

# TABLE OF CONTENTS.

1869.

ACT.	PAGE.
1. To Amend the Ordinance No. 16 of 1847, intituled "An Ordinance for the better Regulation of Pounds and Prevention of Trespasses" ... ..	1
2. To Make Provision for the more easy Collection of Hut Tax....	3
3. For Regulating the Execution of Capital Punishment... ..	5
4. To Authorize the Cape Copper Mining Company (Limited) to construct a Tramway or Railway between Port Nolloth and Nomans, and to build a Jetty at Port Nolloth ... ..	6
5. For Enabling the Commissioners of the Municipality of Beaufort to borrow a further Sum of Money for the purpose of strengthening and otherwise improving the Beaufort Reservoir... ..	17
6. For Limiting the Operation of the Disabilities Removal Act... 1868 ... ..	19
7. To Regulate the Conditions upon which it shall be lawful for Divisional Councils to erect Toll-bars and levy Tolls within the limits of Municipalities or other Corporated Towns ...	20
8. For Enabling the Commissioners of the Municipality of the Paarl to borrow Moneys for increasing the Supply of Water for the Inhabitants of such Municipality ... ..	21
9. For the Better Protection of Bees ... ..	24
10. To Define, in certain cases, the meaning of the Term "Hawkers or Travelling Traders" for the purpose of "The Stamp Act, 1864" ... ..	25
11. For Facilitating the Recovery of Survey Expenses incurred, and the Delivery of Title Deeds of Lands surveyed, under the Land Beacons Act 1859 ... ..	26
<u>12.</u> (For Facilitating the Dispatch of Business in the Courts of Resident Magistrates ... ..)	<u>28</u>
13. To Empower the Governor to raise the Sum of Fifty Thousand Pounds Sterling, for the purpose of redeeming a like Sum raised by means of Debentures under authority of the Act No. 22 of 1859 ... ..	29
14. To Continue to the end of 1870 the Act No. 10 of 1864 ...	31
15. To Repeal Act No. 14 of 1860, intituled "An Act for amending the Act No. 5, 1855, intituled 'An Act for creating Divisional Councils in this Colony,' and to amend the Act No. 4 of 1865, intituled 'An Act to consolidate and amend the Several Acts relating to Divisional Councils.'" ... ..	32
16. For the Dissolution of the Kowie Harbour Improvement Company... ..	34
17. To Enlarge the Powers of the Borough Council of King William's Town to borrow Money ... ..	37
18. To Make Provision for clearing the Anchorage of the Port of East London of Anchors and Cables left derelict ... ..	39

ACT.	PAGE
19. For Applying a Sum not exceeding Four Hundred and Twenty-six Thousand Three Hundred and Seventy-six Pounds Six Shillings and Eleven Pence for the Service of the Year 1869 ... ..	40
20. For Amending the Act No. 13, 1868, intituled "An Act for defining and establishing the Constitution of the Joint-stock Company or Co-partnership called 'The Eastern Province Bank'" ... ..	43
21. (To Make Better Provision for the Punishment of Juvenile) Offenders convicted in Courts of Resident Magistrates ...	<u>45</u>
22. To continue to the End of 1870 the Act No. 32 of 1868 ...	46
23. To Repeal the Act No. 29, 1861, intituled "Act for establishing a Municipality for the City of Graham's Town," and to make other provisions in lieu thereof... ..	47
24. To Provide for the Expenses of the Survey of Crown Lands for Lease, and for other purposes ... ..	73

## 1870.

1. To Regulate the Apprehension within this Colony of Deserters from Her Majesty's Land Forces ... ..	74
2. To Amend the Law relating to the Protection of Seamen's Clothing and Property... ..	78
3. To Render Lessees of Crown Lands leased under Provisions of Act No. 19, 1864, liable to the payment of Road Rates, and qualified as Members of Divisional Councils... ..	81
4. To Regulate the Disposal of Certain Agricultural Lands in this Colony ... ..	82
5. 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" ... ..	86
6. For Applying a Sum not exceeding Three Hundred and Fifty-six Thousand Six Hundred and Fifty-nine Pounds Eighteen Shillings and Nine Pence for the Service of the Year 1870 ...	88
7. To Consolidate the Public Debts of the Colony payable in England ... ..	90
To Indemnify the Governor for the Expenditure incurred for the Railway works in the Tulbagh Kloof ... ..	96
9. For granting to Her Majesty in her Colonial Revenue certain Duties on Houses ... ..	97
10. To Provide for the Management of Native Locations and other Communities, and for the regulation of Rights of Commonage ... ..	112
11. For Raising the further Sum of Twenty Thousand Pounds for Completion of the Dock in Table Bay ... ..	113
12. For the Better Preservation of Wild Ostriches... ..	115
13. To Amend the Act No. 3, 1864, intituled "An Act for regulating the Duties upon Stamps and Licences" ... ..	118
14. To Regulate the Removal of Cattle within the Colony... ..	128
15. To Continue to the end of 1871 the Act No. 10 of 1864 ...	133
16. To Continue to the end of 1871 the Act No. 32 of 1868 ...	133
17. For Applying a Sum not exceeding Ten Thousand Three Hundred and Fifty-Six Pounds Sterling for the Service of the Year 1870.. ... ..	134

ACT.	PAGE.
18. To Enable the Governor to Dispose, on certain terms, of certain Crown Lands, commonly called the Waschbank Lands...	135
19. For Applying a Sum not exceeding One Hundred and Seventy-nine Thousand Five Hundred and Eighty-nine Pounds Nineteen Shillings and Four Pence for the Service of the Year 1871 ... ..	136
20. To Remove Doubts in respect to the Rates of Customs Duties payable on certain Articles under the provisions of "The Customs Tariff Amendment Act, 1866," and to amend the said Duties in other respects... ..	140

## 1871.

1. For Regulating the Retiring Pension of James Coleman Fitzpatrick, Esquire, one of the Judges of the Supreme Court of the Colony ... ..	142
2. For Removing certain Doubts as to the Act No. 23 of 1869, commonly called "The Graham's Town Municipality Act, 1869". ... ..	143
3. To Authorize the Cape Copper Mining Company (Limited) to extend the Line of Tramway or Railway authorized by Act No. 4 of 1869 ; "The Port Nolloth Tramway or Railway and Jetty Act " ... ..	143
4. To Continue to the end of 1872 the Act No. 10 of 1864 ...	146
5. To Provide for the Maintenance of the Great Northern Road, extending from Blinkwater, in the Division of Stockenstrom, to Summit of Penhook, in the Division of Queen's Town ...	147
6. To Erect the District of Wodehouse in a Fiscal Division ...	148
7. 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 ...	149
8. To Incorporate the Port Elizabeth and Uitenhage Railway Company (Limited) ... ..	153
9. For Applying a Sum not exceeding Four Hundred and Five Thousand Five Hundred and Eighty-two Pounds Fifteen Shillings and Five Pence for the Service of the Year 1871.	173
10. For the Protection of Private Property in Domesticated Ostriches... ..	175
11. To Amend in certain respects the Provisions of Act No. 3 of 1864, by exempting Persons carrying about or hawking Colonial Produce from the Provisions of the aforesaid Act.	177
12. For the Annexation to the Colony of the Cape of Good Hope of the Territory inhabited by the Tribe of People called Basutos ... ..	178
13. To Empower the Governor to raise the Sum of Fifty Thousand Pounds Sterling for the purpose of redeeming a like Sum raised by means of Debentures, under authority of the Act No. 12 of 1866-67 ... ..	181
14. For Applying a Sum not exceeding One Hundred and Eighty-eight Thousand and Ninety-one Pounds Nineteen Shillings and Five Pence for the Service of the Year 1872 ... ..	183
15. To Promote the Construction of a Bridge or Bridges over the Orange River ... ..	187

## 1872.

1. To Amend the Ordinance enacted on the 3rd of April, 1852, by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, intituled "An Ordinance for Constituting a Parliament for the said Colony" ... .. 194
2. To Repeal Act No. 25, 1868, commonly called the Contagious Diseases Prevention Act ... .. 196
3. To Alter the Limits of the Division of Wodehouse ... .. 197
4. To Amend the Act 11 of 1863, so far as the same relates to the Transfer Duty payable on the purchase of Immovable Property ... .. 198
5. To Authorize the Port Elizabeth and Uitenhage Railway Company (Limited) to deviate from and extend the Line of Railway authorized by Act No. 8 of 1871, "The Port Elizabeth and Uitenhage Railway Company (Limited) Act, 1871" ... .. 203
6. To Amend the Act No. 3, 1865, intituled "An Act to make provision for the Incorporation of British Kaffraria with the Colony of the Cape of Good Hope, and to increase the number of the Members of both Houses of Parliament of the said Colony," and to remove the existing Disqualification of certain Persons, otherwise well qualified, from being admitted Attorneys of the Supreme Court... .. 205
7. To Constitute the Division of Wodehouse an Electoral Division ... .. 206
8. To Empower the Governor to raise a Sum not exceeding Seventy-nine Thousand Nine Hundred and Fifty Pounds Sterling for the purpose of constructing a Graving Dock in Table Bay, and for redeeming certain Debentures issued under authority of the Acts No. 26 of 1868 and No. 11 of 1870 ... .. 208
9. For Applying a Sum not exceeding Four Hundred and Twenty-eight Thousand Eight Hundred and Thirty Pounds Fourteen Shillings and Ten Pence Sterling, for the Service of the Year 1872 ... .. 212
10. To provide for the better Management of the Customs of the Colony of the Cape of Good Hope... .. 214
11. To Amend, and continue as amended, the Act No. 9 of 1870, For Granting to Her Majesty in Her Colonial Revenue certain Duties on Houses ... .. 266
12. To Further Promote the Construction of a Bridge or Bridges over the Orange River ... .. 270
13. For Enabling the Municipality of Swellendam to borrow Moneys for the Improvement of the Drainage and Waterworks of the Town of Swellendam and its Neighbourhood ... .. 272
14. To Amend "The Public Debt Consolidation Act, 1870" ... 275
15. For Authorizing the Purchase of the Cape Town and Wellington Railway with its Appurtenances, and For Working the same, and for raising the necessary Funds for such Purchase... .. 276
16. To Authorize the Taking and Retaining of such Lands and Materials required for Constructing a Railway between Port Elizabeth and the Bushman's River as are not already authorized to be taken ... .. 283



ACT.	PAGE.
17. To Facilitate the Construction of the Line of Railway between Wellington and Worcester ... ..	284
18. To Empower the Governor to raise a Sum not exceeding Seventy Thousand Pounds Sterling for the purpose of Telegraph Purchase and Extension, and for other purposes ...	284
19. For Facilitating the Apprehension of certain Offenders escaping to this Colony from any place within the Territories or Dominions of the South African Republic and Orange Free State. ... ..	288
20. For Defining the Limits of and preventing the Mischief arising from cutting, rooting up, and destroying the Trees, Shrubs, Bushes, and Fibrous Rooted Plants within an area bounded on the East and South by the Sea, on the West by the Farm Bushy Park, and including Northwards such portions of the divided Farm Buffelsfontein, the Village and Commonage of Walmer, formerly the Farm Nooitgedacht, and the Farm Paapebiesjesfontein, in the Division of Port Elizabeth, as the Drift Sands have extended or may extend over ...	292
21. To amend Ordinance No. 1 of 1847, intituled "Ordinance for Removing Vessels stranded in the Ports and Harbours of this Colony" ... ..	297
22. For the Management of the Docks and Breakwater of Table Bay ... ..	299
23. To Continue to the end of 1873 the Act No. 10 of 1864 ...	306
24. For Applying a further Sum not exceeding Fourteen Thousand Nine Hundred and Eighty Pounds Sterling for the Service of the Year 1872 ... ..	306
25. For Applying a Sum not exceeding Two Hundred and Five Thousand Nine Hundred and Ninety-five Pounds Seven Shillings and Five Pence Sterling for the Service of the Year 1873 ... ..	308
26. For regulating the Coasting Trade of the Colony of the Cape of Good Hope .. ..	311

## 1873.

1. To Confirm the Annexation to this Colony of the Islands, Islets, or Rocks on the South-west Coast of South Africa called Ichaboe, Holland's Bird, Mercury, Long Island, Seal Island, Penguin Island, Halifax, Possession Island, Albatross Rock, Pomona, Plumpudding and Roast Beef or Sinclair's Island	318
2. To Protect and Regulate the Rights of Authors in respect of their Works ... ..	319
3. To Remove Doubts as to the Ownership of Immoveable Property held in Trust for Unincorporated Joint stock Companies and other Bodies, and for the appointment, when necessary, of Trustees for such Companies or Bodies ...	323
4. To Repeal the Eighteenth Section of Act No. 22 of 1872, and to enable the Commissioners of Table Bay Docks to fix the Tonnage of Goods subject to Dues ... ..	329
5. To Amend Act No. 16 of 1859, by enabling the Commissioners for improving the Port and Harbour of Algoa Bay to make Regulations for the better Management of the Breakwater and the Wharfs, Jetties, and Approaches belonging thereto	330
6. For Regulating the use of Locomotives on Turnpike and other Roads, and the Tolls to be levied on such Locomotives and	

	on the Wagons and Carriages drawn or propelled by the same ... ..	331
<u>7.</u>	To Repeal the 23rd Section of Ordinance No. 73 of 1830, intituled "An Ordinance for explaining, altering, and amending the Ordinance No. 40" ... ..	<u>333</u>
8.	For Enabling the several Divisions of this Colony to obtain a Force or Additional Force of Police by contributing towards the Expenses thereof ... ..	834
9.	For Authorizing certain Expenditure not provided for by Parliament in the Year 1871 ... ..	338
10.	For Authorizing certain Expenditure not provided for by Parliament in the Year 1872 ... ..	340
11.	To Provide for lodging the Accounts of Executors, Tutors, Curators, and Trustees in the Offices of the Resident Magistrates of the respective Districts in which the Estates administered are situated ... ..	341
12.	To Provide for the Granting of Titles in Freehold to the inhabitants of certain Missionary Institutions, and for the better Management of such Institutions ... ..	344
13.	To Provide for constructing, equipping, and working of a Railway from Port Elizabeth to the Bushman's River, and a Railway from Wellington to Worcester ... ..	349
14.	To Regulate the Disposal of certain Diamonds and other Property .. ... ..	354
15.	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... ..	358
16.	To Establish and Incorporate an University at the Cape of Good Hope ... ..	359
17.	To Remove Doubts as to the necessity of Restamping certain Deeds and to Amend the Stamp Act, 1870, in so far as relates to the mode of Stamping Deeds executed before the Registrar of Deeds ... ..	366
<u>18.</u>	To Amend Act No. 15, 1856, intituled "An Act to amend the Laws regulating the relative Rights and Duties of Masters, Servants, and Apprentices" ... ..	<u>368</u>
19.	For Promoting the Construction and Maintenance of a Line of Submarine Telegraph between the Colony of the Cape of Good Hope and Aden ... ..	379
20.	For Applying a Sum not exceeding Six Hundred and Fifty-eight Thousand Three Hundred and Forty seven Pounds Fifteen Shillings and Nine Pence Sterling, for the Service of the Year 1873 ... ..	381
21.	For Applying a Sum not exceeding Two Hundred and Eighty-one Thousand Five Hundred and Fifty-two Pounds Eight Shillings and Six Pence Sterling, for the Service of the Year 1874 ... ..	384
22.	To Amend the Laws relating to the Construction and Maintenance of the Main Roads of the Colony ... ..	387
23.	For Enabling the Municipality of Worcester to borrow a Sum of Money not exceeding Two Thousand and Two Hundred Pounds (£2,200) 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	

ACT.	PAGE.
throughout said Town of Worcester, and erecting a Reservoir and Filtering Bed for such purpose ... ..	401
24. To Authorize the Cape Copper Mining Company (Limited) to construct and work a Tramway or Railway from Kookfontein to O'okiep ... ..	404
25. To Amend the Act No. 14 of 1868, Constituting the Town of Port Elizabeth a Municipality ... ..	407
26. To Amend the Law of Inheritance in this Colony, and repeal the "Lex Hac Edictali" ... ..	409

# ACTS OF THE CAPE PARLIAMENT.

No. 1—1869.]

AN ACT

[18th Oct., 1869.

To Amend the Ordinance No. 16 of 1847, intituled  
“An Ordinance for the better Regulation of  
Pounds and Prevention of Trespasses.”

**W**HEREAS it is expedient to amend in certain Preamble.  
respects the Ordinance No. 16 of 1847, inti-  
tuled “An Ordinance for the better Regulation of  
Pounds and Prevention of Trespasses :” Be it en-  
acted 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 Ordinance No. 16 of 1847 as is Repugnant portion of  
Ord. No. 16 of 1847  
repealed.  
repugnant to or inconsistent with any of the provi-  
sions of this Act is hereby repealed.

II. No stallion above the age of two years which Stallions impounded  
to be castrated pre-  
vious to release or  
sale.  
shall hereafter be lawfully impounded shall be re-  
leased by the owner thereof, or sold out of the  
pound, without being previously castrated, unless  
such stallion shall be released under the provisions  
of the fifth section hereof.

III. Every such stallion not released under the Who to perform oper-  
ation.  
provision of the fifth section hereof shall be cas-  
trated by the poundmaster, if competent to perform  
such operation, or by some other competent person  
employed by him at his own expense, and such Fee for castrating.  
poundmaster shall be allowed for the performance  
of this duty a fee of ten shillings, to be recovered  
from the owner of such stallion, if known, or  
deducted from the proceeds of sale, should such  
animal be sold out of the pound : Provided, how- Fee not recoverable  
if animal dies.  
ever, that no such fee as aforesaid shall be recover-  
able from the owner in respect of any animal which  
shall die while in the poundmaster’s keeping in  
consequence of such castration.

IV. No stallion shall (except as hereinafter is Period to elapse prior  
to castration.  
provided) be castrated under the provisions of this  
Act until it shall have remained impounded for at

No. 1—1869.

Period to elapse prior to sale.

least five weeks ; and any stallion not sooner released by or on behalf of the owner thereof shall, subject to such regulations as may be in force at the date of such sale, be sold at the first pound sale occurring after the expiration of forty-five days from the date of such stallion having been impounded : Provided, however, that if the owner of such stallion shall give his consent, or shall decline to release it under the fifth section hereof, such stallion may be castrated forthwith, and shall be castrated without unnecessary delay should the owner thereof desire to release the same under the ordinary provisions of the law.

When castration may be forthwith proceeded with.

When impounded stallion may be released without being castrated.

V. The owner of any stallion which may hereafter be impounded shall be entitled to release such stallion without its being castrated, upon payment of pound fees and other charges, and upon giving security, to the satisfaction of any resident magistrate or justice of the peace or field-cornet, for the payment of any fine or penalty and costs of suit recoverable under the fifty-first and fifty-fifth sections of the said Ordinance : Provided, always, that every such owner shall be entitled to tender to any person claiming any penalty under the sections aforesaid such sum as he shall consider adequate to cover such fine or penalty as aforesaid ; and in the event of such tender being refused, the person claiming any such fine or penalty shall be condemned in the costs of such legal proceedings as he may afterwards institute for the recovery thereof, unless the court in which the same shall be pending shall award such fine or penalty as shall exceed the amount so tendered.

Act to extend to municipalities.

VI. The provisions of this Act shall extend to any trespass committed, or pound erected, within any municipality.

When to take effect.

VII. This Act shall not take effect or be in force within any division of this Colony until such division shall, at the request of the divisional council thereof, have been proclaimed by His Excellency the Governor in the Government Gazette as made subject to this Act ; and it shall be lawful for the Governor to make such proclamation as aforesaid

at the request of any such divisional council as aforesaid. No. 1—1869.

VIII. The word "stallion" shall include a male ass not castrated. Word "stallion" to include male ass.

No. 2—1869.] AN ACT [18th Oct., 1869.

To Make Provision for the more easy Collection of Hut Tax.

**W**HEREAS difficulties have arisen from time Preamble. to time in collecting from persons residing on certain Crown lands reserved for the purposes of native tribes within this Colony, commonly known as Native Locations, occupation rents for huts or dwellings erected or occupied by natives on the Crown lands within such reserves or locations, which rent has been commonly called hut tax : And whereas it is expedient that the law as to such occupation rents or hut tax should be declared, and that facilities should be given for enforcing the payment 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. It shall be lawful for the civil commissioner of the division within which any such native location as aforesaid shall be situate, or for any other person thereto authorized by the Governor by publication of such authority in the Government Gazette, to demand and sue for, receive and give receipts for a sum of ten shillings yearly, in respect of each hut erected or standing for the time being on any Crown land within any such native location as aforesaid, occupied, or used, or claimed within the same for any portion of any such year in respect whereof such sum is or shall be demanded or received, which sum shall be paid by the occupier or person using or claiming such hut during any such portion of any such year as aforesaid. Who authorized to demand hut tax. Who liable to payment

II. In case default shall be made by the person liable to pay any such sum of ten shillings in respect Proceedings in default of payment.

No. 2—1869.

of any such hut in any year within three calendar months after the same shall become due and payable, as hereinafter by the fourth section provided, it shall be lawful for such civil commissioner, or other person authorized to demand the same as aforesaid, in addition to the ordinary remedy by action for the recovery of such sum, to attach and seize, to answer the same, and the costs of such levy and seizure and subsequent proceedings, a sufficient amount of the cattle, stock, and other movable property of the person 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 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 abide and perform the judgment thereof in the premises, which judgment, if adverse to the plaintiff, may be not only for the amount of hut tax for which such seizure as aforesaid 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.

III. Upon such security as in the last clause mentioned being given, and approved of 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.

IV. Such sum of ten shillings shall become due and payable in each year on the thirty-first day of December, in respect of the year ending on such day, and shall thereupon be paid by the person liable to pay the same to such civil commissioner or other person duly authorized as aforesaid, at the office of such civil

Stock seized in satisfaction of tax due to be released on sufficient security being given.

When tax shall become payable.

To whom and where to be paid.

commissioner, or such other place as the Governor shall by proclamation appoint for that purpose, as regards each such location, without the necessity of any demand being made therefor.

No. 2—1869.

V. In case no person can be found who shall claim or shall have occupied or used any hut chargeable under this Act at any time during the year ending with the thirty-first day of December in any year, the civil commissioner, or such other person so authorized as aforesaid, may cause such hut to be destroyed.

Unclaimed or unoccupied huts may be destroyed.

No. 3—1869.]                      AN ACT                      [18th Oct., 1869.  
For Regulating the Execution of Capital Punishment.

**W**HEREAS it is desirable that, whenever circumstances will admit of it, capital punishment should in this Colony be carried into effect within the gaols: 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. In any and in every case in which, after the passing of this Act, any prisoner shall be sentenced to death, it shall be lawful for the Governor, if he shall be satisfied that fitting arrangements for the same can be made within the gaol in which such prisoner shall for the time being be confined, to order, by warrant under his hand, that the sentence of death shall be carried into effect within the walls of such gaol.

Governor may direct sentence of death to be carried out within walls of gaol.

II. The high-sheriff or deputy-sheriff charged with the execution, and the surgeon, gaoler, and such other officers of such gaol as the high-sheriff or deputy-sheriff may require, shall be present at such execution, and any justice of the peace for the division in which such gaol may be situated, and any minister of religion residing therein, and such relatives of the prisoner or other persons as the high-sheriff or the deputy-sheriff may deem proper, may be admitted within such gaol, for the purpose of being present at such execution.

Who required to be present at such execution.

And who may be admitted to witness execution.



No. 3—1869.

Surgeon to certify death, and declaration to be signed by all persons present at execution.

III. As soon as may be after judgment of death has been executed on the offender, the surgeon of the gaol shall examine the body, and shall ascertain the fact of death, and shall sign a certificate thereof, and deliver the same to the high-sheriff or deputy-sheriff; and all other persons who shall be present under the provisions of the preceding section, together with the high-sheriff or deputy-sheriff, shall sign a declaration to the effect that judgment of death has been executed on the offender, and such certificate and declaration shall be forthwith transmitted to the Colonial Secretary, to be filed of record in his office.

Governor may make rules to be observed on execution of judgment of death.

IV. The Governor may from time to time make such rules and regulations as to him may appear expedient for the purpose of guarding against any abuse in such execution, and of giving greater solemnity to the same, and of making known without the walls of the gaol the fact that such execution is taking place.

Saving clause as to legality of execution.

V. The omission to comply with any provision of this Act shall not make the execution of judgment of death illegal in any case where such execution would otherwise have been legal.

No. 4—1869.]

AN ACT

[18th Oct., 1869.]

To Authorize the Cape Copper Mining Company (Limited) to construct a Tramway or Railway between Port Nolloth and Nonams, and to build a Jetty at Port Nolloth.

Preamble

WHEREAS it is desirable and expedient that greater facilities should be afforded for the transport of minerals from the mines in Namaqualand to Port Nolloth, and the shipment of the same at the said port, and also for the shipping and landing of passengers, goods, merchandize, and other articles at, and their transport to and from, the said port: And whereas such facilities would be greatly promoted and the resources of the country developed by the construction of a tramway or

railway between the said port and Nonams, and by the building of a jetty at the said port: And whereas the Cape Copper Mining Company (Limited), a company duly registered in England, and having a subscribed capital of one hundred and fifty thousand pounds sterling, is willing to undertake the construction and working of the said tramway or railway and the building of the said jetty, on being empowered for that purpose in manner hereinafter mentioned and 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, as follows:

No. 4—1869.

I. The Cape Copper Mining Company (Limited) shall be, and they are hereby authorized and empowered to construct and work a tramway or railway between Port Nolloth and Nonams, or any part thereof, and to build a jetty at Port Nolloth, as shown by the plans duly lodged with the Clerks of the Legislative Council and of the House of Assembly and with the Civil Commissioner for the Division of Namaqualand, on the terms and conditions hereinafter contained.

Cape Copper Mining Company empowered to construct tramway or railway, and to build jetty according to certain plans.

II. It shall and may be lawful for the said company, and they are hereby authorized, to enter upon and to take possession of all such lands within the limits of deviation as shown by the said plans, and also to dig for, excavate, and carry away all such stones, clay, or other materials within or from waste Crown lands near to the said limits as may be required for the construction and maintaining of the said tramway or railway and jetty: Provided that the extent of land taken or used for the said tramway or railway shall not exceed the width of thirty feet, with sufficient additional width for slopes, drainage, stations, stopping places, approach-roads, and all other works, matters, and things which may be requisite or necessary for the efficient construction and working of the said tramway or railway: And provided, further, that no such materials shall be taken for the purpose of constructing or maintaining the said tramway or railway and jetty from any

Powers granted to company to enter upon adjoining lands for purposes of excavation, &c.

Extent to which such excavation, &c., may be carried on.

Materials not to be removed from Crown or private lands within limits of village of Port Nolloth, without consent previously obtained.

No. 4—1869.

Company empowered  
to take possession of  
certain beach lands,  
&c.

Crown land within the limits of the village of Port Nolloth, as the same are now or may hereafter be defined by Government, without the previous consent of the Government, nor from any private lands within the same limits without the previous consent of the owner thereof. And, further, it shall and may be lawful for the said company, and they are hereby authorized, to enter upon and take possession of all such beach and other lands lying above and below high-water mark, and as may be required for approaches to and site of the said jetty as shown on the said plan, and also in like manner to enter upon and take possession of forfeited erf 1,799, marked 8 on the said plan, in block C, and also the road lying between blocks B and C, marked or numbered 14 on the said plan, and also the Government ground adjoining blocks B and C to the east, north, and west, as shown within the limits marked by a dotted line on the said plan : Provided that the proprietor or person holding by lease from the Crown the lands so taken possession of and of the materials so carried away and used shall be paid by the said directors the just value, by way of recompense or compensation for the interest of the said proprietors or lessees in such land or materials, or for any damage which may be done by reason thereof.

Compensation to pro-  
prieters or lessees.

Disputes regarding  
compensation, how to  
be settled.

III. In the event of the said company and any such proprietor or the person claiming compensation not being able to agree upon the sum to be paid by the said company and accepted by such proprietor or person claiming compensation, then the said company shall cause to be served upon such proprietor or person claiming compensation a written notice offering as recompense or compensation whatever sum of money they shall deem sufficient, and requiring such proprietor or person claiming compensation to state in writing to the said company within thirty 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 company shall, by another notice in

writing call upon such proprietor or person claiming recompense or compensation to refer to arbitration the amount of recompense or compensation to be paid to him by the said company, and for that purpose to transmit to the said company within thirty days 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 company, 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 company shall cause a deed of submission to be prepared, which shall be signed by the agent, general manager, or representative of the said company in this Colony, 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, may 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 some person to be such arbitrator as aforesaid, or to sign the said deed of submission, then it shall be lawful for the said company, and they are hereby authorized, to lodge in some joint-stock bank in Cape Town the sum of money offered by them as 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 company, 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

No. 4—1869.

Mode of proceeding  
in case of arbitration.

Award may be made  
rule of court.

How, where proprietor  
refuses or neglects  
to proceed to arbitration.

No. 4—1869.

On settlement by arbitration, or otherwise, lands to become absolute property of company.

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 company 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 company, according to the law and custom of this Colony, or as if all acts by law required for vesting in the said company a sufficient title thereto had been duly done and performed; and the said materials shall be held and taken to be, and shall be, the free and absolute property of the said company: Provided that the cost of the arbitration as aforesaid shall be in the discretion of the arbitrators.

Costs of arbitration.

Crown lands may be used for tramway or railway and jetty.

IV. It shall and may be lawful for the said company to enter upon and take possession of, and to hold and retain for all the purposes of this Act, free of any charges, so much of any Crown lands as shall be required for the construction and maintaining of the said tramway or railway and jetty, or for any other purposes relating to the execution of this Act, and also to enter upon all Crown lands not previously leased by the Government to any lessee lying convenient to the said tramway or railway and jetty, and there to dig for, excavate, and carry away all such stones, clay, or other materials as may be required or be serviceable for the construction and maintaining of the said tramway or railway and jetty: Provided that nothing in this Act contained shall establish any servitude in favour of the said company for procuring materials for the said tramway or railway upon any land which may at any time hereafter be sold or leased by the Colonial Government to any purchaser or lessee thereof.

Materials may be taken from unleased Crown lands.

But not to establish servitude.

Company to construct and maintain public road to jetty.

V. The company shall be bound to construct and maintain, and at all times to keep in good repair, a sufficient and convenient road not less than twenty feet in width for public use, from the public street

at Port Nolloth to the said jetty ; but in constructing the same, or the said jetty, or any other works at the shore at Port Nolloth, no stonework or embankment shall project or be carried further seaward than low-water mark at spring-tide.

No. 4—1369.

Extent to which works may be carried,

VI. The said tramway or railway shall commence from the said jetty at Port Nolloth, and shall proceed thence to Jules Hoogte, thence to the Kama River, thence to Oograbis, thence to Anna Poort, thence along the plain by Muishondfontein to foot of mountain at Nonams : Provided, however, that it shall be lawful for the said company to deviate from and vary the said line within the limits of deviation shown by the said plans ; and, further, that it shall and may be lawful for the said company to terminate the line at any point between Port Nolloth and Nonams : Provided such terminal point shall be at a distance of not less than twenty miles from Port Nolloth.

Route of tramway or railway.

Certain deviation allowed,

Terminus of line.

VII. At all places where the line of the said tramway or railway, or any deviation thereof within the limits of deviation hereinbefore provided, shall intersect or cross the line of any street or road, it shall be lawful for the said company to make and carry the said tramway or railway across such street or road, either by means of a level crossing or by a convenient and sufficient bridge or viaduct over or under the said street or road. And the said company shall be bound and obliged to make all such cuttings, embankments, and approaches, with all such culverts and drains as may be requisite to make good the said street or road across, or over, or under the said tramway or railway, at gradients not exceeding one foot in twenty feet. And the said company shall be bound and obliged to maintain and keep in repair all such crossings, bridges, viaducts, cuttings, embankments, and approaches, culverts and drains, as aforesaid. And in all cases where any street or road shall cross the said tramway or railway, no engines, carriages, trucks, or other vehicles shall be allowed to remain athwart such crossing, but shall pass such crossing without unnecessary delay,

Line may cross streets or roads.

Company to make and keep in repair all necessary crossings, &amp;c.

Free use of road not to be unnecessarily interrupted.

No. 4—1869.

so as to interrupt as little as possible the free use of such road.

Right to construct roads across line reserved.

VIII. Nothing in this Act contained shall hinder or prevent any public roads hereafter to be constructed under Act of Parliament or proclamation lawfully issued under Act of Parliament, from being made and carried across the said tramway or railway at all requisite and convenient points: Provided that as little damage as possible shall be caused to the said tramway or railway by such crossings.

Damage to roads, &c., to be made good.

IX. All damage which may be caused by the construction of the said tramway or railway and jetty to any roads or streets shall be repaired and made good by the said company, so soon as practicable, at the cost and charge of the said company.

Jetty and twenty miles of line to be completed within three years.

X. The said company shall be bound, and are hereby required, to finish and complete the said jetty, and not less than twenty miles of the said tramway or railway, extending from Port Nolloth towards Nonams, and to open the same for public traffic within three years from the taking effect of this Act, failing which all and singular the powers, rights, and authorities conferred by this Act shall cease and determine.

Terms, conditions, and tariffs of charges to be framed, submitted for approval, and published in Gazette.

XI. So soon as the line of tramway or railway or any section thereof, or the said jetty, shall have been finished and in a fit condition for work, the said company shall frame terms and conditions and a tariff of charges for wharfage and for the landing or embarking of passengers, and another such tariff for the conveyance of passengers and goods; and such terms, conditions, and tariffs shall be submitted to the Governor for approval, and if approved, shall be published in the Government Gazette for general information; and the said tariffs, terms, and conditions shall be thenceforth binding upon the said company for such period as shall be fixed and determined by the Governor, and specified in his approval of the same respectively. And upon the publication of any such tariff, terms, and conditions in manner aforesaid, the company shall, and are hereby authorized and

And on such publication, jetty or tramway or railway to be opened for traffic.

required to open for traffic the said jetty or the said tramway or railway, or so much thereof as is so completed, or both, as the case may be: Provided, always, that the said terms and conditions and the rates so chargeable may from time to time be altered by the said company, with consent of the Governor; and the said company shall be entitled to recover by legal process all such charges as shall be in force for the time being from all passengers landed at or embarked from the said jetty or conveyed on the said tramway or railway and the owner of, or the person liable to pay such charges on goods, merchandize, articles, or things landed on or shipped from the said jetty, or conveyed by the company on their said tramway or railway; and further, shall have the right of retaining such goods, merchandize, articles or things, until the rates or charges due or payable for or in respect of the wharfage or carriage or conveyance thereof shall have been duly paid; and, further, on his or their failing to pay on demand such charges, it shall and may be lawful for the said company to sell by public auction at Port Nolloth such goods, merchandize, articles, or things, and out of the money arising from such sale to retain the charges payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus, if any, and such goods as shall remain unsold, to the person entitled thereto: Provided that fourteen days' notice of such sale shall have been previously given in the Government Gazette, and in any one or more newspapers published in Cape Town; and such notice shall be also affixed on some conspicuous part of the office of Customs at Port Nolloth.

