said regiments respectively, to appoint such number of sergeants and corporals as the Governor may from time to time authorise to be appointed: Provided, always, that the said respective commanding officers, acting upon the judgment of a regimental court-martial, shall have the power to displace or reduce to a lower rank, such sergeants and corporals respectively; such court-martial to consist of three officers of the said yeomanry force, of whom one shall be of at least the rank of a captain, and the displacement or reduction to be subject to the review and approval of the commandant-general of the colonial forces.

Oath to be taken.

X. Every person who shall be enrolled in any of the said regiments shall be bound to serve for three years, and shall, upon enrolment, be required to pass a medical examination, and take the following oath, or make an affirmation to the same effect, before some duly authorized person, that is to say:—

“I, A. B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her Heirs and Successors, according to law, and that I will faithfully serve in the Mounted Yeomanry of the Colony of the Cape of Good Hope for three years, unless I shall be sooner discharged.”

Muster and drill.

XI. Persons enrolled in the said several regiments shall be bound to muster and to attend local drill and rifle or artillery practice one day in each month, and they shall further be liable to be called out and to muster once in each year for training, for a period not to exceed seven consecutive days. And it shall and may be lawful for the Governor to name convenient times and places for the said monthly and yearly musters, and to make regulations for giving due notice of the times and places for the same, and for the general management of such musters.

Every man bound to keep horse, saddle, and bridle.

XII. Every person so enrolled, as aforesaid, shall be bound to supply himself with, and to maintain and keep in good order and condition, a suitable horse, saddle, and bridle, which shall be subject to the approval of such person



or persons as the Governor may appoint for that purpose, to defray the expenses of which the yearly sum of £25 for the first year, and for each of the two succeeding years the sum of £15 shall be granted to him, one moiety thereof to be payable at the end of each half year of service, upon satisfactory proof that during such time he has owned, maintained, and kept serviceably the said horse, saddle, and bridle, and under such other conditions as the Governor shall provide by any regulations to be framed under this Act.

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Allowances for that purpose.

XIII. Pay shall be allowed for the yearly trainings only, Pay. at the following rates, that is to say ;—

Captains	...	...	...	15s.	per diem.
Lieutenants	...	...	...	11s.	„
Surgeons	...	...	...	31s. 6d.	„
Sergeants	...	...	...	6s.	„
Corporals	...	...	...	5s.	„
Privates	...	...	...	4s.	„

In all cases with rations and forage for horses. In case the force shall be called out for actual service they shall be paid at the same rate for every day they shall be in such service.

XIV. It shall and may be lawful for the Governor to provide from time to time, as occasion may require, arms, ammunition, and all necessary equipments and camp equipage for person enrolled in the said several regiments, and to provide for such regiments a sufficient number of pieces of field artillery, and to procure the necessary store and other accommodation.

Governor to provide arms, &c.

XV. It shall and may be lawful for the Governor, from time to time, to make such regulations respecting the training, arms, ammunition, and equipment of the said regiments respectively, and respecting all other matters connected therewith, as may be required for promoting the discipline and efficiency thereof: Provided, however, that all such regulations shall be laid before both Houses of Parliament within fourteen days from the making thereof, if Parliament be in session, and if Parliament be not then in session, within fourteen days next after the commencement of the next ensuing session thereof.

Regulations to be made by Governor subject to sanction of Parliament.

XVI. It shall and may be lawful for the Governor from time to time to dispense with the services of any of the persons enrolled under this Act, and to grant, if he should so think fit, the discharge of any person enrolled in any of the said regiments, upon such conditions as to him shall seem proper.

Governor's power to discharge men.

XVII. Every commanding officer appointed under this Act shall return, or cause to be returned, to the Governor

Commanding officers to make returns to commandant-general

No. 5—1878.

or to the commandant-general of colonial forces, within one month after the said annual muster, a true state of his regiment, and shall at the same time report upon the quantity and condition of the arms, accoutrements, ammunition, horses, saddles, bridles, and camp necessaries and stores, provided for the use of the said regiment, and shall make thereafter quarterly returns and reports of the same.

Governor to provide transport,

XVIII. It shall and may be lawful for the Governor to provide from time to time, as occasion may require, the necessary transport for the arms, clothing, ammunition, accoutrements, and stores, for the use of the said regiments.

Discharged men to give up arms and accoutrements.

XIX. If the services of any person enrolled under the provisions of this Act shall be dispensed with, or his term of service shall have expired, he shall deliver up, in good order, fair wear and tear only excepted, all arms, accoutrements, and appointments, being public property issued to him, or in his possession or custody, and shall pay all money due or becoming due by him under the regulations framed under this Act, and the rules of the regiment to which he shall belong; but nothing herein contained shall prevent the Governor from giving such directions with respect to any of such cases as may appear just and proper.

Penalty for not attending musters.

XX. Every person enrolled under this Act, who shall not appear at the time and place appointed for any of the said monthly or annual musters, shall forfeit and pay a sum not exceeding £5, unless he shall have duly obtained leave of absence from the commanding officer of his regiment, or unless his absence be caused by illness, in which case he shall be bound to furnish at or before such muster to the said commanding officer of his regiment a certificate to that effect from a duly qualified medical practitioner, or other proof to the satisfaction of such commanding officer.

Penalty for selling, destroying, or damaging arms or accoutrements.

XXI. In case any person so enrolled, as aforesaid, shall sell, pledge, destroy, or wilfully damage any arms, accoutrements, or other regimental effects, he shall be liable, upon conviction by the resident magistrate of the district within which the offence shall have been committed, to be imprisoned with or without hard labour for a period not exceeding three months, or to pay a fine not exceeding £10, and, in default of payment, to be imprisoned with or without hard labour for a period not exceeding the term of three months, or until such fine be paid, and in each case to pay the value of the said articles.

Offences.

XXII. Every person enrolled as aforesaid, who is guilty of any of the offences following, that is to say:—

- (1.) Absenting himself without leave from any muster, inspection, or parade during any part of the time provided therefor.

- (2.) Refusing or neglecting to obey any lawful order of his superior officer while at any muster, inspection, or parade. No. 5—1878.
- (3.) Being insolent towards his superior officer while in the execution of his duty as such officer.
- (4.) Behaving in a disorderly manner, or in a manner contrary to good discipline, while attending any muster, inspection, or parade.
- (5.) Being in a state of intoxication during the period fixed for any muster, inspection or parade.
- (6.) Failing to keep in proper and serviceable order his horse, saddle, bridle, arms, accoutrements, ammunition, or equipments, shall incur a penalty not exceeding £2 for each offence. Penalty.

XXIII. Any person interrupting or obstructing any of the said regiments, or any part thereof, at muster, inspection, or parade, shall, upon conviction by the resident magistrate of the district, be liable to a penalty not exceeding £5 for every such offence; and if such person, after having been warned to desist, shall continue to offend, he may be arrested by the order of the senior officer present and detained in custody until he can be brought before the resident magistrate of the district in which the offence was committed, to be dealt with according to law. Penalty for obstructing regiments.

XXIV. All fines paid by persons enrolled as aforesaid, and recovered under this Act, shall be paid to the commanding officer of the regiment to which the offender belongs, and shall be accounted for to the commandant-general of colonial forces and paid into the public treasury. How penalties to be accounted for.

XXV. The arms, ammunition, accoutrements, and other equipments of persons enrolled under this Act, and the horses, saddles, and bridles kept or used by such persons for the discharge of their duties under this Act, shall be exempt from seizure in execution under legal process. Arms, &c., not liable to seizure under legal process.

XXVI. No person enrolled as aforesaid shall, while in the discharge of his duty under this Act, be liable for any tolls, and no carts, wagons, carriages, horses, or other beasts shall, while employed or used in duties, provided for by this Act, be liable to any tolls. No tolls payable by men on duty.

XXVII. Any person enrolled under this Act may, for any offence specified in this Act, be placed under arrest by his superior officer until such offence can be conveniently adjudicated upon, and all offences shall, unless otherwise in this Act provided, be disposed of and penalties inflicted by the commanding officer of the regiment to which the offender shall belong, or in his absence by the senior officer present. All fines not paid within such time as the said commanding or senior officer shall name at the time of infliction, and the value of the articles which Arrest, &c., of offenders. Fines, how recoverable.

No. 5—1878.

any person shall be liable to pay under section twenty-one shall be recoverable in the court of any resident magistrate in a suit in the name of the said commanding officer on production of a certificate of the conviction signed by the officer by whom the fine was inflicted, and for the purposes of this section the provisions of Ordinance No. 6 of 1839 shall apply.

Courts of inquiry.

XXVIII. The Governor may at any time, if he should think fit, order a court of inquiry to be assembled for the hearing upon oath and for adjudication of any complaints arising out of the management or discipline of the said regiments, and the constitution of such court shall be subject to any regulations which the Governor may from time to time make with regard thereto, under the provisions of this Act.

Orders by Governor and officers may be verbal.

XXIX. All orders by the Governor, or by any officer authorized to be given by this Act or given in execution of this Act, shall be valid and effectual, if verbally given on parade or issued in any other manner, customary in Her Majesty's military service, unless in cases when this Act specially requires any such order to be in writing, and the production of an order in writing, purporting to be made according to the provisions of this Act, shall be prima facie evidence of such order without proving the signature thereto or authority of the person making such order.

Costs of carrying out Act.

XXX. The cost and charges of carrying out this Act shall be defrayed out of such moneys as Parliament shall vote for the purpose.

Meaning of term "Governor."

XXXI. The words "the Governor" in the enacting clauses of this Act shall mean the Governor acting by and with the advice of the Executive Council.

Short title.

XXXII. This Act may be cited as the "Cape Mounted Yeomanry Act, 1878."

No. 6—1878.] AN ACT [August 2, 1878.

For Enabling the Municipality of Aliwal (Mossel Bay) to borrow a sum not exceeding Three Thousand Pounds Sterling for the purpose of erecting a Town and Market-House for the use of the Inhabitants of the Town of Aliwal (Mossel Bay).

Preamble.

WHEREAS it is expedient to provide the inhabitants of the Town of Aliwal (Mossel Bay) with a suitable Town and Market-house: And whereas, at a public meeting

of resident householders convened for that purpose on the 20th day of November, 1877, it was resolved, by a majority of such householders then present, that the commissioners of the said municipality of Aliwal (Mossel Bay) be authorized to carry out the object beforementioned at an expense not exceeding the sum of Three Thousand Pounds Sterling: Be it enacted by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. It shall be lawful for the commissioners of the municipality of Aliwal (Mossel Bay) to borrow, from time to time, such sum or sums of money, not exceeding in the whole the sum of three thousand pounds sterling, for the purpose aforesaid, and to impose, for the purpose of providing for the payment of the interest or principal, or interest and principal, of the moneys aforesaid, rates upon the immovable property situate within the municipality and liable to be rated for municipal purposes; and every rate so imposed by the said commissioners shall be of the same force and effect, and be levied in the same manner, as if it had been a rate imposed by the provisions of Ordinance No. 9 of 1836, section 28.

Municipality authorized to borrow not more than £3,000.

II. The aforesaid sum of three thousand pounds sterling, or such lesser sum as shall have been borrowed for the purpose aforesaid by the said commissioners, is hereby charged upon and made payable out of the rates and revenues in the last preceding section mentioned: Provided that it shall be lawful for the said commissioners to apply to the payment of the interest or principal, or interest and principal, of the said debt, any funds or moneys coming to them from any source whatever, and not specially appropriated or required for any other object: Provided, also, that nothing in this section contained shall be construed to impair or affect the provisions of any of the next succeeding sections of this Act.

Money borrowed to be charged on rates.

III. The commissioners aforesaid shall grant to the party or parties, or company, society, or co-partnership, from whom they shall borrow such moneys as aforesaid, a written acknowledgment of or for the moneys borrowed by the said commissioners for the purpose aforesaid, not exceeding in the whole the aforesaid sum of three thousand pounds sterling; which acknowledgment shall in substance be in the form annexed to this Act, and shall be signed on behalf of the said commissioners by three of the commissioners for the time being, of whom the chairman for the time being of the board of commissioners shall be one.

Written acknowledgment to be given to lenders.

IV. All moneys borrowed for the purpose of this Act shall be borrowed under the provisions of the "Public Bodies Debts Act, 1867."

Moneys borrowed subject to "Public Debts Act, 1867."

No 6—1878. V. The commissioners shall keep, or cause to be kept, a separate and distinct account of all moneys borrowed under this Act, and of the expenditure of such moneys in the construction and maintenance of the said town and market-house: And the said commissioners shall yearly, and every year, as long as any part of the debt contracted under this Act shall be in existence, prepare and deposit in the office the municipality of Aliwal (Mossel Bay) for the inspection, at all reasonable times, of any resident householder of the municipality, an account showing the particulars aforesaid, and giving any other information which the said commissioners shall deem it necessary or expedient to impart: Provided that every such account so to be prepared shall be made up to the 31st day of December in each year, and shall be deposited in the office of the municipality not later than the 1st day of March in the year next succeeding.

Separate accounts to be kept of moneys borrowed.

Costs of Act may be paid out of moneys borrowed.

VI. The necessary costs, charges, and expenses of obtaining this Act and of obtaining suitable plans, drawings, designs, and specifications for the said town and market-house, may be paid by the said commissioners out of the money or moneys so to be borrowed as aforesaid.

Short title.

VII. This Act may be cited for all purposes as the "Town of Aliwal (Mossel Bay) Town and Market House Act, 1878."

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SCHEDULE.

We, the undersigned, commissioners of the municipality of Aliwal (Mossel Bay), do hereby acknowledge that the commissioners in their said capacity are indebted to——— in the sum of——— for so much money borrowed by the said commissioners for the purpose set forth in the "Town of Aliwal (Mossel Bay) Town and Market House Act, 1878," and certify that the said sum is and stands secured by the said Act in manner and form as by the said Act provided.

And we further covenant and engage for and on behalf of the commissioners that the interest and principal of the said debt shall be payable and paid in manner following, that is to say (here insert according to the agreement the rate of interest and the times of payment thereof, and the date or dates or other conditions upon which the principal of the debt shall become payable).

Given under our hands at Aliwal (Mossel Bay) this—— day of—— 18——.

WITNESSES:  
G. H.  
I. J.

A. B. Chairman of the Municipality.  
C. D. }  
E. F. } Commissioners.

No. 7—1878.] AN ACT | August 2, 1878. No. 7—1878.

To Provide for the Organization of the Inhabitants of this Colony for the defence thereof.

**W**HEREAS it is expedient to make provision for enrolling and organizing the able-bodied inhabitants of this colony for the defence thereof and the protection of life and property therein: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. The Act No. 16 of 1855, intituled “An Act for the Organization of the Inhabitants of the several divisions of this Colony for the Internal Defence of their respective Divisions,” is hereby repealed.

II. The field-cornets throughout the colony shall, within the first month of the next ensuing year, make out a list containing the names of all the male residents in their respective field-cornetries between the ages of 18 and 50 years, who are not exempted from liability to serve under this Act, and in such list shall state the age, residence, and calling, and, as nearly as possible, the race to which each person belongs, and in the case of Kafirs from what tribe they take their origin, which lists shall be, as nearly as may be, in the form to this Act annexed, and the said field-cornets shall, as soon as such lists are made out, transmit the same to the civil commissioner of the district within which their field-cornetry is situate: Provided, however, that until such lists have been completed, the lists which have already been framed under the provisions of the said Act No. 16 of 1855, shall be and remain the lists for the purposes of this present Act: Provided, also, that for performing the aforesaid services, each field-cornet shall be entitled to such remuneration as to the Governor shall seem just.

III. All persons disqualified for service as burghers or levies by bodily or mental infirmity, the members for the time being of the Legislative Council and House of Assembly, ministers of religion, judges, teachers in schools, constables, persons serving in any of the military or naval departments of Her Majesty, or in the Cape Mounted Yeomanry, or in the Frontier Armed and Mounted Police, or any other force to be created upon the basis thereof, or in the divisional or other police, or in the civil service of this colony, and all merchant seamen under articles, shall be exempt from serving in the burgher force or levies under this Act, except with their own consent.

No. 7—1878.

Where no field-cornet, special officer to be appointed.

IV. In any municipality or borough for which there shall be no field-cornet, the duties devolving upon that officer under this Act shall be executed by such person as may be appointed in that behalf by the Governor, and every municipality or borough shall for the purposes of this Act be deemed to be one or more field-cornetcies, as the Governor may direct.

In case of failure by field-cornet to make proper list.

V. If any field-cornet shall neglect to make out the list as hereinbefore mentioned and furnish it to the civil commissioner of his division as aforesaid, or shall furnish an imperfect list, it shall be made out or compiled as the case may be by such person or persons as may be appointed in that behalf by the Governor.

Provisions for hearing objections to lists.

VI. Every such civil commissioner shall forthwith, upon the receipt of such list, cause a copy thereof to be affixed at the residence of each field-cornet, and at each court-house within the division, and shall cause a notice to be inserted in a local newspaper, if any, and posted at or near the residence of each field-cornet, and at each court-house as aforesaid, of the day on which and the place at which he will hold a court for the purpose of hearing objections to such list, which day shall not be sooner than two weeks nor later than four weeks after the day of affixing the aforesaid copy at the court-house of such civil commissioner.

Civil commissioner to hold court for the purpose.

VII. Upon the day and at the place so notified the civil commissioner shall hold a court, at which he shall, on due proof by the oath of such persons as he shall see fit to examine, or by declaration or affidavit, correct all errors in such list, either by adding the names of persons liable to service which may have been omitted therein, or by striking out from the list of those so liable the names of any persons entitled to be exempt: Provided that such court may be adjourned from day to day until all questions as to the correctness of the list are determined, and provided that the decision of such civil commissioner shall be final: Provided, also, that the Governor shall from time to time distinguish in every such list between persons to be enrolled as burghers and persons to be enrolled as levies, and shall thereupon cause separate lists thereof to be made, which shall respectively be the lists for the purposes of this Act: Provided, also, the lists which have been already framed under Act No. 16 of 1855 shall also be subject to this lastmentioned proviso.

Mode of proving title to exemption.

VIII. In every case in which exemption shall be claimed on account of bodily or mental infirmity, the party so claiming shall be required to furnish proof to the satisfaction of the civil commissioner, and if he claim it on account of age, but cannot afford proof of the validity of his claim, the decision of his liability to service shall be in the discretion of the said civil commissioner.



IX. The burgher force to be enrolled under this Act shall be officered by field-captains, one of whom shall command the burghers enrolled in each field-cornetcy, and by a field-commandant in each division, who shall command all the burgher forces enrolled therein; and all such officers shall be elected as hereinafter enacted: Provided that if the burghers in two or more field-cornetcies be called out and assembled together, and the field-commandant be not present, the senior field-captain present shall act as provisional field-commandant during the absence of the field-commandant. The levies to be enrolled under this Act shall, when called out, be officered by persons appointed by the Governor: Provided, further, that seniority or the relative precedence of officers of the same rank, elected or appointed under this Act, shall be determined by the date of the election or appointment, and where the election or appointment shall have been on the same day, by the order in which the names of the parties so elected or appointed shall appear in the Government Gazette: Provided that no person employed in the civil service of the colony shall be eligible to be elected or appointed either as field-commandant, field-captain, or deputy field-captain.

No. 7—1878.

How burgher forces to be officered.

X. Upon the completion of such lists as aforesaid, each field-cornet shall fix a day, not to be later than one month after the date of such completion, on which the burghers of his field-cornetcy shall assemble, at a place to be by him appointed, to elect a field-captain and a deputy to act in the absence of such field-captain, and subject to such regulations or orders as may be made by the Governor, as hereinafter mentioned, to assist the field-captain for such field-cornetcy: Provided that such election shall be decided by a majority of burghers belonging to the said field-cornetcy then present, and that notice of the names of the field-captains and their deputies so elected be forthwith transmitted by the chairman of such meeting to the civil commissioner of the division: Provided, moreover, that every such election shall be subject to the approval of the Governor: Provided, further, that in the case of non-election on the day so fixed as aforesaid, the Governor shall appoint such field-captains and deputies respectively from amongst the said burghers.

Mode of electing field-captains.

XI. Within one month after the election or appointment of the field-captains and their deputies, and in the case of election the approval of such election by the Governor, the said field-captains or their deputies not being less than two-thirds of the said field-captains in the said division, shall assemble on a day and at a place to be fixed by the civil commissioner, and shall by a majority of those present, elect their field-commandant: Provided that such election

Field-captains to elect field-commandants.

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shall also be subject to the approval of the Governor: Provided, also, that in the event of an election not taking place on the day so fixed as aforesaid, the Governor shall appoint a field-commandant from amongst the field-captains elected or appointed.

Officers' term of service.

XII. All field-commandants, field-captains, and deputy field-captains elected and approved of or appointed, as above provided, shall serve for three years or until other persons be elected or appointed in their stead, in the manner above provided for their first election or appointment, and shall be then re-eligible. If any field-captain or deputy field-captain shall at any time decline to serve he shall give notice thereof to the field-commandant of his division, and if any field-commandant shall so decline to serve he shall give notice thereof to the civil commissioner of the division, and thereupon proceedings shall be taken in the same manner as above provided for the election or appointment of a successor to such officer.

Provisions for cases of death or resignation of officers.

XIII. When and as often as any field-commandant, field-captain, or deputy field-captain shall die or resign during the period for which he has been elected or appointed to serve, or any field-commandant, field-captain, or deputy field-captain shall during such period be absent from his division or field-cornetcy, as the case may be, for three consecutive months, another field-commandant, field-captain, or deputy field-captain, as the case may be, shall be elected or appointed in the place of the one so dying or resigning or being absent, in manner above provided for a first election or appointment: Provided that any field-commandant, field-captain, or deputy field-captain vacating office by reason of absence shall be eligible to be re-elected or re-appointed.

Field-cornets to furnish lists of burghers who have died or left or attained 50 years.

XIV. Every field-cornet shall within the first month of each succeeding year furnish to the civil commissioner of his division a list of all burghers or levies who have died or have passed the age of fifty, or have ceased to reside in his field-cornetcy during the preceding year, together with a list of all persons liable to serve as burghers or levies who have reached the age of eighteen or have taken up their residence during the same period in his field-cornetcy; and unless such latter persons prove their claim to exemption before the civil commissioner within fourteen days after they shall have received notice, as in the sixth section provided, that their names have been included in the list so furnished as aforesaid, their names shall be added by the said civil commissioner at the end of the respective rolls, and the names of all such former persons shall be erased from the respective rolls by the said civil commissioner: Provided, always, that in case of addition, the Governor shall

distinguish between burghers and levies as hereinbefore mentioned.

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XV. The Governor may from time to time assemble the burgher force and levies, or such part or parts of such forces respectively as may to him appear expedient, for inspection or for inspection and rifle practice under their own officers, at such time or times and at such place or places within their respective divisions as he may direct.

Power of Governor to assemble burgher forces.

XVI. The Governor shall, from time to time, cause the burghers enrolled under this Act, exclusive of officers, to be divided into two classes, the first class to include all enrolled burghers between the ages of eighteen and thirty, and the second class to include all enrolled burghers between the ages of thirty and fifty.

Burghers to be divided into two classes.

XVII. Whenever it shall be necessary for the defence of the colony or any part thereof, or for the protection of life and property therein or in any part thereof, the Governor may, by proclamation, call out the burgher force and levies, or such part or parts of the said forces respectively as he may consider necessary, for service at such place or places within the said colony or beyond the borders thereof, as he may from time to time think fit to direct: Provided, however, that no person actually serving in any volunteer corps enrolled as such under any law for the time being in force in this colony as to volunteer corps, shall be called upon to serve in any other way than in and with such volunteer corps: Provided, also, that in case a portion only of the said burgher force be called out, the first drafts shall be taken in the respective divisions from the said first class of burghers.

Governor may call out portions or whole of force.

Volunteers exempted from service as burghers.

XVIII. Whenever it shall be necessary to assemble or to call out the whole or part of the burgher force of any division, the civil commissioner shall give notice thereof to the field-commandants and to the field-captain or captains whose companies or any part of whose companies it may be necessary to call out, who shall thereupon proceed to call out in such manner as they may be directed by the Governor, the required number of burghers, and shall at the same time appoint a time and place at which the burghers so called out shall assemble; and if it be required to summon a general assembly of the burghers of the division, or the burghers or any of the burghers of more than one field-cornetcy, the civil commissioner shall in his summons to the field-commandants and field-captains signify at what time or times, and in what place or places, such burghers shall meet for the service required of them. The calling out of levies shall be subject to such regulations as the Governor may make under the provisions of this Act.

Mode of calling out burghers.

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Ballot to determine who to serve in case a portion only called out.

XIX. In case it shall be necessary to call out a portion only of the burghers of any class, the persons so to be called out shall be determined by ballot, to take place under such regulations in that behalf as the Governor may from time to time make: Provided, however, that the Governor shall have the power, if he shall so think fit, to dispense at any time with the services of any person so drawn whose labour shall be the sole support of his family.

Penalties for not serving when duly called out.

XX. Any commandant, field-captain, deputy field-captain, or burgher who having received due notice, as in the sixth section provided, of his liability to serve, and having received due notice of his having been called out to serve on any occasion, shall absent himself without a lawful cause for his absence, or shall withdraw himself before permission to that effect be given by some competent authority, or shall refuse or wilfully neglect to obey any lawful command of his superior officer, shall upon conviction be liable to a fine, if a commandant, field-captain, or deputy field-captain, of not exceeding £50, and if any ordinary burgher, of not exceeding £25, which shall be recoverable by summary process in the court of the resident magistrate in the district of which the offender resides, and shall be paid into the public treasury, but no conviction and fine so paid shall be deemed or taken to exempt the person convicted from liability to be again called out after such conviction to perform burgher service. And in case of non-payment of any such fine, the offender shall be liable to imprisonment with or without hard labour for a term not exceeding three months, or until such fine be paid. And any member of levies absenting himself without lawful cause when called out under this Act, shall be liable to a fine of not exceeding £5, or in default of payment, to imprisonment with or without hard labour for a term not exceeding three months, unless such fine be sooner paid; such fine to be recoverable as hereinbefore mentioned, and no such conviction or fine to exempt the person convicted from liability to be again called out, after such conviction as hereinbefore provided.

Substitutes may be provided.

XXI. Any burgher or member of levies called out for service under this Act shall be entitled to provide as his substitute any other competent person approved of by his field-commandant, or in the case of a member of levies by his commanding officer, who shall consent to serve in the place and stead of such burgher or member of levies, and such burgher or member of levies shall thereupon be exempt from service under the said call, and the said substitute shall be in the same plight and condition as if he had been a burgher or member of levies duly called out: Provided that in case as often as the person serving as a substitute shall himself be

called out before the expiration of the period for which he consented to serve as substitute shall have expired, the burgher or member of levies for whom he serves shall be bound to serve for the remainder of the said period or to provide another substitute approved of as aforesaid.

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XXII. Every burgher, or member of levies, when called out for service, who shall be guilty of any of the following offences, that is to say,—

Offences and penalties.

1. Absenting himself without leave from any muster' inspection, or rifle practice during any part of the time provided therefor.
2. Refusing or neglecting to obey any lawful order of his superior officer while at any muster, inspection, or rifle practice.
3. Being insolent towards his superior officer while in the execution of his duty as such officer.
4. Behaving in a disorderly manner, or in a manner contrary to good discipline, while attending any muster, inspection, or rifle practice.
5. Being in a state of intoxication during the period fixed for any muster, inspection, or rifle practice.
6. Failing to keep in proper and serviceable order any horse, saddle, bridle, arms, accoutrements, ammunition, or equipments (if any) entrusted to him ;

shall, upon conviction by the resident magistrate of the district within which the offence shall be committed, incur a penalty not exceeding £2 for each offence, and in default of payment shall be liable to imprisonment with or without hard labour for a term not exceeding fourteen days, unless such fine be sooner paid.

XXIII. Each field-commandant, field-captain, deputy field-captain, burgher, and member of levies when called out into active service under this Act shall, while so serving, receive rations for himself and forage for his horse, if mounted, and be paid per diem according to the following scale :

Pay during service.

Each field-commandant ... ..	£1	0	0
Each field-captain or deputy field-captain	0	15	0
Each burgher who shall provide his own horse, saddle and bridle ... ..	0	4	0
Each burgher who shall not provide his own horse, saddle and bridle ... ..	0	3	0
Each member of levies at a rate not exceeding ... ..	0	2	6

XXIV. The widow or family of any burgher or member of levies who may be killed in action, and any burgher or member of levies who may receive during his service any

Provision for widows and families.

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wound or injury permanently injurious in its consequences, shall receive a pension or allowance not exceeding £70 per annum, the amount whereof shall be fixed by the Governor.

Compensation for loss of horse, arms, or accoutrements.

XXV. Every mounted burgher, whose own horse shall be killed or carried off by or abandoned to the enemy, or be destroyed to prevent the same falling into the enemy's hands, or who shall while on active service suffer loss by the enemy of his own saddle, gun, or accoutrements, shall be paid the value of the same, such value to be certified by the commandant of the force to which the burgher belongs: Provided that such value shall not exceed £25 for the horse, £10 for the gun, and £5 for the saddle and accoutrements.

Power to take horses, provisions, &c., for public service.

XXVI. When the burgher force of any division or any part thereof shall be called out for active service, the field-commandant, or the field-captains or deputy field-captains of the several wards of such division, are authorized to require from those who possess them, such wagons, horses, mules, oxen, and gear, together with such provisions, forage, or other necessaries as shall be needed for the service of such force, and every inhabitant shall be bound to render obedience to such requisition: Provided that with reference to such requisition the aforesaid officers shall conform to the instructions which they may have received from the civil commissioner of the division to which they belong.

Payment to be made for articles so taken.

XXVII. When any articles aforesaid shall be so obtained the officer obtaining the same shall justly estimate the value thereof, and shall give a certificate, certifying that he has obtained from ——— the articles in question, and that the same are fairly worth £——; and the civil commissioner of the district within which the articles shall have been obtained shall, on presentation of such certificate, and in case the amount shall not appear to him excessive in value, pay the sum stated in such certificate by a draft on the treasurer of the colony in the usual form: Provided that if the value placed on such article be deemed excessive or if the late owner shall object to the same as being inadequate, the question shall be referred to the arbitration of three persons, of whom one shall be nominated by the Government, one by the said owner, and the third by the two persons so nominated, before entering upon the said arbitration, and the decision of the said arbitrators, or of any two of them, shall be final. And all articles so obtained shall be the property of the Government.

Governor may take measures to provide, in certain cases, horses, arms, &c.

XXVIII. The Governor may, from time to time, take such measures as may be deemed expedient for providing, at the public expense, horses, arms, ammunition, accoutrements, and equipments for such burghers and levies as may

not possess the same, of their own, and for the due preservation and custody of all public property provided for the use of the said forces.

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XXIX. In order the better to enable the civil commissioner, field-cornets, and other persons charged with the preparation or revision of lists under this Act to obtain the information necessary for the purposes of this Act, they are hereby authorized and empowered to ask such questions concerning names, ages, residence, calling, or race, as may be necessary for the preparation or revision of such lists as aforesaid; and every person refusing or neglecting to answer, or wilfully giving a false answer to any such question, shall, for every such refusal or neglect or false answer, be liable, upon conviction by the resident magistrate of the district, to pay a fine not exceeding £5, and in default of payment to be imprisoned, with or without hard labour, for a period not exceeding three months, unless such fine be sooner paid.

Power to civil commissioner, field-cornets, and others to make inquiries.

Penalty for refusing to answer.

XXX. The Governor may, from time to time, make regulations and orders respecting the general government, discipline, and management of the said forces, and the constitution, assembling, and proceedings of courts of inquiry to hear, receive, and examine evidence relating to, and to report on, any matter connected with such force, or any charge brought against a member thereof, and may from time to time alter and repeal any such regulations and orders, and may call for such returns as may from time to time seem requisite: Provided that all such regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof, or after the commencement of the next session, if Parliament be not then sitting, as the case may be.

Governor authorized to make regulation for discipline, &c.

XXXI. The cost and charges of carrying out this Act shall be defrayed out of such moneys as Parliament shall provide for that purpose.

Costs of carrying out Act.

XXXII. The words "the Governor" in the enacting part of this Act shall mean the Governor acting by and with the advice of the Executive Council.

Meaning of "Governor."

XXXIII. This Act may be cited as the "Burgher Force and Levies Act, 1878."

Short title.

No. 7—1878.

## FORM OF ORIGINAL LIST.

Division———.   
 Field-cornetcy———.

No.	Name.	Age.	Residence.	Calling.	Race.	Remarks
1	A.B.	29	Queen'sTn.	Farmer.	As the case may be. E. (European or European extraction) K. (Kafir). F. (Fingo). H. (Hottentot). O. (Other coloured race).	

## FORM OF BURGHER LIST.

Division———.   
 Field-cornetcy———.

No.	Name.	Age.	Residence.	Calling.	Race.	Remarks.
1	C.D.	30	Wodchouse	Carpenter.	E—European or European Extraction	

## FORM OF LEVY LIST.

Division———.   
 Field-cornetcy———.

No.	Name.	Age.	Residence.	Calling.	Race.	Remarks
2	E. F.	25	Shiloh	Agricultural Labourer	E—European Extraction K—Kafir F—Fingo H—Hottentot O—Other Coloured Race	



No. 8—1878.] AN ACT [August 2, 1878. No. 8—1878.

To Amend and Add to the Provisions of the Native Locations Act of 1876.

**W**HEREAS it is expedient to make further regulations Preamble.  
in regard to native locations : Be it therefore enacted by the Governor of the Colony of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows :—

I. The thirteenth section of Act No. 6 of 1876 is hereby repealed, and the next succeeding section of this Act shall be, and the same hereby is, substituted for such repealed section. Repeal of 13th section of Act 6 of 1876.

II. By native location is meant any number of huts or dwellings exceeding five within an area of one square mile, occupied by any of the native races, such as Kafirs, Fingoes, Basutos, Hottentots, Bushmen, and the like, such occupants, in case such huts or dwellings shall be situate on land which is private property, not being in the bonâ fide and continuous employment of the owner of such land, either as his domestic servants, or in or about the farming operations, or any trade, business, or handicraft by him carried on upon such land. Definition of " native location."

III. No native location, as defined in the last preceding section, shall be established, or if already established, shall be allowed to continue, on any land, whether such land is the property of the Government or of any private individual, without the express leave and licence of the Governor, acting under the advice of the Executive Council, first had and obtained, which licence the Governor, acting as aforesaid, may from time to time revoke or suspend, as occasion may require : Provided, however, that native locations which are in existence at the time of the passing of this Act shall be deemed and taken to have been established, and to continue, with such leave and licence, unless the Governor, with the advice aforesaid, shall, by proclamation in the Government Gazette, give notice that any such native location shall cease and be removed from a date to be named in such proclamation : Provided, moreover, that until the issuing of such notices all such now existing native locations shall be subject to the conditions and provisions hereinafter in the fifth section of this Act contained : Provided, further, that nothing in this section contained shall be construed as giving any power to remove any occupant of a native location from any land of which he is the registered proprietor. No native location to be formed or continue to exist without licence from the Governor.

IV. Any private proprietor of land who is desirous of establishing a native location upon his property shall apply, How application to be made for licence to establish location.

No. 8—1878.

through the civil commissioner of the district in which such land is situate, to the Governor for leave so to do; and it shall be the duty of such civil commissioner to forward such application to the Secretary for Native Affairs, with his report or remarks thereon.

Governor may point out limits within which huts to be erected, and may limit the number of huts.

V. It shall be lawful for the Governor, by and with the advice of the Executive Council, to point out or cause to be pointed out, within any native location, the place, or area, or limits upon or within which alone the huts or dwellings of such location shall be erected; and to limit the number of huts or dwellings which it shall be lawful to erect upon the place, or within the area or limits so pointed out; and the erecting of any hut or dwelling upon any other part of the location than that so pointed out, and the erecting or suffering to be erected any greater number of huts or dwellings than the number so limited, shall be deemed to be offences against this Act to be punished as hereinafter provided.

Penalty for establishing or continuing location without licence.

VI. Any person establishing a native location without the leave and licence hereinbefore mentioned, or continuing any such native location after the publication of the proclamation for its discontinuance and removal in the third section of this Act provided, and after notice thereof to such person, or after the revocation or suspension of the licence as aforesaid, any person contravening any of the provisions in the last preceding section of this Act, shall be liable to a penalty of not exceeding £25 for the first offence, and to double the amount of the last inflicted fine or penalty for each subsequent offence.

Horses, cattle, &c. to be branded, and penalty for refusal to brand.

VII. All horses, horned cattle, sheep, and goats belonging to residents within any native location shall be branded or otherwise marked in such manner as the inspector of such native location may require; and any resident within a native location who shall refuse to brand or mark, or to suffer to be branded or marked, any of his horses, horned cattle, sheep, or goats when thereto required by the said inspector, or who shall have in his possession or custody any horse, horned beast, sheep, or goat which shall not be branded or marked as aforesaid, shall be liable to imprisonment with or without hard labour for a period not exceeding one month, or to a fine of not exceeding £2, and in default of payment to imprisonment with or without hard labour for a period not exceeding one month, unless the said fine be sooner paid.

Unbranded cattle to be dealt with under section 8 of Act 6 of 1876.

VIII. All horses, horned cattle, sheep, and goats which may be found in any native location, and which have not been branded or marked as aforesaid, may be dealt with in the same manner as by law is now provided for dealing with horses, horned cattle, sheep, and goats which have not been

registered, and for that purpose the provisions of the eighth section of Act No. 6 of 1876 shall be taken to apply also to cases of horses, horned cattle, sheep and goats which have not been branded or marked as aforesaid.

No. 8—1878.

IX. This Act may be cited as the "Native Locations Amendment Act, 1878."

No. 9—1878.]

AN ACT

[August 2, 1878.

To Organize, Establish, and Regulate a Force for the better Protection of Life and Property in the Colony, to be called "The Cape Mounted Riflemen."

WHEREAS it is expedient that the present constitution of the force known as the "Frontier Armed and Mounted Police," should be amended and remodelled, and a new force created upon the basis thereof: Be it therefore enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows :

Preamble.

I. The several Acts of Parliament, being respectively No. 3 of 1855, No. 21 of 1856, No. 3 of 1868, No. 2 of 1875, and No. 14 of 1875, are hereby repealed : Provided that such repeal shall not invalidate or affect anything lawfully done under any such Acts, or under any rules or regulations duly framed under the same, previously to the passing of this Act : Provided, also, that such repeal shall not have the effect of discharging any person enrolled or embodied under the provisions of the said Acts respectively from any service which he may be liable to fulfil under such Acts respectively, or of infringing upon any rights acquired under such Acts as aforesaid.

Repeal of Acts 3 of 1855, 21 of 1856, 3 of 1868, and 14 of 1875.

PART I.—CONSTITUTION OF THE FORCE.

II. The Governor, with the advice of the Executive Council, shall cause such a sufficient number of fit and able men as Parliament shall, from year to year, provide for, to be embodied to serve as an armed and mounted force, who shall be sworn before a justice of the peace to act as a police in and throughout the colony, for preserving the peace and preventing robberies and other crimes, and apprehending offenders against the peace, and also as a military force for the defence of the colony.

Embodiment of men, and purpose thereof.

No. 9—1878.

Title of the force.

III. The force so embodied shall be called "The Cape Mounted Riflemen," and the existing force known as the "Frontier Armed and Mounted Police" shall be incorporated with it and merged therein.

Force to be divided into two wings. Organization thereof.

IV. The said force shall consist of two divisions or wings, each of which shall be under the command of a competent field officer, to be styled lieutenant-colonel, and other officers, to be styled 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 commandant-general of the forces of this colony, 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 commandant-general, report on the condition of the force under their command, and on all matters of importance connected therewith; and shall consult with and be guided by the advice of the said commandant-general in respect of the subjects of such reports.

Field and other officers to be appointed by Governor.

V. The Governor, with the advice aforesaid, 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, saving all just rights now existing; 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, with the advice aforesaid, shall from time to time settle and appoint, and before such examiners as the Governor, acting as aforesaid, shall from time to time nominate.

Governor to make regulations.

VI. The Governor, acting as aforesaid, shall from time to time make such regulations respecting the 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 colonial boundary, as to him shall seem meet.

Duty of officers.

VII. It shall be the duty of the field and other officers of the said force to suppress all tumults, riots, affrays, or breaches of the peace, in any part of the colony where they may be on duty, and to assist in the defence of the colony, and to discharge military duties in connection therewith when called upon so to do.

Powers and privileges of the force.

VIII. The members of the aforesaid force so sworn as aforesaid shall (except as in the thirty-fourth section is excepted) throughout the colony have all such powers and

privileges, and 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,

No. 9—1878.

## PART II.—DISCIPLINE.

IX. 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 Act, or any of the offences in the schedule hereto, may be tried by and before:—1. Any of the superior courts of law in this colony within the jurisdiction of which such offence shall have been committed. 2. The court of the resident magistrate of the district in which such offence has been committed; or 3. A board of officers 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 courts 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 twenty 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 resident magistrate, such court may sentence the offender to pay a fine not exceeding ten 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.

X. 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 one pound, 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 ninth section of this Act: Provided

Stoppage of pay in certain instances.

A A

No. 9—1879.

that such offender shall, if he so request, have a right to have such proceedings taken instead of being tried by such officer : And provided, also, 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.

Offences not summarily dealt with to be reported and proceedings thereupon.

XI. Upon any member of the force being charged with having committed any of the offences in this Act 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 resident magistrate having jurisdiction in the case, or (as to offences in the ninth 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 resident magistrate, they shall be the same in all respects as in the case of an ordinary offender or supposed offender against the law, and the said offender shall be in the same plight and condition as any other person charged with criminal offence.

Constitution of board of officers to try offences.

XII. 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.

Proceedings before such board to be similar to those in criminal cases before magistrates.

XIII. The proceedings before and at any trial by a board of officers shall, except otherwise herein mentioned, as near as may be, be the same as those from time to time prescribed as to criminal cases in a court of resident magistrate ; and all the evidence which may be given before such board shall be taken down in writing by the president

thereof, by whom also the witnesses shall be duly sworn ; 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.

No. 9- 1878.

XIV. 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 resident magistrate in a criminal case pending in the court of such resident magistrate.

Summoning of witnesses.

XV. When and as often as any such board as aforesaid shall sentence any offender under this Act 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 sentence, transmit the original proceedings in the case, together with such remarks, if any, as he may desire to append, to the registrar of the supreme court, or if the trial has taken place within the jurisdiction of the eastern districts court, to the registrar of that court ; and the provisions of the forty-seventh, forty-eighth, and forty-ninth sections of the Act No. 20 of 1856, intituled " An Act for Amending and Consolidating the Laws relative to the Courts of Resident Magistrates," shall, *mutatis mutandis*, extend and apply to such proceedings, as if the same had been proceedings in a case decided by a court of resident magistrate which, under the said forty-seventh section, would have had to be sent for review by a judge of one of the superior courts.

Sentences to hard labour to be transmitted to Supreme or Eastern Districts Court and appeal allowed thereon.

XVI. All offenders arrested for any offence under this Act, 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 this colony: And

Places of imprisonment for offenders under this Act.