No. 4—1869.

Terms, charges, &amp;c., may be altered.

Charges, how recoverable.

XII. The said jetty shall be erected and constructed upon plans to be previously submitted to and approved of by the Government. Nothing in this Act contained shall be construed as conferring upon the said company any exclusive right to landing and shipping goods or passengers at the jetty to be erected by them under the provisions of this Act, or to prevent the use by the public of all such portions of the beach at Port Nolloth as are not appropriated

Plan of jetty to be submitted for approval of Government.

Company not to enjoy exclusive right of landing or shipping thereon.



No. 4—1869.

to the use of the said company by virtue of this Act, or the erection of a jetty or other works at such place or places on the said beach as shall be deemed expedient.

Governor to regulate number of stopping places, goods stations, &c.

XIII. The said company shall be bound and obliged to establish and permit to be used so many stations or stopping-places upon the said line of tramway or railway for taking up and setting down passengers, and for receiving and delivering goods, merchandize, minerals, or other articles to be conveyed upon the said tramway or railway and any portion thereof, as the Governor shall from time to time direct to be established for public use, or for the use of any passengers or any proprietors or lessees of mines or minerals requiring to use the said tramway or railway. And the said company shall at all times thereafter allow to the public, and to proprietors and lessees aforesaid, free and convenient way-leave and access to all such stations or stopping-places over all lands belonging to or in the possession or occupation of the said company, with all cattle and vehicles to be used for conveying passengers, goods, merchandize, minerals, or other articles, to and from such stations.

Facilities for receiving, forwarding, &c., without undue preference, to be provided.

XIV. The said company shall afford all reasonable facilities for the receiving, storing, forwarding, and delivering of goods upon and from the said tramway or railway and jetty, and no undue or unreasonable preference or advantage to or in favour of any particular person or any particular description of traffic, in any respect whatsoever, shall be given; nor shall the said company subject any particular person or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Tolls, fares, &c., to be charged equally to all persons without distinction.

XV. All tolls, fares, or rates for passengers or goods shall be at all times charged equally to all persons, and after the same rate, whether per ton, per mile, or otherwise, in respect of all passengers, and of all goods of the same description and conveyed or propelled in a like carriage and by a like power, passing only over the same portion of the line of tramway or railway, under the same circum-

stances ; and no reduction or advance in any such tolls, fares, or rates shall be made, either directly or indirectly, in favour of or against any particular company or person travelling upon or using the tramway or railway.

No. 4—1869.

XVI. No steam power shall be used for the conveyance of passengers upon the said tramway or railway, or any section thereof, until the certificate of the Colonial Engineer or other officer appointed by the Governor shall have been obtained, at the expense of the company, that the said tramway or railway or such section thereof is in a fit and proper condition for the safe conveyance of goods or passengers by means of such steam power.

Steam power not to be used for passenger traffic before obtaining certificate of proper officer.

XVII. Such and so many of the provisions of the "Regulation of Railways Act, 1861," as the Governor, with the advice of the Executive Council, shall by any proclamation to be published in the Government Gazette specify and determine, shall come into force, and apply to the said tramway or railway hereby authorized to be constructed and made, as if the said provisions were herein separately set forth and made applicable to the same : Provided, however, and it is hereby declared, that sections 29 and 30 of the said Act shall not be made applicable to the said tramway or railway, save and except the proper and necessary fencing which the said company shall be bound to erect and maintain in and through the limits of the village of Port Nolloth.

Provisions of "Regulation of Railways Act 1861," may, by proclamation, be made applicable to line.

Sections 29 and 30 excepted.

XVIII. The Colonial Government shall have the right of sanctioning any junction of branch lines communicating with the said line of tramway or railway and jetty, from or for the use of any mines which may be opened in Namaqualand, upon such terms and conditions as may be agreed upon between the person desiring to have and maintain such branch line and junction and the said company ; and in case of any question or controversy as to such terms and conditions, such question shall be referred to three persons, one to be nominated by the Governor, one to be nominated by the said company, and the other to be nominated by the person seeking to establish such junction ; and the decision

Right of sanctioning junction of branch lines reserved.

Disputes as to terms to be settled by arbitration.

Decision final:

No. 4—1869.

Costs of arbitration.

of any two or more of such three persons shall be final. The costs of every such arbitration to be in the discretion of the arbitrators.

Right of Government to purchase line and jetty at cost price.

XIX. At any time after the expiration of ten years from the date of opening for traffic of the said jetty, or of any section of the line of tramway or railway from Port Nolloth to Nonams, the Colonial Government shall have the right, if so disposed, to purchase from the said company, and the said company shall, if required thereto, be bound to sell to the Colonial Government the said tramway or railway and jetty, together with all fixed property of the said company lying within the limits of deviation aforesaid, at the cost price of the construction and equipment of the said tramway or railway and jetty and of the purchase and erection of land and buildings, or at any less sum that may be agreed upon between the said company and the Colonial Government.

If Government waive right or decline to purchase, company may remove all plant and material of line.

XX. If at any time after the said right of pre-emption in the last section contained shall have accrued to the Government, the Government shall have waived or declined to exercise the same, or if at the expiration of the further period of twelve months thereafter the said company and the Government shall have been unable to agree upon the terms of sale and purchase as aforesaid, then and thereafter it shall be lawful for the said company to remove and carry away all plant and material from the said tramway or railway, but not to remove the said jetty or any part thereof.

But may not remove jetty.

Company may dispose of its rights, &c., subject to sanction of Governor.

XXI. It shall be lawful for the said company with the previous sanction of the Governor at any time to sell, dispose of, and transfer all their right, title, and interest in and to the said tramway or railway and jetty, and other property acquired or erected, for the purposes of the said tramway or railway and jetty under the provisions of this Act, to any other company or companies or private individuals desirous of purchasing the same; subject, nevertheless, to the provisions, terms, and conditions of this Act, as if the purchaser or purchasers thereof had been herein expressly made liable thereto.

Act to apply to purchasers.

Powers of company may be exercised through an agent.

XXII. It shall be lawful for the said company to

exercise all and singular the powers and authorities by this Act conferred upon the said company by or through the instrumentality of any agent in this Colony appointed under the seal of the said company to be the agent of the said company in this Colony : Provided that notice of every appointment of any such agent, and of his name and address in this Colony, shall be from time to time published in the Government Gazette.

No. 4--1869.

Name and address of agent to be published in Gazette.

XXIII. The said company shall and may sue and be sued within this Colony by the name or style of the "Cape Copper Mining Company (Limited)," and service of process and of all notices or matters of the like nature required by this Act upon the said company, at any office or place of business of the said company in this Colony, shall be good service of such process, notices, and other matters.

How company may sue and be sued.

XXIV. This Act may be cited for all purposes as "The Port Nolloth Tramway or Railway and Jetty Act."

Short title.

No. 5—1869.]

AN ACT

[18th Oct., 1869.

For enabling the Commissioners of the Municipality of Beaufort to borrow a further Sum of Money, for the purpose of strengthening and otherwise improving the Beaufort Reservoir.

WHEREAS by the Act No. 4, 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 two thousand pounds sterling, for the purpose of constructing a reservoir capable of storing such supply of water ; and it is expedient to empower the said commissioners to borrow and take up such moneys as may be required for strengthening and improving the said reservoir beyond the money secured

Preamble.

C

No. 5—1869.

under the said Act, but not exceeding, in the whole another sum of two 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 :

Loan of £2,000 authorized.

I. 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 two thousand pounds sterling, as shall be required for further strengthening and improving the reservoir aforesaid.

First ten sections of Act 4 of 1866-'67 to apply to loan under this Act.

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 copartnership or individual, precisely as if the said sections were, *mutatis mutandis*, herein again set forth and word for word repeated.

Moneys borrowed under Act 4 of 1866-'67 to be first charge, and moneys borrowed under this Act to be second charge on revenue liable for payment.

III. That the sum of two thousand pounds sterling, secured by the Act aforesaid, No. 4, 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 last mentioned Act made liable to the payment thereof, and the moneys to be borrowed under this Act, and the interest thereof, shall form a second preferent charge upon the said revenue.

Provisions of "Public Bodies' Debts Act, 1867," not to affect such preference.

IV. Nothing in the "Public Bodies' Debts Act, 1867," shall interfere with the preference over the revenue to arise from the said reservoir given by this and the said Act No. 4, 1866-'67, nor with the powers given by the fourth to the eighth clauses inclusive of the said Act No. 4, 1866-'67, to assess a rate for payment of the money borrowed under the said Act, 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 proceeding under the "Public Bodies' Debts Act, 1867," at the instance of any creditor of

But creditors under this Act and Act No. 4 of 1866-'67 may prove claims on proceedings taken under Act named.

the municipality of Beaufort, the Supreme Court shall make an order, under the fourth section of the said Act, 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 Act No. 4, 1866-'67, and under this Act, may appear and prove their debts respectively.

No. 5—186

V. This Act may be cited for all purposes as the Short title.  
 “Town of Beaufort Water Loan Act, 1869.”

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No. 6—1869.]                      AN ACT                      [18th Oct., 1869.  
 For Limiting the Operation of the Disabilities Re-  
 moval Act, 1868.

**W**HEREAS doubts have been entertained as to Preamble.  
 the effect of the Act 11 of 1868, called “The  
 Disabilities Removal Act, 1868,” and it is expedient  
 that the same should be put at rest: 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:

The said Act 11 of 1868 shall not be deemed to Rights existing, or  
 contingent, at the  
 time of passing of  
 Act No. 11 of 1868  
 not affected.  
 defeat or take away any rights vested in any per-  
 son at the time of the passing of the same, nor any  
 contingent right limited to any person or class of  
 persons, by virtue of any deed, will, contract, or  
 other instrument of settlement actually executed  
 and become binding on the person or persons exe-  
 cuting the same before the passing of the same  
 Act, anything therein appearing to be enacted not-  
 withstanding: Provided that any such right be  
 claimed within due time from the passing of this  
 Act.

No. 7—1869.]

AN ACT

[18th Oct., 1869.

To Regulate the Conditions upon which it shall be lawful for Divisional Councils to erect Toll-bars and levy Tolls within the Limits of Municipalities or other Corporated Towns.

Preamble.

WHEREAS it is not expedient that Divisional Councils should erect Toll-bars at any spot or place within the limits of any Municipality or of any corporate town without having first obtained the consent of the Municipal Commissioners of such Municipality or the Town Council or other governing body of such corporated 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:

repugnant portions of Acts No. 9, 1858, and No. 10, 1864, repealed.

I. So much of the Act No. 9, 1858, entitled "An Act to provide for the Management of the Public Roads of the Colony," and so much of the Act No. 10, 1864, entitled "An Act to provide for the Construction and Maintenance of the Main Roads of the Colony," as shall be repugnant to or inconsistent with any of the provisions of this Act, shall be and the same is hereby repealed.

Erection of toll-bars and levy of tolls within municipal limits subject to consent of municipal authorities.

II. From and after the taking effect of this Act it shall not be lawful for any Divisional Council to erect any toll-bar or levy any toll at any spot or place within the limits, for the time being, of any municipality or of any corporated town without having first obtained the consent so to do of the Commissioners of such Municipality or of the Town Council or other governing body of such corporate town: Provided that it shall be lawful for any Divisional Council to enter into an arrangement or agreement with such Commissioners or Town Council or other governing body, as the case may be, for the erection of a toll-bar and the levying of a toll within the limits aforesaid, upon the terms of paying to the said Commissioners, Town Council, or other body, such share or proportion of the net proceeds of such toll as shall be by the parties fixed and determined, and from time to time to pay over the same accordingly.

III. Nothing in this Act contained shall extend to or affect any toll-bar or toll which shall be in existence at the time of the taking effect of this Act.

No. 7—1869.

Not to extend to existing toll-bars or tolls.

No. 8—1869.]                      AN ACT                      [18th Oct., 1869.

For Enabling the Commissioners of the Municipality of the Paarl to borrow Moneys for increasing the Supply of Water for the Inhabitants of such Municipality.

**W**HEREAS it is expedient to extend and improve the water-works of the Municipality of the Paarl, by making a new reservoir and cleaning the existing pipes, in order to increase the supply of water to the town of the Paarl: And whereas it is expedient that the commissioners of the Paarl municipality should be empowered to borrow for the purpose an amount of money which shall not exceed in the whole the sum of one thousand five hundred pounds sterling: 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:

Preamble.

I. It shall be lawful for the said commissioners to borrow, from time to time, such sum or sums of money not exceeding in the whole the sum of one thousand five hundred pounds sterling for the aforesaid purpose, 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 under the provisions of Ordinance No. 9 of 1836, Section 28.

Municipal commissioners empowered to raise loan, and to impose rates to provide for payment of principal and interest.

II. The sum aforesaid of one thousand five hundred pounds sterling, or such lesser sum as shall have been borrowed for the purpose aforesaid by the commissioners, is hereby charged upon and made payable out of all and singular the rates and

Loan to be charged on rate levied.



No. 8—1869.

Other funds may be applied to payment of loan and interest.

Not to affect succeeding sections.

Commissioners to grant written acknowledgment of loan.

Form of acknowledgment, and by whom to be signed.

Provisions of "Public Bodies' Debts Act, 1867," to apply.

Separate and distinct accounts to be kept.

Annual accounts to be deposited in office of municipality and be open for inspection.

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 specifically appropriated or required for any other object : Provided, also, that nothing in this section contained shall be construed so as to impair or affect the provisions of any of the next succeeding sections of this Act.

III. The commissioners aforesaid shall grant to the party or parties, or company, society, or copartnership from whom they shall borrow such money aforesaid, a written acknowledgment of, or for, the moneys borrowed by the said commissioners for the purpose aforesaid, not exceeding, in the whole, the sum aforesaid of one thousand five hundred 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.

IV. All moneys borrowed for the purposes of this Act shall be borrowed under the provisions of the "Public Bodies' Debt Act, 1867."

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 water-works contemplated by this Act, distinguishing sums received for private service pipes, or private watercourses, 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 water-works contemplated by this Act ; and the said commissioners shall yearly, and every year, as long as any part of any debt contracted under the authority of this Act shall be in existence, prepare and deposit in the office of the municipality of the Paarl, 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 thirty-first day of December in each year, and shall be deposited in the office of the municipality not later than the first day of March of the year next succeeding.

No. 8—1869.

When to be closed and deposited.

VI. The necessary costs, charges, and expenses of obtaining this Act may be paid by the said commissioners out of the money or moneys so to be borrowed as aforesaid.

Expenses incurred in obtaining Act may be paid out of loan.

VII. This Act may be cited for all purposes as "The Town of the Paarl Water Act, 1869."

Short title.

SCHEDULE.

We, the undersigned, Commissioners of the Municipality of the Paarl, 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 the Paarl Water Act, 1869," 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 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 the Paarl, this—day of —, 18—.

A. B., Chairman of the Municipality.  
 C. D., }  
 E. F., } Commissioners.

Witnesses:

G. H. }  
 I. J. }

No. 9--1869 ]

AN ACT

[18th Oct., 1869.

## For the Better Protection of Bees.

Preamble.

WHEREAS it is expedient, with a view to increasing the production of Honey and Bees' Wax in this Colony, to prevent, by legal enactment, the wasteful destruction of bees and the nests or hives of bees, whether wild or domesticated: 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:

Property in nests or hives of bees vested in occupier of land on which formed,

I. Every nest or hive of bees, whether wild or domesticated, which shall be formed or made or kept on any land the property of a private individual, in this Colony, or on leased Crown land during the continuation of such lease, together with all the bees and honey and wax that may be contained in any such nest or hive, shall be deemed to be the property of the person occupying such land, unless by contract with the true owner of such nest or hive of bees, in case the same be domesticated, the person occupying such land shall have agreed that such nest or hive shall be or remain on such land without prejudice to the right of ownership of such owner in such nest or hive, and the bees, honey, and wax thereof, or any of such things respectively.

Exception.

Penalty for removing hives, or contents thereof, without permission, or injuring or destroying the same.

II. Any person who shall remove, or attempt to remove, any such nest, hive, bees' wax, or honey, not being the true owner thereof under contract as aforesaid, without the permission of such occupier, or who shall wilfully injure or destroy the same, may on conviction be fined any sum not exceeding three pounds sterling, and in default of payment of the same may be imprisoned, with or without hard labour, for any period not exceeding three months, or may be imprisoned, without the infliction of any fine, at the discretion of the magistrate, with or without hard labour for any period not exceeding three months.

Penalty for unlawful possession of beehives or contents thereof.

III. Any person having in his possession or conveying in any manner any bees' nest or hive, or bees, or honey, or wax, which may reasonably be

suspected to have been stolen or unlawfully obtained and who shall not give an account to the satisfaction of the resident magistrate how he came by the same, may be fined any sum not exceeding three pounds sterling, and in default of payment of the same may be imprisoned, with or without hard labour, for any period not exceeding three months, or may be imprisoned, without the infliction of any fine, at the discretion of the magistrate, with or without hard labour, for any period not exceeding three months.

IV. No payment shall be made out of the public revenue for the expenses of any prosecution to be instituted under this Act; but it shall be lawful for the magistrate, in any case in which he shall see cause, to adjudge the person convicted to pay the costs of prosecution.

V. Nothing in this Act shall be held to prejudice or affect the rights of any true owner of any hive of domesticated bees to assert his property therein, save as is hereinbefore expressly provided, at the common law of this Colony, or to alter the common law in respect to theft of any such hive, or the honey, wax, or bees thereof, or to injury done to any property therein, save that the remedies herein provided shall be deemed to be concurrent with and in addition to those provided by the common law.

No. 10—1869.]

AN ACT

[18th Oct., 1869.

To Define, in certain cases, the meaning of the Term "Hawkers or Travelling Traders" for the purpose of "The Stamp Act, 1864."

WHEREAS it is customary for unlicensed persons to carry about for sale divers articles of small value, suitable for household use, whereby the public convenience is promoted and many poor persons earn a livelihood: And whereas it is expedient that persons carrying about such articles for sale shall not be deemed to be hawkers or travelling traders for the purpose of "The Stamp Act, 1864:"

No. 11—1869.

Present owners who were not owners on completion of resurvey not liable for expenses.

III. Nothing in this Act contained shall be taken or construed so as to make the owner or owners for the time being of any farm, who was not the owner or who were not the owners of such farm when the resurvey thereof under the Land Beacons Act, 1859, was completed, liable for any of the expenses of the resurvey of such farm.

No. 12—1869.] AN ACT [18th Oct., 1869.

For Facilitating the Dispatch of Business in the Courts of Resident Magistrates.

Preamble,

WHEREAS by the Act No. 20 of the year 1856, intituled "An Act for amending and consolidating the Laws relative to the Courts of Resident Magistrates," it is enacted that the taking down of evidence in civil and criminal cases, and other acts, shall be performed by the clerks of the said resident magistrates: And whereas it is desirable, with a view to economy and to the better transaction of the business of such courts, that such acts should be done either by the resident magistrate or by his clerk, as may be found convenient: 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:

Duties of magistrate's clerk under Act 20 of 1856 may be performed by magistrate. —

I. Any act which by the said Act No. 20 of 1856, or any schedule thereto, or by any other Act now in force, is required to be done by the clerk to any resident magistrate may henceforth be done by such resident magistrate himself or by his clerk, anything in any such Act or schedule to the contrary notwithstanding.

No. 13—1869.]

AN ACT

[18th Oct., 1869.

To Empower the Governor to raise the Sum of Fifty Thousand Pounds Sterling, for the purpose of redeeming a like Sum raised by means of Debentures under authority of the Act No. 22 of 1859.'

**W**HEREAS a sum of fifty thousand pounds sterling was, under authority of Act No. 22 of 1859, raised by means of debentures charged on the revenues of this Colony, bearing interest at six pounds sterling per cent., and redeemable on the thirty-first day of January, 1870, or so soon thereafter as due notice within the provisions of the said Act No. 22 of 1859 should be given, as therein mentioned, of the intention of the Governor to redeem the same: And whereas it is expedient that the same should be redeemed as soon as may be, and that a sum of fifty thousand pounds sterling should be raised or taken up by the Governor, as hereinafter is provided, for the purpose of redeeming the said debentures: 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. It shall and may be lawful for the Governor to raise and take up upon stock or perpetual annuities, such sum of money not exceeding in the whole the sum of fifty thousand pounds sterling to be applied in redeeming the said debentures issued under the authority of the said Act No. 22 of 1859.

Governor empowered to raise loan upon stock or perpetual annuities.

II. Such stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be opened for that purpose by the Treasurer-General of this 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 for the time being, by command of the Governor, and countersigned by the said

Stock, how to be issued.

No. 13—1869.

Treasurer and by the Auditor of the Colony, and which scrip certificate shall be preserved in the office of the said Treasurer.

Rate of interest.

III. Such stock shall bear interest after the rate of four pounds and ten shillings sterling per centum of the nominal amount of such stock, from the first day of January or the first day of July next before the issue of the said scrip certificate, which shall last happen, and such interest shall be payable thereafter half-yearly, on the first day of July and the first day of January 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 Treasurer-General 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 Treasury in Cape Town.

Date from which interest is to commence.

Interest payable half-yearly.

Interest chargeable on general revenue.

IV. All such interest shall be charged and chargeable on and payable out of the general revenue of the Colony.

Transfer of stock.

V. Such stock shall be transferable by transfer in the books of the Treasurer-General, 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-General a receipt or certificate stating the amount of such stock standing to his credit in such books.

Fee payable on transfer.

VI. 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 sterling 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.

VII. 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.

No. 13—1869.

How stock shall be disposed of.

VIII. The Governor shall from time to time, out of the current revenue of the Colony, pay the interest upon the said stock, and may also out of such current revenue, or any moneys to be appropriated for that purpose, from time to time buy up and cancel any part of such stock.

Governor to pay interest out of current revenue, and may also buy up and cancel stock.

IX. 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, in redeeming the said debentures issued under the authority of the said Act No. 22 of 1859.

Moneys realized to be carried to separate account, and how to be applied.

X. An account showing the amount of all such stock issued under authority of this Act, and the moneys realized by the issue and sale thereof, and the expenditure of all such moneys or of so much thereof as shall for the time being have been expended, vouched by the Auditor-General of the Colony, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof; and an account of the amount of the same stock for the time being outstanding, and of all such sums thereof as shall from time to time be bought in and cancelled, if any, shall also be laid before Parliament in each succeeding session thereof.

Accounts to be laid before Parliament.

No. 14—1869.]

AN ACT

[18th Oct., 1869.

To Continue to the End of 1870 the Act No. 10 of 1864.

**W**HEREAS it is expedient that the provisions of an Act passed in the Session of Parliament holden in the year 1864, numbered 10, and inti-

Preamble.



No. 14—1869.

tuled "An Act to provide for the construction and maintenance of the Main Roads of the Colony," and continued by subsequent Acts, should be further continued until the 31st December, 1870: 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 No. 10 of 1864 continued.

I. The provisions of the Act No. 10 of the year 1864 shall, except any of the same which have been repealed by any subsequent Act, be continued until the 31st day of December, 1870.

No. 15—1869.] AN ACT [18th Oct., 1869.

To repeal Act No. 14 of 1860, intituled "An Act for amending the Act No. 5, 1855, intituled 'An Act for creating Divisional Councils in this Colony,' and to amend the Act No. 4, of 1865, intituled 'An Act to consolidate and amend the several Acts relating to Divisional Councils.'"

Preamble.

WHEREAS in the enumeration in Clause 1 of the Act No. 4 of 1865 of the Acts to be repealed by the said Act, the Act No. 14 of 1860 was omitted, and some of the provisions thereof are inconsistent with the provisions of the said Act No. 4 of 1865, and it is expedient that the said Act No. 14 of 1860, and the Sections 61, 74, 81, and 82 of the said Act No. 4, 1865, should be repealed: 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 No. 14, 1860, and portion of Act No. 4, 1865, repealed.

I. The Act No. 14 of 1860, together with the Sections 61, 74, 81, and 82 of the Act No. 4 of 1865, shall be and the same are hereby repealed.

Quorum, how formed.

II. At every meeting of any divisional council five elected members, with or without the civil commissioner, shall form a quorum.

Travelling allowance to members.

III. It shall be lawful for each divisional coun-

cil, out of any funds at its disposal or under its administration, to pay to each member attending any meeting of such council travelling expenses at a rate, in regard to each member, to be fixed by such council, not exceeding in the whole ten shillings per day, for every day necessary for journeying to, remaining at, and returning from the place of meeting : Provided that no member whose ordinary place of residence shall not be distant more than fifteen miles from the place in which any meeting of such divisional council shall be held shall be entitled to receive any payment for or in regard to his attendance at such meeting, either by way of travelling expenses or otherwise.

Who not entitled.

IV. At every meeting held for the election of auditors, every person proposed to be elected an auditor shall be nominated by one person entitled to vote, and such nomination shall be seconded by some other such person : Provided that no person shall be elected an auditor unless, being personally present, he shall accept the office, or some one of the electors present shall produce his acceptance of the office by a writing under his hand ; and failing such acceptance, verbal or written, then an election of a person in stead of the person in respect of whom such acceptance shall not be given shall at such meeting take place, until some two persons shall be chosen who shall, at such meeting, agree to act.

Auditors, how to be elected.

Acceptance of office to be signified by person elected, either verbally or in writing.

Failing which new election to be had.

V. Should any auditor die or resign, or refuse to act, or become incapable of acting from mental or bodily disease, or cease to reside in the division for which he was elected, or become insolvent, or assign his estate for the benefit of his creditors, or become a contractor with the divisional council of which he is to audit the accounts, or be elected a member of the divisional council, his office shall become vacant, and the remaining auditor shall act alone until the next election of auditors, or of one auditor, as the case may be, as hereinafter provided.

Vacancy in office of auditor, how created.

On vacancy, remaining auditor to act alone.

VI. If the election of auditors provided by the seventy-ninth section of the said Act No. 4 of 1865 should fail to take place, or should become void for

How if election fail, or both auditors vacate office.

D

No. 15—1869.

any reason, or if such election having taken place, both or either of the auditors shall, upon any of the grounds in the immediately preceding section mentioned, vacate office, then the civil commissioner shall, upon such notice as is in the said seventy-ninth section mentioned, convene a public meeting for some convenient day, not being less than fourteen days after the day on which such notice shall be posted, as is in the said section mentioned, and such meeting shall proceed to elect two auditors or one auditor, as the case may be, in manner and form provided by the said section.

Short title.

VII. This Act may be cited for all purposes as the "Divisional Councils Acts Amendment Act, 1869."

No. 16—1869.]

AN ACT

[18th Oct., 1869.]

For the Dissolution of the Kowie Harbour Improvement Company.

Preamble.

WHEREAS, by a resolution of the House of Assembly, under date the 27th day of August, in the year 1868, the Governor was requested to ascertain if the Kowie Harbour Improvement Company would make over their works and property to the Government on the terms proposed by a select committee of the said House, under date the 26th August, 1868: And whereas it is expedient that the Governor should be authorized to carry into effect the arrangement proposed in manner aforesaid: 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 clauses of Ordinance No. 4 of 1852 repealed.

I. So much of the Ordinance No. 4 of the year 1852, intituled "An Ordinance for improving the Kowie Harbour," as is repugnant to or inconsistent with the provisions hereof shall be and the same is hereby repealed.

Governor to call up claims against company.

II. The Governor shall, as soon as may be convenient, by notice to be published in the Government Gazette, call upon all persons having claims

against the Kowie Harbour Improvement Company, or against the directors of the same, to transmit to the Colonial Secretary, on or before a day to be named in such notice, a statement setting forth the nature and amount of such claim.

III. The Governor shall likewise and in like manner call upon all persons holding shares in the Kowie Harbour Improvement Company to declare, on or before some day to be named in the notice, not being earlier than forty-two days from the date of publication of such notice, whether they are severally willing to surrender to the Government of this Colony all rights, titles, and privileges which they may possess as such shareholders.

Governor to call upon shareholders to state whether they are willing to surrender shares.

IV. It shall be lawful for the Governor, as soon as he shall have received from shareholders in the said company owning not less than four-fifths of the paid-up capital of the said company the surrender of their rights, titles, and privileges as aforesaid, to apply any sum or sums of money, not exceeding twenty-five thousand pounds in all, to the extinction and satisfaction of all the claims against the said company of which notice shall have been given to the Colonial Secretary, in terms of the second section hereof. And when and so soon as all such claims shall have been extinguished and satisfied, the Governor shall, by proclamation, to be published in the Government Gazette, declare the said Kowie Harbour Improvement Company to be dissolved, and the same shall thereupon be deemed and taken to have been dissolved accordingly: Provided that if just and lawful claims against the said company, or against the directors of the same, exceeding the sum of twenty-five thousand pounds, shall have been transmitted as aforesaid to the Colonial Secretary, then the said proclamation shall not be issued, unless and until the said directors shall pay over to the Colonial Government such a sum as shall, together with the aforesaid sum of twenty-five thousand pounds, be sufficient to discharge, in full, all just and lawful claims against the said company, or against the directors of the same.

On surrender of shares, Governor may liquidate claims against company;

And declare company dissolved.

If claims exceed £25,000, directors to pay excess.

No. 16—1869.

On dissolution of company, liabilities of shareholders and directors to cease. But Colonial Government not liable for past transactions.

V. From and after the publication of the said proclamation, the liabilities of the shareholders in, and the directors of, the said company shall cease and determine; but nothing in this Act contained shall be construed to impose upon the Colonial Government any liability on account of the past transactions of the said company over and above any guarantee which may have been given according to law for the payment of any sums that may have been borrowed for the use of the said company, and of the interest falling due thereupon.

On dissolution of company, all property, rights, &c., to be vested in the Government.

VI. From and after the publication of the said proclamation all the property, powers, rights, and privileges heretofore possessed and exercised by the shareholders and directors of the said company in or in respect of the said company or undertaking shall be deemed to be transferred to and vested in the Government of the Colony, and the company shall be thereupon discharged from all liabilities to the Colonial Government in respect of moneys heretofore advanced to or incurred for the said company by the Government and of all interest thereon. And it shall be lawful for the Governor, with the advice of the Executive Council, to make such regulations for the management of the affairs of the said company as to him shall appear necessary, and which regulations shall have the force of law until an Act shall have been passed by the Parliament to alter or confirm the same.

And liability of company for moneys advanced by Government to cease.

Governor to make regulations for managing affairs of company.

Governor may borrow moneys for purposes of this Act.

VII. It shall be lawful for the Governor, with the advice of the Executive Council, to take up and borrow upon the credit of the general revenue of this Colony, such sum or sums as shall be necessary for the purposes in the schedule to this Act specified, not exceeding, in the whole, the sum of forty thousand pounds sterling: Provided that an account of all moneys borrowed under the authority of this Act shall be laid before the Legislative Council and the House of Assembly during the next session of Parliament, in order that further provision may, if necessary, be then made touching and concerning the manner in which such moneys shall be repaid or secured.

Account of loans effected to be laid before Parliament.

SCHEDULE.

No. 16—1869.

1. To be applied to or towards the extinction or satisfaction of the certain claims in the second section of this Act mentioned, a sum not exceeding	... ..	£25,000
2. For repaying to the Colonial Government certain moneys heretofore advanced by the said Government to the Kowie Harbour Improvement Company for carrying on the works at the Kowie, a sum not exceeding	... ..	15,000
		£40,000

No. 17—1869.] AN ACT [18th Oct., 1869.

To Enlarge the Powers of the Borough Council of King William's Town to borrow Money.

WHEREAS it is expedient that money should be raised by the Borough Council of King William's Town for the purpose of paying off the existing debts of the Council, raised on mortgage of borough lands and rates under and by virtue of the fifty-first and fifty-second sections of the Ordinance No. 9, 1864, of British Kaffraria, intituled "An Ordinance to repeal the Laws relating to the Corporation of King William's Town : " And whereas it is also expedient that the said Council should be empowered to raise such sum or sums of money as may be necessary to enable them to pay and satisfy such liabilities as may from time to time be incurred by the said Borough Council : 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 Ordinance No. 9, 1864, aforesaid, and especially the fifty-first and fifty-second sections thereof, and so much of any other ordinance, law, or proclamation as is repugnant to or inconsistent with any of the provisions of this Act, shall be and the same are hereby repealed.

II. The Borough Council of King William's Town may, with the consent of the Governor, raise,

No. 17—1869.

And may further borrow money for municipal purposes.

Rights of existing creditors not prejudiced.

Notice to be given of intention to apply for Governor's sanction to borrow.

Where debentures are charged on lands, mortgage to be executed.

Mortgage, &c., not impeached through non-compliance with provisions of this section.

in this Colony or elsewhere, 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, such sum of money as may be needed to pay and discharge the existing debts due and owing by the said Council, contracted under and in terms of the fifty-first and fifty-second sections of the said Ordinance No. 9 of 1864. And the said Council may further raise, in the manner before described, any other or further sum of money which shall be required for any purpose of a municipal nature which the Borough Council shall deem desirable, and the said Governor shall approve of: Provided, always, that nothing in this or the preceding section enacted shall prejudice any rights which may have been acquired by creditors or others under the said fifty-first and fifty-second sections, respectively: Provided, further, that the said Council shall, before applying to the said Governor for his consent, give public notice, at least two months previously, in one or more of the local newspapers, of their intention to make such application, in which notice so published shall be given a full and clear statement of the purpose or purposes for which the money is required: 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 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: Provided, lastly, that no mortgage, debenture, or other security, in regard to which the Governor shall have given his consent to the execution or issue thereof, shall be impeached or questioned by reason or upon the ground that any of the conditions or provisions of this section have not been complied with.

III. The Council may, for any such purpose as is in the preceding section described, mortgage or charge by debentures the municipal rates of the borough of King William's Town, in security for any sum of money to be borrowed by the said Council, under the provisions of this Act: Provided that no sum of money shall be borrowed under the provisions of this section, unless with the previous consent of a majority of the ratepayers of the said borough present at a meeting to be convened by the Council for the purpose of considering the subject; of the object, time, and place of holding which meeting not less than fourteen days' notice shall be given in one or more of the local newspapers as aforesaid.

No. 17—1869.

Council may borrow on security of rates.

But only with consent of majority of rate-payers.

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

Provisions of "Public Bodies' Debts Act" applicable.

V. It shall be lawful for the borough of King William's Town to sue and be sued, in any action which may be brought under this Act by its corporate name, as the Mayor, Councillors, and Burgesses of King William's Town.