No. 9—1878

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, and the prisoner shall be deemed to be a prisoner confined therein within the meaning of the Ordinance No. 24 of 1847, intituled "Ordinance for improving the Gaols of this Colony," but every board of officers aforesaid and the resident 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 or prison as by the Ordinance aforesaid are given to the resident magistrate of the district as to the public gaols within his district.

Term of imprisonment not to reckon in term of service.

XVII. 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.

Provisions of Act not to prevent prosecutions under other laws.

XVIII. Nothing in this Act contained shall prevent any offender from being prosecuted otherwise than under the provisions of this Act in all cases in which he would by law, without this Act, 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 Act 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 acquitted or convicted from being dismissed from the said force or reduced in rank therein.

Power of suspension and dismissal of non-commissioned officers

XIX. It shall be lawful for the said field officers, respectively, to suspend 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 him by virtue of this Act shall cease and determine: Provided, however, that no sentence of dismissal shall take effect unless and until the same be confirmed by the commandant-general of the colonial forces.

### PART III.—PRIVILEGES AND PENSIONS.

No tolls payable by riflemen on duty.

XX. Every officer and man 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 be or may hereafter be lawfully 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.

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XXI. If any person duly authorized to collect tolls in respect of unvetery shall wilfully subject any officer or man of the said force to unreasonable delay or detention in respect to the passage over such ferry, then such person shall be liable on conviction to a penalty not exceeding five pounds.

Penalty for attempting to exact tolls.

XXII. If any person, not being an officer or man of the said force, shall wilfully personate such officer or man, or if any such officer or man of the force, not then being on duty, shall falsely represent himself to be such officer or man on duty, with the intent to evade the payment of any toll legally payable by him, such person shall, on conviction, be liable to a penalty of not exceeding five pounds sterling, or, in default thereof, to imprisonment for a period not exceeding one calendar month, unless such fine be sooner paid.

Penalty for personation of riflemen.

XXIII. It shall be lawful for the Governor, with the advice of the Executive Council, and under the conditions hereinafter mentioned, to order that any member of the said force, of whatever rank, shall be superannuated, and thereupon to authorize and direct that such member shall receive from and out of the public revenue of this colony a gratuity or yearly pension as follows, that is to say, if such member shall have served in the said force for a period less than fifteen years, a gratuity equal to one month's pay for each year's service, the pay being taken to be that received by such member at the time of his superannuation, and if such member shall have served in the said force for a period of fifteen years, an annual pension equal to fifteen-fiftieths of the yearly pay of such member, which pay shall be taken to be the average of his yearly pay for the three years next preceding his superannuation, and an additional one-fiftieth of such yearly pay for each year such member shall have served in the said force beyond the said period of fifteen years; but no such member shall receive a pension equal to more than thirty-fiftieths of his yearly pay as aforesaid, unless in the cases hereafter mentioned: And provided that no member of the said force who shall be under the age of fifty years shall be capable of receiving any such gratuity or pension, unless it shall be certified in writing by the surgeon of the said force, or some other competent medical officer, to be appointed by the Governor acting by and with the advice aforesaid, for the purpose, that such member from infirmity of mind or body is incapable of discharging the duties of his situation, and that such infirmity is likely to be a permanent one.

Superannuation, pensions, and gratuities.

XXIV. In case any member of the said force shall be disabled for the performance of his duty by reason of any

Gratuities of riflemen wounded or injured in execution of duty.

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wound or injury received by him when in the field and engaged with an enemy, or in the actual execution of his duty, or any member of the said force shall, in the opinion of the Governor, acting by and with the advice aforesaid, have merited the same, it shall be lawful for the Governor, with such advice, to award to such member, whatever may be his age or time of service, such gratuity not exceeding an amount equal to three years' pay, or such yearly pension not exceeding the full pay of such member, as to him may seem fit: Provided that the reasons for giving any such gratuity or pension shall be set forth in the warrant or authority granting the same, and a return showing the amounts and particulars of any payments under this section shall be laid on the table of both Houses of Parliament at the then next ensuing session of Parliament.

Penalty for false statements.

XXV. If any member of the said force in receipt of a pension under this Act shall wilfully or knowingly have made, or caused to be made, any false statement or representation, in order to obtain such pension, he shall forfeit all right and claim to such pension, and no pension shall be claimable by any pensioner during the time he may be undergoing punishment for any crime.

Calculation of pensions and gratuities.

XXVI. In calculating the amount of any gratuity or pension payable under this Act, if the person to receive the same shall at the time of his superannuation have been obliged to keep a horse or horses out of his pay, the sum of twenty pounds for the keep of each such horse shall be deducted from such pay.

Pensions and gratuities not to be executable or assignable.

XXVII. No pension payable under this Act shall be assignable or transferable, nor shall the same be attached, arrested, or levied upon, for or in respect of any debt or claim due by the recipient thereof or his wife.

No pension, &amp;c., claimable of right.

XXVIII. Nothing in this Act contained shall be construed so as to entitle any member of the said force to claim as a matter of right any gratuity or pension as aforesaid, or to prevent any such person from being unconditionally dismissed or discharged from the said force.

## PART IV.—GENERAL.

Penalty on dealers in wines and spirits for harbouring riflemen on duty.

XXIX. 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. No. 9 - 1878.

XXX. 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 Act, 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. Penalty for taking pledges, &c., of horses, arms, and accoutrements.

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

XXXII. It shall be lawful for the Governor, acting by and with the advice aforesaid, 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. Compensation for extraordinary services.

XXXIII. For the protection of persons acting in the execution of this Act, all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act 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 discontinued any such action after issue joined, or if, upon exception, or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client. Limitation of actions and prosecutions against riflemen.

XXXIV. Nothing contained in the Ordinance No. 25, 1847, entitled "Ordinance for improving the Police of the Colony," shall extend to the force aforesaid in this Act mentioned. Ordinance No 25 of 1847 not to apply.

XXXV. All costs and charges for carrying out this Act shall be paid out of such moneys as Parliament shall provide for the purpose. Costs of carrying out Act.

XXXVI. This Act may be cited for all purposes as the "Cape Mounted Riflemen Act, 1878." Short title.

SCHEDULE OF OFFENCES REFERRED TO IN THIS  
ACT.

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 and 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 firearms, 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, piquet, or patrol, and without proper authority releasing any prisoner committed to his charge, or suffering him to escape.

14. Being found drunk on any duty under arms.

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.

No. 10—1878.]

AN ACT

[August 2, 1878.

No. 10—1878.

## For the Regulation of Volunteer Corps.

**W**HEREAS the inhabitants have, in several parts of this Preamble.  
 colony, manifested a disposition to enrol, and have in  
 some places already enrolled, themselves of their own free  
 will into volunteer corps to assist in the defence of the  
 colony: And whereas it is expedient that proper regula-  
 tions should be made for the formation and maintenance  
 of such corps: Be it therefore enacted by the Governor  
 of the Cape of Good Hope, by and with the consent of the  
 Legislative Council and the House of Assembly thereof,  
 as follows:—

I. The Act No. 25 of 1856 shall be, and the same is Act No. 25 of 1856  
 repealed.  
 hereby, repealed: Provided, however, that such repeal shall  
 not affect or render invalid any regulation lawfully made or  
 any act lawfully done under such Act previous to the taking  
 effect of this present Act.

II. The Governor may, on behalf of Her Majesty, accept Governor may accept  
 discontinuance, or dis-  
 pensation with services of  
 any volunteer corps.  
 the offer of service of any corps of volunteers, naval as well  
 as military, upon such terms and conditions as to the said  
 Governor may seem fit and proper, and may discontinue the  
 services of and cause to be disbanded any such corps, and  
 dispense with the services of or dismiss any volunteer,  
 whether officer, non-commissioned officer, or private, and  
 any person appointed to the paid staff of or serving for pay  
 in any volunteer force: Provided that no such dismissal of  
 any volunteer, whether officer, non-commissioned officer, or  
 private, shall take place except after an inquiry and decision  
 thereon by the tribunal hereinafter provided for that pur-  
 pose: And provided, also, that such decision may be altered or  
 modified by the Governor.

III. The Governor may, from time to time, by proclama- Governor may make  
 regulations regarding  
 enrolment and dis-  
 banding of corps, con-  
 stitution, pay, disci-  
 pline, etc.  
 tion in the Government Gazette, make regulations and orders  
 respecting the enrolment and disbanding of any volunteer  
 corps: the appointment, promotion, and rank of all volun-  
 teer officers, and the relative rank of such officers, and of  
 the officers of any other naval or military force embodied in  
 this colony, and of the Frontier Armed and Mounted Police,  
 or any force that may be created on the basis thereof, and  
 of any divisional or other police; the constitution, assem-  
 bling, and mode of procedure of courts of inquiry to hear,  
 receive, and examine evidence relating to any matter con-  
 nected with the government or discipline of the volunteer  
 force or any corps thereof, or any charge brought against  
 any member thereof; the maintenance of discipline; the

No. 10—1878.

power of arrest ; the payment and recovery of subscriptions, fines, and penalties ; and the general government, discipline, and management of the volunteer force and the several corps thereof, and the persons appointed to the paid staff thereof, or serving for pay in the said force, and may from time to time alter or repeal any such regulations or orders, and may call for such returns from the officers of such force, or of the several corps thereof, as may from time to time seem requisite: Provided, however, that all such regulations shall be laid before both Houses of Parliament within fourteen days from the making thereof, if Parliament be then sitting, and if Parliament be not then sitting, within fourteen days next after the commencement of the next ensuing session thereof: And provided, moreover, that no such regulations shall be repugnant to or inconsistent with any of the provisions of this Act.

Volunteer corps of each division to form a battalion.

IV. The several volunteer corps of each division of the colony shall constitute a battalion for the purposes of organization and discipline, if such corps shall in the opinion of the Governor be of sufficient strength to form such battalion: Provided that if there shall be only one such corps in any such division, such corps shall be taken of itself to form a battalion if of such strength as aforesaid: And provided also that, for the purposes of this Act, the municipal limits of Cape Town and Green Point shall be included within the Cape division.

Battalion to be commanded by field-officer.

V. Each battalion of volunteers shall be commanded by a field-officer, to be appointed in such manner as the Governor shall, by any regulations to be made in that behalf under the provisions of the 3rd section of this Act, direct and appoint.

Governor may select one of field-officers to be the medium of communication between officers and commandant-general

VI. It shall be lawful for the Governor to select one of the several field officers commanding battalions to be the officer to whom the reports of all other officers commanding volunteer corps shall from time to time be addressed, and whose duty it shall be to forward such reports, with such comments thereon as may appear to him to be necessary, to the commandant-general of colonial forces; and whose further duty it shall be to inspect personally, from time to time when occasion may require, any battalion or any other corps of volunteers, and to report on the condition of the same to the said commandant-general of colonial forces, and to discharge any other duties in connection with the working of this Act which may be imposed upon him by the said commandant-general of colonial forces: Provided that such officer may, at any time, be suspended or dismissed from his said office, and another officer appointed in his place, by the Governor, in case such dismissal or suspension may appear to him to be desirable.

VII. Whenever it shall appear necessary so to do, the Governor may, by warrant under his hand addressed to any officer commanding a battalion, call out for active service within any part of this colony, or on or beyond the borders thereof, wherever the interests of the colony may require, such battalion, or any portion thereof, and such battalion, or portion of such battalion, and every member of the corps composing the same, shall thereupon assemble at such time and place as shall be fixed in such warrant, and shall serve, and continue to serve, in the defence of this colony so long as such services shall appear to the Governor to be required: Provided, always, that it may be lawful for the said Governor to relieve, if he shall think fit, any battalion or portion of a battalion which shall have served for such term as to the Governor may seem reasonable, and to substitute as a relief another portion of the said battalion or some other battalion or portion thereof, or some other available force, as occasion may require.

No. 10—1878.

Governor may call out any battalion or portion thereof for service within or beyond the colony.

VIII. All volunteers, when called out for service as in the preceding section mentioned, shall be subject to the same rules and regulations in regard to discipline, and liable to the same penalties and punishments, as are provided in any Act of this present Session of Parliament in regard to the mounted yeomanry of this colony when on actual service.

Volunteers on service subject to rules provided for mounted yeomanry.

IX. Every field-officer of a battalion and every officer, Pay non-commissioned officer, and private of a corps of volunteers when called out on active service, and so long as he shall be so serving, shall receive rations for himself and his horse, if mounted, and pay at the following rates per diem:—

			s.	d.
Field-officer	..	..	..	20 0
Adjutant	..	..	..	17 6
Captain	..	..	..	15 0
Lieutenant	..	..	..	11 0
Second Lieutenant	..	..	..	10 0
Sergeant	..	..	..	6 0
Corporal	..	..	..	5 0

And every private while serving as aforesaid shall receive pay at the rate of four shillings per diem, and, if not mounted, at the rate of three shillings.

X. The words "the Governor" in the enacting clauses of this Act shall mean the Governor acting by and with the advice of the Executive Council.

Meaning of term "Governor."

XI. This Act may be cited as the "Volunteer Act, 1878."

Short title.

364 ALIWAL NORTH DIVISIONAL COUNCIL LOAN ACT.

No. 11—1878.

No. 11—1878.]

AN ACT

[August 2, 1878.

To Authorize the Divisional Council of Aliwal North to borrow Money upon security of Road Rates and Tolls for the erection of a Bridge over the Kraai River.

Preamble.

**W**HEREAS it is desirable that a bridge should be erected over the Kraai River at the "Poort," in the division of Aliwal North: And whereas the Colonial Government has agreed to contribute the sum of five thousand pounds towards the construction of the said bridge: And whereas the divisional council of Aliwal North are desirous of obtaining certain powers to enable them to take up on loan the further amount required to be expended on the erection of the said bridge:

And whereas it is expedient that the said council should be authorized to borrow money upon security of the road rates, tolls, and other revenues of the said division: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly, as follows:—

Power to borrow  
£5,000.

I. It shall be lawful for the said council from time to time to borrow and to take up at interest such sum or sums of money, not exceeding five thousand pounds in the whole, as may be required in addition to the amount to be contributed by the Colonial Government for the purpose of erecting a bridge over the Kraai River at the "Poort," in the division of Aliwal North.

Chargeable on rates.

II. For the due payment of the money to be raised by the divisional council as aforesaid, and the interest thereof, the rates, tolls, and other revenues of the said council are hereby charged and hypothecated.

Written acknowledgment to lenders.

III. The council shall grant written acknowledgments of or for such sums of money as may be borrowed as aforesaid, which acknowledgments shall be as near as is material in the form annexed to this Act, and shall be signed on behalf of the said council by one or more of its elected members thereto duly authorized by resolution of the said council.

Provision for paying interest and for gradual extinction of loans.

IV. As a fund for the payment of the interest upon and gradual extinction of the loans to be raised under the authority of this Act, there shall be charged and chargeable upon and set apart out of the annual revenues of the said council as aforesaid, an annual sum equal to the interest on the whole amount of such loans, and a further sum equal to one pound per centum on the total amount of the capital sum of such loans, and such sum shall be annually charged



upon and payable out of the revenues of the said council, so long as any portion of the money to be raised as aforesaid shall remain unpaid and unextinguished.

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V. Such portion of the fund charged and chargeable annually on the revenues of the said council under the last preceding section, as shall not be required for payment of the interest for the time being due upon the loans raised under the authority of this Act, shall be paid to a separate account, to be kept in a bank to be chosen for that purpose by the council, and shall be applied in redeeming and cancelling the obligations or acknowledgments of the said council for money borrowed under the authority of this Act, in such manner and form as shall be provided by terms and conditions whereon such obligations or acknowledgments shall respectively have been granted; and all moneys so paid into a bank for the purpose aforesaid shall be drawn out by cheques, to be signed by some member or members thereto specially authorized by resolution of the said council.

Separate account of fund to be kept.

VI. The said council shall keep a separate and distinct account of all moneys received and expended by virtue of this Act, and shall cause an abstract of the said account to be transmitted to the Colonial Secretary half-yearly, showing all moneys received and expended up to the 30th June and 31st December preceding.

Separate account of moneys received and expended.

VII. The accounts in the last preceding section mentioned shall be audited and examined by the auditors to be from time to time appointed under the provisions of the "Divisional Councils Act, 1865"; and the provisions of the eighty-third and eighty-fifth sections of the said Act shall extend and apply to all accounts, books, and papers connected with the said loan.

Accounts to be audited.

VIII. Every debt, liability, and obligation created by virtue of this Act, shall be subject to the provisions of the "Public Bodies Debts Act, 1867."

Debt subject to "Public Bodies Debts Act."

IX. It shall be lawful for the said council to pay the necessary costs, charges, and expenses of obtaining this Act and carrying the provisions thereof into effect, out of the money to be raised under the provisions hereof.

Costs of Act may be paid out of borrowed money.

X. The said bridge shall be constructed either by the Colonial Government or by contract, or otherwise, whenever the said council shall signify its preparedness to raise money as aforesaid, and upon receipt of notice to that effect the Government are authorized to draw against the funds to be raised by the said council under the provisions of this Act, from time to time, *pari passu*, with such sums as the said Government may expend from time to time upon or in connection with the said bridge.

When and how bridge to be constructed.

XI. The said council shall be authorized to employ the services of an engineer to superintend the works on the said

Authority to employ engineer.

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No. 11—1878.

bridge, who shall at all times have access to all books, plans, papers, and estimates connected with the same, and shall report to the said council, from time to time, on the progress and condition of the said works. The salary of such engineer shall be a charge on the money to be raised as aforesaid by the said council.

Municipal council to keep bridge in repair.

XII. After the completion of the said bridge it shall be the duty of the said council to cause the same to be kept in a fit and proper state of repair.

Toll to be established.

XIII. It shall be lawful for the said council to erect and establish a toll at the said bridge, subject to and in accordance with the provisions of the twenty-second, twenty-third, and twenty-fourth sections of the Act No. 9, 1858, in that behalf; and the provisions of the fourteenth, fifteenth, sixteenth, and eighteenth sections of the said Act shall extend and apply to the toll-bar and toll at or connected with the said bridge.

Protection of bridge against injuries.

XIV. The provisions of the fifty-sixth and fifty-seventh sections of the aforesaid Act, No. 9, 1858, shall extend and apply to the said bridge in regard to its protection against injuries, whether malicious or through carelessness.

Short title.

XV. This Act may be cited for all purposes as the "Aliwal North Divisional Council Loan Act, 1878."

SCHEDULE ALIWAL NORTH DIVISIONAL COUNCIL LOAN ACT, 1878.

Acknowledgment for loan £—————

We, the undersigned, members of the divisional council of Aliwal North, duly authorized thereto by resolution of the said council, do hereby acknowledge that the divisional council of Aliwal North is indebted to ————— in the sum of ————— for so much money borrowed for the purposes mentioned in the "Aliwal North Divisional Council Loan Act, 1878," and certify that the said sum is secured by the said Act in manner and form as by the said Act is provided.

And we further covenant and agree in our said capacity that the principal and interest of the said debt shall be payable and paid by the said council in manner following, that is to say (here insert the rate of interest, times of payment, and other conditions agreed upon).

Given under our hands at Aliwal North, this ————— day of —————, 187—.

} Members of  
the Divisional  
Council,  
Aliwal North.

Entered

Secretary;

No. 12—1878.] AN ACT [August 2, 1878. No 12—1878.

To Amend the Act No. 23 of 1869, intituled an Act to Repeal the Act No. 29 of 1861, for establishing a Municipality for the City of Graham's Town, and to make other provisions in lieu thereof.

WHEREAS it is expedient to amend the Act No. 23 of 1869, intituled an Act to repeal the Act No. 29 of 1861, "For establishing a Municipality for the City of Graham's Town": Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

I. So much of the said Act No. 23 of 1869 as shall be repugnant to, or inconsistent with, any of the provisions of this Act, is hereby repealed. Repugnant portion of Act 23 of 1869 repealed.

II. No person shall be eligible as a candidate at any election, nor qualified to be elected a councillor for any ward, unless he be a registered citizen, and shall have been invited to become such candidate by a requisition, signed by at least three qualified voters of such ward, and shall have transmitted such requisition, with his acceptance thereof, to the mayor, as is provided for in the following section. Who may be candidates at election of councillors.

III. That when the seat or seats of any councillor or councillors shall become vacant, the mayor shall, under his signature, give notice of such vacancy or vacancies in any one of the local newspapers, and shall therein appoint a day, not later than seven days from the first publication thereof, for the purpose of considering and determining upon such requisitions as shall be addressed to any candidate or candidates to fill up such vacancy or vacancies, but such requisitions and the replies thereto shall be delivered at the town office not later than three o'clock p.m. on the day so appointed. Proceedings when seat of any councillor becomes vacant.

IV. If, on the day appointed, as in the preceding section mentioned, there shall be no more requisitions delivered at the town office than are sufficient to fill up such vacancy or vacancies, it shall be competent for the mayor, without any further action or proceeding, to declare the candidate or candidates who have accepted the requisition or requisitions duly elected a member or members of the council, but if the requisition to candidates exceed the number of vacancies to be filled up, then all such requisitions shall be published by affixing the same on some conspicuous place in the town office; and the mayor shall within three days How when requisitions are not more than sufficient to fill up vacancies; if requisitions exceed the number of vacancies election to take place.

No. 12—1877.

thereafter publish the names of the several candidates in one of the local newspapers, and at the same time therein give fourteen days' notice to the citizens, calling a meeting for the election of councillors to fill up the vacancy or vacancies, and in such notice he shall also state the date, hour, and place of such meeting.

Yearly election provided for. Councillors to hold office three years, and may be re-elected on retirement.

V. At every yearly election, which shall take place on the first Wednesday in July of each year, there shall be elected one councillor for each ward, who shall enter upon his office on the first Thursday after his election, and continue therein for three years; and every retiring councillor shall be eligible for re-election.