How borough may sue and be sued.

No. 18—1869.] AN ACT [18th Oct., 1869.

To Make Provision for clearing the Anchorage of the Port of East London of Anchors and Cables left derelict.

WHEREAS the anchorage of the port of East London is rendered to a great degree unsafe by reason of a number of anchors which have from time to time been left derelict therein, and it is expedient that provision should be made for clearing the said anchorage: 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 such person as shall be thereto appointed by the Governor from time to

Who may search for and recover abandoned anchors.



No. 18—1869.

Disposal of anchors  
recovered.

time to search for and recover as speedily as possible all anchors and cables which may have been lost and abandoned by any ship or ships in the said anchorage, which anchors and cables, when recovered, shall be taken possession of for and on account of Her Majesty in her colonial revenue, and shall be sold or otherwise disposed of on such terms as to the Governor shall seem fit.

When anchor shall be  
deemed to have been  
abandoned.

II. Every anchor and cable shall be deemed to be abandoned if within twenty-one days from the date of the loss thereof no effective measures shall have been taken by or on behalf of the owners of the ship by which the same shall have been lost to raise or recover the same, or if within six weeks from the date of such loss the same shall not actually have been raised and recovered by or on behalf of such owners.

Short title.

III. This Act may be cited for all purposes as the "East London Anchorage Clearance Act, 1869."

No. 19—1869.]

AN ACT

[18th Oct., 1869.

For Applying a Sum not exceeding Four Hundred and Twenty-seven Thousand Three Hundred and Seventy-six Pounds Six Shillings and Eleven Pence for the Service of the Year 1869.

Preamble.

WHEREAS, by the Act No. 30 of 1868, intituled "An Act for applying a Sum not exceeding Two Hundred and Eight Thousand Four Hundred and Two Pounds and Nineteen Shillings for the service of the Year 1869," the said sum of two hundred and eight thousand four hundred and two pounds and nineteen shillings was charged upon the revenue of this Colony for the service of the Government of the Colony until the 30th of June, 1869: 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 of the year 1869, as well that portion for which provision was made by the said Act as the

remaining portion thereof: And whereas it will be expedient, in order to prevent confusion, to repeal the said Act No. 30 of 1868, and to provide by one Act for the service of the year 1869: 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. 19—1869.

I. The Act aforesaid, No. 30 of 1868, is hereby repealed. Act No. 30 of 1868 repealed.

II. The public revenue of the Colony is hereby charged with a sum not exceeding four hundred and twenty-seven thousand three hundred and seventy-six pounds six shillings and eleven pence for the service of the year 1869, in addition to the sums already by law provided for such service; which sum of four hundred and twenty-seven thousand three hundred and seventy-six pounds six shillings and eleven pence shall be applied in manner following, that is to say: Expenditure of 1869.

For the expenditure of the Civil Establishments, a sum not exceeding sixty-four thousand two hundred and seventy-three pounds sixteen shillings and seven pence. Civil establishments.

For the expenditure of the Judicial Establishments, a sum not exceeding thirty-eight thousand three hundred and sixty-one pounds seventeen shillings and six pence. Judicial establishments.

For the expenditure of the Educational Establishments, a sum not exceeding twenty-two thousand one hundred and nineteen pounds. Educational establishments.

For the expenditure of the Medical Establishments, a sum not exceeding thirty-five thousand eight hundred and forty-eight pounds seventeen shillings and six pence. Medical establishments.

For the expenditure of the Police and Gaol Establishments, a sum not exceeding fifty-four thousand six hundred and fifty-three pounds and ten shillings. Police and gaol establishments.

For the expenditure on account of the Border Department (Aborigines), a sum not exceeding sixty-five thousand six hundred and nine pounds nineteen shillings and three pence. Border department (Aborigines).

No. 19—1869. Pensions and retired allowances.	For the expenditure on account of Pensions and Retired Allowances, a sum not exceeding four thousand nine hundred and eighty-eight pounds and one shilling.
Charitable allowances and gratuities.	For the expenditure on account of Charitable Allowances and Gratuities, a sum not exceeding two hundred pounds.
Works and buildings.	For the expenditure on account of Works and Buildings, a sum not exceeding eight thousand three hundred and sixty-eight pounds fourteen shillings and ten pence.
Roads and bridges.	For the expenditure on account of Roads and Bridges, including the Convict Department, a sum not exceeding fifty-four thousand three hundred and seventy-eight pounds and three pence.
Miscellaneous services.	For the expenditure on account of Miscellaneous Services, a sum not exceeding forty-six thousand six hundred and fifty-six pounds and ten shillings.
Interest.	For the expenditure on account of Interest, a sum not exceeding eleven thousand nine hundred and eighteen pounds.
Colonial military allowance.	For the expenditure on account of Colonial Allowances to Military Officers, a sum not exceeding ten thousand pounds.
Repayment of loans.	For the expenditure on account of Loans to be repaid, a sum not exceeding ten thousand pounds.
Total.	Amounting, in the whole, to four hundred and twenty-seven thousand three hundred and seventy-six pounds six shillings and eleven 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. 20—1869.]

AN ACT

[18th Oct., 1869.]

For Amending the Act No. 13, 1868, intituled “An Act for defining and establishing the Constitution of the Joint-stock Company or Copartnership called ‘The Eastern Province Bank.’”

**W**HEREAS by the sixty-second section of Act Preamble.  
No. 13 of 1868, intituled “An Act for defining and establishing the Constitution of the Joint-stock Company or Copartnership called ‘The Eastern Province Bank,’” it is provided what shall be the nature of the business of the said company: And whereas it is expedient that the nature of such business should be more clearly defined: 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. The sixty-second section of Act No. 13 of 1868 Section 62 of Act No. 13 of 1868, repealed.  
is hereby repealed.

II. The business of the said Eastern Province Business of Eastern Province Bank.  
Bank, as well as its several branches established, or hereafter to be established, in pursuance of this Act, shall be confined to banking in all its branches, in the keeping of cash accounts, and receiving deposits, and issuing and circulating promissory notes payable to the bearer on demand at the office from which they may have been issued, such notes issued and in circulation not at any time to exceed one-half the amount of the capital stock of the company actually paid up, in the discounting of bills of exchange, acceptances, promissory notes, and bonds and other negotiable securities, public or private; but the said company shall not advance money on What business not allowed.  
security of lands, or houses, or ships, or on pledge of merchandise, nor hold land or houses, except for the transaction of its business, nor own ships, or be engaged in trade, except as dealers in bullion, or bills of exchange, and shall confine its transactions to discounting commercial paper and negotiable securities, and other legitimate banking business. The company may, however, accept lands, or houses, But lands, shares, &c., may be taken in security for debt, &c.

No. 20—1869.

or ships, or shares in its capital or stock, or other real or personal property, in liquidation of or as a security for any debt *bonâ fide* previously due to the company, or as a security for payment of any sum for which any person may have rendered himself liable to the company, and hold them for such reasonable time as may be necessary to dispose of and convert the same into money, and in no case whatever shall the said company engage in any manner or description of trade or mercantile business.

Bank not to hold or make advances on its own shares.

III. The said bank shall not hold shares in its own stock nor make advances on the security of any such shares; without prejudice, however, to any rights or powers given in and by the last preceding section.

Discounts or advances to directors or officers limited.

IV. The discounts or advances by the bank on securities bearing the name of any director or officer thereof as drawer, acceptor, or endorser, shall not at any time exceed one third of the total advances and discounts of the bank.

Liabilities not to exceed three times the amount of paid-up capital.

V. The total amount of the debts and liabilities of the bank, whether upon bonds, bills, promissory notes, or otherwise, contracted over and above the amount of deposits on banking accounts with the said bank, or any of its branches, shall not at any time exceed three times the amount of the capital stock subscribed and actually paid up.

Issue and payment of promissory notes.

VI. All promissory notes of the bank, whether issued from the head office or any of the branches, shall bear date at the place of issue, and be payable on demand in specie, or in such Government paper currency as may have been legalized and declared to be a legal tender or cash by any law or laws of this Colony.

On stispension of payment, privileges under this Act and Act No. 13, 1868, to cease.

VII. In case the said bank shall suspend payments in specie or by Government paper currency as aforesaid on demand at any of its establishments for a given number of days (not in any case exceeding sixty) within any one year, either consecutively or at intervals, or in case of any other breach of the special conditions upon which the company is empowered to open banking establishments or to issue and circulate promissory notes,

such privileges as may have been granted by this Act and by Act No. 13 of 1868, intituled "An Act for defining and establishing the Constitution of the Joint-stock Company or Copartnership called 'The Eastern Province Bank,'" shall cease, determine, and be forfeited as if the period for which they had been granted had expired.

No. 20--1869.

VIII. This Act may be cited for all purposes as the "Eastern Province Bank Act Amendment Act, 1869." Short title.

No. 21--1869 ]

AN ACT

[18th Oct., 1869.

To Make Better Provision for the Punishment of Juvenile Offenders convicted in Courts of Resident Magistrates.

**W**HEREAS it is desirable to provide means for the more suitable punishment by resident magistrates throughout the Colony of juvenile offenders : 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. So much of the forty-second and forty-third sections of the Act No. 20, 1856, intituled "An Act for amending and consolidating, the Laws relative to the Courts of Resident Magistrates," as shall be repugnant to or inconsistent with the provisions of this Act, is hereby repealed. Repugnant portions of sections 42 and 43 of Act No. 20, 1856, repealed.

II. As often as any male person not exceeding the age of fourteen years shall be convicted, by or before any court of resident magistrate of any crime or offence for which the punishment of whipping might be lawfully inflicted in case of a second or subsequent conviction, then it shall be in the discretion of the said court, as well in the case of a first conviction as of any subsequent conviction, to sentence such offender to receive in private a moderate correction with a cane or rod, not exceeding fifteen cuts, which correction shall be administered Juvenile offender may on first or subsequent conviction be sentenced to private whipping.

No. 21—1869.

by such person and in such place as the said magistrate shall appoint.

Father of offender may administer correction, *in the*

III. In case the father or reputed father of any such offender shall, in person, express a desire to correct such offender himself in the manner adjudged by the court, it shall be lawful for the resident magistrate to permit him to do so, in the presence of any suitable person, to be selected by such magistrate, to witness the administration of such correction.

Where offender's age be unknown.

IV. Should the age of any such offender be unknown, then it shall be lawful for the court of resident magistrate before which he shall be tried to judge of the age of such offender by his appearance, or according to such other materials for forming a judgment upon the subject as shall exist; and no error which shall be *bonâ fide* made by any magistrate in judging of the age of any such offender shall vitiate or affect the sentence by which such offender shall be sentenced to receive, and shall have received, any such correction as aforesaid.

No. 22—1869.]

AN ACT

[18th Oct., 1869.

To Continue to the End of 1870 the Act No. 32 of 1868.

Preamble.

WHEREAS it is expedient that the provisions of an Act passed in the session of Parliament holden in the year 1868, numbered 32, and intituled "An Act to provide for the maintenance of the Main Northern Road," should be continued until the 31st December, 1870: 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. 32 of 1868 continued,

I. The provisions of the Act No. 32 of the year 1868 shall be continued until the 31st day of December, 1870.

No. 23—1869.] AN ACT [18th Oct., 1869.

To Repeal the Act No. 29, 1861, intituled "Act for establishing a Municipality for the City of Graham's Town," and to make other provisions in lieu thereof.

**WHEREAS** it is expedient to repeal the Act No. 29 of 1861, intituled "Act for establishing a Municipality for the City of Graham's Town," 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 :

I. The Act No. 29, 1861, shall be and is hereby repealed: Provided, however, that such repeal shall not affect the municipal regulations at present in force, but the same shall continue to be in force and operative until such time as the same shall be altered or new ones published under this Act; and provided, also, that the present mayor, councillors, and officers of the municipality shall, on the taking effect of this Act, until other persons shall be elected or appointed in their places respectively hereunder, be, and they are hereby declared to be the mayor, councillors, and officers, respectively, of the municipality created by this Act; and shall, during the time aforesaid, do and perform all acts, matters, and things, and be vested with all the rights and powers, and be subject to all the liabilities which are authorized or required to be done or performed by, or are vested in or imposed upon the mayor, councillors, or officers, respectively, of the municipality by this Act: Provided, also, that the assessment roll 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.

Preamble.

Act No. 29, 1861, repealed; but existing municipal regulations to continue in force until altered.

Present mayor, councillors, and officers to remain in office till election of others.

Existing assessment roll and rates assessed to be taken as framed and assessed under this Act.

II. The municipality of Graham's Town shall

Extent of municipality of Graham's Town.



No. 23—1869.

Boundaries.

comprehend the city of Graham's Town, including all common lands and property within the area formed by the boundaries hereinafter more particularly mentioned and described: to wit, on the south by the northern boundaries of Featherstone's and Amos's farms, to the south-western beacon of Mr. Fuller's farm; thence to the north-west corner of Mr. Fuller's farm, to the south-west corner of Hart's farm (now Carlisle); thence in a northerly direction along the western boundaries of Hart's and Fynn's farms (now Carlisle's), to the northern boundaries of Fynn's and junction of Burnet's farm (also now Carlisle's); thence in a northerly direction along the north-west and north boundaries of Burnet's farm (now Carlisle's), to a junction with Carlisle's farm, "Belmont;" thence along the south-western boundary to the north-east corner beacon of "Belmont;" and thence along the north-east boundary of the said estate to a junction of "Grobbelaar's Kloof;" thence along the north-west and north-eastern boundaries of Grobbelaar's Kloof and R. H. Rubidge's farm to a junction beacon of W. Clark's and A. B. Diet's farms (now Carlisle's); thence along the south-western boundaries of Diet's (now Carlisle's) farm and Campbell's farm (now Cawood's) to the southern boundaries of "Saxfold" and "Burntkraal," to the north-east corner of "Zypherfontein;" thence in a southerly direction along the eastern boundaries of the said farm to the north junction beacon of Goodwin's Kloof; thence north-east along the east and southern boundaries of the said farm to the north-east beacon of "Howison's Poort;" thence along the south-east boundary of said last-mentioned farm to the south-western and north-western boundaries of Featherstone's farm (now Wood's).

Style of corporation.

III. There shall continue to be in the said city a body corporate, which shall take and bear the name of "The Mayor, Councillors, and Citizens of Graham's Town," 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 do and have. No. 23—1869.

IV. The council of the said municipality shall consist of twenty-four councillors, one of whom shall be the mayor. Mayor and councillors.

V. The said municipality shall be divided into eight wards,—to wit : Municipality divided into eight wards.

Ward No. 1. Bounded south by Prince Alfred Row, New-street ; east by Somerset-street ; north by City Boundary and Bedford-street ; and west by City Boundary.

Ward No. 2. Bounded south by High-street ; east by Hill-street ; north by City Boundary ; west by Somerset-street and Bedford-street.

Ward No. 3. Bounded south by City Boundary ; east by Hill-street ; west by City Boundary ; north by High-street.

Ward No. 4. Bounded south by High-street ; east by City Boundary ; north by City Boundary ; west by Hill-street.

Ward No. 5. Bounded south by City Boundary ; east by Bathurst-street ; north by High-street.

Ward No. 6. Bounded south by Beaufort-street ; east by City Boundary ; west by Bathurst-street ; north by High-street.

Ward No. 7. Bounded south by City Boundary , east by York-street ; north by Beaufort-street ; west by Bathurst-street.

Ward No. 8. Bounded south by City Boundary ; east by City Boundary ; north by Beaufort-street ; west by York-street.

VI. The said council shall from time to time, if they shall think fit, alter the boundaries of the said wards. Council may alter boundaries of wards.

VII. Three councillors shall be elected for each ward in manner hereinafter mentioned. Three councillors to each ward.

VIII. Every male person of full age, being duly enrolled, in manner hereinafter mentioned, who is the occupier of any immovable property in any ward of the municipality, of the yearly value or rental of not less than ten pounds sterling, in regard to which Who qualified to vote at election of councillors.

No. 23—1869.

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 entitled and qualified to vote at such election.

Who disqualified.

IX. The following persons shall be disqualified from voting at any such election: Persons who have been convicted of treason, murder, rape, theft, receiving stolen goods knowing them to have been stolen, fraud, perjury, forgery, or any attempt to commit any of such offences, and who shall not have received a free pardon.

As to joint occupiers.

X. When any such property as aforesaid is jointly occupied by more persons than one, each of such joint occupiers shall, being duly enrolled, be entitled to vote in respect of such property: Provided the yearly value or rental of such property shall be an amount, when divided by the number of such joint occupiers, equal to the sum of ten pounds for every and each such joint occupier.

Who ineligible as councillor.

XI. No person shall be eligible to be elected a councillor for any ward who is disqualified from voting as in the ninth section is mentioned, or who has not been an occupier of immovable property within the municipality, of the yearly value or rental of not less than ten pounds sterling, for not less than twelve months next before the election, or who is the occupier of any such property in regard to which any municipal rate shall at the time of the acceptance by such person of such requisition as is mentioned in the next section be due and in arrear: Provided that different premises or properties, occupied in immediate succession, shall satisfy this section as to occupation as if they had been one and the same premises or properties.

Candidates to have requisitions.

XII. No person shall be deemed a candidate at any election, nor qualified to be elected a councillor for any ward, unless he 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, at least fourteen days before such election is appointed to take place.

Annual election of councillors.

XIII. On the first Wednesday in July in every

year an election by ballot shall take place of eight councillors, being one for each ward of the said municipality.

XIV. On or before the first Monday in September in every year the town clerk shall cause a true list to be made, in alphabetical order, of all men qualified to vote at the election of councillors for the city of Graham's Town, setting forth the Christian and surname of each at full length, the place of his abode, his business or quality, the nature of his qualifications, and the ward or wards in which he is entitled to vote, and shall transmit the same to the mayor.

List of voters to be framed annually.

XV. The mayor shall forthwith cause such list to be published by affixing it in some conspicuous place upon the municipal office, and to every list so published he shall subjoin a notice of not less than fourteen days that all objections thereto will be heard and determined at such time and place as he may fix for that purpose.

List to be published and day fixed for determining objections thereto.

XVI. The mayor, and two councillors to be elected for that purpose by the council, shall have the power, after hearing such objections in open court, to strike out of the lists the names of all persons not entitled to be therein, and also to insert in the said lists the names of any persons which have been improperly omitted.

List to be revised and amended.

XVII. The list so settled shall be called the Citizens' Roll of Graham's Town, and shall be brought into use on the first Wednesday in November in each year, and shall continue to be used for one year thence next ensuing.

Designation of list.

XVIII. The mayor shall, immediately after the settlement aforesaid, cause such roll to be published by posting the same in front of the municipal office.

Roll to be posted.

XIX. The mayor shall, at least ten days before the day appointed for the election in each ward, cause the names of the candidates for election thereat to be published as provided in the eighty-second section of this Act, and shall cause the names of the persons who have signed such requisition as is hereinbefore mentioned to be published by affix-

Names of candidates and requisitionists to be published.

- No. 23—1869. ing the same on some conspicuous place on the municipal office.
- Election of councillors. XX. Within fourteen days after the publication of the names of the several candidates invited to stand as councillors, the mayor shall, by a public notice of not less than fourteen days, in accordance with the eighty-second section of this Act, call separate meetings of the citizens of each of the wards respectively, to be holden at some convenient place or places, for the election of the councillors required to fill the vacant seat out of the number of candidates invited for each ward, except when the number of candidates does not exceed the number of vacancies, as hereinafter mentioned.
- Mayor to call meeting.
- Who to preside at meeting. XXI. Every such meeting for the election of any councillor or councillors shall be presided over by a returning officer, to be appointed for that purpose by the mayor. The poll shall commence at ten o'clock in the forenoon, and shall finally close at three o'clock in the afternoon of the same day.
- Duration of poll.
- Electors to vote in person. XXII. At every meeting for the election of any councillor or councillors who shall have accepted a requisition in manner aforesaid every qualified citizen, duly enrolled as aforesaid, shall be entitled to vote in person, but not otherwise.
- Manner of voting. XXIII. The votes shall be taken by ballot, and the person or persons having the greater number of votes shall be taken to be duly elected : Provided that all candidates shall have the right to be present, either personally or by proxy, during the whole time the voting is going on, and when the contents of each ballot-box are examined by the returning officer.
- Candidates may be present during voting and examination of contents of ballot-box.
- How in case of equality of votes. XXIV. If such ballot shall be rendered indecisive by reason of an equality of votes, the returning officer shall thereupon publicly determine by lot which of the persons shall be elected for whom an equal number of votes shall have been given.
- When number of candidates shall not exceed number of vacancies. XXV. In the event of the number of duly qualified candidates invited in writing to stand as councillors for any particular ward being only sufficient to fill the vacancies in the representation of such ward, the mayor shall forthwith declare such candidates duly elected.

XXVI. The returning officer for each ward shall immediately transmit the names of the persons elected, together with the final state of the poll, to the mayor.

No. 23—1869.

Returning officer to transmit names of persons elected with final state of poll to mayor.

XXVII. When the mayor has received the names of the persons so elected, or when he himself has declared persons elected as aforesaid, he shall forthwith cause a list of all such persons, with the names of the wards for which they are elected, to be published by advertisement in one of the local newspapers.

Names of persons elected to be published.

XXVIII. Of the persons so elected as hereinbefore mentioned, the councillor in each ward who shall have been elected by the smallest number of votes shall vacate his seat at the expiration of one year from the first Wednesday in July, and in case, by reason of any such councillors having been elected by an equal number of votes, or in the event of the election having been an uncontested one, it shall be uncertain which of them shall vacate his seat, the mayor shall cause such question to be determined by lot, and the remaining councillors for each ward shall vacate their seats in like manner, at the expiration of two and three years respectively; and upon the retirement from office of such councillors respectively, they shall be succeeded by councillors who shall be elected as hereinbefore provided, so that at every subsequent yearly election there shall be elected one councillor for each ward, who shall enter upon his office on the first Wednesday in July next after his election, and continue therein for three years; and every retiring councillor shall be eligible for re-election.

Councillors, how long to remain in office.

XXIX. If any councillor shall die, resign, or become insolvent or otherwise disqualified, or shall be absent from the meetings of the council for a period of four 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 for the remainder of the term for which the councillor who has vacated office, and whom he shall succeed, would otherwise have remained in office: Provided,

Casual vacancies how to be filled up.

- No. 23—1869. always, that if such absence as aforesaid arise from sickness or other sufficient cause, the council shall be empowered to extend the term for one month longer.
- Auditors to be appointed. XXX. At the second ordinary meeting after the annual election of the mayor in July, the mayor and council shall appoint from among the citizens two persons to be auditors of the accounts of the council, who shall continue in office until the same day in the year following.
- Who ineligible as auditor. XXXI. No person shall be eligible as an auditor who shall not be a duly enrolled citizen, or who shall be a councillor, treasurer, clerk, or other officer of the municipality.
- In case of vacancy fresh election to take place. XXXII. If any auditor shall die, resign, or become insolvent, or otherwise become disqualified, another auditor shall be elected in his stead, on a day to be fixed by the mayor.
- How in case of equality of votes. XXXIII. In case of an equality of votes at any election of auditors, the mayor shall determine by his casting vote 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 mayor. XXXIV. On the Thursday following every yearly election of councillors, those of the councillors then in office, together with the newly-elected councillors, shall choose from amongst themselves, by ballot, the mayor of the municipality for the following year, and such mayor shall enter forthwith upon his office, and shall continue therein for one year then next ensuing, provided that the chair at such meetings of the council as shall be held for the purpose of such election shall be taken by some member of the council who is not a candidate for the office of mayor.
- Duration of office. XXXV. 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.
- Mayor may resign. XXXVI. If any mayor shall die, or resign, or shall become insolvent or otherwise disqualified as a councillor, or shall be absent from the municipi-
- When mayor shall be deemed to have vacated office.

pality without the permission of the council for one month, or shall neglect to attend the meetings of the council for the period of three months, such mayor shall be held to have vacated office, and the council shall elect out of their own number a successor for the remainder of the year, a week's notice having been given to each councillor of such election.

XXXVII. If any member of the council, or person holding any office in the gift or disposal thereof, shall, directly or indirectly, as agent or otherwise, have any share or interest in any contract with or employment by 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 the lighting or supplying with water or insuring against fire any part of the municipality, or shall receive any fee, reward, or compensation for any vote given or act performed in his capacity of councillor or officer, he shall thenceforward cease to be a member of the council, or to hold such office as aforesaid; and shall, upon conviction, be liable to a penalty not exceeding fifty pounds sterling: Provided that the case of the receipt of salary by an officer for the performance of the duties of his office, and that the case of a lease between the council and a councillor, as landlord and tenant, be excepted.

XXXVIII. 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, 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 hold markets; to light or provide for the lighting of the

Members or officers of council being interested in contracts with council to forfeit seats or office.

And liable to penalty.

Exceptions.

Powers and duties of council in regard to general purposes of municipality.



No. 23—1869.

streets ; and to hold, occupy, or purchase any land, and to erect or purchase and keep in repair any building for either of the aforesaid purposes. To cause all buildings which shall be certified in writing by any three 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 four hundred persons to be provided with sufficient and proper means of egress in case of fire or other like casualty. To assize weights and measures according to the standards in force by law ; to grant permits for any purpose to be defined by the municipal regulations of the municipality for the time being ; and to levy tolls and dues as hereinafter provided. And by municipal regulations, to do any of the following acts, that is to say : 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. 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, 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 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 by some such municipal regulations as is in the next succeeding section mentioned.

No tolls, charges, penalties, &c., to be imposed except under municipal regulations.

Council to frame municipal regulations.

XXXIX. It shall be lawful for the council at any

meeting, at which not less than sixteen 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 and all such as may be expedient for the more effectual working of the powers hereby given.

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XL. No municipal regulation shall be of force until it shall have been by the council submitted to the Governor, and shall have been approved of by him, with the advice of the Executive Council, and published in the Government Gazette.

Regulations to be approved by Governor and published.

XLI. 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 sixteen members of council were present at the meeting at which it was framed, nor shall any evidence be received to prove the contrary.

Publication of regulation sufficient proof of validity.

XLII. It shall not be competent by any municipal regulation to provide for punishing the contravention thereof in any higher or more severe manner than by a fine not exceeding ten pounds: Provided that it shall be competent for any such municipal regulations to provide that if the person convicted of contravening the same shall not forthwith pay the fine imposed on him, he shall be liable to be imprisoned, with or without hard labour, for any period prescribed by such municipal regulation: Provided, moreover, that such period shall not exceed three months.

Penalties for contravening regulations limited.

XLIII. All land or immovable property heretofore vested in the council of the municipality now existing for the city of Graham's Town shall, after this Act shall come into force, and by virtue thereof, be transferred to and vested in the corporation heretofore mentioned, upon the like trusts and purposes for which the same were originally granted or transferred; and in like manner all liabilities, debts, contracts, or engagements incurred, made, or entered into by the aforesaid council for the time being, or their predecessors, on behalf of the municipality of Graham's Town, shall become and be the liabilities, debts, contracts, and engagements of the said corporation.

All property vested in existing council vested in council under this Act.

Existing liabilities, contracts, &amp;c., binding on new council.

No. 23—1869.

Council may sell or mortgage lands.

XLIV. The council may, with the consent of the Governor of this Colony, raise, by sale at public auction or by mortgage of any land or property belonging to the corporation, or by debentures on the security charged upon such land or property, any sum of money which shall be necessary in order to carry on any important public work, or other municipal purpose which the council shall deem desirable, and of which the Governor shall approve: Provided that the council shall, at least two months previously to such intended sale, or mortgage or issue of debentures, cause to be published a full and clear statement of the situation, nature, and extent of such land or property, and the object and purpose for which the money is required.

But not without previous public notice.

Where debentures are charged on lands, mortgage to be executed.

XLV. 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 select, 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.

Council may borrow security of on rates.

XLVI. The said council may for the like purpose in the preceding section mentioned, with the consent of the majority of the enrolled citizens of the said municipality, present at such meeting, to be convened in manner hereinafter provided, mortgage, or charge by debentures, one-third of the rates of the said municipality for a period not exceeding ten years: Provided, nevertheless, that only one such loan shall exist at the same time, and that every such loan shall be called for by public tender.

Mortgages, how to be executed.

XLVII. 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 the mayor and be countersigned by the town clerk, and every debenture issued

under this Act shall be executed in the same manner under the common seal.

No. 23—1869.

XLVIII. 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.

New loans may be raised for purpose of paying off loans falling due.

And whereas the council of the municipality of Graham's Town, elected under the provisions of the Act aforesaid, No. 20 of 1861, and acting under the provisions of the said Act, heretofore borrowed and took up from a certain company or copartnership, trading as bankers in Graham's Town under the style or title of the frontier Commercial and Agricultural Bank, the sum of six thousand pounds sterling, which sum was borrowed and taken up for the completion of a certain reservoir and other works necessary for supplying water to the inhabitants of the said municipality, and which sum was applied to such purpose: And whereas there now remains due and owing to the said bank, upon or in regard to the said loan, a balance or sum of five thousand pounds sterling: And whereas it has become necessary that the said balance or sum now due to the said bank should be paid off and discharged, and that for the raising or obtaining of the necessary money the council to be elected under the provisions of this Act should be authorized and empowered to

As regards loan taken up from Frontier Commercial and Agricultural Bank.

No. 23—1869.

mortgage landed property by this Act vested in the corporation created by this Act : Be it therefore enacted as follows :

Powers to raise funds to pay off loan.

XLIX. It shall be lawful for the council of the municipality created by this Act, and the said council is hereby empowered, to borrow or take up from any person or persons, or company, such sum, not exceeding five thousand pounds sterling, as shall be necessary for paying off or discharging the balance or sum now due as aforesaid to the bank aforesaid, and, for the purpose of securing the principal and interest of the sum so borrowed, to mortgage to the person, persons, or company lending the same so much of the landed property vested in the corporation created by this Act as shall be necessary and be agreed upon : Provided that the person, persons, or company lending the said sum shall not be bound to see to the application by the council of the sum so lent, nor shall the mortgage granted by the said council for securing the principal and interest of such sum be impeached or questioned upon the ground of any irregularity which may be alleged to have been committed in regard to the borrowing from the bank aforesaid the sum which the council is by this section empowered to borrow money to discharge.

Lender not bound to see to application of sums lent.

Mortgage not affected by irregularity in previous loan.

Municipal lands and buildings may be leased.

L. The council may lease any portion of the lands belonging to the municipality, or any buildings already erected thereon, for a period not exceeding twenty-one years : Provided that such leases shall be put up to public competition, after public notice of not less than fourteen days, and that they shall contain a power to re-enter for non-payment of rent or non-performance of covenants.

Mode of leasing and conditions of lease.

Mines and quarries.

LI. The council may by public sale or tender, after public notice, from time to time, lease the privilege of working any mines or quarries belonging to the municipality, for any term not exceeding five years.

Lessee not to sublet without consent of council.

LII. No lessee of any such lands, buildings, mines, or quarries as aforesaid shall assign or sublet the same without the previous consent, in writing, of the council ; and any assignment or subletting,

without such consent, shall, as against the council, be null and void.

No. 23—1869.

LIII. 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, for such purpose, to dig out or carry away any materials belonging to any person within the said municipality; or, for the purpose of supplying the said city with water, to appropriate or make use of any springs, streams, or other supplies of water within the said municipality belonging to any person who shall not be bound by law to allow the council so to do, 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 for the purchase or hire, as the case may be, of any such land, buildings, materials, springs, streams, or other supplies of water as aforesaid, or for the payment of consequential damages, and generally to enter into such contract or contracts relative to the obtaining of any such land, buildings, materials, springs, streams, or other supplies of water, upon such terms and conditions as the said council shall judge expedient. And in case any such person and the said council shall not agree upon the purchase money, hire, or 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 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 a certain time to be specified in the said notice, not being less than fourteen days from the service of the said notice, whether he is 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, the said council shall, by another notice in writing, call upon such person to refer to arbitration the amount of recompense or compensation to be paid

Council may purchase or hire lands, buildings, materials, &c., for public improvements, and appropriate streams and fountains.

How where parties disagree as to terms of sale or purchase.

Arbitration may be referred to.

No. 23—1869.

to him 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 municipality, by the town clerk for the time being, and by the person 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 before commencing such arbitration to appoint an umpire, and their or his 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, Eastern Districts Court, or any circuit court of this Colony, 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 same 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, it shall be lawful for the said council, and it is hereby authorized, to lodge in some joint-stock bank in the Eastern Province of this 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 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, materials, springs, streams, or other supplies of water 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

How where owner of property neglects or refuses to name arbitrator.

council a sufficient title to the use of or property in the land, buildings, materials, springs, streams, or other supplies of water aforesaid had been duly done and performed.

No. 23—1869.

LIV. In case the said council shall, for any purpose in the last foregoing section in that behalf mentioned, 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, or to appropriate or make use of any springs, streams, or other supplies of water in the last preceding section mentioned, of which the owner shall be absent from the Colony, and not represented therein by any agent duly accredited, or shall not be discoverable, 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 months, describing, as accurately as may be, the materials, land, buildings, springs, streams, or other supplies of water which are required to be taken or used, and calling by name on the owner of the said land, buildings, materials, springs, streams, or other supplies of water, if known, or, if not known, then upon the owner, whoever he may be, to take notice that the said council is ready and willing to treat with the owner, or any person duly authorized by him, for the recompense or compensation to be made or paid by the said council for the said land, buildings, materials, springs, streams, or other supplies of water, and requiring such owner to apply within six months from the date of such notice, which shall be the day of its first publication, to the said council, stating the recompense or compensation claimed, and if the owner 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 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 shall not apply to the said council

How if owner of property be absent or not discoverable.



No. 23—1869.

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, materials, springs, streams, or other supplies of water required, and such person shall make oath before any 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, materials, springs, streams, or other supplies of water 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 July, 1833, in regard to moneys placed in the said fund belonging to the 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, buildings, materials, springs, streams, or other supplies of water 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 land, buildings, materials, springs, streams, or other supplies of water aforesaid had been duly done and performed.

Value to be paid into Guardians' Fund.

Questions to be decided by majority of votes.

But not to affect sections 39 and 40.

Ordinary meetings.

Special meetings.

LIV. All acts, matters, or things hereby authorized or required to be done by the council, and all questions that may come before it, 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 seven members of the council shall attend: Provided that nothing herein contained shall extend to alter or effect the provisions of the thirty-ninth and fortieth sections of this Act.

LVI. An ordinary meeting of the council shall take place at least once in every week, and all meetings of the council shall be open to the public.

LVII. The mayor, or any three councillors, may at any time call a special meeting of the council,

provided that he or they cause a notice of the time and place of such intended meeting, specifying the object thereof, and signed by him or them, or by the town clerk, to be served on every councillor, either personally or by leaving the same at his usual place of abode, twelve hours at least before such meeting.