Power and authority of council defined.

VI. The council shall have power and authority to do the following acts: To make, alter, and keep in repair the roads, streets, dams, sewers, drains, culverts, and bridges within the limits of the municipality; to secure regularity in the erection of buildings; to define the width and direction of such streets as may be made over private property by the owners thereof, which streets when so defined shall thereafter upon application by the owners of said property to the said municipality become public streets; to excavate, construct, and lay water-courses, water-pipes, conduits, sluices, dams, reservoirs, aqueducts, and other works for supplying 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 execute any other like works; to adopt necessary measures for the prevention and extinguishment of fires, and for that purpose to provide and keep fire-engines, with pipes and utensils; to establish and regulate markets; to light or provide for the lighting of the streets; and to hold, occupy, or purchase any land, and to erect or purchase and to keep in repair any building for any of the purposes required by the said council; to cause all buildings which shall be certified in writing by any three master-builders to be unsafe to the public to be placed in a state of security, or, if necessary, removed at the expense of the owners of such buildings; to cause all buildings used by the public capable of containing more than three hundred persons to be provided with sufficient and proper means of egress in case of fire or other dangerous casualty; to assize weights and measures according to the standards in force by law; to grant licences or permits for any purpose to be defined by the municipal regulations of the city, such as for cabs, omnibuses, or other vehicles plying for hire, and to regulate the tariff of charges in connection therewith; and to levy tolls and dues as hereinafter provided, and generally to devise and to carry out all such measures as shall appear to the council to the advantage and convenience of the municipality:—and by municipal regulations to do

any of the following acts, that is to say, to direct the method by which night soil may be disposed of, with power to abolish any existing practice that may be found prejudicial to health, and to substitute other; to regulate the time and place for slaughtering cattle, and the state and condition of the slaughter-houses, and the confining or killing of dogs, pigs, goats, and fowls, and to levy a tax on all carts, carriages, and dogs kept within the limits of the municipality; to regulate the width of any footpath or pavement in the street in front of any private property, and to determine on the nature and description of the material to be used therefor; also to provide for the registration at the town office of all births and deaths that may occur within the municipality, and of all sales of landed property; for the maintenance of order in the streets, public places, and thoroughfares of the municipality; for the conduct of traffic therein and the conservancy of the water kloofs, reservoirs, and all property and plant connected with the municipal water supply. The council shall by municipal regulations have the further power to appoint one or more competent persons to examine meat and other provisions and drinks exposed for sale, and who, in case such meat or other provisions or drinks be found unfit for human food or drink, shall be empowered to cause the same to be destroyed; to prevent and abate nuisances; to provide for the management of the common pasture-lands of the municipality, and for fixing the number and description of cattle which each householder shall be allowed to depasture on such lands; to establish and provide for the management of public pounds within the municipal limits: Provided that no toll, due, or fee, or charge for any permit, or any punishment or penalty, shall be imposed by reason of anything in this section contained, unless the same shall have been imposed in accordance with the provisions of the 39th section of the said Act 23 of 1869 mentioned.

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But no toll, penalty, &c. to be imposed except in accordance with section 39 of Act 23 of 1869.

VII. 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 members as the council may see fit, for the purpose of examining and reporting upon any matter or performing any act which in the judgment of the council would be more conveniently performed or examined into by means of a committee: Provided, always, that the proceedings of every such committee shall be regularly entered in its minute-book, and the result reported to the council. The mayor to be ex-officio a member of all such committees.

Appointment by council of general or special committees.

VIII. For the purpose of raising the means for making new roads, streets, market conveniences, bridges, drains, sewers, water-courses, reservoirs, aqueducts, and other waterworks; for the purchase of such lands or erection of

For municipal purposes council may collect certain dues, taxes, &c.

BB

No. 12—1878.

such buildings as may be required in or about the execution of the powers hereby given to the council ; for the purchase of water-pipes, fire engines, and appurtenances ; for the effecting of all other public works and improvements within the municipality ; for the purpose of raising the means for effecting the repairs of such works as the council is empowered to make or to have made ; for the maintaining of water-works, fire engines, police establishment, markets, and pounds ; and for the payment of salaries and all other ordinary current expenses required to be borne by the municipality : the council shall have power to impose, levy and recover all such market dues, water rates, pound fees, dog and carriage tax, as shall be deemed necessary and reasonable, and shall be authorized by any such municipal regulations aforesaid, and shall have the power, as often as shall be deemed necessary, to make and levy a rate and assessment upon all immovable property within the municipality, the value of which is to be ascertained in the manner hereinafter provided : Provided that no rate shall be made or levied by the council unless there shall be at least sixteen members of the said council present at the meeting at which such rate shall be imposed : And provided, also, that no rate or assessment shall be imposed upon any immovable property belonging to Her Majesty the Queen, nor on public prisons or police stations, almshouses or hospitals, nor on any buildings appropriated to public worship, nor upon any burial-grounds, nor upon buildings solely appropriated to the purposes of gratuitous education : Provided the exemption last mentioned shall not be construed to extend to any separate or adjoining building or buildings upon the premises in which the teacher or teachers or his or their family or any other person or persons dwell, or which he or they occupy, but shall solely apply to such buildings as are especially appropriated for the education and use of the pupils, and that any other part of the premises and buildings not so appropriated shall be rated in like manner as other immovable property not exempted within the said municipality : Provided that these exemptions shall not extend to any immovable property which, although belonging to Her Majesty the Queen or to the Colonial Government, shall be possessed or occupied by any person or persons in his or their individual capacity only as lessee, or sub-lessee, or otherwise.

IX. No market dues shall be levied on any person not using the public market, nor shall any compulsion be used to induce any person to use such public market ; nor shall water rates be levied on any person whose property or properties in the city cannot be supplied with the water provided by the council, but the council shall have the power

And may levy rate on immovable property.

No such rate to be assessed unless 16 members be present at meeting.

What property exempted from rates.

Qualification of such exemption.

Levying of market dues.

On what properties water rates may and may not be levied.

to impose the current water rate on the proprietors or occupiers of all buildings, houses, shops, or stores situated in any street through which the council's main water pipes run, except where tanks are formed or supplied to hold water adequate for the premises in the estimation of the council.

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X. As soon as any valuation as aforesaid shall be completed, it shall lie at the office of the town-clerk for the inspection of every owner or occupier of any property included therein, who may, upon all lawful days and at all reasonable times, inspect the same and take extracts therefrom, within the period of one calendar month thence following, and the council shall, by public notice, announce for general information that it will, on some day not more than a fortnight after the expiration of said month, and at some hour and place to be fixed in such notice, hold a court for the purpose of hearing and determining objections to such valuation: Provided that such notice shall be published immediately after the valuation shall be ready for such inspection, and repeated every week in one of the local newspapers during the said month: Provided, also, that it shall not be necessary in any suit or proceeding for the recovery of any rate to prove anything further in the nature of due notice of any such valuation as aforesaid than the publication of the said notice during the said month in pursuance thereof, in one of the said local newspapers; and upon such day as aforesaid, and at the place and hour mentioned in such notice, the said council shall hold a court and shall hear all objections which may be urged to any valuation by any owner or occupier, or other persons on his behalf, and shall inquire into the merits of such objections, and for that purpose may, if the council think it desirable, take the oath of any person to whom it shall see fit to examine (which oath the presiding member of the court is hereby authorized to administer), and shall confirm or correct any valuation objected to: Provided the said court may be adjourned from time to time as the said court may deem necessary: And provided, further, that it shall not be competent for any councillor when any objection to the valuation of his property or of premises rented by him is raised to sit in his place, hear, and determine or vote upon such objection, and such objection shall be determined by the remaining members present forming the court.

Valuation roll to lie for inspection.

Notice to be given of court to hear objections to the valuations

What proof required in proceeding for recovery of any rate.

Court to be held as announced in notice. May correct or amend valuation.

No councillor to sit when valuation of his own property is in dispute.

XI. If, in the opinion of the said court, any property in the city should appear to be undervalued, it shall be competent for the court to submit the value of such property to a duly qualified appraiser, other than the original valuer of the same, and should such appraiser be of opinion, after inspection of the property, that the same has been under-

How if property has been undervalued.

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valued, then the owners or occupiers of such property together with the appraiser aforesaid, and the first valuer, shall be cited to appear before the council on a day to be named, not being less than three days from the date of citation, and the several matters in question, together with any evidence which may be tendered and produced in support of or opposed to the valuations, shall then be heard by the council, who shall decide thereon.

Proceedings if property subdivided after valuation and sold publicly.

XII. After the valuation of the immovable property has been made in manner hereinbefore provided, should any such property be sub divided by the proprietor or proprietors and sold by public auction to other persons, it shall be competent for the council, pending the time of taking the next valuation, to levy rates on such sub-divided lots according to the price agreed to be given at the auction by each purchaser for the same respectively, and in such case the original valuation in respect of the entire undivided lot shall be dispensed with, and each sub-division valued at the price given therefor, and the rates thereupon shall be claimable from the purchasers respectively. But should such property be sub-divided and transferred to other proprietors by private sale or by demise or otherwise, then an appraiser shall be appointed to value the said properties, and a day shall be appointed by the council, of which a week's notice shall be given in writing to the owners of the sub-divided property, on which any objections to the said valuation shall be heard in the manner provided in the 70th section of the Graham's Town Municipality Act, 1869, and the new valuations as determined on by the council shall stand in the roll of assessment in place of the original valuation.

If sold or alienated privately.

Annual rate to be assessed.

XIII. The council shall annually, in the month of February, make an estimate of the amount of money required for the purposes aforesaid, and shall assess the rate accordingly, and public notice thereof shall be given in one or more of the local newspapers, and shall, in like manner, if any further unforeseen expenditure shall become necessary during the same year, make a supplementary estimate thereof and assess a second or further rates, whereof they shall give public notice in like manner: Provided that it shall not be lawful for the council in any one year to levy any rates amounting in the aggregate to more than three pence in the pound on the value of the immovable property assessed, without obtaining the consent of the majority of the citizens present and entitled to vote at a public meeting to be called for the purpose of considering such rate or rates, of the object and time and place of holding which meeting at least seven days' notice shall be given in manner hereinbefore mentioned: And provided that it shall be law-

Further rate if necessary.

Aggregate rates not to exceed three pence in pound, unless public meeting approve.

Regulations with regard to such meeting



ful for any two or more duly enrolled citizens at such meeting to demand a poll of the citizens entitled to vote, which poll shall be taken on a day to be fixed by the mayor, not later than seven days from the date of the meeting, of which day not less than three days' notice shall be given in one or more of the local papers, and which poll shall commence at ten o'clock a.m., and close at three o'clock p.m. of such day.

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XIV. The first valuation, to be made as aforesaid, of all immovable property for the purposes of Act 23 of 1869, and of this Act, shall subsist and be in force for five years from the date of the first assessment under this Act, at the expiration of which term, and of each successive term of five years, an appraiser shall be appointed and a fresh valuation shall be made in the same manner as is directed in the said Act No. 23 with regard to the first valuation.

New valuation every five years.

XV. Every notice calling a public meeting of the citizens, and every notice or other document or thing required by this Act, or by the Graham's Town Municipality Act, 1869, to be published, shall, except when otherwise provided, be so published by causing a copy thereof to be inserted in one or more of the local newspapers, and a copy of the same shall also be affixed in some conspicuous place upon or near the municipal office: Provided, always, that the mayor shall call a meeting upon receiving a requisition signed by not less than thirty duly qualified ratepayers: And provided, further, that the expenses incurred by the council through its mayor or any of its officers in calling such meeting shall be defrayed by the persons signing the requisition, unless it shall appear to the council that such meeting was purely connected with municipal purposes, or its object of such a character as in the opinion of the council would warrant it in charging the same expenses to the municipality.

How notices under this Act to be published.

When mayor to call a meeting.

How expenses of meeting to be defrayed.

XVI. All fines or penalties imposed by this Act or by any municipal regulations made by virtue thereof, shall be prosecuted for in any competent court by the council by the name of "The Council of the City of Graham's Town," and shall, when recovered, be paid to the treasurer of the municipality for municipal purposes: Provided that no such prosecution as aforesaid shall be commenced later than three months from and after the date of the act or omission upon which such prosecution shall be grounded; and to avoid the provisions of any municipal regulations being evaded it shall be competent for any officer of the local constabulary force, personally cognisant of the contravention of any such regulation by any person, or on production or delivery to him of an affidavit duly sworn to before a justice of the peace by any individual, containing information

Recovery of fines and penalties.

Barred by lapse of three months.

As to contravention of municipal regulations.

No. 12—1878.

that any regulation has, to his knowledge, been contravened, and stating the date of such contravention, to cite such person to appear before the resident magistrate for the purpose of having such contravention immediately thereafter heard and determined; and unless such person shall give security for his appearance not exceeding the maximum penalty imposed in and by the said regulation for the offence, such officer shall be justified in detaining him until the hearing of the charge, or he may release such offender with the sanction of the mayor or town clerk on payment of the penalty provided in such regulation.

Short title.

XVII, This Act may for all purposes be cited as "The Graham's Town Municipality Act, 1878."

No. 13—1878.] AN ACT [August 2, 1878.

For The Better Preservation of Peace within the Colony.

Preamble.

WHEREAS it is expedient to make further provision for the protection of life and property, and the preservation of peace within this colony: Be it therefore enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

Governor may by proclamation fix any district within which no arms may be possessed without a licence.

I. It shall and may be lawful for the Governor aforesaid, by and with the advice of the Executive Council of the said colony, from time to time to proclaim certain districts or portions of districts as areas within which it shall not be lawful for any person (except such persons as are hereinafter excepted) to bear, carry, or have in his or her possession, custody, or power, any arms, weapons, bullets, cartridges, gunpowder, or other ammunition unless such person shall be licensed so to do as hereinafter provided: Provided, always, that any such proclamation may from time to time be revoked or repealed (either as to the whole or any part of any such proclaimed area) by the said Governor, by and with the advice aforesaid, when and as occasion may seem to justify such revocation or repeal.

Proclamation may be at any time revoked.

Manner in which notice of such proclamation is to be given

II. Every such proclamation as aforesaid shall be printed and published in the Government Gazette of this colony, and in such other newspaper or newspapers, if any, published within the proclaimed areas as the Governor aforesaid, with the advice aforesaid, may deem to be desirable, and printed copies of such proclamations shall be affixed to the door of the court-house of the resident magistrate of

every such proclaimed district or portion of a district, or posted or affixed on some conspicuous place in the vicinity of such court-house, and shall also be posted or affixed on some conspicuous place in the vicinity of every field-cornet's residence within such district or portion of a district.

No. 13—1878.

III. The production of the Government Gazette containing any such proclamation shall be deemed and taken by any court of justice to be conclusive evidence of the facts and circumstances necessary to authorize the issue of such proclamation, and every such proclamation shall be deemed and taken in all such courts respectively to all intents and purpose whatsoever to have been issued in conformity with this Act.

How proclamation to be proved in courts of law.

IV. Every such proclamation shall name a certain day on or before which every person residing or being within the district or area therein specified, and not being a resident magistrate, justice of the peace, field-cornet, or person serving in Her Majesty's naval or military forces, or enrolled in any colonial, burgher, or volunteer corps for the time being, or in the Frontier Armed and Mounted Police, or in any other armed police force legally constituted within this colony, not having a licence as in this Act provided, shall deposit and leave at the office of the resident magistrate of such district, or at such other place as may be named in the said proclamation for the deposit thereof, all arms and weapons, or portions of arms and weapons, and all bullets, cartridges, gunpowder, and other ammunition then being in his or her possession, custody, or power, and a receipt for the same shall be given by the person authorized to receive them to the person so depositing them.

Proclamation to fix day before which persons, having arms, and not authorized to have them, shall deposit them with magistrate.

V. Notwithstanding anything in the last preceding section contained, it shall and may be lawful for the Governor aforesaid, by and with the advice aforesaid, to authorize and empower the resident magistrate of any proclaimed district, or portion of a district, or some other person or persons to be by the said Governor, by and with the advice aforesaid, for that purpose specially named and appointed, to issue to fit and proper persons licences to have, keep, bear, and carry arms, weapons, bullets, cartridges, gunpowder, and other ammunition, within such district, or portion of a district. And such licences shall be, as nearly as may be, in the form numbered 1 in the schedule to this Act annexed.

Receipt to be given for arms and ammunition deposited.

VI. In case any dealer in arms and ammunition, or either of them, shall reside within any district, or portion of a district, proclaimed under the provisions of this Act, it shall not be necessary for such person to deliver up the arms or ammunition in his or her possession as such dealer for the purposes of sale at the time of the issuing of such proclama-

Governor may authorize persons to grant licences to have arms and ammunition.

Dealer in arms and ammunition need not deliver up his stock if he receive licence to retain them from proper official.

No. 13—1878.

Punishment for con-  
travention of this  
section.

of the peace, or field-cornet, any arms or weapons, or any portions of arms or weapons, or any bullets, cartridges, gunpowder, or other ammunition, without production of his licence under this Act, and without a written permission for that purpose first had and obtained from the resident magistrate of the district within which it is proposed that such delivery shall take place, or from some other person authorized to issued licences under this Act for such district, which permission shall be, as nearly as may be, in the form numbered 3 in the schedule to this Act annexed. And any person guilty of contravening any one of the provisions in this section contained shall, upon conviction, be liable to imprisonment, with or without hard labour, for any period not exceeding seven years, or to pay a fine not exceeding five hundred pounds sterling, and to imprisonment with or without hard labour for a period not exceeding two years, unless such fine be sooner paid.

Attorney or Solicitor-  
General may remit  
proceedings under  
this Act to the Resi-  
dent Magistrate.

XIII. Any proceedings which may be taken under any section of this Act and which shall have been transmitted to the attorney-general or solicitor-general, may be remitted by the said attorney-general or solicitor-general to the resident magistrate of the district within which the offence shall have been committed, to be adjudicated upon by him under such jurisdiction as he may possess therein.

Arms deposited by  
unlicensed owners to  
be valued within six  
months by person  
appointed for that  
purpose.

XIV. All such arms, weapons, bullets, cartridges, gunpowder, and other ammunition as shall have been deposited, and left at the office of the resident magistrate or other place duly named for that purpose under the provisions of this Act, and which shall belong to persons who have not been licensed to have or carry the same, or whose licences have been revoked, shall, within six calendar months from the date of such deposit, be valued by some proper, impartial, and competent person or persons to be appointed for that purpose by the resident magistrate of the district in which they shall have been so deposited, and the value fixed by such person or persons on each of such arms, weapons, bullets, cartridges, gunpowder, and other ammunition, shall be paid to the respective owners of the same or their lawful representatives, upon production of the receipt therefore in the fourth section of this Act mentioned, and upon satisfactory proof of ownership.

Appraised value to  
be paid to owner on  
production of receipt  
mentioned in 4th sec-  
tion.

Registers of licences  
and permits to be  
kept.

XV. Every person authorized to issue licences and permits under this Act shall be bound to keep a register of such licences and permits, setting forth the names, addresses, and description of the persons to whom such licences and permits shall have been issued, together with the number of arms and quantity and description of ammunition represented in such licences and permits, which register shall be open for public inspection at all reasonable times, and issuers of

licences and permits as aforesaid shall further be bound to transmit to the office of the Colonial Secretary, during the first month of each year, copies certified under their hands of such registries.

No. 13—1878.

And certified copies annually transmitted to Colonial Office.

XVI. Every person authorised to issue licences under this Act shall have the power to issue permits, in the form No. 4 in the schedule hereto annexed, to dealers in arms and ammunition, who shall require the same to enable them to transport arms and ammunition through the proclaimed district or area for which such person is authorized to issue licences as aforesaid: Provided, always, that every such permit shall state the number of days during which it shall be in force: And provided, also, that such permit shall be of no force or effect except for the purpose of transporting the said arms and ammunition from the place mentioned in the said permit to the place therein mentioned.

Persons authorized to issue licences may also issue permits of removal.

Effect of such permits.

XVII. Any person enrolled as a burgher, or serving in any yeomanry or volunteer corps as aforesaid, shall be empowered without the production by him of any licence under the Act to require the production or exhibition of licences under the provisions of the ninth section of this Act.

Who may require the production of licences.

XVIII. The words "arms" and "weapons" in this Act shall be deemed and taken to comprise all guns, pistols, swords, bayonets, daggers, pikes, spears, assegais, and the word "ammunition" to comprise all gunpowder or other material capable of being used in the explosion of guns and pistols.

Definition of words "arms," "weapons," and "ammunition."

XIX. All costs and charges for carrying out this Act shall be paid out of such moneys as Parliament shall provide for the purpose.

Expenses under this Act—how to be met.

XX. This Act may be cited for all purposes as "The Peace Preservation Act, 1878."

Short title.

SCHEDULE TO WHICH THE FOREGOING ACT REFERS.

1.

Form of Licence to carry and have arms in proclaimed district.  
 I, A. B., having been duly appointed in that behalf under Act No. — of 1878, intituled "The Peace Preservation Act, 1878," do hereby grant to C. D., of (here insert name, description and place of residence), a licence to carry and have — gun (or other arm or arms, or ammunition, as the case may be) within the district of ————

Licence to carry and have arms—Vide section 5.

Dated ——— day of ——— 187 .

A. B.

No. 13—1878.

2.

Licence to dealers in arms, &amp;c., mentioned in section 2.

Form of Licence to dealers in arms and gunpowder to retain such articles in their possession in proclaimed districts.

I, A. B., having been duly appointed in that behalf under Act No. — of 1878, intituled “The Peace Preservation Act, 1878,” do hereby grant to C. D., of (here insert the name, description and place of business), a dealer in arms and gunpowder, permission to retain such arms and gunpowder in his possession for sale to persons duly licensed to purchase the same.