No. 23—1869.

LVIII. At every meeting of council, the mayor, if present, shall preside ; and in case of his absence, the councillors present shall elect a chairman from among themselves.

Who to preside.

LIX. In all cases of equality of votes, the mayor or chairman, as the case may be, shall have a second or casting vote.

Chairman to have casting vote.

LX. Minutes of the proceedings of every meeting of the council shall be regularly 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.

Minutes of proceedings to be kept.

LXI. It shall be lawful for the council to appoint out of their own body such and so many committees, either of a general or special nature, and consisting of such number of members as to the council may seem fit, for the purpose of examining and reporting upon any matter which, in the judgment of the council, would be more conveniently examined into by means of a committee : Provided, always, that the proceedings of every such committee shall be regularly entered in the minute book and reported to the council. The mayor to be *ex-officio* member of all such committees.

General and special committees.

LXII. 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.

Appointment and removal of officers.

LXIII. The said council are hereby empowered

Appointment of streetkeepers and policemen.

F

No. 23—1869.

from time to time to appoint and employ such number of able-bodied streetkeepers and policemen 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 to provide all such streetkeepers and policemen with such clothing, arms, ammunition, and weapons, and shall appoint to them such duties and hours and times of duty, and shall also make such rules, orders, and regulations relative to such streetkeepers and policemen and their duties, as shall be deemed fit.

Streetkeepers and policemen to act as constables.

LXIV. All such streetkeepers and policemen shall act as constables while in the execution of their duties under this Act, and are hereby invested with and shall have and enjoy the like powers and authorities, privileges, and immunities, and shall be subjected to such and the like penalties and forfeitures, as constables are invested with or shall or may have or enjoy or are or may be subject or liable to by law.

Council empowered to raise funds for public improvements.

LXV. For the purpose of raising the means for 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 waterpipes, fire-engines, and appurtenances; 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 is 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, 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

By imposing certain dues and fees.

Levying rate on fixed property.

manner hereinafter provided, a rate and assessment upon all immovable property within the municipality, the value of which to be ascertained in the 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 sixteen members of the said council; 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, alms-houses, or hospitals, nor on any buildings appropriated to public worship, nor upon burial-grounds, nor upon buildings or lands attached thereto solely appropriated to the purposes of education.

No. 23--1869.

Not less than sixteen members to be present at meeting levying rate.

Certain property not rateable.

LXVI. 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; and no water-rates shall be imposed or levied on any person not supplied with the water provided by the municipality.

Persons not using market not liable to dues.

Persons not supplied with water not liable to water-rate.

LXVII. All persons owning or occupying property within the limits of the municipality, excepting such property as is hereinbefore exempted, shall be liable to be rated on account of such property to the city 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.

Who liable to be rated.

Owner and occupier not jointly liable to assessment in respect of same property.

LXVIII. 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 of fixed property.

LXIX. 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 all reasonable times, inspect the same, and take extracts therefrom; and the council shall, by public notice, announce for general infor-

Valuation open for inspection.

Court for hearing and determining objections.

- No. 23—1869.            mation that it will, upon some day 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 fourteen days at least before the day appointed therein for the holding of such court: 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 notice aforesaid in one or more of the local newspapers.
- Notice of holding to be given. Court to revise valuation list. LXX. 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 for that purpose may take the oath of any person whom it shall see fit to examine (which oath the presiding member of the council is hereby authorized to administer), and shall confirm or correct any valuation objected to: Court may adjourn. 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.
- Decision of court final. LXXI. The decision of the council 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 whatsoever.
- Annual estimate of expenditure to be framed and rate assessed. LXXII. 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 give public notice thereof in one or more of the local newspapers; 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, Second rate may be assessed. Annual levy of rates limited.

in any one year, to levy any rates amounting in the aggregate to more than one penny half-penny 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 lawful 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 be closed at three o'clock p.m. of such day.

LXXIII. 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 assessed shall become due.

Notice to be given.

Proof of publication of notice sufficient.

LXXIV. 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, on pain of being forthwith liable to legal proceedings, at the suit of the town clerk, for the recovery of the amount: 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 to the contrary.

Collection and recovery of rates.

Rates paid by occupier recoverable from owner.

No. 23—1869.

Who may be sued for rates.

LXXV. The council may, in suing for the recovery of rates, proceed against the owner, or in case of his absence from the Colony, his agent or the person receiving the rents for him, or the 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 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.

Occupier not liable for rates due previous to his occupation but former occupiers to remain liable.

Arrears of rate to be published.

LXXVI. The council shall, once in every year, publish in one or more of the local newspapers a statement of every sum in arrear, and of the property in respect of which the same is due.

Valuation to subsist for three years.

LXXVII. 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.

Valuation of buildings erected or improved during duration of list.

LXXVIII. In case any new building shall be erected during any such period of five years, or in case of any addition to, or alteration of, any building then already rated, increasing the value thereof, the council shall proceed to have the land and such building 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.

Council may adopt valuation of Albany divisional council.

LXXIX. Instead of the mode aforesaid of ascertaining the value of property within the said

municipality to be rated as aforesaid, it shall be lawful for the council, by resolution, to adopt the valuation of such property subsisting and in force for the time being made for road purposes by or under the direction of the divisional council of Albany ; and such valuation shall thereupon become and be the valuation for the purposes of this Act, just as if it had been made by appraisers appointed by the council as aforesaid.

No. 23—1869.

LXXX. It shall be lawful for the council, by any municipal regulation as aforesaid, to impose such toll or dues as may be reasonable on all persons making use of any road, bridge, or market place within the municipality, which the council is hereby empowered to make or maintain, and in case of the non-payment of such tolls or dues, to recover the same by legal process, or in such manner as may by the municipal regulations be in that behalf provided.

Council may establish tolls.

LXXXI. 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 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 in one night to twelve o'clock in the next succeeding night, for or in respect of the same vehicle or animal.

Who exempt from tolls.

LXXXII. 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

Treasurer to keep accounts, which shall be audited and abstract published.



No. 23—1869.

Publication of notices, c.

auditors, and shall be forthwith published by the treasurer in one or more of the local newspapers.

LXXXIII. Every notice calling a public meeting of the citizens, and any 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 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 on receiving a requisition signed by not less than thirty duly qualified ratepayers.

Fines and penalties how to be sued for.

LXXXIV. All fines or penalties imposed by this Act, or by any municipal regulations made by virtue thereof, or now in force, shall be sued for by civil process 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 suit as aforesaid shall be commenced later than three months from and after the date of the act or omission complained of.

Period for instituting suit limited.

Storing of gunpowder, &amp;c.

LXXXV. The storing of gunpowder or other explosive or inflammable 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 places as may be approved of and licensed by the town council for that purpose.

Council may close burial-grounds.

LXXXVI. So soon as any burial-ground or portion thereof 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 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.

LXXXVII. This Act may for all purposes be cited as "The Graham's Town Municipality Act, 1869."

No. 24---1869.] AN ACT [18th Oct., 1869

To Provide for the Expenses of the Survey of Crown Lands for Lease, and for other purposes.

**W**HEREAS it is expedient to make proper provision for defraying the costs of the survey of the Crown lands of this Colony, with a view to the same being leased : 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. It shall be lawful for the Governor, from time to time, and with the advice of the Executive Council, to take up and borrow such sums as may be required for the purpose of defraying the costs of the survey, erection of beacons, and other services required to be performed, in order that the Crown lands of the Colony may be offered for lease in such quantities and on such conditions as may be found expedient and may be appointed by law.

Governor may borrow moneys for defraying survey expenses of Crown lands to be leased.

II. One-fifth of all sums received as rent for Crown lands leased shall, so long as may be necessary, be set apart in each year for the purpose of liquidating any debt incurred under the provisions of the preceding section, together with interest on the same, at a rate not exceeding six per centum per annum from the date at which the debt in course of liquidation shall have been borrowed.

How such loans shall be liquidated.

III. A full account of all sums borrowed and paid off under the provisions of the preceding sections, and of all lands surveyed, and of all lands leased, and of the rents payable and received in respect of the same during each year, shall be laid before Parliament at its next annual session.

Full accounts to be annually laid before Parliament.

IV. The sixty-seventh section of the Act No. 4 of the year 1865, intituled "An Act to consolidate and amend the several Acts relating to Divisional Councils," shall be and the same is hereby repealed, and no further sums shall be payable to any divisional council by way of percentage on the purchase moneys or rents of Crown lands under the

Section 67 of Act No. 4, 1865, repealed.

No. 24--1869.

said sixty-seventh section of the said Act 4 of 1865, except such sums as shall have been actually due and payable thereunder at or before the passing of this Act.

No. 1--1870.]

AN ACT

[May 5, 1870.

To Regulate the Apprehension within this Colony of Deserters from Her Majesty's Land Forces.

Preamble.

WHEREAS it is expedient that better provision be made for the apprehension of soldiers deserting from Her Majesty's land forces within 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:

Ordinance No. 98,  
1833, repealed.

I. The Ordinance No. 98 of the year 1833, intituled "An Ordinance for facilitating the Apprehension and regulating the mode of Conveyance of Deserters from His Majesty's Land Forces within this Colony to their respective Corps, and for the more prompt payment of Rewards and Expenses consequent thereupon," shall be and the same is hereby repealed.

Authority for apprehending suspected deserters.

II. It shall be lawful, upon reasonable cause of suspicion that a person is a deserter from Her Majesty's land forces, for any peace officer or constable, or, in the absence of such peace officer or constable, for any officer or soldier in Her Majesty's service or other person to apprehend or cause to be apprehended such suspected person, and forthwith to bring him or cause him to be brought before any resident magistrate or justice of the peace living in or near the place where he may be so apprehended; and such magistrate or justice shall inquire whether such suspected person is a deserter, and may from time to time defer the said inquiry and may remand the said person in manner prescribed for preliminary examinations in the case of persons accused of crimes: And if it shall appear to the satisfaction of such magistrate or justice, by the testimony of one or

Proceedings of magistrate or justice of the peace before whom suspected person is brought.

more witnesses, or by the confession of such suspected person, confirmed by some corroborative evidence, or by the knowledge of such magistrate or justice, that such suspected person is a deserter from Her Majesty's land forces, such magistrate or justice shall forthwith cause him to be conveyed to and delivered into custody at some military post, if at a reasonable distance, or otherwise to some public prison; and such magistrate or justice shall in every such case forthwith transmit to the officer commanding Her Majesty's forces in this Colony a descriptive return in the form prescribed in the schedule to this Act annexed, to the end that such person may in due course and with all reasonable speed be removed by order of such officer and proceeded against according to law. And such descriptive return shall, in the absence of proof to the contrary, be deemed sufficient evidence of the facts and matters stated therein, and such magistrate or justice shall also at the same time send to the said officer a report stating the name or names of the person or persons by whom or by whose means the deserter was apprehended and secured; and the said officer shall thereupon cause to be transmitted to the said magistrate or justice an order for the payment to such person or persons of such sum, not exceeding two pounds sterling, as such officer shall be satisfied he or they is or are entitled to according to the intent and meaning of the Mutiny Act in force for the time being, and of this Act; and any medical practitioner who, in the absence of a military medical officer, may have been required to examine such suspected person and to give a certificate of such examination, shall be entitled to a fee of five shillings upon his notifying the fact to such officer.

Reward for apprehension of deserter.

Fee for medical inspection of suspected person.

III. Every gaoler, or keeper of any gaol or other public place of confinement, is hereby required to receive and confine therein every person suspected of being or being a deserter who shall be delivered into his custody in the course of his transmission under the second section of this Act upon production of the warrant of the magistrate or justice before

Gaoler required to receive deserter or suspected deserter.

No. 1—1870.

whom such person shall have been taken, or of some order of the officer commanding Her Majesty's forces in the Colony, which order shall continue in force until such suspected deserter shall have arrived at his destination; and every such gaoler or keeper shall be entitled to such subsistence money for the maintenance of such person as shall be directed by Her Majesty's regulations.

Inquiry to be made to prevent collusion between suspected deserter and person apprehending.

IV. Every resident magistrate or justice of the peace before whom any suspected deserter shall be brought shall investigate the circumstances attending his apprehension, in order to ascertain whether or not there is reason to suspect the existence of collusion between such suspected deserter and the person by or through whose means he shall have been apprehended, or whether such apprehension has been made in good faith; and such magistrate or justice shall briefly set forth such circumstances in the return in the second section hereof mentioned.

### SCHEDULE.

No.—

Description Return of———, who was apprehended (or surrendered himself, as the case may be) on the——day of——, and was committed to confinement at——, on the——day of——, as a Deserter (or suspected Deserter, as the case may be) from (insert Regiment or Corps).

Age	...	...	...		
Height	...	...	...	feet	inches.
Complexion	...	...	...		
Hair	...	...	...		
Eyes	...	...	...		
Marks	...	...	...		
Probable date of enlistment and where	...	...	...		

<p>Probable date of desertion, and from what place</p>	
<p>Name and occupation and address of the person by whom, or through whose means, the Deserter (or suspected Deserter, as the case may be) was apprehended and secured ...</p>	
<p>* Particulars in the evidence on which the prisoner is committed, and showing whether he surrendered or was apprehended, and in what manner, and upon what grounds ...</p>	

\*It is important for the Public Service, and for the interest of the Deserter (or suspected Deserter, as the case may be), that this part of the Return should be accurately filled up, and the details should be inserted by the magistrate or justice, in his own handwriting, or under his direction by his clerk.

I do hereby certify that the prisoner has been duly examined before me as to the circumstances herein stated, and that he has declared in my presence that he\* a Deserter from the abovementioned Corps.

\_\_\_\_\_  
Signature and address of the magistrate or justice.

\_\_\_\_\_  
Signature of the prisoner.

\_\_\_\_\_  
Signature of informant.

\*Insert "is" or "is not," as the case may be.

I certify that I have inspected the prisoner and consider him\* for military service.

\_\_\_\_\_  
Signature of the military medical officer, or of private medical practitioner.

\*Insert "fit" or "unfit," as the case may be; and if unfit, state the cause of unfitness.

†No fee will be allowed to a private medical practitioner where a military medical officer is stationed, unless it shall be shown that his services were not available.

No. 2—1870.]

AN ACT

[May 5, 1870.

To Amend the Law relating to the Protection of  
Seamen's Clothing and Property.

Preamble.

WHEREAS the clothing and property of soldiers are protected by the restraint of the sale thereof, and it is expedient to make the like provisions with respect to seamen's clothing and property: 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 as "The Seamen's Clothing Act, 1870."

Places to which Act shall apply.

II. The places to which this Act extends are the places specified in the schedule to this Act, and for the purposes of this Act the limits of those places shall be the limits specified in the second column of the said schedule.

Interpretation of terms.

III. In this Act the term the "Admiralty" means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral. The term "seaman" means every person not being a commissioned, warrant, or subordinate officer who is in or belongs to Her Majesty's Navy, and is borne on the books of any one of Her Majesty's ships in commission, and every person, not being an officer as aforesaid, who being borne on the books of any hired vessels in Her Majesty's service in time of war, is by virtue of any Act for the time being in force for the discipline of the Navy, subject to the provisions of such Act. The term "seaman's property" means any clothes, slops, medals, necessaries, or articles usually deemed to be necessaries for sailors on board ship which belong to any seaman.

Person knowingly detaining, buying, &c., seamen's property liable to penalty.

IV. If any person in any place to which this Act extends detains, buys, exchanges, takes on pawn, or receives from any seaman, or any person acting for a seaman, any seaman's property, or solicits or entices any seaman, or is employed by any seaman, to sell, exchange, or pawn, any seaman's property, he shall, unless he proves that he acted in ignor-

ance of the same being seaman's property, or if the person with whom he dealt being or acting for a seaman, or that the same was sold by order of the senior naval officer on the Cape of Good Hope station, be liable, on conviction before the resident magistrate of the district in which such place shall be situate, to a penalty not exceeding twenty pounds sterling, and if convicted of a second offence, to a similar penalty, or, in the discretion of the court, to be imprisoned for a term not exceeding six months, with or without hard labour, subject always to the provisions of the eighth section of this Act.

V. If in any place to which this Act extends any seaman's property is found in the possession or keeping of any person, and he is taken or summoned before the resident magistrate of the district (which taking and summoning are hereby authorized), and such magistrate sees reasonable grounds for believing the property so found to have been stolen, or to have been detained, bought, exchanged, pawned, or otherwise received contrary to the provisions of this Act, then if such person does not satisfy the magistrate that he came by the seaman's property so found lawfully and without any contravention of this Act, he shall be liable, on conviction before such magistrate, to a penalty not exceeding five pounds sterling; and for the purposes of this section seaman's property shall be deemed to be in the possession or keeping of any person if he knowingly has any such property in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit, or for the use or benefit of another.

VI. Every person who shall be convicted as an accessory in any offence under or in contravention of this Act, shall be liable to be punished in like manner as if he were a principal offender, and on every second or subsequent conviction shall be liable to be punished in like manner as if on a second or subsequent conviction for the principal

Person found in possession of seaman's property, and not giving satisfactory account, liable to penalty.

Accessory liable to same punishment as principal offender.



No. 2—1870.

offence ; and every conviction of the principal offence, after the conviction of the same offender as an accessory shall be deemed a second or subsequent conviction for the principal offence, and every conviction as an accessory of any person who shall have been convicted of the principal offence shall be deemed a second or subsequent conviction.

Search warrant may be issued.

VII. Seaman's property detained, bought, exchanged, pawned, or received, in contravention of this Act, shall, for the purposes of search warrant, be stolen property, within the provisions of section forty-two of Ordinance No. 40, and reasonable suspicion that any such property is concealed in any place shall, under the restrictions in such last-mentioned section contained, justify the issue of a search warrant as in such section is provided.

In default of payment of fine, offender may be sentenced to imprisonment, &amp;c.

VIII. In default of the payment of any fine imposed on any offender under this Act, such offender may be sentenced to imprisonment with or without hard labour, or with or without spare diet, subject to the Governor's regulations in respect thereof, for any period not exceeding three months.

Proceedings under other Acts not barred.

IX. Nothing in this Act shall prevent any person from being indicted, or being liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act ; provided, however, that no person be punished twice for the same offence.

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### SCHEDULE.

Names of Places.	Limits of Places.
Cape Town ...	The limits of the municipality of Cape Town together with the municipality of Green Point and the district of the resident magistrate of Wynberg.
Simon's Town...	The limits of the district of the resident magistrate of Simon's Town.

No. 3—1870.]

AN ACT

[May 5, 1870.]

To Render Lessees of Crown Lands leased under the Provisions of Act No. 19, 1864, liable to the Payment of Road Rates, and qualified as Members of Divisional Council.

**W**HEREAS it is expedient that the lessees of Preamble.  
Crown lands leased under the provisions of Act No. 19, 1864, intituled "An Act to provide for the leasing of Crown Lands and for other purposes," should be rendered liable to the payment of road rates, and be qualified to be elected as members of divisional councils: 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 twenty-eighth section of the Act No. 9, 1858, intituled "An Act to provide for the Management of the Public Roads of the Colony," and of any other law as shall be repugnant to or inconsistent with any of the provisions of this Act, is hereby repealed. Repugnant laws repealed.

II. All Crown lands already leased, or which shall hereafter be leased, under the provisions of the Act aforesaid, No. 19, 1864, shall, after the taking effect of this Act, be liable, so long as the same shall be under lease, to be assessed for road rates. Leased Crown lands liable to road rates.

III. For the purpose of every such assessment of such Crown lands, the value of the lands comprised in any lease already made, or which shall hereafter be made under the provisions of the Act in the last preceding section mentioned, shall be deemed to be sixteen times the amount of the annual rent payable by or under such lease. Valuation for assessment.

IV. All lands under any such lease as aforesaid, in any division, shall be assessed for road rates, together with and at the same time as the other lands in such division liable to assessment for road rates, and shall not be capable of being assessed separately from such other lands, nor at a different rate from such other lands. When assessment may take place and rate assessed.

V. The lessee of the lands comprised in any such Rate not recoverable from Colonial Government.

G

No. 3—1870.

lease as aforesaid shall alone be liable to be sued for the amount of any road rate assessed or imposed upon such lands, and it shall not be competent to proceed against the Colonial Government for the recovery of any such rate.

Lessee qualified to be elected member of divisional council.

VI. Every lessee of any Crown land lying and being within any division, and leased under the provisions of the Act aforesaid, No. 19 of 1864, paying an annual rent of not less than thirty pounds sterling per annum, shall, unless disqualified under the provisions of the fourteenth section of the "Divisional Councils Act, 1865," be qualified to be elected as a member of the divisional council of such division, in like manner as if he were an owner of land, calculating every £6 of rent payable on his lease as equivalent to £100 in value of the land leased for the purpose of the qualification by ownership in the said Divisional Councils Act, 1865, mentioned; anything in the thirteenth section of the lastmentioned Act to the contrary notwithstanding: Provided that if any such lessee having become a member of any divisional council shall, during the time for which he was elected, cease to hold a qualification, either as lessee or owner, or partly as one and partly as the other, sufficient to qualify him for election as a member of such council, then, on his so ceasing to hold such qualification, he shall vacate his seat as such member.

No. 4—1870.]

AN ACT

[May 5, 1870.

To Regulate the Disposal of certain Agricultural Lands in this Colony.

Preamble.

**W**HEREAS it is expedient that increased facilities should be given to agriculturists and others of small means to become possessors of land on certain fair and reasonable conditions: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legis-

lative Council and House of Assembly thereof, as follows :

No. 4—1870.

I. So much of the Act No. 2, 1860, and of Act No. 19 of 1864, as is repugnant to or inconsistent with any of the provisions of this Act, shall be and the same is hereby repealed.

Repugnant portions of Acts No. 2 of 1860, and No. 19 of 1864, repealed.

II. The Governor may from time to time cause to be surveyed agricultural areas, taken from the Crown land of this Colony, such areas being as well watered as possible.

Survey of lands.

III. Such areas shall be surveyed in allotments of not more than five hundred acres, due regard being had to the capabilities of the ground.

Mode of survey.

IV. When the survey of any such area is complete, it shall be lawful for the Governor to proclaim that the lands therein situated will within a certain time be open for selection in the manner and terms herein set forth.

Surveyed lands may be proclaimed open for selection.

V. The land comprised in any such proclaimed area shall thenceforth be open for selection either by absolute purchase or by conditional purchase in the manner hereinafter set forth.

Lands may be selected by absolute or conditional purchase.

VI. When any person desires to select any allotment in such agricultural area for conditional purchase, he may make a written application for such allotment to the civil commissioner of the district within which such area shall be situated, in the form set forth in the schedule hereunto annexed, and on paying the first year's rent for such allotment, and if no other application shall have been made for the same allotment, he shall become a conditional purchaser of such allotment.

Conditional purchase how effected.

VII. In the event of two or more applications being received by the civil commissioner on the same day for the same allotment, the civil commissioner of the district in which such land is situated shall appoint a day upon which the applicants are to attend before him, either in person or by an agent duly authorized in writing, and such allotment shall then be put up, to be competed for by the said applicants, at an upset rent of one shilling per acre, and the highest bidder shall, on payment of the first year's rent, together with such

Where two or more applications for same allotment, mode of procedure.

No. 4—1870.

premium as he shall offer thereon, be declared the conditional purchaser.

Terms of lease to conditional purchaser.

VIII. The person who shall be declared the conditional purchaser of any allotment shall receive a lease on the following terms and conditions :

1. The term shall be for ten years, commencing from the first payment of rent.
2. The yearly rent shall be at the rate of one shilling per acre, or in the case above provided for for by the sixth clause, at such sum as may have been bid by such conditional purchaser.
3. The rent for the second and each succeeding year shall be paid in advance into the office of the civil commissioner of the division in which such area is situated.
4. The lessee shall be bound within two years of obtaining such lease to cultivate at least one acre of every ten acres, or to erect a suitable dwelling-house thereon.
5. On failure of any of the conditions hereinbefore contained, the lease shall be forfeited, and the land and the improvements thereon shall revert to Government, but 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 ninety days from the same becoming due : Provided, further, that when the lease of any such lands shall be forfeited as aforesaid, such lease shall be put up to sale by public auction within one hundred and eighty days 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.

No. 4—1870.

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.

IX. Any person who, having selected an allotment in the manner hereinbefore provided, shall forthwith pay the whole purchase money thereof, at the rate of ten years' annual rent and the expenses of survey and title, shall receive a grant of the said allotment on a perpetual quitrent as aforesaid.

Absolute purchase, how effected.

X. It shall not be lawful for any one person or partnership to become, under the provisions of this Act, the lessee or holder of more than five hundred acres of land.

No one person to hold more than five hundred acres.

XI. This Act may be cited for all purposes as the "Agricultural Lands Act, 1870."

Short title.

## SCHEDULE.

### FORM OF APPLICATION.

I, the undersigned, do hereby state my desire to become conditional purchaser of allotment No. —, in area —, containing — acres, and herewith tender the sum of £— as and for the first year's rent thereof, and I do solemnly and sincerely declare that I apply for the above allotment on my own behalf, and for my own use and benefit only, and not as agent or trustee for any other person.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of the Ordinance No. 6, 1845, entitled "An Ordinance for substituting Declarations in the place of certain Oaths, and for the suppression of voluntary and extra-judicial Oaths and Affidavits."

Declared before me, \_\_\_\_\_.

No. 5—1870.]

AN ACT

[May 5, 1870.

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.”

Preamble.

WHEREAS it is expedient that the Act No. 19 of 1864, commonly called “The Crown Lands Act, 1864,” should be amended 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 :

Right of lessees to purchase.

I. It shall be lawful for the lessees of Crown lands leased under the provisions of the said Act No. 19 of 1864, at any time during the continuance of their respective leases, to purchase the property in the lands held by them respectively on lease, at such price as may be agreed on by and between such lessees respectively of the one part and the Colonial Government of the other part, not being in any case less than a sum which, reckoned as a principal sum after the rate of six pounds sterling per cent., would produce an amount of yearly interest equal to the rent reserved on such lease :

Arbitration in certain cases.

Provided that in the event of the price demanded by Government being greater than such principal sum, in such case, at the request of the lessee, the matter may be submitted to arbitration, one arbitrator to be appointed by the lessee and one by the Government, with power to appoint a third as umpire, subject to the following conditions, that is to say :

Conditions of sale.

1. In all sales of land under this Act the purchaser shall, in addition to the purchase price, pay to the Colonial Government an annual quitrent of one pound sterling for every one hundred pounds on the purchase amount, such annual quitrent to be paid in perpetuity.
2. The purchase money so to be paid as aforesaid, according to agreement, may be paid in cash, at the option of the purchaser, so soon as the amount shall be agreed upon, and such

purchaser may upon payment thereof require a grant of title upon quitrent to the said lands theretofore held by him upon lease, which grant it shall be lawful for the Governor to make.

3. If the purchaser shall not forthwith pay the full amount of purchase money agreed upon in cash so soon as the said amount shall be agreed upon, he shall be allowed to pay the same in manner following, that is to say, by three annual instalments,—the first to be paid forthwith so soon as the amount of purchase money shall be agreed upon as aforesaid, and the other two at intervals of one year respectively.
4. If the purchaser shall fail to pay the second or subsequent instalments when the same shall become payable respectively, the money already paid by him shall be returned to him, deducting thereout, by way of liquidated damages for the breach of the contract to purchase, a sum equivalent to five pounds sterling per cent. on such amount of the purchase money as shall remain unpaid, together with such sum, if any, as may be due for rent and other charges, if any, upon the said land, under or by virtue of the lease thereof; and the said lease shall, unless otherwise vitiated, be regarded as though the same were all along subsisting, without any contract for purchase or sale having subsisted with regard to the same lands.
5. Until the entire purchase money shall be paid, the purchaser shall continue to pay rent under and by virtue of his lease, and to perform the other conditions, if any, of the same, which shall be deemed to be a subsisting lease, notwithstanding any such contract for purchase as aforesaid unless vitiated otherwise under the terms thereof, or of the said Act No. 19 of 1864.
6. Upon the payment by the purchaser, at the stated times agreed on, of all the purchase money, and of all rents and other payments



No. 5—1870]

due in respect of the said lease, he shall be allowed interest after the rate of six pounds per cent. per annum in respect of the several instalments of the purchase money deposited by him from the date of the deposit thereof, respectively, until such date of payment; and thereupon he shall be deemed from thenceforward as proprietor on quitrent of the land so purchased, and may require forthwith a grant of title upon quitrent to the said lands theretofore held by him upon lease, which grant it shall be lawful for the Governor to make.

7. In fixing the value of the land applied for under the above conditions, the value of the industrial improvements made by the lessee who applies shall not be taken into consideration.

Moneys realized under this Act to be carried to separate account.

Repayments to be charged against such account.

Balance to be paid to Sinking Fund.

II. All such sums of money as shall from time to time be paid by such lessees as aforesaid under the provisions of this Act to the Colonial Government shall be kept to a separate account, which shall be charged with such repayments as in the former section are mentioned to such lessees as shall have failed to become purchasers entitled to immediate grant as aforesaid; and the balance from time to time standing to the credit of such account shall be paid over to the Commissioners for the time being of the Sinking Fund created by Act No. 9 of 1864, to be applied for the purposes by the said lastmentioned Act defined, as part of the said Sinking Fund.

No. 6—1870.]

AN ACT

[May 5, 1870.]

For Applying a Sum not exceeding Three Hundred and Fifty-six Thousand Six Hundred and Fifty-nine Pounds Eighteen Shillings and Nine Pence for the Service of the year 1870.

Preamble.

WHEREAS it is expedient to make provision for the service of the Government of this Colony for the year 1870: 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 sum not exceeding three hundred and fifty-six thousand six hundred and fifty-nine pounds eighteen shillings and nine pence for the service of the year 1870, in addition to the sums already by law provided for such service ; which sum of three hundred and fifty-six thousand six hundred and fifty-nine pounds eighteen shillings and nine pence shall be applied in manner following, that is to say :

For the expenditure of the Civil Establishments, a sum not exceeding fifty-eight thousand four hundred and fourteen pounds seven shillings and eleven pence.

For the expenditure of the Judicial Establishments, a sum not exceeding twenty-eight thousand nine hundred and thirty-three pounds seventeen shillings and six pence.

For the expenditure of the Educational Establishments, a sum not exceeding nineteen thousand eight hundred and ninety-eight pounds.

For the expenditure of the Medical Establishments, a sum not exceeding thirty-five thousand six hundred and eighty-one pounds seventeen shillings and six pence.

For the expenditure of the Police and Gaol Establishments, a sum not exceeding forty-eight thousand six hundred and seventy-three pounds and ten shillings.

For the expenditure on account of the Border Department (Aborigines), a sum not exceeding sixty-two thousand six hundred and ninety-seven pounds eight shillings and nine pence.

For the expenditure on account of Pensions and Retired Allowances, a sum not exceeding six thousand three hundred and sixty-five pounds.

For the expenditure on account of Charitable Allowances and Gratuities, a sum not exceeding two hundred pounds.

For the expenditure on account of Works and

No. 6—1870.	Buildings, a sum not exceeding five thousand four hundred and ten pounds.
Roads and bridges.	For the expenditure on account of Roads and Bridges, including the Convict Department, a sum not exceeding thirty-eight thousand eight hundred and sixty-four pounds seventeen shillings and one penny.
Miscellaneous ser- vices.	For the expenditure on account of Miscellaneous Services, a sum not exceeding twenty-eight thousand four hundred and twenty-five pounds.
Interest.	For the expenditure on account of Interest, a sum not exceeding twelve thousand five hundred and ninety-six pounds.
Colonial military allowance.	For the expenditure on account of Colonial Allowances to Military Officers, a sum not exceeding ten thousand pounds.
Repayment of loans.	For the expenditure on account of Loans to be repaid, a sum not exceeding five hundred pounds.
Total.	Amounting in the whole to three hundred and fifty-six thousand six hundred and fifty-nine pounds eighteen shillings and nine pence, as detailed in the schedule hereunto annexed.
Application of sup- plies.	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. 7—1870.]

AN ACT

[May 5, 1870.]

To Consolidate the Public Debts of the Colony payable in England.

Preamble.

**W**HEREAS the public debts of this Colony made payable in England amount in all to a sum of one million four hundred and twenty-three thousand four hundred pounds, with interest, whereof divers sums are payable, respectively, at divers times from the thirty-first day of January, one thousand eight hundred and seventy, to the thirty-first day of December, one thousand nine hundred, respectively, as will more fully appear in

the statement thereof contained in the schedule hereto : And whereas provision has been already made for the payment of the sum of fifty thousand pounds sterling, due and payable in the course of the year one thousand eight hundred and seventy, and there remains the sum of one million three hundred and seventy-three thousand four hundred pounds, with the interest thereon, to be provided for : And whereas there is good reason to believe that the said debts, other than the said debt of fifty thousand pounds sterling last before mentioned, may be consolidated with advantage to this Colony, and that provision may be made by which the same may be fully consolidated, and by which, at the same time, the yearly interest thereon may be paid and the debts themselves may be gradually extinguished, so that within a term of thirty-seven years the same may be altogether discharged by means of an annual charge on the revenues of the Colony continued during the said term of thirty-seven years, not exceeding the sum of ninety thousand pounds : And whereas it is expedient that such consolidation should be effected as far as possible : 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 appoint the Agents-General for the time being for the Crown Colonies in England, or such other person or persons as to him shall seem fit, as agents for the conversion of the said debts.

Agents for conversion of debts.

II. It shall be lawful, for the purposes of such conversion, for the Governor, through such agent or agents, to raise and take up upon debentures, subject to such terms and conditions as shall seem best calculated to effect such conversion on the best terms for the Colony, such sum or sums of money as may be necessary to effect the same : Provided that the annual charge to be thereby imposed on the public revenues of the Colony for the purposes of paying the interest and providing for the extinction of the entire of the debt thereby created

Funds for effecting conversion may be raised upon debentures.

Annual charge on public revenue not to exceed £90,000.

No. 7—1870.

Extinction of debt  
to be provided for.

shall not at any time exceed such sum as, together with the interest due on the said public debts intended to be consolidated, and for the time being remaining unconverted and unconsolidated, shall amount to a sum of ninety thousand pounds sterling yearly: And provided, also, that the terms on which such debentures shall be issued by the Governor as aforesaid shall provide for the complete extinction of the entire debt thereby created within the term of thirty-seven years, by means of such annual charge as aforesaid on the revenues of the Colony; after which period such annual charge shall cease and determine, unless Parliament shall otherwise direct.

Powers of Governor  
in regard to repay-  
ment of loan, terms  
of debentures, &c.