Dated \_\_\_\_\_ day of \_\_\_\_\_ 187 .

A. B.

3.

Licence to dealers in arms, &amp;c., mentioned in section 12.

Form of Licence or permission given to dealer in arms, &c., to deliver arms, &c., to a purchaser.

I, A. B., having been duly appointed in that behalf under Act No. — of 1878, intituled “The Peace Preservation Act, 1878,” do hereby authorize C. D., of (here insert name, description and place of business), dealer in arms, &c., to deliver to E. F. (here insert name, description and place of residence), \_\_\_\_\_ gun (or other arm or arms, or ammunition, as the case may be) on production of his licence in that behalf under the said Act.

Dated \_\_\_\_\_ day of \_\_\_\_\_ 187 .

A. B.

4.

## FORM OF PERMIT TO TRANSPORT ARMS, ETC.

Permit of removal mentioned in section 16.

I, A. B., having been duly appointed in that behalf under Act No. — of 1878, intituled “The Peace Preservation Act,” do hereby authorize C. D. of (here insert name and place of business), to transport \_\_\_\_\_ gun (or other arm or arms, or ammunition, as the case may be) from \_\_\_\_\_ to \_\_\_\_\_.

This permit to be in force for \_\_\_\_\_ days.

Dated \_\_\_\_\_ day of \_\_\_\_\_, 187 .

A. B.

No. 14—1878.] AN ACT [August 2, 1878.

For Regulating the manner in which the Crown Lands of the Colony shall be disposed of.

Preamble.

WHEREAS it is expedient to amend the law regulating the manner of disposing of the Crown lands of this colony: Be it enacted by the Governor of the Cape of

Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

No. 14—1878.

I. The Act No. 2, 1860, entitled “ An Act for regulating the manner in which Crown lands at the Cape of Good Hope shall be disposed of,” the Act No. 19, 1864, entitled “ An Act to provide for the leasing of Crown lands and for other purposes,” and the Act No. 4, 1867, entitled “ An Act to amend, in certain respects, the Act No. 19, 1864, ‘ To provide for the leasing of Crown lands and other purposes,’ ” are hereby repealed, save and except in so far as the provisions of the said Acts or any of them relate to the lands disposed of prior to the taking effect of this Act, or to the disposal of lands for which proceedings have been commenced prior to, or are pending at, the time of the taking effect of this Act; all which lands shall be dealt with as if this Act had not been passed.

Act 2 of 1860, Act 19 of 1864, and Act 4 of 1867 repealed.

II. All waste and unappropriated Crown lands within this colony shall, except as hereinafter is excepted, be disposed of on perpetual quitrent for the highest annual rent that can be obtained for the same by public auction.

Crown lands to be disposed of at public auction on perpetual quitrent.

III. The public auction aforesaid shall, as regards the lands situated in any division except the division of the Cape, be held at the office of the civil commissioner of the division, and as regards lands situated in the division of the Cape, at such place in Cape Town as Government shall appoint.

Aforesaid sales—where to be held.

IV. A notice of every auction to be held under this Act shall be published in the Government Gazette and in some newspaper published in or near to the division in which the land is situated, for not less than three months before the day appointed for holding such auction, and such notice shall describe the position and extent of the particular lands intended to be put up to competition, and shall state a minimum or upset annual quitrent, below which such lands will not be disposed of, as also the amount of the expenses of survey, erection of beacons and title deeds to be paid by the purchasers as hereinafter mentioned.

How notice of sale to be given.

V. The highest bidder who shall not have offered less than the minimum or upset quitrent shall be declared the purchaser, and every such purchaser shall be bound to pay the first year's rent under the quitrent grant, in advance, and secure the payment of the quitrent for the two next years by sureties whom the civil commissioner shall deem sufficient, which sureties shall bind themselves, in regard to such quitrent, as sureties in solidum and co-principal debtors renouncing the exceptions of excussion and division: Provided that the civil commissioner shall, if required by the purchaser, receive two years' rent in advance, in which event the aforesaid security shall not be required. And all

Notice to specify minimum quitrent and amount of survey expenses, &c., payable by purchaser.

Land to go to highest bidder above minimum.

First year's rent to be paid in advance. Approved sureties to be furnished for next two years.

When sureties not required.

Quitrent to be payable in advance.

No. 14—1873.

quitrents payable under this Act shall commence upon and be reckoned from a day to be stated in the conditions of sale, and shall be payable in advance.

Quitrent, how re-  
deemable, wholly or  
in part.

VI. The annual quitrent payable upon any quitrent grant, whether a grant made after the taking effect of this Act, or upon any grant made previously to which the provisions of the third section of the schedule to the Act No. 2, 1860, are not applicable, may be redeemed at any time by the payment of a sum equal to twenty times such annual quitrent, but not by the payment of any lesser sum, and any such quitrent may at and after the same rate be redeemed in parts or portions: Provided such parts or portions be either three-fourths, or one-half, or one-fourth of the original quitrent as stated in the deed of grant; and in any case in which the quitrent upon any such grant as in this section mentioned has been apportioned under the provisions of the Act No. 7, 1856, or the Act No. 10, 1875, the apportioned quitrent upon any part or share may be redeemed in manner aforesaid: Provided that the redemption of the quitrent wholly or in part shall not be deemed to alter the nature of the tenure of the land: Provided, also, that as to any apportionment of quitrent on land granted under the provisions of this Act, the consent of the Governor to such apportionment be first obtained.

Redemption not to  
alter nature of tenure

Governor's consent  
required to any ap-  
portionment.

Expenses of survey,  
beacons, and title  
deeds—when to be  
paid.

VII. The expenses of survey, erection of beacons, and of the title deed shall be paid to the civil commissioner within a certain time to be fixed by the Government, and made known at the time of sale.

In certain cases  
Crown lands may be  
leased for not more  
than three years.

VIII. In any case in which lands shall have been put up to competition under this Act, and the minimum or upset rent shall not have been obtained, or if from particular circumstances the Governor should deem it inexpedient to dispose of particular lands upon perpetual quitrent, then such lands may be let on lease for any term not exceeding three years at the highest rent that can be obtained for them by public auction, should such rent be deemed sufficient.

Restrictions as to  
cutting wood, &c., by  
lessee in above cases.

IX. No such lessee as is in the last preceding section mentioned shall be at liberty to cut down timber, trees, underwood, or brushwood, except such as shall be reasonably necessary for his own use in and upon the lands leased by him.

Lands sold on perpe-  
tual quitrent to be  
subject to certain  
general conditions.

X. All lands disposed of upon perpetual quitrent under this Act shall be subject to such special servitudes and conditions as may be set forth in the conditions of sale, and to the following general conditions, which must be stated in the title deed, viz.:

(a) As to rent.

(a) The quitrent payable.

(b) As to roads and  
thoroughfares.

(b) All roads and thoroughfares described in the diagram shall remain free and uninterrupted, unless the same be closed or altered by competent authority.



- (c) Government shall always have the right to make new roads, railways, and railway stations, aqueducts, dams, and drains, or to conduct telegraphs over the land for the benefit of the public, and to establish convenient outspans for the use of travellers, on payment to the proprietor of such sum of money in compensation as three appraisers, one to be appointed by each side, and a third to be chosen by the two others, before proceeding to act, or any two of them, shall award. No. 14—1878.  
(c) As to rights retained by Government.
- (d) That the Government shall at all times have the right of resuming the whole or a portion of the land hereby granted, if required for public purposes, on payment to the proprietor of such sum of money in compensation as may be mutually agreed upon by the parties concerned, or failing such agreement, as may be awarded by appraisers appointed in manner provided in the preceding clause (c). (d) As to right of resumption.
- (e) That the rights of the proprietor shall not extend to any deposits of gold, silver, or precious stones, which may at any time be or be discovered on the land hereby granted. (e) As to precious metals and stones.
- (f) No condition not expressed shall be presumed to exist. (f) No unexpressed condition to be presumed.

XI. No land claimed by any registered owner of adjacent land as part of his property by reason of any alleged defective title deed, or supposed land marks of the said adjacent land, or land occupied *bonâ fide* and beneficially, without title deed at the date of the extension of the colonial limits beyond it, or land conditionally occupied or claimed under any general notice or regulation of the Government or under any promise or order of a Government officer duly authorized at the time to make such promise or give such order, shall be considered or treated as waste Crown land for the purpose of this Act, until the claim thereto in each case shall have been decided on by the Governor, who shall have the power of rejecting the claim altogether, or of satisfying such claim by grant of the land or compensation out of the public revenue, or otherwise as shall appear equitable: Provided, always, that due notice of the nature of the claim, and reasonable proof that it may be substantiated, be received at the office of the Commissioner of Crown Lands and Public Works in sufficient time to admit of the withdrawal of the land from sale, and that the claimant use reasonable diligence to lay the proofs in support thereof before the officer or board to whom the question may be referred by the Governor. Certain lands not to come under provisions of this Act till claims made to them have been decided on by Governor.  
Notice of such claim to be given and due diligence used in proving them.

XII. Grants or reserves of land may be made by the Governor for special public purposes: Provided that no such grant or reserve shall be made until the Legislative Council Governor, with concurrence of Parliament, may grant land for public purposes.

No. 14—1878.

and House of Assembly shall have communicated to the Governor their concurrence therein.

Governor may, on certain condition, authorize sale of such land.

XIII. No land within the limits of any municipality, or land lying outside the municipal limits, but which has been by the Governor of this colony, by proclamation, Government notice, or other instrument or act, assigned as pasturage for any municipality, shall be considered or treated as waste Crown lands for the purposes of this Act.

No municipal lands or commonage to come under terms of this Act.

But the Governor shall have the power, upon the application of the commissioners of any municipality, to grant or authorize the sale of any portion or portions of such lands for public improvements for the benefit of the inhabitants resident within the limits of such municipality. The term "municipality" shall, in this section, embrace any corporate town, and the term "commissioners" any town council.

No town or village commonage to come under terms of this Act.

XIV. No land lying within or outside any town or village which has been by the Governor of this colony, by proclamation, Government notice, or other instrument or act, assigned as pasturage for such town or village, shall be considered or treated as waste Crown land for the purpose of this Act.

What other lands shall not be considered waste Crown lands for purposes of this Act.

XV. No forest lands or lands known to contain valuable minerals, or situated in the neighbourhood thereof, no lands required for military stations, defence of the frontier, public outspans, fishing stations on the sea coast or the banks of tidal rivers, of such extent as the Governor shall define, or required for any other public purpose, or so much of the land on the sea coast lying above and within two hundred feet of high water mark, shall be considered waste lands of the Crown for the purpose of this Act, and no such land shall be disposed of, except in the manner set forth in section twelve in regard to the lands therein mentioned.

Reservations for roads, outspans and cattle thoroughfares.

XVI. In all cases in which Crown lands shall be disposed of, where sufficient public roads, outspans, and cattle thoroughfares do not exist, but may be required, such extent of land as may be necessary for establishing public roads, outspans, and cattle thoroughfares, shall be reserved for such purposes.

Lands referred to in certain statutes not to come under this Act.

XVII. No such lands as are referred to in "The Agricultural Lands Act, 1870," or in the "Waschbank Lands Act, 1870," or in the "Agricultural Immigrants' Lands Act, 1877," shall be deemed to be waste Crown lands for the purposes of this Act.

When it appears desirable that Crown lands should be attached to adjoining farm or farms, application may be made to Commissioner of Crown Lands for certificate to that effect.

XVIII. As often as a piece or portion of Crown land shall lie contiguous to or between farms belonging to private persons, and it shall be for the common advantage of such persons and the public, owing to the situation of such Crown land, and the circumstances connected with it, that it should be attached to one or more of the contiguous farms, then any such person may apply to the Commissioner

of Crown Lands and Public Works, stating the position of such Crown land, and the extent thereof so far as the same shall be known to such applicant, and requesting the Commissioner of Crown Lands and Public Works, after making all such inquiries into the facts as he shall deem necessary, to certify to the Governor that such piece or portion of Crown land should, in the opinion of the said Commissioner of Crown Lands and Public Works, be dealt with under the provisions of this section.

No. 14—1878.

XIX. As often as the Commissioner of Crown Lands and Public Works shall certify as in the last preceding section mentioned, he shall cause to be published in the Government Gazette, and at least twice a month in some newspaper published in or near to the division in which such land is situated, a notice, stating the name of the applicant, the situation and boundaries of the land in question, and the extent thereof if then surveyed, and if not surveyed, its supposed extent, and stating that the application of such applicant will be considered by Government upon some day to be mentioned in such notice, not being sooner than three months from the day on which such notice was first published in the Government Gazette, and a copy of such notice shall be posted at the office of the resident magistrate of the district as soon as may be after such publication in the Gazette, and not later than two months before the day specified in such notice, for the consideration of the application.

Procedure to be followed if certificate granted.

XX. All persons having or alleging an interest in the matter of such application may, in writing, send in to the Commissioner of Crown Lands and Public Works, on or before the day specified in such notice, such statements or representations as they shall think fit, either in favour of or against the application made, and the Government shall then decide whether the application in question should be granted wholly or in part, or whether the piece or portion of land applied for by the applicant should be divided between him and any other person or persons, or should be wholly given to or divided between some person or persons other than the applicant.

Representations may be made for or against the application.

Government to decide the question.

XXI. In every case in which any piece or portion of Crown land shall be allotted to any farm under the provisions of the three last preceding sections of this Act, the owner of such farm shall pay in cash the expenses of survey, erection of beacons, and title deeds, and such land so allotted shall be subject to such perpetual quitrent as the Governor shall consider equitable and impose: Provided, however, that if any such applicant as in the eighteenth section mentioned, or any of the persons mentioned in the twentieth section, who may have sent in to the Commissioner of

When application granted Governor to impose perpetual quitrent.

No. 14—1878.

If disputed matter may be referred to arbitration.

Decision of majority of arbitrators to be final.

Half-yearly lists to be published of all lands allotted under four preceding sections.

Short title.

Crown Lands and Public Works any such statement or representation as in that section stated, shall feel aggrieved by any decision to which the Government shall come in reference to any such piece or portion of Crown land, it shall be competent for such person or persons to require that the matter in dispute shall be referred to arbitration; whereupon the Government and the person requiring the arbitration shall each forthwith appoint an arbitrator, and these two arbitrators shall appoint a third, and the three arbitrators shall forthwith proceed to consider and decide the matter in dispute referred to them, and the decision agreed to by such arbitrators, or any two of them, shall be final.

XXII. The Commissioner of Crown Lands and Public Works shall cause to be published in the Government Gazette, during the months of January and July in every year, half-yearly lists made up to the 31st December and 30th June preceding, respectively, of all title deeds issued from the Surveyor-General's office of any such lands as are in the four preceding sections mentioned, which lists shall set forth in regard to each title deed the division and field-cornetcy in which the land is situated, the name of the grantee or grantees, the extent of the land granted and the quitrent imposed.

XXIII. This Act may be cited for all purposes as "The Crown Lands Act, 1878."

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No. 15—1878.] AN ACT [August 2, 1878.  
For Regulating and Provision for the South African  
College.

Preamble.

WHEREAS the several proprietors of shares in the South African College, for the purpose of extending the usefulness thereon, have, by resolution, passed on the first day of June, 1877, at a public meeting held in the Town-house, after due notice, resolved to renounce all their right and title in and to the said college buildings, and it is desirable and expedient to repeal the Ordinance No. 11 of 1837, intituled "An Ordinance for establishing, regulating and providing for the South African College," the Act No. 19, 1858, intituled "An Act to continue the Ordinance No. 11 of 1837," and the Act No. 30 of 1861, intituled "An Act to continue the Ordinance No. 11 of 1837," and to make other provision in lieu thereof: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. From and after the commencement and taking effect of this Act the said Ordinance No. 11 of 1837, the Act No. 19 of 1858, and the Act No. 30 of 1861 shall be and the same are hereby repealed.

No 15-1878.

Previous laws repealed.

II. The general superintendence of the affairs of the said South African College and any departments or schools connected, or that may hereafter be connected, therewith or shall hereafter belong to the same, and all the funds, property, and revenue belonging thereto shall be discharged and exercised by and vested in a council, to be called the South African College Council.

Superintendence of College and management of its property vested in a council.

III. The said council shall consist of nine members, three of whom shall be nominated by the Governor, three by the council of the University of the Cape of Good Hope, and the remaining three members by a constituency of past students and life governors of the college, any three of whom shall form a quorum. The members of the first council nominated under this Act shall, at their first meeting, elect a chairman for the ensuing year, and shall thereupon proceed to ballot for the purpose of fixing upon one of the said members of the said council nominated by the Governor, one of the said members nominated by the council of the University of the Cape of Good Hope, and one of the said members nominated by the said constituency of past students and life governors, who shall vacate their seats on the thirty-first day of March, 1880; and upon one of the said members nominated by the Governor, one of the said members nominated by the council of the University of the Cape of Good Hope, and one of the said members nominated by the said constituency of past students and life governors, who shall vacate their seats on the thirty-first day of March, 1881, and the remaining three members of the said council shall vacate their seats on the thirty-first day of March, 1882, and upon the retirement from office of such members of the said council they shall be succeeded by members who shall be nominated by the persons or bodies who nominated the members so vacating office, and such newly nominated members of the said council shall remain in office for three years, from the thirty-first day of March upon which the members of the said council whom they shall succeed shall have retired from office, and shall in turn be succeeded by members to be nominated in like manner: Provided, however, that no professor of the South African College or teachers of any school connected therewith shall be eligible to be nominated a member of said South African College council: Provided, also, that any member of the council so vacating office shall be eligible for re-nomination: And provided, further, that in case of any failure to nominate the full number of members for the said council,

Composition of council.

Arrangements as to retirement of members.

Who may not be members.

Retiring members may be re-elected.

How as to failure to nominate.

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such failure shall not affect the legal constitution or powers of the council so long as the number nominated shall not be less than a quorum.

Within what time members to be nominated.

IV. The members of the said council to be nominated as aforesaid shall be nominated within three months after the taking effect of this Act, and such nominations shall be notified to the Governor by the several persons or bodies so nominating such members, and the names of such members so nominated as aforesaid, together with the names of the members nominated by the Governor, shall be notified by the Governor by proclamation in the Government Gazette, and the Governor shall in such proclamation fix the place, day, and hour for the first meeting of the said members of council.

Governor to publish list and to fix time and place for first meeting.

V. It shall be lawful for the said council, and they are hereby authorized and empowered, from time to time, to frame and agree upon such bye-laws and rules of order and procedure as the said council may deem expedient for regulating their proceedings and for the proper management and undertaking the administration of the said college and the departments or schools in connection therewith, and of the property and funds belonging thereto: Provided they are not repugnant to or inconsistent with the true intent and meaning of the provisions of this Act.

Council may frame bye-laws if not inconsistent with this Act.

Proceedings when members vacate office otherwise than by retirement.

VI. Any member of said council who shall absent himself from the meeting of said council for four consecutive meetings without leave from the council having been obtained, or shall assign his estate for the benefit of his creditors, or shall become insolvent, or shall become incapacitated from fulfilling the duties of his office by mental or bodily infirmity or disease shall, ipso facto, vacate his office, and the secretary of the council shall, without any delay, notify the fact of such vacancy having occurred to the persons or bodies who shall have nominated such member of council, and thereupon the said person or bodies that appointed the member whose seat has become vacant shall proceed forthwith to nominate his successor, and the person thus nominated shall hold office during the unexpired portion of the time of the member whose seat shall have been so vacated.

Property of College vested in council

VII. The several funds already existing and all moneys, assets, and other property, movable and immovable, of every nature and description whatever, now belonging, and which shall hereafter accrue to, or become due and payable, or be devised and vested in the said college, and any department or schools connected or that may hereafter be connected therewith, shall be vested in and be administered by the said council for the purpose of the said college and departments, or schools connected therewith: Provided, however, that all existing trust, devised, or bequest money shall be administered, laid out, and applied by the said council, in terms and

Existing trusts.

in conformity with the conditions on which said trust, devised and bequest moneys have been made, bequeathed, or vested in the said college.

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VIII. The said council shall from time to time appoint a principal of the said college and any professors, lecturers, and teachers required for the college and for any department or school connected therewith, on such terms and at such salaries as the said council shall find expedient, and shall regulate and fix the fees to be paid by the students and scholars, and the appropriation thereof.

Appointment of principal and professors.

Regulation of fees, &c.

IX. It shall and may be lawful for the Governor of this colony for the time being to enter in the said college such number of free pupils as he shall think proper, not, however, exceeding five in the whole at any time when there shall be not more than fifty pupils in the college, and not exceeding ten in the whole at any time when there shall be more than fifty pupils; and every such free pupil, having attained such degree of scholarship as shall be approved by the senate, shall, upon payment of such fee as shall be fixed by the council to be paid to the treasurer, be authorized to enter any class which shall be open at the time in the college, without payment of any fee in respect of any class belonging to the regular establishment of the college.

Governor may enter certain number of free pupils.

X. It shall be lawful for the said council to appoint during pleasure a secretary and treasurer and such other officers as shall be deemed necessary, on such terms and with such instructions as the said council shall deem expedient.

Council may appoint certain officers.

XI. The said council shall, as far as the schools connected with the said college are concerned, be taken to be and have the same privileges and functions as a committee elected under and by virtue of the provisions of Act No. 14 of 1858.

Functions of council as to College schools.

XII. The said council shall cause true and correct records to be kept of all its proceedings and true and correct accounts of all moneys received and paid on behalf and for account of the college and departments or schools connected therewith, and shall in the month of March in every year transmit to the colonial secretary for the information of the Government and of the Parliament, a statement of the revenue and expenditure during the preceding year, and a general report of the state and affairs of the college and departments or schools connected therewith, and shall cause a copy of the said report and of the account of revenue and expenditure to be published in the Government Gazette.