III. The Governor shall, through such agent or agents as aforesaid, and subject to the conditions in the last foregoing section mentioned, have full power to prescribe the mode and conditions of repayment of the loan to be taken up on such debentures as are hereby authorized, and the terms and conditions of such debentures, and the time and place of such repayment, and the rate of interest thereon, and the time and place for payment of such interest.

Moneys borrowed un-  
der this Act charge-  
able on colonial  
revenue.

IV. All sums of money borrowed under the authority of this Act, and the debentures upon which the same shall be raised respectively, shall be charged and chargeable on the revenues of this Colony.

Rate of interest.

V. Interest after the rate of five pounds sterling per centum shall be payable on such debentures as may be issued under the authority of this Act, and shall be charged and chargeable on the revenues of this Colony as next hereinafter mentioned.

Interest chargeable  
on colonial revenue.Fund for payment of  
interest and for ex-  
tinction of debt.

VI. As a fund for the payment of such interest 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 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 be raised 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, 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.

No. 7—1870.

VII. 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, or for the necessary expenses of such consolidation and conversion as aforesaid, shall be applied in redeeming and cancelling the debentures to be raised under authority of this Act, in such manner and form as shall be provided by the terms and conditions whereon and whereunder such debentures shall be issued respectively.

Application of fund.

VIII. All moneys to be raised under the authority of this Act shall be accounted for in a separate account, and shall be applied towards the conversion and consolidation, redemption, payment, and discharge of the said several public debts of this Colony proposed to be consolidated, and to no other purpose ; but it shall be lawful thereout to pay the necessary charges of effecting such conversion, consolidation, redemption, payment, and discharge.

Separate account to be kept and application of moneys raised under this Act.

IX. The Governor may, through such agent or agents as aforesaid, accept in payment for the debentures to be issued under the authority of this Act any debentures of the Government of this Colony specified in the schedule hereto, at such rates and on such terms as may be fixed by the Governor through such agent or agents as aforesaid ; and all such rates and terms shall be notified by public advertisement in the *London Gazette* and in the *Government Gazette* of this Colony.

Debentures specified in schedule may be taken in payment of debentures issued under this Act.

X. All the powers which under this Act may be exercised by the Governor through such agent or

Agents may delegate their powers to others.

No. 7—1870.

agents as aforesaid may be also exercised, wholly or in part, by any person or persons to whom such powers shall have been, wholly or in part, delegated by such agent or agents as aforesaid, subject to the conditions of such delegation imposed thereon by the person so delegating such powers.

Debentures chargeable only on colonial revenue to be cancelled when redeemed.

XI. All such debentures of the Government of this Colony which shall be redeemed, or purchased, or converted under the authority of this Act, or by means of the moneys raised thereunder, and which are chargeable on the general revenues only of this Colony, shall immediately on the receipt thereof be cancelled by such agent or agents as aforesaid, and shall by him or them, as soon as may be thereafter, be transmitted to the Treasurer-General of the Colony.

Debentures chargeable on other funds to be ceded to Treasurer-General when redeemed.

XII. All such debentures of the Government of this Colony which shall be redeemed, or purchased, or converted under the authority of this Act, or by means of the moneys raised thereunder, which are chargeable on any funds other than and in addition to the general revenue of this Colony, shall be ceded by the holder thereof to the Treasurer-General of this Colony, and shall, as soon as may be after the receipt thereof by such agent or agents as aforesaid, be transmitted to such Treasurer-General, to be by him held on account of the general revenue of this Colony, as a security against such funds other than such general revenue.

Accounts to be laid before Parliament.

XIII. A full account of all the moneys from time to time raised under the provisions of this Act, and of the application thereof, and of all debentures redeemed, or purchased, or converted by means thereof, shall be from time to time laid on the table of both Houses of Parliament at the commencement of each session thereof, or so soon thereafter as the same shall be prepared.

hort title.

XIV. This Act may be cited for all purposes as "The Public Debt Consolidation Act, 1870."

SCHEDULE.

Number and date of Act.	Purpose of Loan.	Rate of Interest.	Amount of Debt.	When redeemable.
No. 4 of 1852.	Kowie Harbour Improvement ...	6 per cent.	£12,500	October, 1876.
" 22 ,, 1859.	Immigration ... ..	do.	50,000	January, 1870.
" 6 ,, 1860.	Table Bay Improvement ...	do.	100,000	October, 1880.
" 6 ,, 1860.	Do. do. ... ..	do.	100,000	October, 1890.
" 7 ,, 1860.	Mossel Bay Improvement ...	do.	6,500	October, 1875.
" 8 ,, 1860.	General ... ..	do.	150,000	January, 1891.
" 9 ,, 1860.	Immigration ... ..	do.	25,000	June, 1881.
" 26 ,, 1861.	General ... ..	do.	200,000	December, 1873.
" 17 ,, 1862.	Port Elizabeth Improvement ...	do.	29,500	October, 1892.
" 14 ,, 1863.	General ... ..	do.	150,000	April, 1891.
" 18 ,, 1863.	Kowie Improvement ... ..	do.	21,000	October, 1884.
" 22 ,, 1863.	Mossel Bay Improvement ...	do.	1,500	October, 1875.
" 8 ,, 1864.	General ... ..	5 per cent.	255,400	December, 1900.
" 23 ,, 1864.	Kowie Harbour Improvement ...	6 per cent.	20,000	December, 1900.
" 24 ,, 1864.	Port Elizabeth Improvement ...	do.	29,000	October, 1891.
" 8 ,, 1865.	Kowie Harbour Improvement ...	do.	20,000	December, 1900.
" 9 ,, 1866-'7	Table Bay Improvement ...	do.	50,000	October, 1900.
" 11 ,, 1866-'7	General ... ..	do.	200,000	October, 1900.
			£1,423,400	



No. 8—1870.]

AN ACT

[May 5, 1870.]

To Indemnify the Governor for the Expenditure incurred for the Railway Works on the Tulbagh Kloof.

Preamble.

Expenditure on railway works at Tulbagh Kloof charged against public revenue.

WHEREAS certain sums of money have been expended for the purpose of constructing a portion of a proposed railway from Wellington to Worcester at or near a place commonly called Tulbagh Kloof, or the New Kloof, without previous sanction of Parliament having been obtained for such expenditure, and it is expedient that the Governor should be indemnified for such expenditure as aforesaid: 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, that all sums which shall have been so expended for the purpose aforesaid, and which are set forth and enumerated in the schedule hereto annexed, shall be charged against the public revenues of the Colony, and the Governor shall be and is hereby indemnified in respect thereof.

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SCHEDULE.

*Construction.*

Works as per contract with A. Bennett... £28,650 0 0

*Subsequent Works.*

Removing and rebuilding toll-house ... ..	£200	0	0
Excavation ... ..	10,335	8	6
Ballasting ... ..	348	7	6
Masonry in bridges and culverts ... ..	4,154	0	0
Timber in bridges ... ..	448	10	0
Ironwork ditto ... ..	74	2	0
Pitching banks and soiling slopes ... ..	792	5	0
Catchwater drains ... ..	120	0	0
Clearing out rock in bed of Boontjes River ... ..	65	0	0

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Carried forward £16,537 13 0 28,650 0 0

Brought forward	£16,537	13	0	28,650	0	0	No. 8—1870.
Preparing for foundations of bridges and culverts not yet constructed ... ..		20	0	0			
		<hr/>			16,557	13	0
Resident Engineer's salary and allowances, August 1864, to March, 1866, at £45 per month ... ..	900	0	0				
Transport ... ..	98	16	10				
Miscellaneous ... ..	113	11	9				
		<hr/>			1,112	8	7
Foreman of carpenters and bridges, February, 1865, to December, 1865, at 7s. 6d. per diem ... ..				102	15	0	
Survey of property boundaries ... ..				69	19	0	
Catechist, January to May, 1865, £15 per month ... ..				75	0	0	
Maintenance to November, 1866, inspecting engineer, foreman, wages, and materials ... ..				605	11	10	
		<hr/>			£47,173	7	5

No. 9—1870.]

AN ACT

[May 5, 1870.]

For Granting to Her Majesty in her Colonial Revenue certain Duties on Houses.

**W**HEREAS it is expedient that the public revenue of 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 purposes of this Act, the word "house" shall be construed to mean every distinct and separate habitation occupied by human beings, and also every house, warehouse, counting-house, shop, mill, factory, work-shop, engine-house, store, or office, used as a place of business, although not occupied as a habitation. This definition of the word "house" shall be subject to and modified by the rules in the next succeeding section set forth.

H

No. 9—1870.

Rules to be observed in reference to determining liability of houses to duty and their valuation.

II. In reference to what shall be deemed to be houses liable to duty under this Act, and in reference to the valuation 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 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 out-building, no part of which shall be occupied by human beings as a dwelling 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-house, or any other person, shall reside in part of any stable, coach-house, or out-building 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 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.

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 values 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. :

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. The holder of a certificate of citizenship, his wife or reputed wife or wives, and his children or remoter descendants, as ascertained or recognized by native law or custom.
4. No descendant, being or having been married, and who shall reside as the head, or as the wife of the head, of a

No. 9-1870.

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.
- 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.
- 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).

- 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 bear to the whole value of the building.
- I. When any room of any house, whether such room be on the ground floor or on an upper story, 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.
- 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.

K. Schools for gratuitous education, museums, sailors' homes, and generally all buildings used for charitable purposes, public hospitals, public libraries, and town-halls, shall not, except as to such portion or portions thereof as may be occupied as a dwelling-house or dwelling-houses, be deemed to be habitations or places of business for the purposes of this Act.

L. 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  
on occupied houses.

III. Upon every house within this Colony, wherever situated, which shall have been occupied as a dwelling or as a 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 tenth section of this Act mentioned, there shall be payable to Her Majesty in her colonial revenue, upon the day which shall in that behalf be specified in such notice, and afterwards upon the first day of July of every year during the subsistence of this Act, a duty according to the value of such house upon the following scale, that is to say :

atcs.

On every house not exceeding in value £100	... ..	£0 5 0
On every house exceeding in value £100, and not exceeding £500		0 10 0
On every house exceeding in value £500, and not exceeding £1,000...	... ..	1 0 0

No. 9—1870.

On every house exceeding in value £1,000, then for every £500 and fraction of £500 of such excess, an additional duty of 0 10 0

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.

Every house to be held as occupied unless contrary be proved.

V. No house already subject to hut tax under or by virtue of the Act No. 2 of 1869 shall be liable to the duty imposed by this Act.

Houses subject to hut tax exempted.

VI. In any case in which the land on which any house shall stand is a building lot, situated within a native location subject to an annual quitrent of two shillings and six pence sterling, and held under title in conjunction with a garden lot within such location, not exceeding in extent fifteen acres, and subject to an annual quitrent of not less than ten shillings sterling, then and in every such case, no duty shall be payable under the provisions of this Act unless there shall be standing thereon a house exceeding in value one hundred pounds sterling, or unless there shall be more than one house standing thereon, in which last case the house which is valued at the lowest sum, and no other, shall be exempted from such duty as aforesaid.

Houses within native locations, in certain cases, exempted.

VII. 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 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

Duty, when and by whom payable.

Who shall be deemed occupier.

Failing occupier owner liable.



No. 9—1870.

Houses not occupied for ninety days exempted.

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 valuers.

VIII. It shall be lawful for the Governor to appoint, by notice in the *Government Gazette*, fit and proper persons to value the houses in each division of the Colony for the purpose of this Act, and for that purpose to call for tenders from persons willing to value the same. But the Governor shall not be bound to appoint the person 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 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.

Cape Town and Green Point included in Cape division.

Duties and powers of valuers.

IX. 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 lands, 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

Penalty for resisting valuator.

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 *bona fide*, and that it be not grossly excessive : Provided, also, that every person authorized 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.

No. 9—1870.

Where inspection of house has been refused, valuation not open to objection.

Unless excessive.

Valuator to produce authority on demand.

X. 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 :

Valuation to be made and notice given to occupiers and owners.

Division of \_\_\_\_\_

To \_\_\_\_\_

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 duty

No. 9—1870.

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 courtroom 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 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.

Period of notice.

Service of notice on occupier.

XI. 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.

No. 9—1870.

XII. 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.

Service of notice on owner not being in occupation.

XIII. 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 where 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,

Objections to valuations; Court for hearing and disposal of.

No. 9—1870.

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 courtroom of the resident magistrate of Cape Town.

Duty to whom payable.

XIV. 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 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.

XV. It shall be lawful for the civil commissioner of any division, with the previous sanction of the Governor, 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 shall, in regard to such division in which any collector shall be appointed, deem reasonable and approve of.

No. 9—1870.

When collector shall enter upon duties;

And how remunerated.

XVI. 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 for the space of ninety days next after the day specified for payment in the notice in the tenth 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 person 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.

Penalty on failure to pay duty within ninety days after due

XVII. 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

Duty may be enforced by action or by summary seizure of property.

No. 9—1870.

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.

Property seized to be released on sufficient security given.

XVIII. 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.

Occupier failing to pay, owner may be called upon ;

XIX. 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 tenth 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 last-mentioned notice ; and every such owner who shall, after such last-mentioned 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 last-mentioned notice shall be made in like manner as that in the twelfth-section provided in regard to the notice therein mentioned. But no such

And may be sued.

Service of notice on owner.

Owner's liability limited.

owner shall be liable for any payment under the provisions of this section unless such last-mentioned 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. The process by seizure of property, as in the seventeenth 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 purpose of such recovery, possess all the powers conferred upon the collector by the seventeenth section of this Act.

No. 9—1870.

Process of summary seizure of property not to apply to this section.

Owner may recover from occupier.

XX. 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.

Return of amounts received, due, &c., under this Act, to be annually laid before Parliament.

XXI. This Act shall continue in force until the thirty-first day of December, one thousand eight hundred and seventy-two, and no longer, except in so far as relates to the recovery of any duties which may then be unpaid.

Duration of Act.

XXII. This Act may be cited for all purposes as Short title.  
“The House Duty Act, 1870.”



No. 10—1870.]

AN ACT

[May 5, 1870,

To Provide for the Management of Native Locations  
and other Communities, and for the Regulation  
of Rights of Commonage.

Preamble.

WHEREAS in times past various tracts of land have, by the Government of this Colony, been sold to or otherwise set apart for the use of the individuals or communities to whom the same were assigned, together with rights of commonage and water over certain other lands adjoining the same respectively: And whereas it is desirable to establish rules for the good management of such communities, and for the due regulation of all commonage and water rights appertaining to any lands so heretofore alienated or set apart, in all cases in which the same shall not be already subject to municipal regulations, or to other regulations lawfully enacted by the authority of the Legislature: 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 establish rules for general management and for regulating commonage and water rights.

I. It shall be lawful for the Governor, with the advice of the Executive Council, in the case of any community or tract of land circumstanced in the manner described in the preamble hereto, from time to time to make, alter, and amend all such regulations as may be required for the preservation of the health of such community, for the proper control and equitable distribution of all streams and springs of water belonging to the same or to the use of which such community may be entitled, for the due management of the commonage and regulation and protection of the rights of pasturage thereon, including provisions giving to travellers rights of outspanning upon such common lands upon reasonable payment, and powers of requiring reasonable payment from such individuals or members of such communities as aforesaid as shall enjoy more largely or more beneficially than others such common rights as aforesaid, and the power to impound all cattle

and other animals trespassing on such common lands as aforesaid, for the preservation of the timber and brushwood growing on such commonage, and for the prevention and removal of nuisances within the limits of any tract described as aforesaid. And all moneys receivable under this section shall be administered for the common benefit of such community as aforesaid.

No. 10—1870.

Administration of moneys receivable under this section.

II. It shall be lawful for such rules and regulations, framed by the Governor as aforesaid, to provide that persons contravening any such rules or regulations may, on conviction, be sentenced by the resident magistrate of the district to imprisonment with or without hard labour for any term provided by such rules and regulations not exceeding one month, or to pay a fine not exceeding five pounds sterling, and in default of payment thereof to such imprisonment, with or without hard labour, and all fines so to be levied shall be paid into the public treasury.

Rules may provide for penalties for contraventions.

III. All rules and regulations which shall be made in conformity with the provisions of this Act, 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 hereby.

Rules to be published.

No. 11--1870.]

AN ACT

[May 5, 1870.]

For Raising the further Sum of Twenty Thousand Pounds for the Completion of the Dock in Table Bay.

WHEREAS it appears that a further sum of twenty thousand pounds will be required for the construction of the buildings and the completion of the works required for the transaction of the business of the port in the dock in Table Bay: 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

No. 11—1870.

Loan of £20,000 authorized.

I. It shall be lawful for the Governor to raise and take up upon debentures such sum or sums of money as from time to time shall be necessary, not exceeding, in the whole, the sum of twenty thousand pounds; and all sums to be so raised shall be applied to the purposes in the preamble to this Act mentioned.

Harbour Board to administer moneys raised.

II. The application as aforesaid of all sums to be raised under the preceding section shall be entrusted to the Commissioners appointed or to be appointed under the provisions of the Act No. 6 of the year 1860, and such Commissioners shall, in respect to such application, have and exercise all the powers conferred upon them by the said Act.

Sums for which debentures may be issued, by whom signed, and rate of interest.

III. Such debentures shall be issued for sums not exceeding one hundred pounds nor less than fifty pounds each, and shall bear date the 15th April, 1870, and shall be signed by the Colonial Secretary for the time being, by command of the Governor, and countersigned by the Treasurer and Auditor of the Colony, and shall bear interest at the rate of five pounds per centum per annum, until the 15th October, 1872.

Debentures, where and when payable.

IV. Such debentures shall be payable at par at the Treasury in Cape Town, on the 15th October, 1872, and after that date shall cease to bear interest.

Debentures and interest charged on colonial revenue.

V. Such debentures, together with the interest from time to time to accrue thereon, shall be and the same are 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 from time to time buy up and cancel such debentures.

Debentures and interest charged, in first instance, on harbour revenues.

VI. Notwithstanding that the debentures to be issued as aforesaid, together with the interest thereon, are hereby charged upon the general revenue of this Colony, the same shall be and are hereby made a charge, in the first instance, upon the dues of wharfage and cranage and all other revenues accruing to the Commissioners aforesaid, appointed or to be appointed under the provisions of the Act No. 20 of the year 1858 and the Act No. 6 of the

year 1860 ; and the Commissioners aforesaid shall, out of such revenues, indemnify the Governor for all moneys paid out of the general revenue of the Colony on account of such debentures or of any interest thereon.

No. 11—1870.

VII. Interest shall be payable on the said debentures at the office of the Treasury, in Cape Town, on the 15th of April or the 15th of October next succeeding the issue thereof, and thereafter, on the 15th of April or 15th of October in each year, until the 15th of October, 1872, or until such debentures shall be redeemed and cancelled as aforesaid.

Interest, when and where payable.

VIII. 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.

Transfer of debentures.

IX. All such debentures shall be put up for public tender, and may be disposed of for the best terms which can be obtained, not being less than par. If more tenders than one, offering the same terms, shall be received for a greater amount of such debentures 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.

Disposal of debentures.

No. 12—1870.]

AN ACT

[May 5, 1870.]

For the better Preservation of Wild Ostriches.

**W**HEREAS it is expedient to prevent the indiscriminate destruction of wild ostriches in 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 :

Preamble.

I. The Proclamation dated 21st March, 1822, intituled "Game Law Proclamation," in so far as

Proclamation of 21st March, 1822, repealed

No. 12—1870.

the same relates to the protection of ostriches or the eggs of ostriches, is hereby repealed.

Penalty for killing, &c., wild ostriches without a licence.

II. No person shall kill, catch, capture, hunt, or wound any ostrich not being domesticated without having first obtained a licence to kill ostriches, under a penalty of any sum not less than thirty pounds sterling and not exceeding fifty pounds sterling for the first offence, and not less than forty pounds sterling and not exceeding one hundred pounds sterling for every subsequent offence; and any person convicted under this section within six months from the time of the offence may be imprisoned, with or without hard labour, for any term not exceeding six months, unless or until the fine be sooner paid.

Like penalty for killing, &c., ostriches during fence season.

III. No person shall, whether having obtained a licence to kill ostriches or not, kill, catch, capture, hunt, or wound within any district of this Colony, any ostrich not being domesticated within the months which shall in any such district be for the time being proclaimed as fence season for ostriches under the provisions of this Act, under like penalties as by the last foregoing section are provided in cases falling within that section.

Stamp duty on and duration of licence.

IV. For every licence to kill ostriches there shall be payable a stamp duty of twenty pounds sterling; and every such licence shall be in force for the time specified therein, and no longer: Provided that every licence to kill ostriches shall authorize the holder thereof to catch, capture, hunt, or shoot at the same.

Governor to proclaim fence season.

V. It shall be lawful for the Governor, by proclamation to be by him issued, to fix and prescribe for the several districts in this Colony the close time or fence seasons within which it shall not be lawful to kill, catch, capture, hunt, or wound ostriches, within this Colony, not being domesticated ostriches, either with or without a licence to kill ostriches.

Penalty for disturbing, &c., eggs of wild ostriches.

VI. No person shall at any time wilfully take away, disturb, destroy, or have in his possession the eggs of any wild ostrich in any part of this Colony under the penalty of any sum not exceeding three pounds sterling for the first offence, and not less than three pounds sterling nor exceeding six

pounds sterling for every subsequent offence, the conviction in each case being within six months from the time of the offence charged; and any person convicted under this section may be imprisoned with or without hard labour for any term not exceeding three months, unless the fine be sooner paid.

VII. It shall be lawful for any owner or occupier of land, without having taken out any licence, to catch and keep, or to cause or permit to be caught and kept, the young of any ostriches for the purpose of domestication, at any time when the same shall be found upon the land of such owner or occupier, anything contained in this Act or in any other law to the contrary notwithstanding.

Owner or occupier of land allowed to catch young ostriches for domestication.

VIII. The several fines above mentioned may be recovered by any person, on behalf as well of himself as of the Crown, in all cases where the fine shall not exceed fifty pounds sterling, in the court of the resident magistrate of the district where the offence may have been committed; the sentence, however, being subject to review by the Supreme or Eastern Districts or Circuit Courts, as the case may be, and in other cases in the Supreme Court, the Court of the Eastern Districts, as the case may be, or the Circuit Court for the district where the offence may have been committed; and a portion of any fine imposed upon any offender on conviction for contravening any of the provisions of this Act, not less than one pound nor exceeding five pounds, at the discretion of the court, shall be paid to the person on whose information such conviction shall have taken place, provided such person be not an accessory.

Fines by whom and how recoverable.

Portion of fine to be paid to informer.

IX. It shall be lawful for the Governor, by proclamation in the *Government Gazette*, to proclaim and declare, as to any parts of this Colony, that wild ostriches shall be protected and not destroyed for any number of years not exceeding three, to be mentioned in such proclamation; and any person contravening the provisions of any such proclamation shall be subject to the like penalties as those provided by the second section of this Act;

Ostriches may be protected for certain number of years.

No. 12—1870.

and it shall also be lawful for the Governor from time to time to revoke, alter or amend such proclamation.

Absence of name from list of licences *prima facie* proof of non-issue of licence.

X. In any prosecution for infringement of the second section of this Act, it shall be *prima facie* sufficient for the prosecutor to show that the accused does not appear as the holder of a licence in the list of persons to whom the requisite licence in such case shall have been issued, respectively, kept in the office of the resident magistrate, before whom or in whose district such case shall be brought for trial in any court; but it shall be lawful for such accused person to rebut such evidence by proof that he was, in fact, at the time of the commission of the offence charged, the lawful holder of such licence.

No. 13—1870.]

AN ACT

[5th May, 1870.

To Amend the Act No. 3, 1864, intituled "An Act for regulating the Duties upon Stamps and Licences."

Preamble.

WHEREAS it is expedient to increase certain of the Stamp Duties imposed by the "Stamp Act, 1864," and to amend the said Act in other respects: 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:

Portions of Stamp Act, 1864, and of schedule annexed thereto, repealed.

I. The following portions of the Stamp Act, 1864, and of the schedule annexed to the said Act are hereby repealed, that is to say:

The twenty-third and the twenty-ninth sections of the said Act.

The tariff numbered 2 in the schedule to the said Act, headed "Agreements."

The tariff numbered 4 in the said schedule, headed "Bills, Notes, Cheques, &c."

The tariff numbered 5 in the said schedule, headed "Ships, &c."

The tariff numbered 8 in the said schedule, headed "Transfers and Mortgages."

No. 13—1870.

The tariff numbered 16 in the said schedule, headed "Miscellaneous Acts."

II. So much of the Act aforesaid No. 3, 1864, not hereinbefore repealed, as shall be repugnant to or inconsistent with any of the provisions of this Act, or of the schedule annexed to this Act, shall be and the same is hereby repealed.

Repugnant portions of Act No. 3, 1864, repealed.

III. The several tariffs in the schedule to this Act contained, and numbered, respectively, with the same numbers as the tariffs repealed by this Act shall, number for number, and whether the heading of such tariff be the same or varied, take the place and be in stead of the tariffs so repealed, and shall have the force of law accordingly. And all and singular the several explanations, conditions, directions, and provisions contained in the schedule to the Act shall have the same force and effect as if the same were contained in the body of this Act.

Tariffs contained in schedule to take place of repealed tariffs.

IV. Every stamp provided by this Act, or by the said Act 3 of 1864, or by any schedule thereof, respectively, to be imposed on any notarial act, shall be upon the minute of such act. Every adhesive stamp on any such notarial deed as is not by this Act or by the said Act No. 3 of 1864 required to be written on stamped paper, or to be cancelled as in the fourteenth section of the said Act No. 3 of 1864 is provided, shall be cancelled by the notary writing thereon his name, and the date on which he shall write the same.

Notarial acts to be stamped on minute.

Cancellation of adhesive stamps.

V. Every cession, whether notarial or underhand, of any policy of insurance against fire or upon life, and whether such cession be absolute or by way of pledge, shall bear a stamp of one-half the amount of the stamp to which such original policy was liable. All such cessions must be written either upon stamped paper or upon paper having an adhesive stamp affixed and cancelled as in the fourteenth section of the Act No 3, 1864, mentioned, or upon the policy ceded. When written upon the policy ceded, an adhesive stamp of the required value must be affixed to or upon such cession, before,

Cessions of policies of insurance to be stamped,

How to be stamped.



No. 13—1870.

delivery of the policy ceded to the cessionary. And the person ceding shall cancel such adhesive stamp by writing thereon his name and the date on which he shall write his name.

Penalty on practice of any profession or on trading, &c., without required licence.

VI. If any person who should, in obedience to or in conformity with the Act aforesaid, No. 3 of 1864, and the schedule thereunto annexed, take out and possess any licence authorizing him to practise any profession or exercise any trade, business, occupation, or calling, or possess, or perform any particular matter or thing, shall be proved to have done or performed, without having previously taken out the particular licence in that behalf required, any act amounting to or in the way of the practice of any such profession, or the exercise of any such trade, business, occupation, or calling, or be proved to have possessed or performed any particular matter or thing for the possession or performance of which a licence shall be required, such person shall, in the absence of any special and greater penalty provided by any law now in force or hereafter to be passed in that behalf, for every such act forfeit any sum not exceeding five times the amount of the charge or duty payable for or in respect of the taking out of the particular licence which such person ought to have taken out and possessed.

Licence may be cancelled on removal of business.

VII. In case any person having taken out any licence in the schedule to the said Act 3 of 1864 mentioned, which may authorize the carrying on of any trade or business in any particular place, shall, during the continuance of such licence, wish to change the place at which such trade or business shall in future be carried on, it shall be lawful for such person to obtain from the officer whose duty it may be to issue licences of the same nature as that held by such person, on proof to such officer that such trade or business has been, in fact, discontinued at the place for which such licence was granted, and on bringing to such officer and leaving with him such licence for cancellation, a certificate that such licence has been cancelled; and it shall be the duty of such officer then and there to cancel

such licence, and retain the same so cancelled as a voucher.

No. 15—1870.

VIII. After such cancellation as aforesaid, it shall not be lawful for such person as aforesaid to carry on such trade or business at the place for which such cancelled licence shall have been granted, and from and after such cancellation, he shall, as to all future dealings in such place, be deemed and taken for all purposes to be dealing without having taken any licence, and shall be liable accordingly.

No business to be carried on under cancelled licence.

IX. It shall be lawful for such person, upon obtaining such certificate of cancellation as aforesaid, to present the same to the officer whose duty it shall be to issue licences for the carrying on of the like trade or business at the place to which such person as aforesaid shall desire to remove his trade or business, and to deliver up such certificate to such officer, who shall retain the same as a voucher; and such officer shall thereupon issue to such person a licence to carry on such trade or business in the place which such person shall name as the place in which he desires to carry on the same, on payment of a new licence duty of one shilling.

New licence may be issued on removal.

X. All fines and penalties imposed under or by virtue of this Act, or imposed and incurred under or by virtue of the said Act No. 3, 1864, and not yet recovered, may be recovered by criminal process in the court of any resident magistrate having local jurisdiction in the matter in case the amount of such fine shall not exceed fifty pounds sterling, and in the Supreme or Eastern Districts or Circuit Courts, respectively, in case such fine shall exceed fifty pounds sterling; but in any case in which the local jurisdiction of any resident magistrate shall be, or shall appear to the public prosecutor to be, uncertain, then such fines or penalties, though less than fifty pounds sterling in amount, may be recovered in the said Supreme or Eastern Districts Court, or in any Circuit Court as the case may be; and in every case where any such fine or penalty shall be recovered in any court

Penalties, how recoverable.

Appeal.

No. 13-1870.

of resident magistrate, the person condemned may, if he feels himself aggrieved, appeal to the Supreme or Eastern Districts Court, as the case may be, first paying the penalty and giving security to the satisfaction of the resident magistrate for the costs of appeal.

Short title.

XI. This Act shall commence and take effect from the first day of July, 1870, and may be cited as "The Stamp Act, 1870."

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## SCHEDULE.

### 2. AGREEMENTS.

On every lease or agreement for lease of movable or immovable property, where the term of hiring shall not be less than one year :

	£	s.	d.
For every £100 given by way of fine or foregift, and in like proportion for any greater or less sum ... ..	1	0	0
For £10 of rent and not exceeding £20	0	2	0
"  20           "                  "          30	0	3	0
"  30           "                  "          40	0	4	0
"  40           "                  "          50	0	5	0
"  50           "                  "          100	0	10	0
And for every additional £100 rent or fraction thereof ... ..	0	10	0

On every lease for any period exceeding one year, the amount of the above stamp shall be multiplied by the number of the years of the duration of the lease; and for this purpose, every broken portion of a year shall be deemed to be an entire year.

In case of the assignment of a lease by a lessee before the expiration thereof, such assignment shall bear a stamp of one-half of the amount payable according to the above scale upon a lease for the unexpired term assigned.

On all articles of apprenticeship to any of the following professions, that is to say :

Attorney,  
Notary Public,  
Conveyancer,  
Surgeon.

In case no premium be paid on such articles, or a premium which, reckoning at the rate of ten pounds sterling per centum, would not exceed ten pounds sterling ... .. £10

In case a premium be paid on such articles which, reckoning at the rate of ten pounds sterling per centum, would exceed ten pounds sterling, then the premium shall be reckoned as one gross sum, whether payable in one sum or by instalments, or as an annual or other periodical payment to be made during the apprenticeship, or to be paid partly or wholly, or at the end of the apprenticeship, and shall pay, per centum, £10.

On all articles of apprenticeship to any of the following trades, that is to say :

- Apothecary,
- Chemist or
- Druggist,

Half the above rates.

In case any one shall combine in his own person any two or more of the above professions or trades, the one stamp shall cover articles of apprenticeship to such person in respect of all such professions or trades as aforesaid as shall be so jointly practised by such person.

Every agreement and assignment mentioned in the foregoing tariff must as to some part thereof, be written upon, and not merely covered by, stamped paper, or otherwise must have an adhesive stamp affixed and cancelled, as in the fourteenth section of Act No. 3 of 1864 is mentioned.

4. BILLS, NOTES, CHEQUES, &C.

	£	s.	d.
Every bill of exchange, promissory note, bank post bill, or other negotiable instrument for any lawful amount not exceeding £50 ...	0	0	6
Exceeding £50 and not exceeding £100 ...	0	1	0
And for every additional £100 or fraction thereof	0	1	0

Every bill of exchange drawn in the Colony, but payable out of the Colony, if drawn in sets of three or more, on each bill of the set, one-third of the above rates.

	£	s.	d.
Every cheque upon a bank .. ...	0	0	1

1. Bank notes need not be stamped.

2. By cheques upon a bank are meant all drafts or orders upon any bank payable on demand or at sight either to bearer or to order.

3. If any bank shall pay or otherwise honour any cheque, bill, draft, or note, not being a bank note, which shall not be written upon stamped paper, or have an adhesive stamp affixed and cancelled, the cashier of such bank, whether

No 13—1870.

the person who paid or otherwise honoured such cheque, bill, draft, or note, or not, shall be liable to a penalty of two pounds sterling, to be recovered as is in this Act provided.

4. If any person shall contravene section 26 of the Act 3 of 1864, he shall be liable to a penalty not exceeding two pounds sterling, to be recovered as in this Act is provided, in lieu of any penalty by the said section of the said Act 3 of 1864 provided.

5. No "good-for," "I O U," or other acknowledgment of debt, not being a promissory note, and not being negotiable, shall require to be stamped so long as it shall be retained by the creditor to whom it was first delivered, and it may be paid by the debtor to such creditor without being stamped. But if such creditor shall cede or transfer the same, he shall, before doing so, affix thereto an adhesive stamp of the value which would be necessary in case the same were a promissory note; and the cessionary, or transferee, shall cancel the said stamp in case the same be not already cancelled; and any person ceding or transferring any such instrument without first stamping the same, if it be not already stamped, shall be liable to a penalty not exceeding two pounds sterling; and every person receiving such instrument without cancelling such stamp shall be liable to a like penalty of two pounds sterling; such penalties to be recovered as in this Act is provided.

6. No person who shall have granted any such instrument as is described in paragraph 5 shall pay or satisfy the same to any person other than the person to whom it was first given, unless it shall be duly stamped, under a penalty of two pounds sterling, to be recovered as in this Act is provided.

7. Every adhesive stamp mentioned in this tariff shall be cancelled by placing in figures in ink, upon such stamp, the amount mentioned in any cheque, good-for, I O U, or other instrument, and by writing the name or the initials of the name of the person cancelling such instrument, together with the date of such cancellation, anything in the proviso in the 26th section of the Act No. 3 of 1864 to the contrary notwithstanding.

8. Every promise in writing by one person to pay money to another person named in such writing, whether at some time specified in such writing or on demand, and whether payable to the order of the payee or not, shall be deemed to be a promissory note for the purpose of this Act, so as to require to be stamped as such.