Council to record its proceedings and keep proper accounts.

Yearly financial statement and report to be transmitted to Government and published in Gazette.

XIII. Two of the members of the said council, together with the principal of the college, the head master of the schools, and the professors of the college, shall form a senate in which shall be vested the superintendence and regulation of the discipline and instruction of the several departments

Senate—how composed.

390 VOLUNTEER AND YEOMANRY PENSION ACT.

- No. 15—1878.  
Its functions. and classes of the college and schools, in accordance with the regulations for that purpose to be passed by said senate and approved of by the council.
- “Past student” defined. XIV. The term “past student” shall mean any person who has been or hereafter may have been a student of the college, and who shall hold a certificate in literature and science granted by the late board of public examiners, under Act 4, 1858, or who shall have become a graduate of any university.
- “Life governor” defined. XV. The term “life governor” shall mean any person who at the time of the taking effect of this Act shall in his or her own right be the proprietor of a share in the South African College, and also any person who shall be a donor of twenty pounds sterling to the said college.
- As to nomination of members of council by past students and life governors. XVI. Whenever it shall be necessary for the past students and life governors to nominate any member of council, a meeting of such past students and life governors shall be called by the secretary of the council by notice to be published in the Government Gazette not less than thirty days before the day appointed for holding such meeting: Provided that any past student and life governor, resident at a greater distance from Cape Town than ten miles, may vote by proxy at any such meeting: Provided, also, that no such nomination of a member of council by such past students and life governors shall be considered to have taken place, unless at any meeting called as aforesaid at least twenty votes, given either personally or by proxy, shall have been recorded.
- Council to sue and be sued by secretary. XVII. All actions and other proceedings at law to be instituted by or against the council of the said college shall be so instituted and proceeded in by or against the secretary to the said council for the time being.
- Act to be deemed a public Act. XVIII. This Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges, magistrates and others, without being specially pleaded.
- Short title. XIX. This Act may be cited for all purposes as the “South African College Act, 1878.”

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No. 16—1878.] AN ACT [August 2, 1878.

To Provide Pensions, in certain cases, for Members of the Colonial Volunteer and Colonial Yeomanry Forces, and the Widows and Families of such Members.

Preamble.

WHEREAS it is desirable to make provision for granting pensions, in certain cases, to the widows and families of members of the colonial volunteer forces and the



PORT ELIZABETH HARBOUR BOARD LOAN ACT. 391

colonial yeomanry force, and in certain other cases to the members of such forces individually: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

No. 16—1878.

I. It shall and may be lawful for the Governor, acting by and with the advice of the Executive Council, and subject to the approval of Parliament, to assign to the widow, widow and family, or family of any member of a volunteer corps, or of the mounted yeomanry force of this colony, respectively, who may be killed in action or during active service, and to any member of any such corps or of such force, respectively, who may receive during his service any wound or injury permanently injurious in its consequences, a pension or allowance of not exceeding seventy pounds per annum.

Governor may assign pensions to certain persons not exceeding £70 per annum.

II. This Act may be cited as the “Volunteer and Yeomanry Pension Act, 1878.”

Short title.

No. 17—1878.] AN ACT [August 2, 1878.

To Enable the Harbour Board of Port Elizabeth to raise a further Loan of £67,000 and to provide for the payment of the Interest thereof.

WHEREAS, by Act No. 25 of 1875, the Harbour Board of Port Elizabeth was authorized and empowered to raise a sum of £100,000 for the purposes in such Act mentioned: And whereas such sum is insufficient to meet the expenditure necessary for the proper completion of the works contemplated in such Act: And whereas the said Harbour Board is indebted to the Government of this colony for the balance of certain advances of money made to the said board under the authority of Act No. 14 of 1867: And whereas it is expedient to empower the said board to raise on loan a sum not exceeding £67,000 sterling, for the purpose of completing the said works, and repaying the said advances: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

I. It shall be lawful for the said board to borrow and take up, from time to time, on interest, with the sanction of the Governor, and under the guarantee of the general revenue of this colony, such sum or sums of money not exceeding in the whole, in addition to the sums already borrowed by the said board under the authority of Parlia-

Harbour Board empowered to raise further loan not exceeding £67,000.

No. 17—1878.

Purposes to which loan is to be applied.

ment, a sum not exceeding £67,000 sterling, to be applied to the purposes following, that is to say:—

1. For the construction of a new wrought iron jetty, to replace the present wooden one, which has fallen into decay, a sum not exceeding £27,000.
2. For the repayment of the balance of the advances made by the Colonial Government for the prosecution of the works of the said board under the authority of Act No. 14 of 1867, a sum not exceeding £40,000 sterling.

Provisions of Act 10 of 1858, as amended by Act 25 of 1875, to apply to this loan.

II. All the provisions of Act No. 10 of 1858, intituled “An Act to enable the Harbour Board of Port Elizabeth to levy certain Wharfage Dues” (except as the same are, in some respects, altered or amended by Act No. 25 of 1875) shall, so far as the same shall relate to money thereby authorized to be borrowed, apply to the sums hereby authorized to be borrowed, as if the same were borrowed under the authority of the said Act.

Short title.

III. This Act may be cited as the “Port Elizabeth Harbour Board Loan Act, 1878.”

No, 18—1878.] AN ACT [August 2, 1878.

To Alter in some respects the Customs Duties payable in this Colony.

Preamble.

WHEREAS it is expedient to alter the duties of customs upon certain articles imported into this colony and now liable to such duties: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

Customs dues as set forth in annexed table to be levied in future.

I. In lieu and instead of the duties of customs now leviable upon certain articles imported into this colony, under any Act heretofore in force, there shall be raised, levied, collected, and paid into the revenues of this colony, upon the goods mentioned in the table annexed to this Act, imported or brought into any part of the colony of the Cape of Good Hope, the several duties of customs as the same are respectively inserted, described and set forth in such table.

Portion of table annexed to Act 1 of 1876-7 repealed.

II. That portion of the table of customs duties annexed to “Act No. 1 of 1866-67, which commences with the words “agricultural implements,” and concludes with the words “window glass,” and with the words printed transversely, “for every hundred pound value £5,” shall be, and the same is hereby, repealed.



No. 19—1878.  
 Contract to contain following conditions :

III. The contract under or by virtue of which the said sum not exceeding fifteen thousand pounds shall be payable as aforesaid for a term of not exceeding fifteen years, shall provide for the fulfilment of the following conditions, stipulations, and provisions, together with any others which the said Government shall deem desirable, and shall agree upon with the other contracting party, that is to say :

Terminus to be fixed.

1. The terminus of the line shall be fixed by the contract, and shall be such a spot as the Government shall approve of as convenient.

Stipulation as to working and maintaining the line.

2. The party contracting for the construction of the said line shall be bound to maintain it in good working order, and to work the same efficiently for such number of years as may be agreed upon in the contract, not being less than the number of years during which the annual sum in the second section mentioned shall be payable.

*Pro rata* amount to be deducted while line not working.

3. The contract shall provide for the deduction of a *pro rata* share from the annual payments authorized by the second section of this Act, for any period during which the said line shall not be in working order.

Time of completion to be fixed, and penalty for delay.

4. The contract shall fix a time within which the line shall be completed, and shall specify some sum to be deducted from the annual payment as aforesaid for or in respect of every month beyond the time stipulated during which the line shall remain incomplete.

Time of payment to commence and to be reckoned from completion of line.

5. No payment shall be made to the party contracting with the Government until the line shall have been completed and in operation, from which time shall be reckoned the term during which the said annual sum authorized by the second section of this Act shall be payable.

Regulations as to cost of messages.

6. The contract shall provide for a maximum rate to be paid for messages which shall be sent by the said telegraph line to or from London, and for all such messages as shall be sent to or from any other part of the world by means of any land or submarine telegraphs connected with the said telegraph line ; and the said contract shall further provide for a diminution of the annual payment, or of the rate to be paid for messages, or of both, in case the profits of the said line shall reach such an amount as shall be agreed upon between the Government and the said contracting party, and specified in the contract: Provided, however, that the cost of a message to or from London shall not in any case exceed the sum of ten shillings per word.

Maximum charge for message to or from London.

Short title.

IV. This Act may be cited for all purposes as "The Anglo-African Telegraph Act, 1878."

No. 20—1878.]

AN ACT

[August 2, 1878.

No. 20—1878.

## To Impose certain Duties on Houses.

**W**HEREAS it is expedient that the public revenue of Preamble.  
 this colony be increased by the imposition of certain  
 duties on houses as hereinafter is provided: Be it therefore  
 enacted by the Governor of the Cape of Good Hope, with  
 the advice and consent of the Legislative Council and House  
 of Assembly thereof, as follows:—

I. For the purpose of this Act the word “house” shall Word “house” de  
 fined.  
 be construed to mean every distinct and separate habitation  
 occupied by human beings, and also every house, ware-  
 house, counting house, shop, mill, factory, workshop, engine-  
 house, store, or office, used as a place of business, although  
 not occupied as a habitation. This Definition restricted  
 by following rules: definition of the word  
 “house” shall be subject to and modified by the rules in the  
 next succeeding section set forth.

II. In reference to what shall be deemed to be houses  
 liable to duty under this Act, and in reference to the valua-  
 tion of such houses, the following rules shall be observed,  
 that is to say—

- A. No store upon any wine farm, used only for storing the As to store on wine  
 farm.  
 wine or spirits made upon such farm, and no store  
 upon any farm used only for storing the produce of  
 such farm shall, although such wines, spirits, or  
 produce may be sold at such store, be deemed to be  
 a place of business, so as to be liable to duty as such,  
 but every such store shall be valued as if part and  
 parcel of the dwelling-house of the occupier of such  
 farm.
- B. Every stable, coach-house, and outbuilding, no part of Stable, coach-house,  
 &c.  
 which shall be occupied by human beings as a dwell-  
 ing, or be occupied as a place of business, shall be  
 valued as if part and parcel of the dwelling-house  
 to which it belongs.
- C. As often as a servant of the occupier of any dwelling- How as to building  
 occupied by servant.  
 house, or any other person, shall reside in part of  
 any stable, coach-house, or outbuilding belonging to  
 such dwelling-house, and such part shall be divided  
 off from the remainder of the building by a wall or  
 other partition, then, whether there shall or shall  
 not be a door, doorway, or other opening in such  
 wall or partition, communicating internally with the  
 remainder of the building, the part so divided off as  
 a residence shall be deemed to be a house liable to  
 duty, and the same shall be valued according to its  
 value considered as separate from the remainder of  
 the building, and the remainder of the building, if

No. 20—1878.

not liable to duty under this Act as a place of business, shall be valued as if part and parcel of the dwelling-house to which it belongs; should the remainder of such building be liable to duty under this Act as a place of business, then, if there be no such internal communication as aforesaid, both the residence and the place of business shall be liable to duty, and each shall be separately valued for such duty; but should such an internal communication exist, the whole building, including the part used as a residence, shall be valued for duty as if one single and undivided place of business; and such duty shall be payable by the occupier of the remainder of the building occupied as a place of business, and not by the occupier of the residence.

As to buildings close to principal building and occupied by one family.

D. If two or more buildings, within a radius of fifty yards from the centre of the principal building, be together occupied by one family as a dwelling, then, whether such buildings do or do not communicate with each other by one or more enclosed and covered passages leading from one into the other, those buildings shall, for the purpose of this Act, be valued together, and their united value shall be regarded as the value of one house, and shall be liable to duty as the value of one house. The term "family" shall, for the purpose of this rule, embrace the persons following, and the servants of any of them, viz.:

Who are included in term "family,"

1. Husband and wife, and the ascendants and descendants of both or either of them, living with them, and paying no rent for any of the said buildings.
2. Widower or widow, and the ascendants and descendants of such widower or widow, or of any deceased spouse of such widower or widow, living with such widower or widow, and paying no rent for any of the said buildings.
3. No descendant, being or having been married, and who shall reside as the head, or as the wife of the head, of a distinct family in any building separate from the principal dwelling-house (although within the radius aforesaid), shall be deemed to live with or belong to the family occupying the principal dwelling-house, and such separate building shall be liable to duty as a separate house, although such descendant may pay no rent for such building.

- E. If two or more buildings within a radius of fifty yards from the centre of the principal building shall all be occupied as places of business by the same person, whether such person shall carry on in each such building the same description of business, or not, then all such buildings, whether they do or do not communicate with each other internally, or by enclosed and covered passages leading from one into the other or others, shall pay duty as one house upon the united values of such buildings. No. 20—1878.  
Places of business close to principal building and occupied by same person.
- F. What shall be deemed to be the "principal building" for the purpose of this Act shall be determined by general repute; and failing any such general repute, then the building of the greatest value shall be deemed to be the principal building. What shall be deemed "principal building."
- G. When one building shall be partitioned and divided into parts, so that there shall not be, by means of any door or opening, any internal communication between such parts, and each or any of such parts shall be occupied as a dwelling by a person or family other than the person or family, or persons or families, occupying the other part or parts, then each part of such building shall be regarded as a separate house, and be liable to duty as such. In case one or more of the parts of any such divided building as aforesaid shall be occupied as a dwelling, and any other part as a place of business (whether such business be that of the occupier of the part or parts used as a dwelling or not), then the part or parts occupied as a dwelling shall be valued for duty as a separate house, or as separate houses (as the case may be), and the part or parts occupied as a place of business shall also be valued for duty as a separate house or as separate houses (as the case may be). If separate parts of same building be occupied by persons of different families.  
Or be used as dwelling-house and place of business respectively.
- H. Should there be between the parts of any building such as is described in letter G, an internal communication by means of a door or opening, or enclosed and covered passage leading from one part into the other or others, then the whole building shall be valued as one house, no matter whether the parts be occupied by one person or by different persons. But the duty upon such house shall be recoverable from that occupier of any of the parts, who, if distinct in interest from the other occupier or occupiers, shall, in the absence of any agreement to the contrary, be entitled to claim contribution from the other occupier or occupiers; such contribution to bear the same proportion to the duty paid as the value of the part or parts called on to contribute bears or bears to the whole value of the building. How if there be internal or covered communication between separate parts.  
From whom duty to be recovered in this case, and how as to contribution.

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How as to room rented separately and not communicating with rest of house.

I. When any room of any house, whether such room be on the ground floor or on an upper storey, shall not communicate by any internal opening with the rest of the house, and can only be entered from without, such room shall, if occupied by a person paying rent for the same as a separate apartment, be deemed to be a separate house, and be liable to duty as such, but if not so occupied, it shall be valued as part and parcel of the house of which it is a room, and not separately from such house.

How house to be valued if land annexed.

J. In valuing for the purpose of this Act, any house occupied together with a farm, or garden, or other land, the valuator will, as a general rule, first take into account the fair marketable value of the house and land together, should such value be known to him, and then estimate, according to the best of his skill and knowledge, what proportion of such value justly belongs to or arises from the house, regarded as distinct from the land.

Temporary huts of 40s. value not liable to duty.

K. No hut, not exceeding in value the sum of forty shillings, situated on any part of any farm, and occupied temporarily as a place of shelter by any servant in charge of stock when grazing at a distance from the homestead, or in charge of growing crops, shall, in case such servant shall have a permanent residence at some other part of such farm, be deemed to be a habitation liable to duty.

Duty payable yearly on every house occupied for 90 days during previous twelve months.

III. Upon every house within this colony wherever situated, which shall have been occupied as a dwelling-house or place of business for not less than ninety days, whether consecutive or otherwise, within the space of twelve months next before the day of the service upon the occupier or owner of such house (as the case may be) of such notice as is in the ninth section of this Act mentioned, there shall be payable to the colonial revenue upon the day which shall in that behalf be specified in such notice, and afterwards on the first day of July of every year during the subsistence of this Act except as in the next succeeding section, a duty according to the value of such house, upon the following scale, that is to say:—

Scale of duty.

On every house not exceeding in value £100 the sum of 10s.  
 On every house exceeding in value £100, and not exceeding £500, the sum of £1.  
 On every house exceeding in value £500, and not exceeding £750, the sum of £1 10s.  
 On every house exceeding in value £750, and not exceeding in value £1,000, the sum of £2.  
 On every house exceeding in value £1,000, and not exceeding £1,250, the sum of £3.



On every house exceeding in value £1,250, and not exceeding in value £1,500, the sum of £4.

On every house exceeding in value £1,500, and not exceeding in value £1,750, the sum of £5.

On every house exceeding in value £1,750, and not exceeding in value £2,000, the sum of £6.

Then, for every additional £250 and fraction of £250 of such excess, an additional duty of £1: Provided that in no case shall the duty exceed £10.

IV. Every house shall prima facie be held to have been occupied for the space of ninety days as in the last preceding section mentioned, unless the contrary be proved by the person liable to the duty on such house.

V. If during any year any house which shall have been valued for assessment to the house duty under this Act shall not have been occupied during ninety days in all, counting from the 1st day of July in one year to the 1st day of July in the succeeding year, it shall be lawful for the owner of the said house, and if the said house no longer exists, then for the late owner thereof, or the owner of the site thereof, to object before the civil commissioner at any time within sixty days after the 1st day of July, upon which day the duty, if due, would become payable, that such house has not been occupied during the space of ninety days in all during the year ending on the 1st day of July theretofore, and if the said house no longer exists, then that it does no longer exist; and on proof to the satisfaction of the civil commissioner of the first of such facts, such owner shall be exempted from duty in respect of such house for the year ending the said 1st day of July theretofore; and if proof be made that the said house no longer exists, then the said house may be struck off from the valuation roll for the future. And it shall be lawful for the civil commissioner to direct such inquiries as he shall think fit to verify either of such facts, and he need not be satisfied with the evidence which shall be brought before him by the objecting owner, and he may adjourn the inquiry from time to time, if he shall think fit to do so, until he shall be satisfied.

VI. The duty by this Act imposed shall be due and payable by the occupier of the house upon which such duty is charged, in case such house shall, in the year in which this Act shall first take effect, be occupied on the day of the valuation of such house for the purpose of this Act, and in case, in regard to each succeeding year, it shall be occupied on the first day of July in such year: And every person shall be deemed to be the occupier on any such day as aforesaid who shall then be entitled to the possession of the house in question, although such person may not then be in actual possession of such house. As often as there

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Occupation of 90 days presumed, unless contrary proved.

If house not occupied for 90 days, or if it be destroyed, objections may be made within 60 days after duty payable.

Steps to be taken if objection established. Civil commissioner may inquire into the case.

By whom duty payable.

Who to be deemed occupier.

No. 20—1878.

When duty payable  
by owner.

shall not be on any such day any person other than the owner of such house then entitled to the possession of such house, the owner of such house shall be the person liable for the payment of the duty upon such house. But nothing in this Act contained shall make any person liable for duty upon any house which shall not have been occupied for the space of ninety days, as in the third section of this Act specified.

Appointment of valua-  
tors.

VII. It shall be lawful for the Governor, acting by and with the advice of the Executive Council, to appoint, by notice in the Government Gazette, fit and proper persons to value the houses in each division of the colony for the purposes of this Act, and for that purpose to call for tenders from persons willing to value the same. But the Governor, acting as aforesaid, shall not be bound to appoint the persons who shall tender to perform such duty at the lowest rate of payment, and shall be at liberty to appoint the same valuator for more divisions than one, or to appoint different valuers for different parts of the same division, if the Governor, acting as aforesaid, shall deem it advisable so to do. The municipalities of Cape Town and Green Point shall be deemed for the purposes of this Act to be within the division of the Cape: Provided that if during the interval between any two valuations any house liable to duty within the meaning of this Act shall be built in any division, or if it shall be discovered that any house liable to duty has been omitted to be valued in any division, it shall be lawful for the Governor, acting as aforesaid, by notice as aforesaid, to appoint a valuator or valuers as aforesaid, to value such house or houses, so as to keep the valuation roll in every division as complete as possible, and such valuation shall for the purposes of this Act be considered to be a valuation of a part of a division: Provided, further, that a fresh valuation or revision of the valuation roll shall take place before the lapse of three years from the date of the previous valuation or revision, as the case may be, under such regulations as the Governor, acting as aforesaid, may declare by proclamation in the Government Gazette.

Municipalities of  
Cape Town and Green  
Point.As to houses built at  
intervals between  
valuations or omitted  
to be valued.Fresh valuation every  
three years.Duty of valuator;  
power of entry.

VIII. It shall be the duty of the valuator for every division, or any part thereof, to value for the duty imposed by this Act the houses situated in such division or any part thereof; and for the purpose of making such valuation it shall be lawful for such valuator or any person authorized by him, in writing, to make such valuation, to enter at all reasonable hours upon any working day, upon any land in order to value any house situated on such lands, but he shall not be entitled, except by permission, to enter such house; and any person who shall by force and violence, or by threats of force or violence, resist, molest, oppose,

hinder, or obstruct such valuator or any person authorized by him as aforesaid whilst lawfully employed in and about assessing the value of any house, shall upon conviction be liable to a fine not exceeding ten pounds, and in default of payment to imprisonment with or without hard labour for any period not exceeding one month, without prejudice to the prosecution of such person in ordinary form of law, for the crime of assault, or for any greater crime which such person may have committed in the course of such resistance and obstruction as aforesaid. But no person prosecuted for a contravention of this section shall be afterwards prosecuted for any other crime alleged to have been committed by means of the same Act constituting such contravention: and, conversely, no person prosecuted for such other crime shall be afterwards prosecuted for any contravention of this section and alleged to have been committed by means of the same Act constituting such other crime. Should the valuator, or any person authorized by him, in writing, to value any house, request permission to enter such house for the purpose of better ascertaining its value, and the occupier of such house, or the inmates thereof, refuse such permission, it shall not be lawful for such occupier to object to the valuation of such house: Provided such valuation have been made *bonâ fide*, and that it be not grossly excessive: Provided, also, that every person authorised as aforesaid shall be bound, upon demand made by the owner or occupier of any lands upon which such person shall have entered or shall be about to enter, to show his written authority for so doing; and failing the production of such authority, it shall be lawful for such owner or occupier to prevent such person from entering upon such lands, or continuing thereon, as the case may be: Provided, also, that where any house shall be situated within the boundaries of any municipality, the valuation of such house for municipal purposes may be taken to be the valuation for the purposes of this Act.

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Penalty for obstructing or molesting valuator.

How if valuator be refused permission to enter.

Any person authorized by valuator to show written authority.

Municipal valuations may be used for purposes of this Act.

IX. It shall be the duty of every valuator, as soon as possible after his appointment, to value each house liable to duty within the division, or any part thereof, for which he shall have been appointed, and to serve, or cause to be served, on the occupier of every such house, if any person other than the owner thereof shall then be in occupation thereof, and if not then on the owner thereof, a notice, written or printed, or partly written and partly printed, which notice shall be in substance as follows:—

Valuator to serve notice on owner or occupier.

To \_\_\_\_\_

Division of \_\_\_\_\_

Take notice that the house (or if the building be not a dwelling-house say "the premises") in your occupation, and at which this notice is delivered, has been valued for house

Form of notice above mentioned.

DD

No. 20—1878.

duty at the sum of £——, and that such duty, being £——, must be paid to the civil commissioner of this division on or before the —— day of —— 18— (here insert some day being as near as may be ninety days from the day of the service of the notice). Should you deem the above valuation too high, you will be at liberty to appear before the civil commissioner of the division, either in person or by some person authorized by you in writing, at the court-room of the resident magistrate, on the —— day of ——, 18—, at —— o'clock in the forenoon, with your witnesses, if you have any, and to prove your objection, failing such appearance and proof, the valuation aforesaid will become fixed.

Dated this —— day of ——, 18—

(Signed) A. B., Valuator.

As to uniformity of date inserted in notices of same division.

As often as any such notice shall be served upon any owner, who is not the occupier, then the form of such notice shall be altered accordingly. The same day shall, if practicable, be inserted in all the notices served in the same division as the day for the appearance of objectors before the civil commissioner. If it be impracticable to name the same day in all such notices, and a second day must be inserted in some of such notices, then as many notices as possible shall specify that second day, and so on, in case it shall be necessary to specify a day or days more than two. The day to be inserted in the foregoing notice, for the appearance before the civil commissioner, shall be a day not earlier than thirty days nor later than sixty-five days next after the day of the service of such notice.

Within what limits date may be fixed.

How service of notice to be effected.

X. Every such notice on an occupier shall be served on such occupier personally, by showing him the original notice and leaving with him a copy, and explaining to him the nature of such notice, or if personal service cannot reasonably be effected, then by showing to some inmate of the house so liable to duty the said original notice, and leaving with such inmate a copy thereof, and explaining to him the nature thereof, and if no such service as aforesaid can be reasonably effected, then by leaving a copy of such notice in the said house, or by affixing a copy to the door or other conspicuous part of such house, and the person serving the same shall enter on the back of the original notice a memorandum of the service and of the manner in which the same was effected.

How notice to be served on owner not himself in occupation

XI. Every such notice, if on an owner not being himself in occupation of such house as aforesaid, shall be served in like manner as in the last foregoing section is provided, in respect of service on an occupier, save that service on the owner, if not personal, shall be made at his usual or last

known place of abode, and if no inmate can be found therein, then at the house, the subject of the duty, as well as such owner's usual or last known place of abode, if the same can be found, by leaving at each of such places, or affixing to the doors or other conspicuous part thereof, respectively, a copy of such notice as aforesaid, and in case the usual or last known place of abode of such owner cannot be found, then service at the house, the subject of the duty, made as aforesaid, shall be sufficient service; in every case the person making the service shall enter on the back of the original notice a memorandum of the service and of the manner in which the same was effected.

No. 20—1878.

Memorandum of service to be endorsed on notice.

XII. The valuator aforesaid shall give notice to the civil commissioner of his division of the day named in the notices aforesaid for the appearance of objectors, and when the same day shall not be named in all such notices, then of the other day or days named in any such notices, and upon the day or days named in all or any of such notices, the civil commissioner, if a resident magistrate, shall attend in the court-room used by him as resident magistrate, for the purpose of hearing and deciding upon objections to the valuations made by the valuator, and the said civil commissioner shall hear what shall be urged by or on behalf of the person objecting, and by or on behalf of the valuator, and may, if necessary, take evidence upon oath (which oath such civil commissioner is hereby authorized to administer), and shall confirm or reduce such valuation as justice shall require; and the valuation as fixed by such civil commissioner shall, for the time being, be binding and conclusive: Provided that the civil commissioner may adjourn the hearing upon any objection or objections as circumstances may require. And such valuator shall, before the day or days specified in such notices as aforesaid for the appearance of objectors before the civil commissioner of the division, frame an assessment roll showing the value of the several houses valued by such valuator, and the names of the occupiers and owners thereof respectively, and transmit such roll to such civil commissioner, at whose office it shall remain for the inspection of all persons whom such valuation may concern. The civil commissioner of the Cape division shall, for the purposes of this section, attend in the court-room of the resident magistrate of Cape Town.

On day appointed civil commissioner to hear objections to valuations.

Hearing may be adjourned.

Valuator to frame assessment roll.

XIII. The occupier of any house liable to the payment of duty under this Act, and the owner of any such house who, not being the occupier of such house, shall be liable to pay the duty upon such house by reason that such house shall have been occupied for not less than the number of days in the third section of this Act mentioned, shall be and is hereby required to pay, or cause to be paid, to the civil

When duty to be paid

No. 20--1878.

commissioner of the division in which such house is situated, the duty for the year in which this Act shall first take effect on or before the day in that behalf specified in the notice served as aforesaid, upon such occupier or owner, and to pay the duty for every succeeding year on or before the first day of July in such year, without fresh valuation or notice.

Appointment of "collectors."

XIV. It shall be lawful for the civil commissioner of any division, with the previous sanction of the Governor acting as aforesaid, to appoint by notice in the Government Gazette some fit and proper person hereinafter termed "collector" to collect the duties payable under this Act, and, from time to time, any such appointment, to cancel and annul, and make a fresh appointment, as circumstances may require. One person may be appointed collector for the whole of a division or for only a part thereof, and different persons for different parts. And every such collector shall, after the expiration of any such space of ninety days as in the next succeeding section mentioned, but not sooner, enter upon his duties as such collector, and exercise the powers hereinafter conferred upon him: And such collectors shall, respectively, be remunerated in such manner as the Governor acting as aforesaid, shall, in regard to such division in which any collector shall be appointed, deem reasonable and approve of.

Entry upon their duties.

Their remuneration.

Penalty for non-payment of duty within 90 days of date when due.

XV. Should any person liable for the payment of duty under this Act make default in the payment thereof to the civil commissioner as aforesaid, in the year in which this Act shall first take effect, or the space of ninety days next after the day specified for payment in the notice in the ninth section mentioned, or in any subsequent year for the space of ninety days next after the first day of July in such year, then such persons shall be liable to pay in addition to the duty in regard to which he shall have made default, an additional sum equal to one-fifth of such duty; and such additional sum shall, together with the original duty, be deemed to be the duty payable under this Act, and be recoverable as such by any of the means provided by this Act for the recovery of duties.

Duty may be enforced by action.  
By distress.

XVI. Every such duty as aforesaid may be enforced by the collector entitled to collect the same, either by action in the ordinary way, or by seizing in a summary way, to answer the amount of the duties as aforesaid, and the costs of levy and seizure and subsequent proceedings, a sufficient amount of the cattle, stock, and other movable property of the person or persons liable to pay the same, and if payment shall not be made within fourteen days after such seizure, sufficient of such cattle, stock, and other movable property, to answer the demand and the costs

of levy and seizure and sale, shall be sold by public auction, unless before such sale shall have been actually made the person or persons claiming such cattle, stock, and movable property shall commence in some competent court an action for the recovery of such cattle, stock, and movable property, and shall also find and give sufficient security to prosecute such action without delay, and to abide by and perform the judgment of the court in the premises, which judgment, if adverse to the plaintiff, may be not only for the amount of the duties as aforesaid for which such seizure shall have been made, but also for the costs of such levy and seizure lawfully incurred up to the time of such security as aforesaid being duly given, as well as for the costs of the action itself.

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Attached property may be sold unless action be commenced for its recovery and security found.

XVII. Upon such security as in the last clause mentioned being given and approved by the court in which the action for the recovery of the said cattle, stock, and movable property shall have been commenced, the said cattle, stock, and movable property shall be re-delivered to the person claiming the same.

When security given attached property may be restored to owner.

XVIII. Upon default made in the year in which this Act shall first take effect by the occupier of any house, not being the owner thereof, in the payment within ninety days next after such time as shall be specified in the notice in the ninth section set forth for the payment of the duty payable upon such house, or in any succeeding year, within ninety days from the first day of July in such year, the collector may serve upon the owner of such house a notice informing him of such default as aforesaid, and calling upon him to pay to the said collector such duty as shall be payable in respect of such house at such time and place as shall be specified in such lastmentioned notice; and every such owner who shall, after such lastmentioned notice shall have been served upon him, leave such duty unpaid for the space of sixty days after the service of such notice, shall be liable to be sued for such duty in any competent court, service of such lastmentioned notice shall be made in like manner as that in the eleventh section provided in regard to the notice therein mentioned. But no such owner shall be liable for any payment under the provisions of this section unless such lastmentioned notice shall be served upon him before the first day of July in the year next succeeding the year in which the occupier shall have made default, nor shall such owner be liable for any such payment unless the collector suing for the same shall prove to the satisfaction of the court in which such action shall be brought, that the duty sued for could not by reasonable diligence have been recovered from the occupier in default. And no owner who shall under this Act be liable for the

If occupier fail to pay duty collector may within 90 days call upon owner to pay it.

If owner do not pay within 60 days he may be sued.

When owner not liable under this section.

No. 20—1878.

Owner not liable for costs of actions against occupier, nor for costs of attachment, unless he authorize the action or attachment.

As to penalty mentioned in section 15.

As to distress,—and as to recovery of duty paid under this section from occupier.

Returns to be laid before Parliament.

Short title:

payment of the house duty which any occupier shall have failed to pay shall be liable for the costs of any action which may have been brought against such occupier, or of any seizure of the property of such occupier, made or attempted, unless such owner shall, in writing, have authorized such action or seizure, in which case such owner shall be liable for such costs in case they have not been recovered from such occupier; and no owner shall be liable for the additional duty in the fifteenth section mentioned which may have accrued from the default of any occupier: Provided such owner pay the amount for which such occupier was originally liable, within sixty days after the service upon him of such notice as aforesaid. The process by seizure of property, as in the sixteenth section mentioned, shall not be capable of being enforced against any owner by reason or on account of any liability created by this section; and every such owner paying any duty under this section, shall be entitled to recover the same from the occupier in default, and shall for the purposes of such recovery possess all the powers conferred upon the collector by the sixteenth section of this Act.

XIX. The Governor shall, within thirty days after the meeting of Parliament in each year, cause to be laid on the table of both Houses, a return showing the amount received under this Act in each division of the colony, specifying the sums received in each ward into which the division may be divided for the elections for the divisional council, distinguishing the sums received under each duty of the scale set forth in section three of this Act; and showing also the amount under each duty which may, at the date of the preparation of such return, be then due and unpaid, and the number and value of the houses in each ward liable to each duty of the scale aforesaid.

XX. This Act may be cited as the "House Duty Act, 1878."

No. 21—1878.] AN ACT [August 2, 1878.

To Facilitate the Raising of Loans through the Crown Agents for the Colony.

Preamble.

WHEREAS it is expedient to prevent certain delays arising from the formalities at present observed in the issue of debentures and other securities for loans for the purposes of the government of this colony: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—



I. Whenever the Governor shall, by any Act of Parliament, be authorized to raise any loans in the United Kingdom of Great Britain and Ireland, for the purposes of the government of this colony, it shall be lawful for the said Governor, acting by and with the advice of the Executive Council, to empower and appoint the Crown agents for the colonies, or other duly accredited agent or agents of this colony, to sign debentures, bonds, or certificates, to be issued by them to persons taking up such loan, or any part thereof, until the debentures, bonds, or other securities, which are intended to be finally issued in regard to such loan, shall have been actually issued, whereupon the said debentures, bonds, and certificates, signed as aforesaid, shall be withdrawn, and such debentures, bonds, or other securities, shall be substituted for and instead of them; but, until such lastmentioned issue and substitution, the debentures signed as aforesaid shall be as fully and effectually charged on the revenues of this colony as if the same had been signed by all or any of the executive officers of the Government for the time being by command of the Governor acting as aforesaid.

No. 21—1878.

Governor may empower agents to sign temporary certificates to be issued until the real debentures have been actually signed

II. It shall be lawful for the said Crown agents or other duly accredited agent or agents of the colony as aforesaid, when authorised so to do, to pledge and deposit from time to time any debentures, or other securities issued in respect of any loan, with any bank, public or joint-stock company, or private individual who may be ready and willing to advance and who shall advance any sum of money on the security of such pledge and deposit, for such period, at such rate of interest, and on such terms and conditions as to the said Crown agents or other duly accredited agent or agents as aforesaid, shall seem reasonable; and from time to time to redeem any such debentures so pledged and deposited, when and as soon as the sale thereof shall have been effected.

Debentures may be pledged pending their sale.

III. This Act may be cited as "The Loans Facilitation Act, 1878."

Short title.

No. 22—1878.]

AN ACT

[August 2, 1878.]

To Authorize the raising of a further sum of £100,000 Sterling to Improve the Harbour of East London, and to levy additional Wharfage Dues at the said Harbour.

WHEREAS by the Act No. 12 of 1876, power is given Preamble: to the Governor to raise and take up on the terms in the said Act mentioned a sum of one hundred thousand

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No. 22—1878.

pounds for the purposes in such Act, and in the Act No. 7 of 1871 therein referred to, set forth, and to levy wharfage dues at the said harbour: And whereas such sum of £100,000 is inadequate and insufficient to carry out the aforesaid purposes: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:

Governor may raise further loan of £100,000.

Purposes of this loan.

Third, fourth, and fifth sections of Act 26 of 1875 to apply to this loan.

Paragraph 4 of Schedule 1 of Act 7 of 1871 repealed.

Short title.

I. It shall be lawful for the Governor to raise a further sum of £100,000 from time to time, as occasion may require, by stock or debentures, or partly by stock and partly by debentures, for the purposes set forth in the said Acts No. 7 of 1871 and No. 12 of 1876, and for the purpose of the further improvement of the harbour of East London and the works connected therewith.

II. The third, fourth, and fifth sections of Act No. 26 of 1875 shall be taken and deemed to apply to all sums borrowed under the authority hereby given.

III. Paragraph 4 of the exemptions contained in Schedule No. 1 of Act No. 7 of 1871 is hereby repealed.

IV. This Act may be cited as the "East London Harbour Loan Act, 1878."

No. 23—1878.] AN ACT [August 2, 1878.

To Indemnify certain Persons in regard to acts done in carrying out recent Military Operations against Enemies and Rebels.

Preamble.

WHEREAS during a portion of the year 1877 and a portion of this year 1878, it became necessary to prosecute and carry out military operations against certain enemies of Her Majesty the Queen beyond the borders of this colony, and against certain rebels against the authority of Her Majesty the Queen within the colony: And whereas during the prosecution and conduct of such military operations by Her Majesty's troops, and by the volunteer, burgher, and other colonial forces of this colony, within certain districts of the colony, and beyond the borders thereof, it became and was necessary for His Excellency the Governor and His Excellency the Commander of the Forces for the time being, and for other persons acting under them respectively, to do and perform within the colony and beyond the borders thereof, certain acts, matters, and things, which were not justifiable by the strict rules and forms of law, but which were necessary for the public safety: And whereas it is just and fitting that the said

## THE MILITARY OPERATIONS INDEMNITY ACT. 409

Governor, the said Commander of the Forces for the time being, and all other persons acting under them respectively, should be indemnified in respect of all acts, matters, and things by them respectively done in the prosecution of the aforesaid military operations: Be it therefore enacted by the Governor of the Cape of Good Hope, by and with the consent of the Legislative Council and the House of Assembly thereof, as follows:—

No. 23—1878.

I. The said Governor and the said Commander of the Forces for the time being, and all persons acting under them, or either of them, shall be and they are hereby jointly and severally indemnified, freed, and discharged from and against all actions, suits, and prosecutions whatsoever, whether criminal or civil, which might be brought or instituted in any of the courts of this colony, for or on account or in respect of any acts, matters, and things whatsoever done in the prosecution and carrying out of the aforesaid military operations against the aforesaid enemies or rebels, whether within the colony or beyond the borders thereof, by the said Governor, or the said Commander of the Forces, or by any person or persons acting under them, or either of them respectively, in any command or capacity, civil or military, which such person may have exercised during the prosecution and conduct of the aforesaid military operations: Provided, always, and the indemnity hereby granted is upon the supposition and condition, that all such acts, matters, and things shall have been done *bonâ fide* and properly in furtherance and execution of the objects of the said military operations: Provided, also, that every such act, matter, or thing shall be presumed to have been done *bonâ fide* and properly until the contrary shall be made to appear by the party complaining.

Governor, Commander of the Forces, and all under them, indemnified in regard to all acts done by them during the late military operations.

Provided acts were done *bonâ fide* in furtherance of the operations.

Presumption in favour of *bonâ fides*.

II. Nothing herein contained shall be taken or construed so as to deprive any person whomsoever of any lawful defence, other than this Act, which person may have or possess against any action or prosecution grounded upon any act done or alleged to have been done, by him or by his authority in the prosecution and conduct of the aforesaid military operations.

Indemnity not to interfere with any other lawful defence in regard to such acts.

III. This Act may be cited for all purposes as “The Military Operations Indemnity Act, 1878.”

Short title.

No. 24—1878.

No 24—1878.]

AN ACT

[August 2, 1878.

To Provide for the Expenses of carrying out Military Operations within and beyond the Boundaries of the Colony.

Preamble.

WHEREAS it is expedient to provide for the expenses incurred in carrying out military operations against enemies and rebels within and beyond the boundaries of the colony, and to raise the necessary funds for that purpose: Be it therefore enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

What sum Governor may expend.

I. It shall be lawful for the Governor to expend a sum not exceeding seven hundred and fifty thousand pounds sterling for the purpose of paying the expenses which have been or may be incurred as aforesaid.

Governor empowered to raise this sum.

II. For the purpose aforesaid it shall be lawful for the Governor to raise the sum of seven hundred and fifty thousand pounds sterling from time to time as he may deem expedient, either by debentures or stock, or partly by debentures and partly by stock.

Provisions with regard to loans raised upon debentures.

III. In so far as the said borrowing shall be upon debentures the following provisions shall be observed: Such debentures shall be issued in this colony or in England, or partly in this colony and partly in England, for sums not less than £100, and for any multiple of £100, upon the best and most favourable terms that can be obtained, and the interest to accrue thereon shall be charged upon and payable out of the general revenue of this colony.

Certain sections of Act 19 of 1874 to apply to this Act.

IV. The sections of Act No. 19 of 1874, numbered respectively 9 (with the sub-sections thereto), 10 11, 12, and 14, shall, *mutatis mutandis*, be deemed and taken to apply to the borrowing authorized under this Act.

Short title.

V. This Act may be cited as the "War Expenses Loan Act, 1878."

No. 25—1878.]

AN ACT

[August 2, 1878.

To Dispense with the Governor's Signature in certain Cases.

Preamble.

WHEREAS it is expedient that the Governor should be relieved from the necessity of affixing his signature to several of the Documents which, by the existing law, require the same for their validity: Be it therefore enacted by the Governor of the Cape of Good Hope, by

and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

No. 25—1878.

I Whenever by any existing law or custom of this colony the signature of the Governor is required to be affixed to any warrant, licence, commission, letters patent, or other official document (save as hereinafter in the 3rd section of this Act excepted), it shall be lawful for the Governor from time to time to depute and authorize some other person or persons to sign such documents, and the documents so signed shall be to all intents and purposes as valid and effectual as if they had been signed by the Governor: Provided that the names of the persons so deputed and authorized, and a description of the nature of the documents to be signed by such persons, shall first be notified in the Government Gazette of this colony: And provided, also, that a copy of every such notice shall forthwith be laid before both Houses of Parliament, should the same be then in session, or at the earliest sitting of such Houses, if they shall not be in session.

Governor may depute persons to sign documents for him.

Names of such persons and nature of documents they may sign to be notified in *Gazette* and laid before Parliament.

II. Whenever any such notice shall have been laid before both Houses of Parliament for the space of fourteen days and no action shall have been taken in either of the said Houses in regard thereto, such notice shall to all intents and purposes be binding and take effect as law: Provided, however, that until so laid before both Houses of Parliament, and until any action shall have been taken in either of such Houses in regard thereto, such notice shall take provisional effect as law.

Notice to have effect of law after having been before Parliament for 14 days.

Meanwhile to have provisional effect.

III. Nothing in this Act contained shall exempt the Governor from the necessity of signing any warrant for execution, or any pardon or commutation of sentence of condemned criminals, or any deed of grant, or from signing the commissions of any military, naval, or civil officers, serving Her Majesty the Queen in her Colonial Government, in any case in which such commissions are now required to be signed by him.

What documents may not be brought under the provisions of this Act.

IV. This Act may be cited as the "Governor's Signature Act, 1878."

Short title.

No. 26—1878.]

AN ACT

[August 2, 1878.

To Provide for the Completion of lines of Railway now in process of Construction, and for certain additional Works.

WHEREAS it is expedient to provide for the completion and equipment of certain lines of railway which have already been commenced and are in process of con-

Preamble.