#### 5. SHIPS, &c.

Bills of sale of any ship, where the consideration	£	s.	d.
given shall not exceed £100	...	...	0 5 0

	£	s.	d.
For every additional £100 or fraction thereof ...	0	5	0
Bottomry bonds and mortgages of ships, where the sum secured shall not exceed £50 ...	0	4	0
Exceeding £50 and not exceeding £100 ...	0	7	0
„ £100 and not exceeding £200 ...	0	10	0
For every additional £100 or fraction thereof ...	0	5	0
Bills of lading, each copy... ..	0	0	6
Charter-parties of any ship of the burden of 25 tons of tonnage or upwards ... ..	0	5	0
For every 100 tons of tonnage or every fraction of 100 tons ... ..	0	5	0
For every certificate of survey of a ship, whether for the purpose of insurance or repairs or otherwise .. ..	0	1	0
Every act of abandonment of a ship ... ..	0	2	6
Every sea protest ... ..	0	10	0

1. Every bill of lading shall be written on stamped paper, and shall in no case be stamped after the same shall be executed, anything in the fourteenth section of the Act 3 of 1864 to the contrary notwithstanding.

2. Every master of any ship who shall sign, and every shipper of goods who shall tender for signature, or shall cede, endorse, deliver, or negotiate any bill of lading executed within this Colony not written on stamped paper, shall be liable to a penalty not exceeding two pounds sterling, to be recovered as in this Act is provided.

3. Every person who shall cede, endorse, deliver, or negotiate any bill of lading not executed within this Colony which shall not be already stamped in this Colony and have the stamp duly cancelled, shall be bound, before ceding, endorsing, delivering, or negotiating the same, to place thereon an adhesive stamp of the value which would be required on the same bill if it were executed in this Colony, and to cancel such stamp in the manner required by the seventh paragraph of tariff No. 4. Every person who shall contravene this enactment shall be liable to a penalty of two pounds sterling, to be recovered as in this Act is provided.

4. The instruments mentioned in this tariff, other than bills of lading, must, as to some part thereof, be written upon, and not merely covered by, stamped paper, or otherwise they must have an adhesive stamp affixed and cancelled as in the fourteenth section of Act 3 of 1864 is mentioned.

#### 8. TRANSFERS, BONDS, &C.

On all transfers passed before the Registrar of	£	s.	d.
Deeds, value not exceeding £10 ... ..	0	2	0

No. 13—1870.

			£	s.	d.
Exceeding £10 and not exceeding £20...	...	...	0	3	0
"    20                  "    35...	...	...	0	4	0
"    35                  "    50...	...	...	0	6	0
"    50                  "    100...	...	...	0	8	0
"    100                 "    150...	...	...	0	12	0
"    150                 "    200...	...	...	0	15	0
"    200                 "    300...	...	...	1	0	0
"    300                 "    400...	...	...	1	5	0
"    400                 "    500...	...	...	1	10	0
"    500                 "    700...	...	...	2	0	0
"    700                 "    1000...	...	...	3	0	0

And for every additional £100 or fraction thereof 0 5 0  
 Cessions of mortgage bonds, notarial or otherwise, one-fourth of the stamp of the original bonds.

On mortgage bonds passed before the Registrar of Deeds and general mortgages, commonly called "notarial bonds:"

			£	s.	d.
Amount secured not exceeding £10 ...	...	...	0	2	0
Exceeding £10 and not exceeding £20 ...	...	...	0	3	0
"    20                  "    30 ...	...	...	0	5	0
"    30                  "    50 ...	...	...	0	7	6
"    50                  "    100 ...	...	...	0	10	0
"    100                 "    150 ...	...	...	0	15	0
"    150                 "    200 ...	...	...	1	0	0
"    200                 "    300 ...	...	...	1	5	0
"    300                 "    400 ...	...	...	1	10	0
"    400                 "    500 ...	...	...	2	0	0
"    500                 "    600 ...	...	...	2	10	0
"    600                 "    700 ...	...	...	3	0	0
"    700                 "    800 ...	...	...	3	10	0
"    800                 "    900 ...	...	...	4	0	0
"    900                 "    1000 ...	...	...	5	0	0

And for every additional £100 or fraction thereof 0 6 0

On deeds of kinderbewys passed before notaries, for securing the portions of minors, half of the amount of stamps required on mortgage bonds passed before the Registrar of Deeds.

1. Deeds of transfer and mortgage bonds, if not written upon stamped paper, must either be covered by stamped paper, or otherwise have adhesive stamps affixed thereon, which stamps may be cancelled by the Registrar of Deeds, anything in the fourteenth section of the Act No. 3, 1864, to the contrary notwithstanding.

2. All notarial bonds shall be either written upon or covered by stamped paper.

3. Underhand cessions of mortgage bonds must be written either upon stamped paper or upon paper having an

adhesive stamp affixed and cancelled as in the fourteenth section of the Act 3 of 1864 mentioned, or upon the bond ceded. When written upon the bond ceded, an adhesive stamp of the required value must be affixed to or upon such cession before delivery of the ceded bond to the cessionary, and the person ceding shall cancel such adhesive stamp by placing thereon in figures, in ink, the amount of the debt ceded, and by writing thereon his name, or the initials of his name, and the date on which he shall write the same.

## 16. MISCELLANEOUS ACTS.

	£	s.	d.
Every antenuptial contract ... ..	1	0	0
Articles of partnership, whether notarial or not...	1	0	0
Every general power of attorney ... ..	0	10	0
Every separate act of suretyship ... ..	0	2	0
Notarial protest of a bill or note for upwards of £40... ..	0	5	0
Notarial protest of a bill or note exceeding £10, but not exceeding £40 ... ..	0	2	6
Notarial certificates of the presentation of a bill, note, or cheque, exceeding £40 ... ..	0	2	6
Not exceeding £40 ... ..	0	1	0
Every notarial attestation of any instrument not otherwise stamped, and every notarial attes- tation of the truth of any copy of any instrument, each ... ..	0	1	0
Every notarial special power of attorney to do any particular act ... ..	0	1	0
Every special power of attorney, whether notarial or not, to pass transfer or mortgage, or any other act which must be done before the Registrar of Deeds, each ... ..	0	1	0
Every notarial act not required to be otherwise stamped, and every grosse ... ..	0	1	0

1. Every instrument mentioned in this tariff, except protests of bills or notes, must be, as to some part of it, written upon, and not merely covered by, stamped paper, or otherwise it must have an adhesive stamp, affixed and cancelled as in the 14th section of the Act No. 3 of 1864 mentioned.

2. Protests of bills or notes under £10 shall not require to be stamped.

3. Protests of bills or notes, if not written upon stamped paper, shall have an adhesive stamp of the proper denomination affixed and cancelled.

4. Every adhesive stamp or any protest shall be cancelled by the notary writing thereon his name, and the date on which he shall write the same.



No. 14—1870.]

AN ACT

[May 5, 1870.]

## To Regulate the Removal of Cattle within the Colony.

Preamble.

WHEREAS, in consequence of the frequency of stock thefts in certain of the divisions of the Colony, it is necessary that means should be devised for regulating the removal of stock from place to place, with the object of rendering the removal of stolen animals more difficult and the detection of offenders more easy: 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:

Divisions to which Act shall apply.

I. This Act shall apply to such divisions of this Colony as shall be proclaimed in manner hereinafter mentioned, and no other.

Certificate for removal of stock beyond ten miles to be obtained.

II. It shall be the duty of every person desiring the removal of stock from any place to any other place distant therefrom more than ten miles, to procure a certificate, signed by any resident magistrate, justice of the peace, field-cornet, or landholder, stating the date upon which the same is granted, the name of the owner, and the number and description of the stock to be removed, the name of the place from which the same is being removed, and of the place to which it is being sent; and also the name or names of the driver or drivers thereof.

Duty of landholder to grant certificate for removal of stock from his land.

III. It shall be the duty of any landholder to grant, free of charge, such certificate as aforesaid, written in such language, whether English, Dutch, or native, as such landholder may be able to write intelligibly, to any person who, being in the lawful possession of any stock, desires to remove the same from land occupied by such landholder; and the refusal by the master of any servant or apprentice to grant, in regard to any stock of such servant or apprentice lawfully running or being upon the land of the said master, such a certificate as is in this Act mentioned, shall be deemed and taken to be, for the purpose of the twenty-first section of chapter 5 of the Act No. 15,

How, if landholder refuses.

1856, commonly called the Masters and Servants Act, a refusal by such master to deliver such stock or to permit the same to be taken away; and the provisions of the said twenty-first section shall apply to such case as fully as if the same were herein again set forth.

IV. It shall be the duty of any magistrate, justice of the peace, field-cornet, or landholder, to whom application is made for such certificate as aforesaid, to grant a certificate, written in such language, whether English, Dutch, or native, as the person applied to may be able to write intelligibly, to the person applying for the same: Provided that the magistrate, justice of the peace, field-cornet, or landholder to whom application is made shall be satisfied that the stock for the removal of which the certificate is required are the property or in the lawful possession of the person about to remove the same.

Who required to grant certificates

V. It shall be lawful for any magistrate, justice of the peace, field-cornet, police officer, constable, or landholder, who shall find any person driving stock, to call upon such person to produce such certificate as aforesaid, and if such person shall fail to produce such certificate, or if the stock being removed shall not correspond in all material respects with the certificate produced, or if the direction in which such person is proceeding with the stock shall not correspond with the direction indicated in such certificate, or if the name of the person driving the stock shall not correspond with that in the certificate, then such magistrate, justice of the peace, field-cornet, police officer, constable, or landholder, if he shall be able to read such certificate, and if he shall know that such stock have been removed ten miles or more from the place from which the same were removed, may take possession of such stock and cause the same to be conveyed to the nearest pound, there to remain until liberated by order of the resident magistrate, or otherwise disposed of as hereinafter provided.

Persons driving stock may be required to produce certificate.

On failure to produce, &c., stock may be seized and impounded.

VI. The person causing any stock to be impounded as aforesaid shall communicate to the

Particulars, &c., of stock impounded to be advertised by poundmaster.

K

No. 14—1870.

poundmaster the circumstances under which the same were seized, and the poundmaster shall forthwith notify, by advertisement to be published or made known in the manner in which the pound notices for such district are published or made known, the number and description of the stock, and such information regarding the same as the person impounding the stock shall have communicated to him.

Person claiming impounded stock may apply to magistrate, and proceedings thereupon.

VII. Any person claiming stock so impounded as his property, or lawfully in his possession, may apply to the resident magistrate or any justice of the peace of the district, for an order for the liberation thereof, and such magistrate or justice of the peace shall enquire into the case, and if satisfied that such stock is the property of the claimant, or was lawfully in his possession, then such magistrate or justice of the peace shall give an order, in writing, directing the poundmaster of the pound in which such stock shall be impounded to deliver the same to the claimant upon payment of the pound fees and charges; and the poundmaster shall, at the time of the delivery of the stock, grant a certificate for the protection of such stock until the arrival thereof at the place to which it is intended to remove the same.

Poundmaster to grant certificate for stock released.

Ordinance No. 16 of 1847 to apply to stock not released.

VIII. Should the person claiming any stock so seized and impounded as aforesaid fail to show to the satisfaction of such magistrate or justice of the peace that the stock claimed is his property, or was lawfully in his possession, or should the stock be unclaimed for a period of one month after notice given by such poundmaster as aforesaid, then the same shall be dealt with in all respects as if such stock was impounded under the provisions of the Ordinance No. 16, 1847, entitled "Ordinance for the better regulation of Pounds and prevention of Trespasses," as the same Ordinance is, or may hereafter be, altered or amended by any Act or Acts of Parliament; and the proceeds of sale of any such stock shall be paid into the public treasury.

Owner entitled to compensation for stock wrongfully impounded.

IX. If any person found driving stock shall, upon being thereto required, produce to the person re-

quiring the same a certificate under the provisions of this Act, or if the stock so driven shall not have been removed ten miles, and notwithstanding the stock found with such person shall be conveyed to the pound upon the allegation that the certificate produced is not proper and sufficient, or that such stock have been removed ten miles or more, then the owner of the stock shall be entitled to recover compensation from such person for any damage which he shall have sustained by reason of the impounding of such stock, including all pound fees payable or already paid.

X. Any person who shall wilfully and maliciously and without probable cause, wrongfully impound any stock under colour of the provisions of this Act, shall be deemed guilty of a crime, and shall upon conviction be liable to be imprisoned, with or without hard labour, and with or without spare diet, for any term not exceeding three months, or, if the court shall see fit, to pay a fine not exceeding in amount ten pounds sterling, and further to pay to the owner of such stock such amount to cover expenses and damages as the magistrate before whom the case is brought shall award, and as shall not have been awarded under the ninth section of this Act.

Penalty on wilful or malicious impounding of stock.

XI. Any person who shall by force or violence, or by threatening to use force or violence, prevent or attempt to prevent any magistrate, justice of the peace, field-cornet, police officer, constable, or landholder, from conveying to the pound any stock which he shall have a right under this Act to convey to the pound, or who shall rescue, or attempt to rescue, such stock against the will of the person in charge thereof, after the same shall have been impounded with any poundmaster, shall, upon conviction, be fined any sum not exceeding ten pounds, and shall, in default of payment, be imprisoned, with or without hard labour, for any term not exceeding two months.

Penalty on forcible interference with stock proceeding to pound or rescuing impounded stock.

XII. Any person who shall knowingly grant any such certificate as aforesaid which shall contain any wilfully false statement or description in respect of

Penalty on false certificate.

No. 14—1870.

any matter material to be stated or described therein, or who shall fraudulently alter any such certificate as aforesaid, shall upon conviction be imprisoned, with or without hard labour, for a period not exceeding six months.

Definition of word "stock."

XIII. The word "stock" in this Act shall mean any horse, gelding, mare, colt, filly, mule, or ass, or any bull, ox, cow, heifer, or calf, or any sheep or goat: Provided that stock under saddle, or pack-saddle, cattle employed in drawing any vehicle, whether inspanned or outspanned, or stock in the possession of the police, shall not be deemed to be stock within the meaning of this Act.

Exemptions.

XIV. It shall be lawful for the Governor, at the request of the divisional council of any division, from time to time to put this Act in force in such division by proclamation published in the *Government Gazette*; and upon the like request, and in like manner, or when to the Governor it shall seem expedient, to suspend the operation of the Act for such time as the Governor may deem necessary: Provided that certificates for the removal of stock granted by resident magistrates, justices of the peace, field-cornets, or landholders, in places where this Act shall not be in operation shall be good, valid, and effectual in any division in which this Act shall be in force; and as often as this Act shall be in force in any division of the Colony, then the third and fourth sections of this Act shall be in force throughout the entire Colony.

Governor may proclaim Act to be in force, and may suspend its operation.

Certificates granted in places not under operation of Act, valid.

Sections 3 and 4 to apply to whole Colony.

Powers of seizing stock suspected to have been stolen not affected.

XV. No certificate which shall be issued under the provisions of this Act shall be construed to prevent any magistrate, justice of the peace, police officer, or constable, from seizing or detaining any stock which he may have reasonable ground for supposing to have been stolen; but every such magistrate, justice of the peace, police officer, and constable shall possess such and the same powers in respect to the seizure and detention of such stock as he possessed before the passing of this Act.

Short title.

XVI. This Act may be cited for all purposes as "The Cattle Removal Act, 1870."

No. 15—1870.] AN ACT [May 5, 1870.

To Continue to the end of 1871 the Act No. 10 of 1864.

**W**HEREAS it is expedient that the provisions Preamble.  
of an Act passed in the Session of Parliament holden in the year 1864, numbered 10, and intituled "An Act to provide for the Construction and Maintenance of the Main Roads of the Colony," and continued by subsequent Acts, should be further continued until the 31st December, 1871: 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. The provisions of the Act No. 10 of the year Act No. 10 of 1864 continued. 1864 shall, except any of the same which have been repealed by any subsequent Act, be continued until the 31st day of December, 1871.

No. 16—1870.] AN ACT [May 5, 1870.

To Continue to the end of 1871 the Act No. 32 of 1868.

**W**HEREAS it is expedient that the provisions of Preamble.  
an Act passed in the session of Parliament holden in the year 1868, numbered 32, and intituled "An Act to provide for the Maintenance of the Main Northern Road," and continued by the Act No. 22 of the year 1869, should be further continued until the 31st December, 1871: 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. The provisions of the Act No. 32 of the year Act No. 32 of 1868 continued. 1868 shall be continued until the 31st day of December, 1871.

No. 17—1870.] AN ACT [5th May, 1870.

For Applying a Sum not exceeding Ten Thousand Three Hundred and Fifty-six Pounds Sterling for the Service of the Year 1870.

Preamble.

WHEREAS it is expedient to provide further sums in addition to those by law provided for the service of the Government of this Colony for the year 1870 : 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 :

Additional expenditure, 1870.

The public revenue of the Colony is hereby charged with a sum not exceeding ten thousand three hundred and fifty-six pounds sterling for the service of the year 1870, in addition to the sums already by law provided for such service, which sum of ten thousand three hundred and fifty-six pounds sterling shall be applied in the manner following, that is to say :

Judicial establishments.

For the expenditure on account of the Judicial Establishments, a sum not exceeding eight hundred and eighty pounds.

Aborigines establishment.

For the expenditure on account of the Aborigines Establishment, a sum not exceeding two thousand three hundred and seventy-five pounds.

Conveyance of mails.

For the expenditure on account of Conveyance of Mails (exclusive of establishments), a sum not exceeding two hundred and twelve pounds and ten shillings.

Works and buildings.

For the expenditure on account of Works and Buildings, a sum not exceeding five thousand one hundred and seventy-eight pounds and ten shillings.

Roads and bridges.

For the expenditure on account of Roads and Bridges, a sum not exceeding one thousand seven hundred and ten pounds.

Total.

Amounting, in the whole, to ten thousand three hundred and fifty-six pounds sterling, 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 by this Act.

No. 18—1870.]

AN ACT

[May 5, 1870.

To Enable the Governor to dispose, on certain terms, of certain Crown Lands, commonly called the Waschbank Lands.

**W**HEREAS certain Crown lands in the division Preamble. of Aliwal North, commonly called the Waschbank Lands, have for a long period been occupied without title, and valuable improvements have in many cases been made thereon by the occupiers thereof, and it is expedient that such occupiers, on paying a reasonable price, should be confirmed in the occupation of such lands respectively by the issue to them of lawful title thereto : 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. It shall be lawful for the Governor to appoint Value of lands to be appraised and mode of appraisement. one or more than one qualified and trustworthy appraiser, who shall visit the lands which shall have been so occupied as aforesaid on and up to the first day of January, 1869, and shall fairly and truly appraise the value of the lands respectively so occupied as aforesaid, dividing the same according to the occupation thereof, as the same have been already surveyed, and shall, in making such appraisement, take into consideration the value of the land only, as well as its original capacities for improvement, but not of any improvements which shall have been actually made thereon, and shall attest and sign his appraisement thereof, and shall submit the same to the Governor, either in parts or altogether, and the Governor, on receiving and approving such appraisement, either of the whole or any part of such lands, may offer the same for sale Terms on which occupier may obtain grant. to the occupiers respectively of the said lands at the sum at which the same shall have been so appraised, and if such occupiers shall accept such offer, and shall pay such sum or secure the same, with interest after the rate of six pounds sterling per centum per annum, to the satisfaction of the Governor, it shall be lawful for the Governor to grant such lands



No. 18—1870.

respectively to the said occupiers upon perpetual quitrent, reserving thereout such quitrent as to the Governor shall seem fit, not being less than a sum of one shilling for every ten morgen of land.

On non-acceptance of terms by occupier, land may be sold to highest bidder.

II. If any such occupier as aforesaid shall refuse or neglect within three months after such offer shall have been communicated to him to accept such offer or to pay or secure to the satisfaction of the Governor the purchase money aforesaid, then such of the said lands as shall have been occupied by him may be put up for sale to the highest bidder, on such conditions as to the Governor shall seem fit, without reference to the Act No. 2 of 1860, at an upset price not less than that at which the same shall have been offered to such occupier as aforesaid, under an annual quitrent of not less than one shilling per ten morgen, or for lease under or by virtue of Act No. 19 of 1864.

Short title.

III. This Act may be cited as the "Waschbank Lands Act, 1870."

No. 19—1870.]

AN ACT

[May 5, 1870.]

For Applying a Sum not exceeding One Hundred and Seventy-nine Thousand Five Hundred and Eighty-nine Pounds Nineteen Shillings and Four Pence for the Service of the Year 1871.

Preamble.

WHEREAS it is expedient to provide further sums, in addition to those by law provided, for the service of the Government of this Colony until the 30th June, 1871: Be it hereby 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, 1871.

I. That a sum not exceeding one hundred and seventy-nine thousand five hundred and eighty-nine pounds nineteen shillings and four pence sterling shall be charged upon the revenue of the said Colony, towards the service of the year 1871, and applied in the manner and for the purposes set

forth in the schedule annexed to this Act, that is to say : No. 19—1870.

1. For the expenditure of the Civil Establishments, a sum not exceeding twenty-nine thousand three hundred and twenty-two pounds three shillings and eleven pence sterling. Civil establishments
2. For the expenditure of the Judicial Establishments, a sum not exceeding fifteen thousand three hundred and forty-six pounds eighteen shillings and nine pence. Judicial establishments.
3. For the expenditure of the Educational Establishments, a sum not exceeding nine thousand nine hundred and forty-nine pounds. Educational establishments.
4. For the expenditure of the Medical Establishments, a sum not exceeding seventeen thousand eight hundred and forty pounds eighteen shillings and nine pence. Medical establishments.
5. For the expenditure of the Police and Gaol Establishments, a sum not exceeding twenty-four thousand three hundred and thirty-six pounds and fifteen shillings sterling. Police and gaol establishments.
6. For the expenditure on account of the Border Department, a sum not exceeding thirty-one thousand six hundred and thirteen pounds fourteen shillings and five pence sterling. Border department.
7. For the expenditure on account of Pensions, Retired Allowances, and Gratuities, a sum not exceeding three thousand one hundred and eighty-two pounds and ten shillings. Pensions, retired allowances, and gratuities.
8. For the expenditure on account of Charitable Allowances, a sum not exceeding one hundred pounds. Charitable allowances.
9. For the expenditure on account of Works and Buildings, a sum not exceeding two thousand seven hundred and five pounds. Works and buildings.
10. For the expenditure on account of Roads and Bridges, a sum not exceeding nineteen thousand four hundred and thirty-two pounds eight shillings and six pence. Roads and bridges.
11. For the expenditure on account of Miscellaneous Services, a sum not exceeding fourteen thousand two hundred and twelve pounds and ten shillings. Miscellaneous ser- vices.

- No. 19—1870.*
- Interest. 12. For the expenditure on account of Interest, a sum not exceeding six thousand two hundred and ninety-eight pounds.
- Colonial military allowanc. 13. For the expenditure on account of Colonial Military Allowances, a sum not exceeding five thousand pounds.
- Loans repaid. 14. For the expenditure on account of Loans Repaid, a sum not exceeding two hundred and fifty pounds.
- Application of supplies. 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.

## SCHEDULE.

Pages of Schedule, Estimates, 1870.	Services.	Amount.			Total.		
		£	s.	d.	£	s.	d.
For the Expenditure of the Civil Establishment :							
3, 38, 39	His Excellency the Governor ...	525	0	0			
3, 39	Colonial Secretary ...	672	10	0			
3	Treasurer-General ...	275	0	0			
4	Auditor-General ...	822	10	0			
4	Registrar of Deeds ...	500	0	0			
5, 39	Surveyor-General ...	843	0	0			
6, 39	Department of Public Works, &c. ...	2,814	8	9			
8	Port Department ...	1,584	18	6			
8	Keeper of Public Buildings... ...	92	0	0			
8	Crown Agents for the Colonies ...	125	0	0			
15, 38, 40	Post Office ...	19,262	1	8			
Sup. Est. 1	Conveyance of In-land Mails ...	115	0	0			
38	Customs Department, Rents ...	834	0	0			
39	Rents <sup>2</sup> for sundry Offices ...	681	15	0			
40	Civil Commissioners, &c., Transport ...	175	0	0			
<hr/>					29,322	3	11

APPROPRIATION ACT (PARTIAL—1871). 139

Pages of Schedule, Estimates, 1870.	Services.	Amount.			Total.			No. 19—1870.
		£	s.	d.	£	s.	d.	
For the Expenditure of the Judicial Establishments:								
16	Supreme Court ...	1,413	0	0				
16	High Sheriff... ..							
17	Attorney-General ...	32	0	0				
17	Solicitor-General ...	437	10	0				
19	Divisional Courts ...	4,304	3	9				
35	Administration of Justice ... ..	5,368	0	0				
39	Hire of Periodical Courts ... ..	155	10	0				
39	Rent of Offices ... ..	681	15	0				
40	Transport ... ..	2,075	0	0				
Sup. Est. 1	Additional Magis- tracies ... ..	880	0	0				
						15,346	18	9
For the Expenditure of the Educational Establishments:								
36	Education, exclusive of Establishments	9,551	10	0				
38	Rents... ..	195	0	0				
40	Transport ... ..	202	10	0				
						9,949	0	0
For the Expenditure of the Medical Establishments:								
21	Medical Department	4,737	3	9				
37	Hospitals ... ..	12,828	15	0				
38	Rents... ..	25	0	0				
40	Transport ... ..	250	0	0				
						17,840	18	9
For the Expenditure of the Police and Gaol Establishments:								
32	Police and Goals, Establishments... ..	13,476	15	0				
38	Do., do., exclusive of Establishments... ..	8,650	0	0				
39	Rents ... ..	210	0	0				
40	Transport ... ..	2,000	0	0				
						24,336	15	0
34	For the Expenditure on account of the Border Department	31,348	14	5				
Sup. Est 1	Ditto ... ..	265	0	0				
						31,613	14	5
35	Pensions, Retired Allowances, and Gratutities ... ..				3,182	10	0	
36	Charitable Allowances ... ..				100	0	0	
41	Works and Buildings ... ..				2,705	0	0	

No. 19—1870.]	Pages of Schedule, Estimates, 1870.	Services.	Amount.			Total.		
			£	s.	d.	£	s.	d.
42		Roads and Bridges	...	...		19,432	8	6
43, 44		Miscellaneous Services	13,912	10	0			
40		Ditto Transport	300	0	0			
			<hr/>			14,212	10	0
44		Interest ...	...	...	...	6,298	0	0
44		Colonial Military Allowances	...	...	...	5,000	0	0
44		Loans repaid	...	...	...	250	0	0
			<hr/>					
		Total ...	...	...	...	179,589	19	4

No. 20—1870.]

AN ACT

[May 5, 1870.]

To Remove Doubts in respect to the Rates of Customs Duties payable on certain Articles under the provisions of "The Customs Tariff Amendment Act, 1866," and to amend the said Duties in other respects.

Preamble.

WHEREAS doubts have arisen with respect to rates of duties of Customs payable on their importation into this Colony on certain articles enumerated in the table annexed to the Act No. 1 of the year 1866-1867, intituled "An Act for altering the Duties of Customs in the Colony of the Cape of Good Hope;" and it is expedient to remove the same, and to amend the said rates of duties in certain respects: 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:

Duties to be levied on certain goods.

I. From the taking effect of this Act there shall be raised, levied, collected, and paid to Her Majesty, her heirs, and successors, on the importation into this Colony of any of the goods described in the table to this Act annexed, the several duties of Customs inserted and set forth in the said table, anything in the Act No. 1 of 1866-1867 to the contrary notwithstanding.

TABLE.

No. 20—1870.

	£	s.	d.
Fish, in cases hermetically sealed, or in bottles, jars, kegs, or kids, not being the produce of Africa, for every £100 value	10	0	0
Meat, salted or cured, and not in cases hermetically sealed, per 100 lbs. ... ..	0	5	0
Meat, potted or in cases hermetically sealed, for every £100 value ... ..	10	0	0
Oils, of all descriptions, including kerosene, imported in vessels containing not less than one gallon or 9¼ lbs., chemical, essential, perfumed, and castor oils, and fish oils in a raw state, the produce of Africa excepted, per gallon or per 9¼ lbs. ... ..	0	0	6
Oils, not subject to the preceding rate of duty, except fish oils in a raw state, the produce of Africa, for every £100 value	10	0	0
Salt, in bulk or in bags or other packages of not less than 100 lbs., per 100 lbs. ...	0	0	3
Salt, other than above described, for every £100 value ... ..	10	0	0
Soap, not perfumed, if imported in packages of not less than 50 lbs., per 100 lbs. ...	0	3	0
Soap, other than that above described, per 100 lbs. ... ..	0	10	0

*Free.*

Being the growth and produce of Africa, and not manufactured, but in the raw state.

- Feathers, ostrich.
- Fish, other than the above described.
- Fruit, green.
- Hides, ox and cow.
- Horns, ditto
- Ditto, wild animals.
- Ivory.
- Oil, fish.
- Ore, copper and other.
- Skins, seal.
- Ditto, sheep.
- Ditto, wild animals.

No. 1—1871.] AN ACT [11th August, 1871.

For Regulating the Retiring Pension of JAMES COLEMAN FITZPATRICK, Esquire, one of the Judges of the Supreme Court of the Colony.

Preamble.

WHEREAS by the Act No. 14 of 1861, it is provided that persons who shall serve in the office of Judge of the Supreme Court of this Colony, for certain terms of years in the said Act stated, shall be entitled, on certain conditions, to retire from the said office, and to receive the rates of pensions in the said Act mentioned: And whereas by the Act No. 3 of 1865, intituled "An Act to make provision for the Incorporation of British Kaffraria with the Colony of the Cape of Good Hope, and to increase the number of the Members of both Houses of Parliament of the said Colony," it was enacted that the Governor might pay to all persons holding offices of profit under Her Majesty the Queen in British Kaffraria, whose offices might be abolished by reason of such incorporation, compensation in manner and form prescribed by the said Act: And whereas, at the time of such incorporation, James Coleman Fitzpatrick, Esquire, was the holder of the office of Judge of the Supreme Court of British Kaffraria, which office was abolished as aforesaid; and whereas no compensation for the loss of the same has been awarded to the said James Coleman Fitzpatrick, Esquire, who has since been appointed a Judge of the Supreme Court 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:

I. For and in place of any compensation to which he may have been entitled under the provisions of the said Act No. 3 of 1865, the said James Coleman Fitzpatrick, Esquire, shall, for the purposes of the said Act No. 14 of 1861, be entitled to reckon his services as Judge of the Supreme Court of British Kaffraria, as if they had been given by him as a Judge of the Supreme Court of the Colony of the Cape of Good Hope.

Period of Mr. Justice Fitzpatrick's services how to be reckoned.

No. 2—1871.] AN ACT [11th August, 1871.

For Removing certain Doubts as to the Act No. 23 of 1869, commonly called "The Graham's Town Municipality Act, 1869."

**W**HEREAS certain doubts have arisen as to Preamble.  
 whether the provisions of the Act No. 11 of 1867, commonly called "The Public Bodies' Debts Act," apply to debts due or hereafter to become due by a certain body incorporated by and under the Act No. 23 of 1869, commonly called "The Graham's Town Municipality Act;" and whereas it is expedient that such doubts should be removed: Be it therefore declared and 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 Act No. 11 of 1867, commonly called "The Public Bodies' Debts Act," apply and extend to all debts now due or hereafter to become due by the body incorporated under and by the Act No. 23 of 1869, commonly called "The Graham's Town Municipality Act," anything contained in either of the said Acts to the contrary notwithstanding. Public Bodies' Debts Act to extend to debts of municipality.

No. 3—1871.] AN ACT [11th August, 1871.

To Authorize the Cape Copper Mining Company (Limited) to extend the Line of Tramway or Railway authorized by Act No. 4 of 1869; "The Port Nolloth Tramway or Railway and Jetty Act."

**W**HEREAS greater facilities than at present exist Preamble.  
 for the transport of minerals from the mines in Namaqualand to Port Nolloth, and also for the transport of passengers, goods, merchandize, and other articles to and from the said port would be afforded, and the resources of the country be still further developed, by the extension of the line au-



No. 3—1871.

thorized by the said Act No. 4 of 1869, and the construction of the portion of tramway or railway hereinafter mentioned and described: And whereas the said company is willing to undertake the construction and working of the said portion of tramway or railway upon being empowered for that purpose in manner hereinafter mentioned and 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:

Part of section 6 of Act 4, 1869, repealed.

I. So much of the sixth section of the aforesaid Act as empowers the said company to continue the construction of the said tramway or railway beyond the point hereinafter mentioned, distant from Port Nolloth forty-eight miles, "to foot of mountain at Nonams," is hereby repealed.

Direction and terminus of extension.

II. The Cape Copper Mining Company (Limited) is hereby empowered to extend the line of tramway authorized by the aforesaid Act, and to construct, maintain, and work a portion of tramway or railway for a distance of twelve miles, or thereabouts, diverging from the present existing line at a point near Muishondfontein, distant from Port Nolloth forty-eight miles, and extending from such point along and up the mountain side in a north-easterly direction, by Klipfontein, and terminating at a point to the north of the Mission Station at Kookfontein, or Steinkopff, in accordance with plans and sections deposited in the office of the Clerk of the House of Assembly.

Powers granted to company to enter upon lands for purposes of excavation, &c.

III. The said company is hereby authorized to enter upon and to take possession of and retain all such land within the limits of deviation, as shown by the said plans; and also to dig for, excavate, and carry away, all such stones, clay, or other materials within or from waste Crown lands near to the said limits as may be required for the construction and maintaining of the said tramway or railway free of charge: Provided that the extent of land taken or used for the said tramway or railway shall not exceed the width of thirty feet, with sufficient additional width for terminus,

Extent to which excavation may be carried on.

slopes, drainage, stations, stopping-places, approach-roads, and all other works, matters, and things, which may be requisite or necessary for the efficient construction and working of the said portion of tramway or railway: Provided, also, that the proprietor, lessee, or other person holding from and under the Crown any lands so taken possession of, or of the materials so carried away and used, shall be paid by the said directors the just value, by way of recompense or compensation, for the interests of the said proprietor or lessees, or others holding land under the Crown as aforesaid, in such land or materials, or for any damage which may be done by reason thereof.

Compensation to proprietors or lessees.

IV. The said company is hereby authorized to enter upon and take possession of, and to hold and retain, for all the purposes of this Act, free of any charges, so much of any Crown lands as shall be required for the construction and maintaining of the said portion of tramway or railway, or for any other purpose relating to the execution of this Act, and also to enter upon all Crown lands, not previously leased by the Government to any lessee, lying convenient to the said portion of tramway or railway, and there to dig for, excavate, and carry away, all such stones, clay, or other materials as may be required or be serviceable for the construction and maintaining of the said portion of tramway or railway; and, further, to allow the horses, mules, or cattle required for the purpose of working the said tramway or railway to graze on any Crown lands adjoining the line between Port Nolloth and the terminus near Kookfontein, and also to obtain water from any part of such lands where it can be found: Provided that nothing in this Act contained shall establish any servitude in favour of the said company for such privilege, or for procuring materials for the said tramway or railway upon any land which may at any time hereafter be sold or leased by the Colonial Government to any purchaser or lessee thereof.

Crown lands may be used for purposes of extension.

Materials and water may be taken from, and animals grazed on, unleased Crown lands.

But not to establish servitude.

V. All and singular the provisions contained in

Certain sections of Act No. 4, 1869, to apply.

L

No. 2—187

the third, seventh, eighth, ninth, eleventh, thirteenth, fourteenth, fifteenth, sixteenth, eighteenth, nineteenth, twenty-first, twenty-second, and twenty-third sections of the said Act No. 4 of 1869, shall apply to the said portion of tramway or railway hereby authorized, precisely as if the said sections were *mutatis mutandis* herein again set forth, and word for word repeated.

Provisions of Regulation of Railways Act, 1861, may by proclamation be made applicable to extension.

VI. Such and so many of the provisions of the Regulation of Railways Act, 1861, as the Governor, with the advice of the Executive Council, shall, by any proclamation to be published in the *Government Gazette*, specify and determine, shall come into force, and apply to the said extended railway or tramway hereby authorized to be extended or made, as if the said provisions were herein separately set forth and made applicable to the same: Provided, however, and it is hereby declared, that sections twenty-nine and thirty of the said Act shall not be made applicable to the said tramway or railway, save and except the necessary and proper fencing, which the said company shall be bound to erect and maintain, in and through the limits of the village of the missionary station of Steinkopff, whenever thereto required by the Governor.

Sections 29 and 30 excepted.

Extension to be completed within three years.

VII. The said company shall be bound to complete the said portion of tramway or railway within three years from the taking effect of this Act, failing which the powers and authorities hereby conferred shall cease and determine.

Short title.

VIII. This Act may be cited for all purposes as "The Port Nolloth Tramway or Railway Extension Act, 1871."

No. 4—1871.]

AN ACT

[11th August, 1871.]

To Continue to the end of 1872 the Act No. 10 of 1864.

Preamble.

WHEREAS it is expedient that the provisions of an Act passed in the session of Parliament holden in the year 1864, numbered 10, and

intituled "An Act to provide for the Construction and Maintenance of the Main Roads of the Colony," and continued by subsequent Acts, should be further continued until the thirty-first day of December, 1872: 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. 4—1871.

I. The provisions of the Act No. 10 of the year 1864 shall, except any of the same which have been repealed by any subsequent Act, be continued until the thirty-first day of December, 1872.

Road Act of 1864 continued.

No. 5—1871.] AN ACT [11th August, 1871.

To Provide for the Maintenance of the Great Northern Road, extending from Blinkwater, in the Division of Stockenstrom, to Summit of Penhoek, in the Division of Queen's Town.

**W**HEREAS it is expedient that the provisions of an Act passed in the session of Parliament holden in the year 1868, numbered 32, and intituled "An Act to provide for the Maintenance of the Main Northern Road," and continued by Acts No. 22 of the year 1869, and No. 16 of the year 1870, should be further continued, and that its provisions should extend to the section of the main northern road between Poplar Grove and Penhoek, in the division of Queen's Town: 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. The provisions of the Act No. 32 of the year 1868 shall be continued until the Legislature shall otherwise determine.

Act No. 32 of 1868 continued.

II. The provisions of the said Act shall extend and apply to that portion of the main northern road between Poplar Grove and Penhoek, in all respects as if that section of the road had been specified in the said Act; and the divisional council of Queen's Town shall, in respect to the said road, be invested

Act to apply to portion of road between Poplar Grove and Penhoek.

No. 5—1871.

with all the powers and shall become subject to all the liabilities created by any Act now in force relating to main roads, for so much of the said road as passes through that division.

Road may be placed  
in charge of Chief  
Inspector.

III. And it shall be lawful for the Governor, on the application of the divisional council of Queen's Town, to direct the Chief Inspector of Public Works to take charge of and maintain the said extension from Poplar Grove to summit of Penhoek, and thereupon it shall be lawful for the Governor to exercise, in respect thereto, the powers relating to the imposition and collection of tolls which are by Act No. 10 of 1864 conferred upon divisional councils.

No. 6—1871.]

AN ACT

[11th August, 1871.]

To Erect the District of Wodehouse into a Fiscal Division.

Preamble.

WHEREAS it is expedient that the lately proclaimed district of Wodehouse should be constituted a fiscal division: 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:

District of Wodehouse created a fiscal division.

I. From and after the first day of January, 1872, the district of Wodehouse, as defined by the Governor, by proclamation in the *Government Gazette*, dated the fifth day of January, 1871, shall become and be a division for fiscal purposes, and for every purpose other than the election of members of Parliament.

Constitution of existing electoral divisions not affected.

II. The persons now entitled or hereafter becoming entitled to vote for members of Parliament to represent the now existing divisions, respectively, parts whereof constitute, or partly constitute, the said district of Wodehouse, shall not be in anywise disfranchised as to voting for members of Parliament to represent such divisions respectively, but the said parts of the said divisions respectively, shall, for the purpose of the election of members of Parliament, and as far as may be necessary for that

purpose only, be deemed to be, and to remain, respectively, parts of the several divisions whereof they now form parts respectively, notwithstanding the passing of this Act.

No. 6—1871.

III. From and after the first day of January, 1872, the several divisional councils of the said now existing divisions, parts whereof constitute, or partly constitute, the said district of Wodehouse, shall stand dissolved, and the provisions of the "Divisional Councils Act, 1865," and of the several Acts amending the same, shall apply to the said new division of Wodehouse, and to the several divisions whereof parts now constitute, or partly constitute, the said district of Wodehouse, excluding, however, from the limits of those divisions respectively, the parts now included in the district of Wodehouse, which parts shall cease to form parts of the said divisions respectively, for all purposes save as aforesaid, and shall, for all fiscal and other purposes, save only as aforesaid, form parts of the new division of Wodehouse ; but all persons for the time being registered as voters for members of Parliament for any of the said divisions respectively, who shall be resident within such parts thereof, respectively, as shall form part of the said new division of Wodehouse, shall be entitled to vote at any election for members of the divisional council of the said division of Wodehouse.

Divisional councils in existing divisions dissolved, and Act 4 of 1865 to apply to both new and existing divisions.

No. 7—1871.]

AN ACT

[11th August, 1871.

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.

**W**HEREAS it is expedient that the harbour of East London should be improved and rendered more commodious and secure for shipping, and it is estimated that a sum of one hundred thousand pounds sterling will be required to effect

Preamble.

No. 7—1871.

such works as will be necessary for that purpose : And whereas it is expedient that the said sum of one hundred thousand pounds sterling should be raised in such manner as is hereinafter described, but so that out of the entire sum of one hundred thousand pounds sterling so to be raised, not more than fifteen thousand pounds sterling shall be raised in any one period of twelve months : 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 :

Loan of £100,000 upon stock or perpetual annuities authorized.

I. It shall be lawful for the Governor to raise and take up, upon the security of the public revenue of this Colony, and upon stock or perpetual annuities, such sum or sums of money as from time to time shall seem to him fit and necessary for the purposes aforesaid, not exceeding in the whole the sum of one hundred thousand pounds sterling, for the harbour of East London, and not exceeding, out of the entire sum of one hundred thousand pounds sterling, the sum of fifteen thousand pounds sterling in the whole during any one period of twelve months.

Mode of issuing stock.

II. Such stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be opened for that purpose by the Treasurer-General of this 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 for the time being, by command of the Governor, and countersigned by the said Treasurer-General and by the Auditor-General of the Colony, which scrip certificate shall be preserved in the office of the said Treasurer.

Rate of interest, and when and where payable.

III. Such stock shall bear interest after the rate of five pounds sterling per centum of the nominal amount of such stock from the first day of January, or the first day of July next, before the issue of the said scrip certificates respectively, which shall last happen, and such interest shall be payable there-

after half-yearly, on the first day of July and the first day of January 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 Treasurer-General 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 Treasury in Cape Town.

IV. All such interest shall be charged and chargeable on and payable out of the general revenue of the Colony. Interest charged on general revenue.

V. Such stock shall be transferable by transfer in the books of the Treasurer-General, 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-General a receipt or certificate stating the amount of such stock standing to his credit in such books. Transfer of stock.

VI. There shall be payable upon every transfer in the said books of any such stock a sum of two shillings and sixpence upon every hundred pounds of such stock 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 unless and until such sum as shall be payable as aforesaid shall have been paid. Fee payable on transfer.

VII. All such stock shall be put up for public tender from time to time, at such times and in such amounts as may seem fit, so that, however, not more than a sufficient sum thereof to raise the sum of fifteen thousand pounds sterling shall be issued within any one period of twelve months, 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 Disposal of stock.



No. 7—1871.

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.

Power to pay interest and buy up stock out of current revenue.

VIII. The Governor shall, from time to time, out of current revenue of the Colony, pay the interest upon the said stock; and may also, out of such current revenue, from time to time, buy up and cancel any part of such stock.

Moneys realized to be carried to separate account, and how applied.

IX. The moneys realized from time to time by the issue of such stock, shall be carried to a separate account, and shall be expended so far as may be necessary in the prosecution of the harbour works before mentioned, and not otherwise.

Accounts to be laid before Parliament.

X. An account showing the amount of all such stock as may, from time to time, be issued under the authority of this Act, and of the moneys from time to time realized thereby, and the expenditure thereof, or of so much thereof, as shall have been expended for the time being, vouched by the Auditor-General of the Colony, shall be laid before both Houses of Parliament within fourteen days after the commencement of each such session of Parliament as shall have been held next after the notice of the issue of any such stock shall be published, and an account of the amount of the same stock for the time being outstanding, and of all such sums thereof as shall have from time to time been bought in and cancelled, if any, shall also be laid before Parliament in each succeeding session thereof.

Wharfage dues to be levied.

XI. And whereas for the purpose of reimbursing to the Government, wholly or in part, the interest upon the moneys to be expended under this Act at the harbour of East London, it is expedient that wharfage dues shall be levied at the said harbour. Be it enacted as follows: There shall be levied and paid to the principal officer of Customs at East London, upon all goods, articles, matters, and things landed or shipped at or in the harbour of East London, and not by the schedule to this Act exempted from the payment of wharfage dues, the several dues of wharfage set forth in the tariff constituting the schedule to this Act.

SCHEDULE No. 1.

No. 7—1871.

Upon all wool shipped or landed at East London harbour there shall be payable and be paid sixpence for and upon every one hundred pounds of the weight thereof. Upon all goods, articles, matters, or things, except wool, shipped or landed at the said harbour, dues shall be payable and be paid at and after the rate of ten shillings for every one hundred pounds of the value thereof.

EXEMPTIONS.

1. All public stores, naval and military baggage, and personal baggage of passengers.
2. Ships' stores outwards.
3. All goods shipped upon which dues had been paid on importations under this Act.
4. All goods shipped to or landed from any place within the Colony.

SCHEDULE No. 2.

I, A. B., do hereby declare that I am cognizant of the value of the following articles about to be shipped by me (or by C. D., according to the fact) on board the —, in East London harbour, namely (here describe the articles, with marks and numbers, if any); and I do further declare that the said articles are of the value of—.

(Signed)

A.B.

The above declaration under the Act No. —, was made and subscribed this — day of —, 187—, in the presence of—

C. D.

(\* \* When the articles are landed or about to be landed, the above form will be altered according to the facts).

No. 8—1871.] AN ACT [11th August, 1871.

To Incorporate the Port Elizabeth and Uitenhage Railway Company (Limited).

WHEREAS it is desirable and expedient that a Preamble. company should be formed and incorporated for the purpose of constructing, maintaining, and working a line of railway from Port Elizabeth to

No. 8—1871.

Uitenhage, and to erect and work a telegraph along the line : And whereas certain steps have already been taken, by the appointment of a provisional committee and the subscription of a fund considered sufficient to defray preliminary expenses, towards the promotion of this object : And whereas plans and sections of the said railway are now deposited in the office of the Clerk of the House of Assembly : And whereas it is deemed desirable that the liability of shareholders in the said company should be limited to the amount of their respective shares : Be it therefore enacted by His Excellency the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :

Incorporation of company.

I. The several persons who are or shall become shareholders in the said company, their respective executors, administrators, successors, and assigns, shall be and are hereby constituted a body corporate under the name and title of the Port Elizabeth and Uitenhage Railway Company (Limited), for the purpose of constructing and working a railway from Port Elizabeth to Uitenhage aforesaid ; and the company hereby incorporated by the name aforesaid shall have perpetual succession and a common seal, and by such name shall and may from time to time sue and be sued, implead and be impleaded, answer and be answered unto, in any competent court, and shall have power to take, purchase, and hold lands, buildings, hereditaments, and possessions, and also all other property, chattels, or effects whatsoever ; and such lands or other property, subject to any engagements affecting the same, shall be vested in the company by its corporate name, and without the necessity of each individual shareholder being mentioned in the deed or deeds of transfer, grant or grants, or conveyances thereof.

Amount of capital and how constituted.

II. The capital of the company shall be seventy-five thousand pounds, in three thousand shares of twenty-five pounds each ; such shares shall be numbered in arithmetical progression, beginning with number one, and each share shall be distinguished by its appropriate number.

III. Subscription lists for shares in the said company shall be opened and headed as follows: No. 8—1871. Subscription lists for shares to be opened, and obligation of subscribers.

We, whose names are hereunder written, hereby agree with each other to become shareholders in the Port Elizabeth and Uitenhage Railway Company (Limited), incorporated by Act of Parliament, and to take each of us the number of shares set opposite our respective names, in terms of our written application.

And every such list shall be signed by the shareholder himself, or by his lawfully authorized attorney; and all such lists shall be preserved by the directors of the said company; and the shareholders signing such lists shall from that time be bound to each other for the due fulfilment of the several obligations by this Act imposed upon the shareholders in the said company, as fully and amply as if every shareholder had executed a trust deed containing all and singular the provisions and stipulations of this Act.

IV. No more than twenty-five pounds in all shall be due or payable in respect of any share in the said company, and the liability of any shareholder shall be and is hereby limited to the payment of that amount on each of the shares held by him, in instalments as hereinafter mentioned. Limitation of shareholders' liability.

V. The amount of the shares in the said company shall be paid in manner following, namely, ten shillings per share, in cash, on allotment, and by further instalments not exceeding five pounds per share at intervals of not less than three months, which instalments it shall be lawful for the directors to call up, upon giving notice to that effect of not less than three months in the *Government Gazette* and one or more local newspapers, the deposit of ten shillings to be taken as part payment of the first instalment. How shares to be paid up.

VI. If at the time appointed for the payment of any call as aforesaid, any shareholder shall fail to pay such call, it shall be lawful for the company to sue such shareholder for the amount thereof in any court having competent jurisdiction, and to Shareholders failing to pay calls may be sued.

No. 8—1871

recover the same, with interest at the rate of six per cent. per annum from the day on which such call shall become due and payable, and any person who shall become the holder of any share or shares as guardian or trustee for any minor shall be personally liable to pay any calls or claims which may accrue on account thereof, so long as the person for whom he shall hold the same shall remain under age.

Shares may be forfeited.

VII. If any shareholder shall fail to pay any call payable as aforesaid within one month from the time appointed for the payment of such call, the directors may, at a meeting duly convened by a resolution in writing, signed by not less than five of their number, declare such share or shares forfeited, whether the company shall have sued for the amount of such call or not; and the said directors may forthwith dispose of them to any other person or persons, and, if needful, issue fresh certificates of shares to the person or persons purchasing such forfeited shares.

Directors, how and when to be elected, and how long to hold office.

VIII. The general management of the affairs of the company shall be vested in nine directors, who shall be elected by a majority of the shareholders present at a general meeting of the shareholders to be held in Port Elizabeth upon the first Wednesday of October, now next ensuing, at twelve o'clock at noon, or upon such ulterior day as may be fixed by the provisional committee, not later than the fifteenth of December next, and of which meeting notice shall be given not less than fourteen days previously by advertisement in the *Government Gazette* and one or more of the local papers of this Colony, by the secretary of the aforesaid provisional committee; and the directors then elected shall continue to hold their office until the meeting of shareholders to be held on the first Wednesday of October, in the year one thousand eight hundred and seventy-three: Provided, always, that no person shall be competent to be a director of the said company who shall not possess in his own right twenty-five shares in the stock of the said company.

Who ineligible as director.

Votes proportioned to shares.

IX. At the meeting held for the election of

directors or any other purpose connected with the affairs of the company, the shareholders present, either personally or by proxy, shall vote according to the following scale, namely :

- The holder of not less than 3 shares, one vote.
- The holder of not less than 6 shares, two votes.
- The holder of not less than 10 shares, three votes.
- The holder of not less than 12 shares, four votes.
- The holder of not less than 20 shares five votes.
- The holder of not less than 40 shares and upwards, seven votes, and no more.

X. Any director becoming insolvent or otherwise incapacitated to act in that behalf, or being absent from the Colony for three months, without special leave from the board of directors, or who shall cease to be the holder of twenty-five shares as aforesaid, shall become disqualified, and his seat be declared vacant. Disqualification of directors.

XI. In case the conduct of any director who shall be so elected shall at any time be such that his continuance in office would, in the opinion of at least twenty shareholders holding collectively not less than two hundred shares, be prejudicial to the interests of the company, and notice thereof shall have been given to the directors in writing, the directors shall thereupon call a general meeting of proprietors, for the purpose of determining whether such director shall continue in office : Provided, always, that not less than twenty-one days' notice of such meeting, and the purpose for which it is to be held, shall be given in the *Government Gazette* and one or more local papers, in which case it shall be lawful for a majority of the proprietors at such meeting to remove such director from his office, and elect another in his place. Director may be removed from office.

XII. On the first Wednesday of October in the year 1873, the nine directors who shall be chosen at the meeting to be held as provided by the eighth section of this Act, shall go out of office, and nine directors shall be elected in their stead, and in like manner the whole of the directors shall go out of office annually, and shall be succeeded by nine directors to be Directors to vacate office annually.

- No. 8—1871. elected in their stead : Provided, however, that if, from any cause whatever, no election shall on such day in any year take place, the directors then in office shall remain until other directors shall be elected and consent to act : And provided that the directors who shall go out of office shall be eligible for re-election.
- But not until completion of fresh election.
- And eligible for re-election.
- Directors to elect chairman.
- XIII. The directors, at their first meeting, shall appoint a chairman from amongst themselves, who shall preside at all meetings of the directors, and in case of his absence the directors present shall, by a majority of votes, elect a chairman for the meeting, such chairman to have a vote as a director, also to have a casting vote, if there be an equality of votes ; and at all meetings of shareholders they shall make choice of a chairman from among their number, who shall preside and have a vote as a shareholder, and also a casting vote, if there be an equality of votes ; five directors shall form a quorum, and be competent to perform all acts which the directors are empowered to do and perform.
- Shareholders to elect chairman at meetings.
- Five directors to form a quorum.
- Annual meeting of shareholders.
- XIV. The annual general meeting of shareholders shall be held in Port Elizabeth on the first Wednesday of October, at twelve o'clock at noon, in each year, and a report shall be submitted to such meeting, setting forth the position and prospects of the company, together with an account of receipts and expenditure during the preceding year.
- Special meetings.
- XV. In addition to the annual general meetings, general meetings of the company shall be held for special purposes, upon a requisition in writing, setting forth such purpose, signed by not less than twenty shareholders, holding collectively not less than two hundred shares, and sent in to the chairman of the directors : Provided, however, that notice of such meetings, together with the purpose thereof, shall be published in the *Government Gazette* and one or more of the local papers, at least twenty-one days previous ; and provided, also, that no business except that described and set forth in the published notice shall be brought before any such meetings.
- Auditors to be appointed and accounts audited.
- XVI. The accounts of the company shall be

audited annually by two auditors, not being directors, such auditors to be appointed by the shareholders at each annual general meeting: Provided, however, that no person shall be eligible to act as an auditor unless he shall be the proprietor of at least five shares in the capital stock of the company.

No. 8—1871.

Who eligible as auditor.

XVII. At any general or special meeting of the shareholders, save and except the meeting to be held as provided by the eighth section of this Act, no shareholder shall be entitled to vote in respect of any share or shares until he shall have been registered as the proprietor thereof for a period of at least three months previous to such meeting.

Who entitled to vote at general or special meeting.

XVIII. No shareholder residing within ten miles of the town where any meetings of the company shall be held (except females holding shares in their own right, and persons unable from illness to attend), shall be allowed to vote by proxy, and the proxy of such females or shareholders suffering from illness, or being resident beyond ten miles of the place of meeting, shall be in effect as follows:

Who allowed to vote by proxy.

I, A. B., of ———, one of the shareholders of the Port Elizabeth and Uitenhage Railway Company (Limited), do hereby authorize and appoint C. D., of ———, to be my proxy at a meeting of shareholders of the said company to be held on the ——— of ———, and to vote for me thereat on all matters which shall be proposed at such meeting relative to the concerns of the company, unless I shall be personally present.

Forms of proxy.

Witness my hand at ———, this ——— day of ———, 18 .

A. B.

Any shareholder absent from the Colony shall be allowed to vote by proxy during his absence, and the proxy in such case shall be to the following effect:

I, A. B., of ———, one of the shareholders of the Port Elizabeth and Uitenhage Railway Company (Limited), do hereby authorize and appoint C. D., of ———, to be my proxy at all meetings of the shareholders of the said



No. 8—1871.

company, which shall be held during my absence from the Colony, and to vote for me thereat upon all matters and things proposed relative to the concerns of the company.

Witness my hand at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 18 .

A. B.

Resolutions at meetings how to be determined.

XIX. All resolutions of shareholders at meetings shall be determined by a show of hands, but any shareholder feeling dissatisfied with such decision may demand a ballot, which ballot shall forthwith be proceeded with, the votes being given in writing and reckoned according to the scale in that behalf hereinbefore provided; and in the event of votes being equally divided, the chairman of the meeting shall decide the question by his casting vote.

Register of shareholders to be open for inspection.

XX. A full and complete register of the shareholders in the company shall be open for the inspection of the public, at all reasonable times, on the payment of a fee of one shilling for each inspection; and, further, any shareholder may require from the directors of the company for the time being a certificate of each of the shares held by such shareholder in the company, which certificate shall at all times be deemed sufficient evidence of the interest in the company by the respective parties to whom the same shall be granted; and the certificate so to be granted shall be signed by two directors, and be of the following form, to wit:

Shareholder may require certificate of share.

Form of certificate.

Certificate of Share in the Port Elizabeth and Uitenhage Railway Company (Limited).

This is to certify that A. B., of \_\_\_\_\_, is proprietor of share No. —, in the Port Elizabeth and Uitenhage Railway Company (Limited), incorporated by Act of the Colonial Legislature, subject to the provisions and regulations of the said company.

Given under the common seal of the company this \_\_\_\_\_ day of \_\_\_\_\_, 18—.

\_\_\_\_\_  
\_\_\_\_\_ } Directors.

XXI. Any shareholder may transfer his share or shares by endorsement upon each certificate specifying the person to whom such share is transferred, but no such transfer shall have any force or effect as regards the affairs of the company until such transfer shall have been approved of by the directors of the said company, and registry thereof be made in the books of the said company, and further until the assignee or transferee shall, either in person or by attorney, acknowledge his proprietorship in substance as follows :

No. 8—1871.

Transfer of shares.

I, C. D., do hereby acknowledge to have received by transfer from E. F. —, shares No. —, in the Port Elizabeth and Uitenhage Railway Company (Limited), subject to the conditions regulations, and provisions of the Act of incorporation of the said company.

XXII. Any shareholder transferring his share or shares as aforesaid shall be wholly released and discharged from all liability in respect thereof from the date of registration, and the person to whom the same shall be transferred shall be subject to all and singular the same liabilities in respect of such share or shares as if such person had been the original shareholder.

Liability transferred with share.

XXIII. The board of directors of the company are hereby empowered to enter into contracts for the supply of work or materials necessary for the construction, maintaining, and working of the said railway, and may also appoint and employ engineers, overseers, masons, carpenters, excavators, or such other workmen as they may deem necessary for carrying out the provisions of this Act, and also to remove or dismiss any such person and employ others in their stead, and to fix the duties and salaries of all such persons.

Directors may enter into contracts, appoint officers and remove them.

XXIV. The right to and property in all and singular the earthworks, bridges, culverts, permanent way, materials, rolling-stock, and everything appertaining to the said railway constructed under this Act, shall be vested in the said company.

Property vested in company.

M

No. 8—1871.

Directors when empowered to borrow money.

XXV. So soon as the whole of the capital of the company shall have been subscribed, and not less than one-half thereof shall have been paid up and expended, it shall be lawful for the directors, from time to time, when duly authorized thereto by the shareholders at a special meeting convened for that purpose, to borrow money on security of the undertaking, including all and singular the property mentioned in the preceding section, and the future calls on the shareholders, and of the expected earnings of the line ; the interest on such loan to be a first claim upon the net profits of the working of the railway.

Dividends how to be determined.

XXVI. The amount of dividends to be paid to the shareholders in the said company shall be determined by the directors for the time being, subject to the approval of the shareholders present at the annual general meeting : Provided, however, that no dividend shall be paid whereby the capital stock shall be in any way reduced.

Remuneration to chairman and directors.

XXVII. The chairman and directors for the time being shall receive out of the clear profits of the company such sum or sums of money by way of remuneration for their trouble as the majority of the shareholders shall determine at the annual general meeting.

Directors how to sue and be sued.

XXVIII. In any action or suit which may be brought by or against the directors, in their capacity as such, it shall and may be lawful for such directors to sue or be sued by the style or description of "The Port Elizabeth and Uitenhage Railway

Director or shareholder admissible as a witness.

Company (Limited) : " Provided, always, that no director or shareholder shall be deemed to be an incompetent witness in any suit or proceeding as aforesaid, by reason of his holding the office of director or of holding shares in the said company :

Liability for costs of suit or action.

And provided, also, that the said directors shall be repaid out of the funds of the company, under the provisions of this Act, all costs and expenses which they shall incur by reason of bringing or defending any suit or action, unless such suit or action shall have arisen from their own gross negligence or wilful default.

XXIX. It shall and may be lawful for the said company to construct and work the railway hereinbefore mentioned, and to erect and work a telegraph along the line, subject to the provisions of Act No. 20 of 1861, entitled an "Act for the Regulation of Electric Telegraphs," and to enter upon and take possession of and to hold and retain for all the purposes of this Act, free of charge, so much of any land belonging to the Queen's Most Excellent Majesty as shall be required for the construction and maintaining of the said railway, or for any other purposes relating to the execution of this Act, and also to enter upon all lands of her said Majesty lying convenient to the said railway, and there to dig for, excavate, and carry away all such stones, clay, or other materials, as may be required or be serviceable for the construction and maintaining of the said railway, also free of charge.

No. 8—1871.

Powers to construct railway and telegraph, and to enter upon public lands for purposes of railway.

XXX. It shall and may be lawful for the said company, and they are hereby authorized, to enter upon and take possession of such lands other than those abovementioned within the limits of deviation as may be required for the construction and maintaining of the said railway: Provided that no brickfield, garden, vineyard, plantation, avenue, orchard, or ground ornamentally planted, shall be used for the purpose of depositing or excavating soil without the consent of the owner thereof; and provided that the extent of land taken for the said railway shall not exceed the width of thirty feet for the formation line and sufficient additional width required for the slopes, drainage, fencing, and stations, and approach roads thereto: Provided that in doing so as little damage as possible shall be done to such lands as aforesaid: And provided, further, that the proprietors of the said lands or materials so used and carried away shall be paid by the directors the just value by way of recompense for such land or materials, or for any damage which may be done by reason thereof.

Power to enter upon private lands.

But under certain limitations.

Proprietors entitled to compensation.

XXXI. In the event of the company and any such proprietor or proprietors, or the person or persons claiming compensation, not being able to

Disputes as regards compensation, how to be settled.

No. 8—1871.

agree upon the sum to be paid by the said directors, and accepted by such proprietor or proprietors or person or persons claiming compensation, then the said directors shall cause to be served upon such proprietor or proprietors or person or persons claiming compensation a written notice offering as recompense or compensation whatever sum of money they shall deem sufficient, and requiring such proprietors or person or persons claiming compensation to state in writing to the said directors, within a certain limited time, to be specified in the said notice, whether he or they is or are willing to accept the sum therein mentioned or not; and in case he or they shall refuse to accept the sum offered, or shall neglect to reply to the said notice, then the said directors shall by another notice in writing call upon such proprietor or proprietors or person or persons claiming compensation to refer to arbitration the amount of recompense or compensation to be paid to him or them by the said directors, and for that purpose to transmit to their representative in Port Elizabeth, within a certain reasonable time, to be specified in the said last-mentioned notice the name of some person whom he or they shall elect to be an arbitrator upon such arbitration; and the said directors, 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 directors shall cause a deed of submission to be prepared, which shall be signed by the chairman of the said board of directors and by the said proprietor or proprietors or person or persons 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 and they are hereby 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

Proceedings in case  
of arbitration.

Award to be made  
rule of court.

and conclusive, and may be pleaded in bar of any action or proceeding at law brought for or on account of the subject matter; and in case such proprietor or proprietors or person or persons as aforesaid claiming compensation or recompense, 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 directors, and they are hereby authorized, to lodge in some joint-stock bank in Port Elizabeth, the sum of money offered by them as aforesaid, for or on account and at the risk of such proprietor or proprietors or person or persons as aforesaid, who shall at all times be entitled to draw the same out of the said bank as his or their absolute property; and the said directors, 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; and thereupon, or upon payment of any sum which may be awarded or which may be agreed to be accepted as and for recompense and compensation as aforesaid, the said land shall be held and taken to be vested in the said company 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 company, according to the law and custom of this Colony, or as if all acts by law required for vesting in the said company a sufficient title thereto had been duly done and performed. And the said materials shall be held and taken to be, and shall be, the free and absolute property of the said company: Provided, further, that the costs of the arbitration aforesaid shall be in the discretion of the arbitrators.

No. 8—1871.

How where proprietor refuses or neglects to proceed to arbitration.

Lands regarding which the compensation shall be settled by arbitration or otherwise to become absolute property of company.

Costs of arbitration

XXXII. Should it be necessary to make any cuttings or form any embankments in the vicinity of any house or other building, full and fair compensation shall be given to the proprietors of such house or other building, the same to be

Compensation for cuttings or embankments in the vicinity of buildings.

No. 8—1871.

assessed in the manner directed by the preceding section.

Line may cross streets or roads.

XXXIII. At all places where the line of the said railway, or any deviation thereof, shall intersect or cross the line of any street or road, it shall be lawful for the said company to make and carry the said railway across such street or road, either by means of a level crossing or by a convenient and sufficient bridge or viaduct over or under the said street or road; and the said company shall be bound and obliged to make all such cuttings, embankments, and approaches, with all such culverts and drains as may be requisite to make good the said street or road across, or over, or under, the said railway, at gradients not exceeding one foot in twenty feet; and the said company shall be bound and obliged to maintain and keep in repair all such crossings, bridges, viaducts, cuttings, embankments, and approaches, culverts and drains, as aforesaid; and in all cases where any street or road shall cross the said railway, no engines, carriages, trucks, or other vehicles shall be allowed to remain athwart such crossing, but shall pass such crossing without unnecessary delay, so as to interrupt as little as possible the free use of such road.

Company to make and keep in repair crossings.

And not to obstruct thoroughfare.

Right to construct road across line reserved.

XXXIV. Nothing in this Act contained shall hinder or prevent any public roads hereafter to be constructed under Act of Parliament, or proclamation lawfully issued under Act of Parliament, from being made and carried across the said railway at all requisite and convenient points: Provided that as little damage as possible shall be caused to the said railway by such crossings; and all damage which may be caused by the construction of the said railway to any roads or streets shall be repaired and made good by the said company as soon as practicable, at the cost and charges of the said company.

Damage to roads, &c., to be made good at cost of company.

Sections 29 and 30 of Railways Regulation Act, 1861, only partially applicable to this Act.

XXXV. It is hereby declared that sections twenty-nine and thirty of "The Regulation of Railways Act, 1861," shall not apply or be made applicable to the said railway, save and except the

proper and necessary fencing thereof which the said company shall be bound to erect and maintain on such portions of the line as the Governor, upon representation made to him by the divisional councils or municipalities, or otherwise, may from time to time order to be enclosed.

XXXVI. The said company shall be bound and obliged to make and keep in repair so many convenient gates, bridges, arches, culverts, and passages over, under, or by the side of, or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the said railway, and such works shall be made forthwith after that part of the railway passing over such land shall have been laid out or formed, or during the formation thereof.

Company to make necessary provision at crossings.

XXXVII. It shall be the duty of the company within twelve months after the passing of this Act, to cause the line where the railway is to cross any land to be definitely pointed out and marked by stakes driven into the ground, and no deviation therefrom shall take place except with the concurrence of the landed proprietor or proprietors.

Line to be staked out within twelve months.

XXXVIII. It shall be lawful for the company to deviate from the line delineated on the said plans, provided that no such deviation shall extend to a greater distance than the limits of deviation delineated upon the plans in the preamble of this Act mentioned.

Extent of deviation allowed.

XXXIX. The company shall be bound, and are hereby required, to finish and complete the said railway within five years, reckoned from the date of the first commencement of the works thereof, so that the said railway may be opened for the public conveyance of passengers and goods: Provided that the company shall be bound to commence the said railway not later than three years from and after the taking effect of this Act, failing which all and singular the powers and authorities conferred by this Act shall cease and determine.

Term for completing railway.

Date of commencement.

XL. The railway shall not be opened for traffic until the certificate of the Colonial Engineer or

Certificate of engineer before railway is opened.



No. 8—1871.

other officer appointed by the Government shall have been obtained, at the expense of the company, that the same is sufficiently completed for the safe conveyance of passengers.

Directors to frame tariff of charges.