No. 26 - 1878.

struction, and to carry out certain additional works not hitherto provided for in connection with certain railways, whether completed or not completed, and to raise the necessary funds for such purposes: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

Governor authorized to expend £1,865,658.

I. It shall be lawful for the Governor to expend a sum not exceeding one million eight hundred and sixty-five thousand six hundred and fifty-eight pounds sterling for the purposes following, that is to say:

Worcester to Beaufort West.

1. For the completion of the line from Worcester to Beaufort West, the sum of £222,792 sterling, in addition to the sum of £1,390,000 provided for such line by Act No. 19 of 1874.

Bushman's River to Cradock.

2. For the completion of the line from Bushman's River to Cradock, the sum of £521,242 sterling, in addition to the sum of £842,000 provided for such line by Act No. 19 of 1874.

Bushman's River to Graham's Town.

3. For the completion of the line from Bushman's River to Graham's Town, the sum of £226,924 sterling, in addition to the sum of £255,200 provided for such line by Act No. 5 of 1874.

Zwartkops to Graaff-Reinet.

4. For the completion of the line from Zwartkops to Graaff-Reinet, the sum of £176,200 sterling in addition to the sum of £940,000 provided for such line by Act No. 19 of 1874.

East London to Queen's Town.

5. For the completion of the line from East London to Queen's Town, the sum of £385,500 sterling, in addition to the sums provided for such line by Acts No. 19 of 1874 and No. 7 of 1877, amounting in the aggregate to £1,219,000.

Additional works recommended by Railway Commission.

6. For certain additional works recommended by the report of the railway commission, bearing date the 18th day of February, 1878, a sum of £166,000 sterling, according to the specification of such works, and the costs of the sums respectively set forth and enumerated in the schedule to this Act annexed.

Interest.

7. For the charges in respect of interest during construction, and cost of raising loan, £168,000.

Governor authorized to raise the above sum.

II. For the purposes aforesaid it shall be lawful for the Governor to raise the said sum of one million eight hundred and sixty-five thousand six hundred and fifty-eight pounds sterling from time to time, as he may deem expedient, either by debentures or stock, or partly by debentures and partly by stock.

Certain sections of Act 19 of 1874 to apply to these loans.

III. The sections of Act No. 19 of 1874, numbered respectively 8, 9 (with the sub-sections thereto), 10, 11, 12, and 14, shall, *mutatis mutandis*, be deemed and taken to apply to the borrowing authorized under this Act.

IV. This Act may be cited as the "Railway Loan Act, 1878." No. 26—1878.  
Short title.

SCHEDULE.

(a) Additional accommodation at Terminal Station, Port Elizabeth .. .. .	£20,000	Schedule.
(b) Additional accommodation at Uitenhage Station .. .. .	5,000	
(c) Additional Water-ways, Graaff-Reinet Line, and Pitching to Slopes, Cradock Line .. .. .	20,000	
(d) Signal arrangements, Midland and North-Eastern Railways .. .. .	1,000	
(e) Goods Yard, Sheds, &c., Riverside, Panmure .. .. .	5,000	
(f) Additional Goods Shed accommodation at Terminal Station, Cape Town, and sundry Station improvements along lines, Western System .. .. .	10,000	
(g) Water Supply .. .. .	10,000	
(h) Fencing, for protection of Stores .. .. .	5,000	
(i) Automatic Continuous Brakes .. .. .	30,000	
(j) Fencing Lines .. .. .	60,000	
	£166,000	

No. 27—1878.] AN ACT [August 2, 1878.

For Authorizing certain Expenditure not provided for by Parliament in the Year ended 30th June, 1877.

WHEREAS divers public moneys, amounting in all to Preamble. the sum of ninety-nine thousand three hundred and eighty-nine pounds, fifteen shillings and sixpence sterling, have been necessarily expended for the service of the year ended 30th June, 1877, by authority of the Government of this colony, but without the previous authority of Parliament; And whereas these moneys have been found to have been duly applied to and expended upon certain necessary services of the civil government of this colony, and it is therefore necessary and expedient that an Act of Appropriation should be passed to authorize the amount so expended to be charged against the public revenue of this colony :

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

I. The public revenue of the colony is hereby charged with a further sum of ninety-nine thousand three hundred and eighty-nine pounds fifteen shillings and sixpence sterling, in addition to the sums already provided for the service of the year ended 30th June, 1877, which shall be applied and accounted for in the manner specified in the schedule hereunto attached. Supplementary expenditure for 1877.

414 SUPPLEMENTARY APPROPRIATION ACT.

No. 27—1878.

SCHEDULE.

VOTE.	SERVICE.	AMOUNT.	TOTAL.	GRAND TOTAL
		£ s. d.	£ s. d.	£ s. d.
	<b>MINISTERIAL DEPARTMENT No. I.</b>			
Colonial Secretary.	<i>Accounting Department of the Colonial Secretary.</i>			
3	Colonial Secretary ...	150 6 0		
10	Colonial Defence ...	32611 14 11		
11	Miscellaneous Services	2507 3 10		
14	Supreme Court ...	1770 15 3		
			37040 0 0	
Controller and Auditor-General.	<i>Accounting Department of the Controller and Auditor-General.</i>			
16	Controller and Auditor-General	.. . .	46 9 3	
Registrar of Deeds.	<i>Accounting Department of the Registrar of Deeds.</i>			
17	Registrar of Deeds ...	... . .	710 5 10	
Postmaster-General.	<i>Accounting Department of the Postmaster-General.</i>			
19	Conveyance of Mails	... . .	12218 6 2	
Frontier Armed and Mounted Police.	<i>Accounting Department of the Commandant Frontier Armed and Mounted Police.</i>			
27	Frontier Armed and Mounted Police ...	.. . .	3958 10 8	53973 11 11
	<b>MINISTERIAL DEPARTMENT No. II.</b>			
Treasurer-General.	<i>Accounting Department of the Treasurer of the Colony.</i>			
29	Treasurer-General, Establishment ...	870 18 0		
32	Crown Agents ...	260 10 5		
34	Pensions ...	2909 15 4		
36	Interest and Commission	3127 17 9		
			7169 1 6	7169 1 6



VOTE.	SERVICE.	AMOUNT.	TOTAL.	GRAND TOTAL	No. 27—1878.
		£ s. d.	£ s. d.	£ s. d.	
	MINISTERIAL DEPARTMENT No. III.				
	<i>Accounting Department of the Commissioner of Crown Lands and Public Works.</i>				Commissioner of Crown Lands and Public Works.
39	Commissioner of Crown Lands and Public Works, Establishment ... ..				
41	Port and Harbour Department ... ..	52 10 0			
44½	Visit of Sir John Coode	1259 10 5 804 1 10			
			2116 2 3		Surveyor-General.
	<i>Accounting Department of the Surveyor-General.</i>				
46½	Surveyor-General, Law Expenses for Recovering Arrears of Quit-rent ... ..	... ..	56 16 6		
	<i>Accounting Department of the Chief Inspector of Public Works.</i>				Chief Inspector of Public Works.
47	Chief Inspector Public Works, Establishments ... ..	99 6 0			
49	„ „ New Works	985 13 10			
51	„ „ Roads and Bridges, Construction ... ..	276 17 0			
53	„ „ Weights & Measures ... ..	62 4 0			
54	Railway Engineer, Construction, Establishment ... ..	800 8 6			
			2224 9 4		
	<i>Accounting Department of the Chief Resident Engineer, Port Elizabeth.</i>				Chief Resident Engineer, Port Elizabeth
57	Working and Maintenance of Midland and North-Eastern Railways ... ..	8746 13 10			
57½	2nd Line to Zwartkops	21411 12 5			
			30158 6 3	34,555 14 4	

No. 28—1878.				
VOTE.	SERVICE.	AMOUNT.	TOTAL.	GRAND TOTAL
		£ s. d.	£ s. d.	£ s. d.
	MINISTERIAL DEPARTMENT No. IV.			
	<i>Accounting Department of the Secretary for Native Affairs.</i>			
Secretary for Native Affairs.	61 Secretary for Native Affairs, Establishment	704 0 4		
	64 Commission to Tribes Beyond Orange River	2212 0 1		
	65 Border Department, Transkeian ... ..	775 7 4		
			3691 7 9	3691 7 9
Total.				99389 15 6

No. 28—1878.] AN ACT [August 2, 1878.

To Apply a Sum of Money for the Service of the Year ending the 30th day of June, 1879.

BE it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Expenditure for 1879, in addition to that provided for by Act 1 of 1878.

I. The public revenue of the colony is hereby charged towards the service of the year ending the 30th day of June, 1879, with a sum of one million one hundred and eighty-three thousand nine hundred and forty-eight pounds sterling, in addition to the sum provided for by the Act No. 1 of 1878.

Money to be applied to purposes specified in Estimates.

II. The money granted by this Act and by the said Act No. 1 of 1878, amounting in the whole to the sum of one million two hundred and eighty-three thousand nine hundred and forty-eight pounds sterling, shall be applied for the purposes and services expressed in the schedule annexed hereto, and more particularly specified and set forth in the Colonial Estimates and Supplementary Estimates of the Expenditure for the year ending 30th June, 1879, with the notes to such estimates, submitted to and approved by Parliament.

And not to any other purpose.

III. The said aids and supplies shall not be issued or applied to any use, intent, or purpose other than the particular services to which the said amounts have been granted

respectively by this Act and the aforesaid Schedule Estimates and Supplementary Estimates. No. 28—1878.

IV. This Act may be cited for all purposes as the “Appropriation Act, 1878.” Short title.

SCHEDULE.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.	
	£	£	£	£	
I. Ministerial Department of the Colonial Secretary .. ..	375,327	465,777	841,104	745,762	Colonial Secretary.
II. Ministerial Department of Treasurer of the Colony ..	27,266	461,588	488,154	14,130	Treasurer-General.
III. Ministerial Department of Attorney-General .. ..	20,372	12,185	33,557	20,502	Attorney-General.
IV. Ministerial Department of Commissioner of Crown Lands and Public Works .. ..	68,987	414,852	483,839	477,649	Commissioner of Crown Lands and Public Works.
V. Ministerial Department of Secretary for Native Affairs ..	45,101	16,912	62,013	25,905	Secretary for Native Affairs.
Grand Totals ..	537,053	1,371,314	1,908,367	1,283,948	Grand totals.

Less amount provided for by Act. No. 1, 1878.. £100,000

Total required to be voted .. £1,183,948  
EE



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## STATUTES (ENTIRE) REPEALED.

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- PROCLAMATION of Lord Charles Henry Somerset, dated 22nd August, 1822,—Prohibition of Promissory Notes under Fifty Rixdollars (£3 15s.)... .. by No. 6 of 1875
- ORDINANCE No. 3 of 1837, "For altering the Ordinance No. 105, intituled 'Ordinance of His Excellency the Governor in Council for providing for the due Administration and Management of the Estates and Property of Minors, Lunatics, and Persons absent from the Colony, and for the proper care of the Persons of Minors and Lunatics,' " and dated the 5th day of July, 1833 ... .. by No. 1 of 1874
- ORDINANCE No. 11 of 1837, "For Establishing, Regulating, and Providing for the South African College" ... .. by No. 15 of 1878
- ORDINANCE No. 1 of 1844, "For creating a Police Superannuation Fund" ... .. by No. 12 of 1874
- ACT No. 3 of 1855, "For the better Organization and Regulation of an Armed and Mounted Police Force upon the Frontier of this Colony" ... .. by No. 9 of 1878
- ACT No. 9 of 1855, "For incorporating the South African Association " ... .. by No. 17 of 1875
- ACT No. 16 of 1855, "To provide for the organization of the Inhabitants of the several divisions of this Colony for the Internal Defence of their respective divisions" ... .. by No. 7 of 1878
- ACT No. 10 of 1856, "For the prevention of cruelty to Animals" ... .. by No. 3 of 1875
- ACT No. 21 of 1856, "For better securing the efficiency of the Armed and Mounted Police Force upon the Frontier of this Colony" ... .. by No. 8 of 1878
- ACT No. 25 of 1856, "For promoting the formation of Volunteer Corps" ... .. by No. 10 of 1878
- ACT No. 19 of 1858, "To continue Ordinance No. 11 of 1837, intituled 'An Ordinance for Establishing, Regulating and Providing for the South African College' " ... .. by No. 15 of 1878
- ACT No. 6 of 1859, "To facilitate and render less expensive the filling of occasional vacancies in the Legislative Council of the Cape of Good Hope" ... .. by No. 18 of 1874
- ACT No. 2 of 1860, "For regulating the manner in which Crown Lands at the Cape of Good Hope shall be disposed of" ... .. by No. 14 of 1878
- ACT No. 30 of 1861, "To continue the Ordinance No. 11, 1837, intituled 'An Ordinance for Establishing, Regulating and Providing for the South African College' " ... .. by No. 15 of 1878
- ACT No. 9 of 1864, "To make provision by means of a Sinking Fund, for paying off the Public Debt due by this Colony" .. .. by No. 8 of 1874

- ACT No. 19 of 1864, "To provide for the leasing of Crown Lands, and for other purposes" ... by No. 14 of 1878
- ACT No. 4 of 1867, "To amend in certain respects the Act No. 19 of 1864, 'To provide for the leasing of Crown Lands and other purposes' " by No. 14 of 1878
- ACT No. 14 of 1867, "To enable the Harbour Board at Port Elizabeth to raise a further Loan of Forty Thousand Pounds, and to provide for keeping down the Interest thereof" by No. 25 of 1875
- ACT No. 3 of 1868, "To exempt from tolls, Officers and Men of the Frontier Armed and Mounted Police" ... .. by No. 8 of 1878
- ACT No. 9 of 1868, "To amend the Act No. 9 of 1855, intituled 'An Act for incorporating the South African Association' " .. .. by No. 17 of 1875
- ACT No. 19 of 1868 "To amend Act No. 8 of 1855, intituled 'An Act to amend Ordinance No 6 of 1853, entitled "An Ordinance for the General Management and Regulation of the Customs in the Colony of the Cape of Good Hope" " ... .. by No. 18 of 1876
- ACT No. 24 of 1869, "To provide for the expenses of the survey of Crown Lands for Lease, and for other purposes " ... .. by No. 10 of 1874
- ACT No. 10 of 1871, "For the protection of Private Property in Domesticated Ostriches" ... by No. 24 of 1875
- ACT No. 1 of 1873, "To confirm the Annexation to this Colony of the Islands, Islets, or Rocks on the South-West Coast of South Africa, Called Ichaboe, Hollands, Bird, Mercury, Long Island, Seal Island, Penguin Island, Halifax, Possession Island, Albatross Rock, Pomona, Plumpudding and Roast Beef, or Sinclair's Island" ... .. by No. 4 of 1874
- ACT No. 19 of 1873, "For promoting the Construction and Maintenance of a Line of Submarine Telegraph between the Colony of the Cape of Good Hope and Aden" ... .. by No. 19 of 1878
- ACT No. 21 of 1873, "For applying a sum not exceeding Two Hundred and Eighty-One Thousand Five Hundred and Fifty-Two Pounds Eight Shillings and Sixpence Sterling for the Service of the Year 1874" ... .. by No. 21 of 1874
- ACT No. 3 of 1874, "To provide for the Imprisonment in the Colony of certain Criminals sentenced in the Colony of Natal" .. .. by No. 1 of 1875
- ACT No. 16 of 1874, "To amend the Law relating to Attesting Witnesses" ... .. by No. 22 of 1876
- ACT No. 22 of 1874, "For applying a sum not exceeding Three Hundred and Eighty-Six Thousand and Seventy-Two Pounds Thirteen Shillings and Nine Pence Sterling for the Service of the year 1875' ... .. by No. 28 of 1875
- ACT No. 29 of 1874, "To further facilitate the apprehension in this Colony of certain persons who have committed crimes in the Colony of Natal, in the Province of Griqualand West, in the Orange Free State, or in the South African Republic" ... .. by No. 18 of 1877

- ACT No. 2 of 1875, "To regulate and provide for the payment of Superannuation Allowances to Members of the Frontier Armed and Mounted Police Force" ... .. by No. 8 of 1878
- ACT No. 14 of 1875, "To amend the Law relating to the Frontier Armed and Mounted Police Force, and to provide for the greater efficiency of the said force" ... .. by No. 8 of 1878





## PRIVATE ACTS.

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- No. 20 of 1874.—To enable the Divisional Council of Swellendam to borrow Moneys upon the security of Road Rates and Tolls, for the payment of its Debt, and for the Improvement and Construction of certain Roads in connection with Southey's Pass.
- No. 27 of 1874.—To authorize and empower the Municipality of Uitenhage to borrow a further Sum under Act No. 3 of 1867.
- No. 12 of 1875.—To authorize the Divisional Council of Cradock to borrow Moneys, upon the security of Road Rates and Tolls, for Public Works.
- No. 13 of 1875.—To enable the Divisional Council of Victoria East to borrow Moneys for the purpose of Constructing a Road over the Hogsback, Division of Victoria East, upon the security of Road Rates and Tolls.
- No. 16 of 1875.—To enable the Commissioners of the Municipality of Graaff-Reinet to borrow a Sum of Money not exceeding Twelve Thousand Pounds Sterling, for the purpose of providing the Inhabitants of the Town of Graaff-Reinet with a better and purer supply of Drink Water, and also of Extending and Improving the Waterworks within the Municipality.
- No. 17 of 1875.—To continue Act No. 9, 1855, intituled "An Act for incorporating the South African Association."
- No. 18 of 1875.—For Enabling the Divisional Council of Tulbagh to borrow Moneys upon the security of Road Rates and Tolls, for the construction of a Road through the Karroc, in the direction of Fraserburg.
- No. 19 of 1875.—To Legalize the loan of £1,000 borrowed by the Divisional Council of Worcester, expended in the construction of the Road through the Hex River, and to amend Act No. 31 of 1868.
- No. 20 of 1875.—For Enabling the Commissioners of the Municipality of Beaufort West to borrow a further sum of Money for the purpose of reconstructing and otherwise improving the Beaufort Reservoir, and for the payment of the Moneys already raised for the construction thereof.
- No. 27 of 1875.—For Enabling the Divisional Council of Clanwilliam to borrow Moneys upon the security of Road Rates and Tolls, for the construction of a Road over the Pakhuis Mountain.
- No. 7 of 1876.—For enabling the Municipality of Aliwal (Mossel Bay) to borrow a Sum not exceeding £5,000 Sterling, for the purpose of providing a Supply of Pure Water for the use of the Inhabitants of the Town of Aliwal and of the Shipping frequenting the Port of Mossel Bay, and for the better Drainage of the said Town.
- No. 14 of 1876.—For enabling the Commissioners of the Municipality of Uitenhage to appropriate and Dispose of certain Lands for the purpose of Raising Funds for Building a Town Hall, Library, Reading Room, Town Office, Market Office, and other necessary Buildings for the use of the Resident Householders and Inhabitants of the said Municipality.

- No. 20 of 1876.—To remove certain Conditions and Restrictions at present imposed upon Lands held by the Lovedale Missionary Institution.
- No. 23 of 1875.—For Enabling the Commissioners of the Municipality of Heidelberg to borrow Two Thousand Pounds for the purpose of opening up the Doorn River and diverting its course into a Canal.
- No. 29 of 1877.—To release a portion of the Estate Orangezigt of the entail of *Fidei Commissum*, and to authorize the Town Council of the City of Cape Town to acquire said lands for the purpose of constructing thereon one or more Reservoirs.
- No. 30 of 1877.—For Constituting the Town of Uitenhage a Municipality.
- No. 31 of 1877.—To Enable the Municipal Council of Port Elizabeth to provide the Inhabitants of the Town of Port Elizabeth with Water, and for that purpose to take Water from the Van Staden's River, to acquire Government and other lands required for the construction of the necessary Waterworks, and to erect a line of Telegraph along or near to the line of such Waterworks.
- No. 32 of 1877.— To Authorize the Divisional Council of Port Elizabeth to borrow Moneys upon the security of Road Rates and Tolls within the Division of Port Elizabeth.
- No. 33 of 1877.—To Declare the Validity of certain Valuations of Immovable Property situate in the Division of Worcester.
- No. 34 of 1877.—To Legalize the Loan of Twelve Hundred and Fifty Pounds Sterling borrowed by the Municipality of Worcester, and expended in the construction of Waterworks, for the purpose of providing a supply of Pure Drink Water for the use of the Inhabitants of the Town of Worcester, and the Locations of the Poorer Classes adjoining thereto, and laying down Water Pipes throughout said Town of Worcester, and erecting a Reservoir and Filtering Bed for such purposes ; as also for enabling the said Municipality to borrow a further sum of Seven Hundred and Fifty Pounds Sterling, required for completing the Waterworks aforesaid ; and to amend Act No. 23 of 1873.
- No. 35 of 1876.—To Amend the Heidelberg Canal Act, 1876.
- No. 36 of 1876.—To Enable the Commissioners of the Municipality of Hanover to borrow a Sum of Money not exceeding Two Thousand Pounds Sterling for the purpose of constructing a Covered Watercourse in the said Municipality, or otherwise improving the Water Supply of the Village of Hanover, and of repaying Moneys already borrowed and expended for that purpose.
- No. 37 of 1876.—To Legalize the Loan of One Thousand Pounds, borrowed by the Divisional Council of Tulbagh, and for enabling the said Divisional Council to borrow a further sum of Six Hundred Pounds for the construction of the Verlaten Kloof Road, and to Amend the Act No. 18, 1875.
- No. 6 of 1878.—For Enabling the Municipality of Aliwal (Mossel Bay) to borrow a sum not exceeding Three Thousand Pounds Sterling for the purpose of erecting a Town and Market-House for the use of the Inhabitants at the Town of Aliwal (Mossel Bay).