XLI. So soon as it shall be made to appear that the line of railway is in a fit condition for traffic, the directors for the time being shall frame a tariff of charges for the conveyance of passengers and goods, and such tariff shall be subject to the approval of the Governor and be published in the *Government Gazette* and one or more of the local

And may alter rates.

papers, for general information: Provided, always, that the rates so chargeable may from time to time be altered by the directors with the consent of the Governor; and, further, that the directors shall be entitled to recover by legal process all such charges as shall be in force for the time being from the owners of goods, articles, or things, conveyed by the company on the said line, and shall, moreover, have the right of retaining such goods, merchandise, articles, or things, or any other goods, articles, and things which may be in their possession belonging to such owners as aforesaid, or to the person or persons liable for such charges or rates, until the same shall have been paid; and, further, on his or their failing to pay on demand the said charges or rates, it shall and may be lawful for the company to sell by public auction at Port Elizabeth or Uitenhage, all or any of such goods, articles, or things as aforesaid, and out of the money arising from such sale to retain the rates or charges payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus, if any, and such goods as may remain unsold, to the person or persons entitled thereto: Provided that fourteen days' notice of such sale shall be given in the *Government Gazette* and in one or more of the newspapers published in Port Elizabeth and Uitenhage.

Right of Government to purchase first seven miles of railway at valuation.

XLII. Whereas by Act No. 9 of 1862, the Colonial Government are authorized and empowered to construct a railway from Port Elizabeth to Graham's Town, under and subject to the provisions contained

in the said Act: And whereas the first seven miles, or thereabouts, of the railway to be constructed by the Port Elizabeth and Uitenhage Railway Company, commencing at the town of Port Elizabeth, and ending at or near the Zwartkops River, will be in the same line as the first seven miles, or thereabouts, contemplated by the aforesaid Act, and it is therefore desirable and expedient, as well for the interests of the public as for those of the shareholders in the Port Elizabeth and Uitenhage Railway Company, that the said first seven miles, or thereabouts, should be available as well for the use of the Colonial Government under the said Act as for the said Port Elizabeth and Uitenhage Railway Company: Be it therefore enacted, that it shall and may be lawful for the Colonial Government, and they are hereby authorized and empowered, to purchase and take over from the said Port Elizabeth and Uitenhage Railway Company the said first seven miles, or thereabouts, of the railway so to be constructed by them, at a valuation to be fixed and determined by three competent and impartial persons, one to be appointed by the Governor of this Colony, another to be appointed by the directors of the Port Elizabeth and Uitenhage Railway Company, and before proceeding in the arbitration, a third to be appointed by the two so chosen by the Governor and the said directors, and the value which shall be fixed and determined by all or a majority of the said arbitrators shall be final and conclusive and be binding upon both parties: Provided, always, that the Port Elizabeth and Uitenhage Railway Company shall have full power and authority, and they are hereby authorized and empowered after the same shall have been purchased and taken over as aforesaid, to use and run engines, carriages, and trucks, properly constructed, upon and over the said first seven miles of railway, and also to use the stations which may be constructed for the purposes thereof, subject to such regulations and charges as may be agreed upon by the Governor and directors of the said company, or in case of disagreement between them relative thereto or to any other matter or thing con-

No. 8—1871.

Valuation how to be determined.

But company to retain running powers, &amp;c.

170 PORT ELIZABETH AND UITENHAGE RAILWAY ACT.

No. 8—1871.

Construction of first section to be under Government supervision.

Municipal authorities to have right of access to municipal lands required for purposes of railway.

But not to interrupt traffic.

Right of Government to construct first section or to purchase whole line of railway.

But not under cost price, if purchased within three years.

Engines, rolling-stock, &c., included in purchase.

nected therewith, then subject to such regulations and charges as shall be fixed and determined by arbitration, as in the manner hereinbefore provided : Provided, further, that the said first seven miles or thereabouts of the said railway shall be constructed under the inspection of the Colonial Government, and in accordance with specifications to be agreed on between the Government and the company : And, further, so much of the land required for the said railway as is within the municipal limits of the towns of Port Elizabeth and Uitenhage shall at all reasonable times be accessible to the municipal authorities of those places, for the purpose of making culverts, surface drains, bridges, or road-crossings, under or over the line or for laying down water or gas pipes, or for other municipal purposes : Provided, always, that the traffic of the line shall not be unnecessarily interrupted thereby : And, provided further, that should the Colonial Government consider it expedient and elect within six months from the taking effect of this Act to construct the said first section of seven miles or thereabouts of the said railway, or should the said Government deem it expedient and elect to purchase and take over the whole of the railway which shall be constructed by the Port Elizabeth and Uitenhage Railway Company under this Act, full power and authority is hereby granted to the Government for either or both of the aforesaid purposes ; and in case the Government shall elect to purchase, the company shall be bound to sell the said railway at a price to be fixed and determined by arbitration in the manner hereinbefore provided with respect to the said first section of seven miles or thereabouts : Provided, however, that in case the whole or any portion of the said railway shall be purchased by the Government within a period of three years from and after the completion thereof, the sum to be fixed or awarded to be paid for the same shall not be less than the cost price thereof : And provided, also, in case of the whole being purchased, that the Government shall be bound to purchase and take over the whole of the engines, rolling-stock, plant, materials, tele-

graph, and all other matters and things appertaining to the said railway at a price to be fixed and determined by arbitration in the manner hereinbefore provided.

No. 8—1871.

XLIII. In case any railway which may require a junction with the railway hereby authorized shall be constructed hereafter either by the Colonial Government or by any company other than the Port Elizabeth and Uitenhage Railway Company, the Colonial Government, or such other company as aforesaid, shall be, and they are hereby authorized to run engines, carriages, and trucks, properly constructed, upon and over the said railway, and also to use the stations which may be constructed for the purposes thereof, subject to such regulations, and to the payment to the Port Elizabeth and Uitenhage Railway Company of such charges or rates as may be agreed upon by the Governor, or such other company as aforesaid, and the Port Elizabeth and Uitenhage Railway Company; and in case of disagreement thereon, then subject to such regulations, and to the payment to the said company of such charges or rates as shall be fixed and determined by three competent and impartial persons, one to be appointed by the Governor or such other company as aforesaid, one by the Port Elizabeth and Uitenhage Railway Company (Limited), and before proceeding in the arbitration a third by the two so appointed; and the decision of the said three persons, or a majority of them shall be final and conclusive on the matters referred to them; the costs of any reference under this section, or under the forty-first and forty-second sections, to be in the discretion of the arbitrators.

Right of junction and running powers reserved.

Disputes respecting terms to be settled by arbitration.

XLIV. The town council of Port Elizabeth and the commissioners of the municipality of Uitenhage or any company duly authorized by the said council or the commissioners of the municipality, shall be at liberty to lay down pipes along the said line of railway, within the limits of deviation for the conveyance of water to Port Elizabeth, provided such pipes shall be laid down at such

Right of town council of Port Elizabeth and municipality of Uitenhage to lay down water pipes along line.

No. 8—1871.

distance from the rails as the company may deem sufficient for the safety of the railway, and that no injury shall be done to the permanent way or any part of the works, and that no interruption shall be caused to the traffic thereby.

Certain lands adjoining town of Uitenhage vested in company.

XLV. Whereas for the purpose of encouraging the construction of the aforesaid railway, and of affording facilities to the said company for the erection of stations and other buildings, and for such other purposes as the said company may deem fit, it is advisable that certain town lands, adjoining the town of Uitenhage, should be made over, granted to, and vested in, the said company: Be it therefore enacted that the following lands, that is to say, a piece of land, in extent forty-two morgen and two hundred and forty-five square roods, situate on Cannon Hill, bounded north-east by vacant town land, south-east and south by a street and Cannon Hill Reserve, and north-west by the main road leading to Graaff-Reinet, and a further piece of land, in extent one hundred and eighty-nine morgen and two hundred and fifty-seven square roods, bounded north-east by the Cuyler Manor road, south-east by the Cuyler Manor lands, south-west by a line in continuation of the upper or north side of Mitchell-street, and north-west by a road separating this piece of land from the property of John Henry Tennant, shall be, and the same are hereby made over, granted to, and vested in the said Port Elizabeth and Uitenhage Railway Company (Limited) as the property of the said company absolutely, and the same, or any part thereof, may be used, sold, transferred, or alienated by the said company, at any time or times hereafter, for such purposes as the directors may deem fit: Provided, however, that if the said railway shall not be finished and completed by the said company within five years, or the said railway shall not be commenced within three years, as in the thirty-ninth section of this Act provided, then, and in either of such cases, the above grant shall cease and determine. A diagram of the lands of the above mentioned, framed and certified by a sworn Government surveyor, and

Under certain conditions.

Diagram of lands to be deposited in Surveyor-General's office

a copy of this Act shall be deposited in the office of the Surveyor-General. No. 8—1871.

XLVI. This Act may be cited for all purposes as Short title. the “Port Elizabeth and Uitenhage Railway Company (Limited) Act, 1871.”

No. 9—1871.]

AN ACT

[11th August, 1871.

For applying a Sum not exceeding Four Hundred and Five Thousand Five hundred and Eighty-two Pounds Fifteen shillings and Five Pence for the Service of the Year 1871.

**W**HEREAS by the Act No. 19 of 1870, entitled Preamble. “An Act for applying a sum not exceeding one hundred and seventy-nine thousand five hundred and eighty-nine pounds nineteen shillings and four pence, for the service of the year 1871,” the said sum of one hundred and seventy-nine thousand five hundred and eighty-nine pounds nineteen shillings and four pence sterling was charged upon the revenue of this Colony for the service of the Government of the Colony until the 30th June, 1871. 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 of the year 1871, 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. 19 of 1870, and to provide by one Act for the service of the year 1871: 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. 19 of 1870, is hereby Act No. 19, 1870, repealed. repealed.

II. The public revenue of the Colony is hereby Expenditure, 1871. charged with a sum not exceeding four hundred and five thousand five hundred and eighty-two pounds fifteen shillings and five pence for the service

No. 9—1871.

of the year 1871, in addition to the sums already by law provided for such service ; which sum of four hundred and five thousand five hundred and eighty-two pounds fifteen shillings and five pence shall be applied in manner following, that is to say :—

- Civil establishments.** For the expenditure of the Civil Establishments, a sum not exceeding sixty-three thousand three hundred and fourteen pounds four shillings and seven pence.
- Judicial establishments.** For the expenditure of the Judicial Establishments, a sum not exceeding twenty-eight thousand four hundred and eighty-six pounds seven shillings and six pence.
- Educational establishments.** For the expenditure of the Educational Establishments, a sum not exceeding nineteen thousand five hundred and ninety-two pounds.
- Medical establishments.** For the expenditure of the Medical Establishments, a sum not exceeding thirty-seven thousand two hundred and ninety pounds fourteen shillings and two pence.
- Police and gaol establishments.** For the expenditure of the Police and Gaol Establishments, a sum not exceeding forty-three thousand six hundred and thirty-one pounds.
- Border department (aborigines).** For the expenditure on account of the Border Department (Aborigines), a sum not exceeding sixty-eight thousand three hundred and seventy-seven pounds six shillings and three pence.
- Pensions and retired allowances.** For the expenditure on account of Pensions and Retired Allowances a sum not exceeding six thousand six hundred and ninety-five pounds.
- Charitable allowances.** For the expenditure on account of Charitable Allowances and Gratuities, a sum not exceeding two hundred pounds.
- Works and buildings.** For the expenditure on account of Works and Buildings, a sum not exceeding twenty-seven thousand nine hundred and ninety-nine pounds seven shillings and four pence.
- Roads and bridges.** For the expenditure on account of Roads and Bridges, including Convict Expenditure, a sum not exceeding forty-six thousand six hundred and fifteen pounds fifteen shillings and seven pence.
- Miscellaneous services.** For the expenditure on account of Miscellaneous

Services, including Parliamentary Expenses, a sum not exceeding forty thousand one hundred and eighty-one pounds. No. 9—1871.

For the expenditure on account of Interest, a sum not exceeding twelve thousand seven hundred pounds. Interest.

For the expenditure on account of Colonial Allowances to Military Officers, a sum not exceeding ten thousand pounds. Colonial allowance. military

For the expenditure on account of Loans to be Repaid, a sum not exceeding five hundred pounds. Loans repaid.

Amounting in the whole to four hundred and five thousand five hundred and eighty-two pounds fifteen shillings and five pence, as detailed in the schedule hereunto annexed. Total.

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. Application of supplies.

No. 10—1871.] AN ACT [11th August, 1871.

For the Protection of Private Property in Domesticated Ostriches.

**W**HEREAS the farming of domesticated ostriches is likely to become an important branch of industry in the Colony, and it is expedient that the same should be encouraged by affording a more sufficient protection to the private property of the owners of such birds than can at present be afforded thereto: 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. 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 enclosure, within which it shall have been placed by such person, or by his orders, or with his How long after straying a domesticated ostrich may be considered private property.



No. 10—1871.

consent, express or implied, shall have strayed or escaped from such custody, possession, guardianship, or enclosure, 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, for a term of not less than thirty days from the time of such escape or straying; and during such term of thirty days such ostrich shall be deemed not to have regained its natural liberty; and any person who shall kill, injure, or convert to his own use, during such period of thirty days, 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.

Domesticated ostrich trespassing may be impounded.

II. If any person shall find any ostrich which shall have been domesticated as aforesaid trespassing on his property, he may lawfully impound the same in the nearest pound; and the provisions of the different laws relating to the impounding of cattle now in force in this Colony, shall, *mutatis mutandis*, apply to domesticated ostriches; and the various bodies entrusted by law with the regulation of the pounds of this Colony are hereby directed to make such regulations as may be necessary in their district, respectively, for regulating the pound fees and other matters relating to the impounding of ostriches requisite to the due carrying into effect of this enactment.

Private rights of and against owner of domesticated ostrich not affected.

III. Nothing in this Act contained shall be held to take away, or 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,

nor to take away any remedy, by way of action for trespass or otherwise, of any person on whose property any domesticated ostrich shall have trespassed, or whose property such ostrich shall have in any way injuriously affected, which the owner of such property 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.

No. 10—1877.

No. 11—1871.] AN ACT [11th August, 1871.

To Amend in certain respects the Provisions of Act No. 3 of 1864, by exempting Persons carrying about or hawking Colonial Produce from the Provisions of the aforesaid Act.

WHEREAS it is expedient to amend in certain Preamble. respects the provisions of Act No. 3, 1864, by exempting persons carrying about or hawking colonial produce from the provisions of the aforesaid Act: 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. No person hawking or carrying about for sale any article, being the produce or manufacture of this Colony, shall, by so doing, be deemed to be a hawker or travelling trader; nor shall any such person be required to take out or to possess, for so doing, the licence by the Stamp Act of 1864 required to be taken out and possessed by hawkers or travelling traders: Provided that nothing in this Act contained shall be held to interfere with Persons hawking colonial produce exempted from provisions of Stamp Act, 1864. the operation of any laws regulating the sale of wines, spirits, or fermented liquors. Laws regulating sale of wines, spirits, &c., not affected.

No. 12—1871.]

AN ACT

[11th August, 1871.

For the Annexation to the Colony of the Cape of Good Hope of the Territory inhabited by the Tribe of People called Basutos.

Preamble.

WHEREAS by a Proclamation, dated the 12th day of March, 1868, by His Excellency Sir Philip Edmond Wodehouse, Knight Commander of the Most Honourable Order of the Bath, late Governor of this Colony and the Territories and Dependencies thereof, and Her Majesty's High Commissioner, published on the 13th day of March, 1868, in the *Government Gazette* of this Colony, it was declared that from and after the publication thereof, the Tribe of the Basutos should be and should be taken to be for all intents and purposes British subjects, and the territory of the said tribe should be and should be taken to be British Territory: And whereas the territory is contiguous, on a considerable portion of its boundary, to the boundary of this Colony, and it is for other reasons also desirable that the said territory should be annexed to this Colony, so that this Colony in its present extent together with the said territory, may form one Colony: And whereas the said tribe of the Basutos are not yet sufficiently advanced in civilization and social progress to be admitted to the full enjoyment and be subjected to the full responsibility granted and imposed respectively by the ordinary laws of the Colony to and upon the other citizens thereof, but it is expedient that for the time being the said tribe and the territory thereof should be subjected to special administration and legislation: 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:

Date of annexation  
of and boundaries of  
territories annexed.

I. That from and after the publication by the Governor of the Colony of a proclamation for bringing this Act into operation, the said territory, bounded as follows, that is to say.—From the junction of the Cornet Spruit with the Orange River,

along the centre of the former to the point nearest to Olifants Been ; from that point by Olifants Been, to the southern point of Langeberg ; along the top of Langeberg, to its north-western extremity ; from thence to the eastern point of Jammerberg ; along the top of Jammerberg, to its north-western extremity ; from thence by a prolongation of the same to the Caledon River ; along the centre of the Caledon River to its junction with the Klein Caledon ; along the centre of the Klein Caledon, to the head of the Orange River, at the Mont Aux Sources ; thence westward along the Drakensberg, between the watersheds of the Orange River and the St. John's River, to the source of the Tees ; down the centre of that river to its junction with the Orange River, and down the centre of the latter river to its junction with the Cornet Spruit, shall be and the same is hereby annexed to the Colony of the Cape of Good Hope, so that the territory heretofore included in the Colony of the Cape of Good Hope shall, for the future, together with the said territory hereinbefore defined, form the Colony of the Cape of Good Hope, but the territory hereinbefore defined shall nevertheless be and remain, for the time being, subject to the laws, rules, and regulations now in force therein for the Government thereof, and shall not by virtue of such annexation as hereinbefore is mentioned be or become subject to the general law of this Colony.

Colonial laws not applicable to annexed territory.

II. The power of making, repealing, amending, and altering laws, rules, and regulations for the Government of the said territory hereinbefore defined shall, until it shall be otherwise provided by Act of Parliament, be vested in the Governor for the time being of the Colony, and such laws, rules, and regulations shall be by him promulgated by proclamation or notice published in the *Government Gazette* ; and no Act passed or to be passed by Parliament shall extend or be deemed to extend to the said territory hereinbefore defined, unless such Act shall be extended thereto in express words either contained therein or in some other Act of

Power to frame, repeal, &c., laws for annexed territory vested in Governor.

When colonial Act to apply.

No. 12 - 1871.

Parliament, or unless the operation thereof shall be extended to such territory by the Governor for the time being by such proclamation or notice as aforesaid, and in such case any such proclamation or notice may be amended or repealed from time to time by the like proclamation or notice, and no proclamation or notice published in the *Government Gazette* shall be deemed to extend or apply to the said territory hereinbefore defined, unless the same shall be declared in express words contained in such or some other notice or proclamation in the *Government Gazette*, to extend or apply to such territory : Provided, always, that such laws, rules, and regulations shall be laid before both Houses of Parliament within fourteen days after the beginning of the session of Parliament next after the Proclamation thereof, and shall be effectual, unless in so far as the same shall be repealed, altered, or varied by Act of Parliament during such session.

Laws, &c., proclaimed to be laid before Parliament.

Colonial courts to have jurisdiction in certain cases.

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 may from time to time by any proclamation or notice published in the *Government Gazette*, extending to the said territory heretofore defined, declare to be cognizable by such courts respectively, the subject matter whereof shall have occurred within the local limits of the said 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.

Annexed territory to be called Basutoland.

IV. The said territory hereinbefore defined may, for all such purposes as aforesaid, be called and shall be deemed to be expressed by the name of Basutoland.

Short title.

V. This Act may be cited as "The Basutoland Annexation Act, 1871."

No. 13—1871.]

AN ACT

[11th August, 1871.

To Empower the Governor to raise the Sum of Fifty Thousand Pounds Sterling for the purpose of redeeming a like Sum raised by means of Debentures, under authority of the Act No. 12 of 1866-'67.

**W**HEREAS a sum of fifty thousand pounds Preamble. sterling was, under authority of Act No. 12 of 1866-'67, raised by means of debentures charged on the revenues of this Colony, bearing interest at the rate of six pounds sterling per cent., and redeemable on the first day of January, 1872 ; and whereas it is expedient that the same should be redeemed, and that a sum of fifty thousand pounds sterling should be raised or taken up by the Governor, as hereinafter is provided, for the purpose of redeeming the said debentures : 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. It shall and may be lawful for the Governor to raise and take up upon stock or perpetual annuities such sum of money not exceeding in the whole the sum of fifty thousand pounds sterling, to be applied in redeeming the said debentures issued under the authority of the said Act No. 12 of 1866-'67. Loan of £50,000 upon stock or perpetual annuities authorized.

II. Such stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be opened for that purpose by the Treasurer-General of this 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 for the time being, by command of the Governor, and countersigned by the said Treasurer and by the Auditor of the Colony, and which scrip certificate shall be preserved in the office of the said Treasurer. Mode of issuing stock.

No. 13—1871.

Rate of interest, and when and where payable.

III. Such stock shall bear interest after the rate of five pounds sterling per centum of the nominal amount of such stock, from the first day of January or the first day of July next, before the issue of the said scrip certificate, which shall last happen, and such interest shall be payable thereafter half-yearly, on the first day of July and the first day of January 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 Treasurer-General as aforesaid, and shall be paid on such days respectively, or so soon thereafter as demand shall be made therefore 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 Treasury in Cape Town.

Interest charged on general revenue.

IV. All such interest shall be charged and chargeable on, and payable out of the general revenue of the Colony.

Transfer of stock.

V. Such stock shall be transferable by transfer in the books of the Treasurer-General, 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-General a receipt or certificate stating the amount of such stock standing to his credit in such books.

Fee payable on transfer.

VI. 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 six pence 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.

Disposal of stock.

VII. 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.

No. 18—1871.

VIII. The Governor shall from time to time, out of the current revenue of the Colony, pay the interest upon the said stock, and may also, out of such current revenue, or any moneys to be appropriated for that purpose, from time to time, buy up and cancel any part of such stock.

Power to pay interest and buy up stock out of current revenue.

IX. 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 in redeeming the said debentures issued under the authority of the said Act No. 12 of 1866-'67.

Moneys realized to be carried to separate account, and how applied.

X. An account showing the amount of all such stock issued under authority of this Act, and the moneys realized by the issue and sale thereof, and the expenditure of all such moneys, or of so much thereof as shall for the time being have been expended, vouched by the Auditor-General of the Colony, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof; and an account of the amount of the same stock for the time being outstanding, and of all such sums thereof, as shall from time to time be bought in and cancelled, if any, shall also be laid before Parliament in each succeeding session thereof.

Accounts to be laid before Parliament.

No. 14—1871.] AN ACT [11th August, 1871.

For Applying a Sum not exceeding One Hundred and Eighty-eight Thousand and Ninety-one Pounds Nineteen Shillings and Five Pence for the Service of the Year 1872.

WHEREAS it is expedient to provide further sums, in addition to those by law provided, for the service of the Government of this Colony

Preamble.



No. 14—1871.

until the 30th June, 1872 : Be it hereby 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, 1872.

I. That a sum not exceeding one hundred and eighty-eight thousand and ninety-one pounds nineteen shillings and five pence sterling shall be charged upon the revenue of the said Colony towards the service of the year 1872, and applied in the manner and for the purposes 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 thirty thousand eight hundred and thirty-two pounds two shillings and four pence sterling.

Judicial establishments.

(2.) For the expenditure of the Judicial Establishments, a sum not exceeding fourteen thousand two hundred and forty-three pounds three shillings and nine pence.

Educational establishments.

(3.) For the expenditure of the Educational Establishments, a sum not exceeding nine thousand seven hundred and ninety-six pounds.

Medical establishments.

(4.) For the expenditure of the Medical Establishments, a sum not exceeding fifteen thousand nine hundred and forty-two pounds three shillings and nine pence.

Police and goal establishments.

(5.) For the expenditure of the Police and Gaol Establishments, a sum not exceeding twenty-one thousand eight hundred and fifteen pounds and ten shillings sterling.

Border department.

(6.) For the expenditure on account of the Border Department, a sum not exceeding thirty-four thousand one hundred and eighty-eight pounds thirteen shillings and one penny sterling.

Pensions, retired allowances, &amp;c.

(7.) For the expenditure on account of Pensions, Retired Allowances, and Gra-

- tuities, a sum not exceeding three thousand three hundred and forty-seven pounds and ten shillings. No. 14—1871.
- (8.) For the expenditure on account of Charitable Allowances, a sum not exceeding one hundred pounds. Charitable allow-  
ances.
- (9.) For the expenditure on account of Works and Buildings, a sum not exceeding six thousand nine hundred and thirteen pounds eighteen shillings and eight pence. Works and build-  
ings.
- (10.) For the expenditure on account of Roads and Bridges, a sum not exceeding twenty-three thousand three hundred and seven pounds seventeen shillings and ten pence. Roads and bridges.
- (11.) For the expenditure on account of Miscellaneous Services, a sum not exceeding sixteen thousand and five pounds. Miscellaneous ser-  
vices.
- (12.) For the expenditure on account of Interest, a sum not exceeding six thousand and three hundred and fifty pounds. Interest.
- (13.) For the expenditure on account of Colonial Military Allowances, a sum not exceeding five thousand pounds. Colonial military al-  
lowance.
- (14.) For the expenditure on account of Loans Repaid, a sum not exceeding two hundred and fifty pounds. Loans repaid.

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 sup-  
plies.

## SCHEDULE

## For the Expenditure of the Civil Establishment :

His Excellency the Governor ...	£675	0	0
Colonial Secretary	560	0	0
Treasurer-General	325	0	0
Auditor-General...	905	0	0
Registrar of Deeds	500	0	0
Surveyor-General	830	10	0
Department of Public Works, &c....	3,047	8	9
Port Department...	1,576	8	7
Keeper of Public Buildings...	92	0	0
Crown Agents for the Colonies ...	125	0	0
Post Office ...	20,264	5	0
Customs Department, Rents ...	834	0	0
Rents for sundry Offices ...	857	10	0
Civil Commissioners, &c., Transport	240	0	0
			£30,832 2 4

## For the Expenditure of the Judicial Establishments :

Supreme Court ...	£1,461	10	0
High Sheriff ...	...	.	.
Attorney-General	31	0	0
Solicitor-General	430	0	0
Divisional Courts	4,871	13	9
Administration of Justice ...	4,487	10	0
Hire of Periodical Courts ...	194	0	0
Rent of Offices ...	857	10	0
Transport ...	1,910	0	0
			£14,243 3 9

## For the Expenditure of the Educational Establishment :

Education (exclusive of Establishments) ...	£9,389	10	0
Rents ...	204	0	0
Transport ...	202	10	0
			£9,796 0 0

## For the Expenditure of the Medical Establishments:

No. 14—1871.

Medical Depart- ment ...	£4,964	13	9	
Hospitals ...	10,752	10	0	
Rents ...	25	0	0	
Transport ...	200	0	0	
	<hr/>			£15,942 3 9

## For the Expenditure of the Police and Gaol Establishments:

Police and Gaols (Establishments)	£13,348	0	0	
Do. (exclusive of Establishments)...	7,032	10	0	
Rents ...	210	0	0	
Transport ...	1,225	0	0	
	<hr/>			£21,815 10 0

## For the Expenditure on account of the

Border Department ...	34,188	13	1	
Pensions, Retired Allowances, and Gratuities ...	3,347	10	0	
Charitable Allowances ...	100	0	0	
Works and Buildings ...	6,913	18	8	
Roads and Bridges ...	23,307	17	10	
Miscellaneous Ser- vices ...	£15,705	0	0	
Do., Transport ...	300	0	0	
	<hr/>			16,005 0 0
Interest ...	6,350	0	0	
Colonial Military Allowances ...	5,000	0	0	
Loans Repaid ...	250	0	0	
	<hr/>			Total ... £188,091 19 5

No 15—1871.]

AN ACT

[11th August, 1871.]

To Promote the Construction of a Bridge or Bridges  
over the Orange River.

**W**HEREAS it is expedient that a bridge or Preamble  
bridges should be erected across the Orange  
River at some convenient place between this Colony  
on the one side, and the territory of the Orange Free  
State on the other side, by some person or persons

No. 15—1871.

or joint-stock company or companies willing to erect the same, and that powers should be given to the Governor to enter into a valid treaty or convention with the Government of the Orange Free State, binding on this Colony, as to the terms on which such person or persons or joint-stock company or companies as aforesaid shall be authorized to erect such bridge or bridges ; and, further, in concert with such Government of the Orange Free State to conclude an agreement, binding on this Colony and on the Orange Free State, with such person or persons or joint-stock company or companies as to the terms on which such bridge or bridges shall be erected and maintained: 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 may enter into convention with Orange Free State.

I. It shall be lawful for the Governor to enter into a convention or treaty with the Government of the Orange Free State, which shall be binding on this Colony, for the purpose hereinafter stated, that is to say :

Purposes of convention.

1. Subject to the conditions hereinafter contained, to determine with the consent and concurrence of such person or persons or company or companies as shall be willing, on the terms to be agreed on, to erect such bridge or bridges as aforesaid, the place or places at which such bridge or bridges shall be erected, such place or places being between this Colony on the one side, and the territory of the Orange Free State on the other side ; and

To determine on site of bridge or bridges.

To authorize levy of tolls.

2. Subject to the conditions hereinafter contained, to permit and authorize such person or persons or company or companies as aforesaid, lawfully to levy tolls upon such bridge or bridges at either end thereof, or on the approaches thereto, such tolls not to exceed the rates set forth in the schedule hereto annexed, estimated in current coin of Great Britain and Ireland, and all such tolls as

shall be so authorized shall become and be payable by all persons crossing such bridge or bridges, save that all persons actually travelling across such bridge or bridges on the immediate service of the Government of this Colony or of the Orange Free State, and all vehicles actually the property of Her Majesty, or of either of such Governments, and employed on the service thereof, and all mails passing across such bridge or bridges to or from or in route to any place beyond this Colony or the Orange Free State, forwarded by either of the said Governments, and the vehicles carrying the same, and the drivers or carriers respectively thereof shall, when carrying such mails or driving such vehicles as aforesaid, be toll free, as well as the beasts drawing or carrying the same respectively.

No. 15—1871.

3. To determine in what manner and at what rates the currency of the Orange Free State shall be received in payment of such tolls as aforesaid from time to time from persons travelling from the Orange Free State towards this Colony. To determine as to rates of currency in payment of tolls.
4. To determine by what courts disputes between travellers passing over the said bridge or bridges or over or across the said river as hereinafter mentioned, of the one part, and such person or persons or company or companies, and his or their servants, of the other part, shall be determined, and in what courts and in what manner the payment of the tolls to be levied shall be enforced, and also by what courts questions between such person or persons or company or companies as aforesaid, and other persons, shall be litigated where needful, and by what courts sequestration, or receipt of the tolls aforesaid, or possession of the bridge or bridges may be decreed in case of lawful necessity; and any jurisdiction which shall by such treaty or convention be conferred on any To determine by what courts disputes shall be settled.

No. 15—1871.

court, or judge, or magistrate in this Colony, shall be deemed the lawful jurisdiction of such court, or judge, or magistrate, respectively.

To authorize levy of tolls within five miles of bridge or bridges.

5. Subject to the conditions herein contained, to permit and authorize such person or persons or company or companies as aforesaid, from and after the opening of such bridge or bridges for public traffic, lawfully to levy upon persons, beasts, and vehicles crossing or going through the said Orange River, at any place within five miles on either side of the said bridge or bridges, the like tolls as would be leviable upon the same persons, beasts, and vehicles, crossing the said bridge or bridges, saving the like exemptions as are in the second section hereof provided, and all tolls which shall be so authorized shall be payable in like manner as the tolls authorized under the said second section hereof.

To prevent boat or pontoon plying for hire within five miles of bridge or bridges.

6. To provide that from and after the opening of such bridge or bridges for public traffic no boat nor pontoon shall ply for hire or reward of any kind across such river within a distance of five miles on either side of such bridge or bridges, under a penalty that every such boat or pontoon may be seized and sold by such person or persons or company as aforesaid, or his or their or its servants, for his or their or its behoof respectively, and on such provision being made the same shall when notified in the *Government Gazette* become law.

Power to contract for erection of bridge or bridges.

II. It shall be lawful for the Governor, in concert with the Government of the Orange Free State, to contract with any person or persons or joint-stock company or companies who shall be willing to erect such bridge or bridges as aforesaid, in manner to be approved by the said Governor and the Government of the Orange Free State, that such person or persons or company or companies

shall be at liberty so to do, and to have the privileges so to be provided by such convention as aforesaid and hereinbefore mentioned, upon erecting the said bridge or bridges in a workmanlike and substantial manner, to the satisfaction of an inspector to be appointed by the Governor of this Colony, also of an inspector to be appointed by the Government of the Orange Free State, unless they shall appoint one and the same person as inspector on behalf of both, considering the nature of the traffic; and, further, upon giving proper security to maintain such bridge or bridges in a good and substantial state of repair, and subject to such penalties as may be agreed on, and to be enforced as may be agreed on in case the same be not kept in a good and substantial state of repair; any question of good and substantial repair of the said bridge or bridges shall be determined by the judgment of two inspectors, one to be appointed by the Governor and the other by the President for the time being of the Orange Free State.

III. The Governor and the Government of the Orange Free State, respectively, may agree that such lands, the property of the Crown, and of the said Government of the Orange Free State, respectively, as may be reasonably required by such person or persons or company or companies as aforesaid, for the necessary building and maintenance of the said bridge or bridges, and of the toll-houses and other buildings, if any required, may be occupied and enjoyed by such person or persons, or company, or his or their or its servants and agents, free of any charge to be made by either the Government of this Colony or of the said Orange Free State: Provided, nevertheless, that in case any property not that of the Crown nor that of the Orange Free State, respectively, shall be required for the aforesaid purposes, the person or persons or company or companies aforesaid shall be entitled to purchase, and the owner of the said land shall be bound to sell the same; and in case of any difference of opinion between the said parties as to the value of the land so required, such value shall

Free occupation  
public lands may be  
granted.

Where required land  
is private property  
sale compulsory.

Disputes as to value  
how to be settled.



No. 15—1871.

be determined by the arbitration of three persons, one to be appointed by the person or persons or company or companies aforesaid, another by the owner of the land aforesaid, and the third to be chosen by the persons so appointed before proceeding in the reference; and the award of such arbitrators, or any two of them, shall be binding upon all parties concerned.

Right of purchase of property in bridge or bridges reserved.

IV. It shall be lawful for the Governor of the Colony to agree with the Government of the Orange Free State, that, either alone or in concert with the Government for the time being of the Orange Free State, he shall be entitled to buy the entire property in the said bridge or bridges, and the tolls and rights thereon of the person or persons or company or companies who may for the time being be entitled to the property therein respectively, at any time after the period of twenty-one years shall have expired, from the day on which the said bridge or bridges shall have been first opened for traffic, upon a notice being published in the *Government Gazette* not less than six months before the time to be fixed for such purchase, notifying the intention of the Governor to purchase the same for any sum not exceeding the capital sum which at the rate of five pounds per centum would produce a yearly income equal to the average of the net receipts arising from the tolls of the said bridge or bridges, after deducting therefrom the costs of repairs and maintenance of the said bridge or bridges, its approaches, toll-houses, and bars, and of the collection of the said tolls and all other necessary expenses incidental to the earning of such receipts calculated for the three years next before the day of the publication of the notice to purchase aforesaid, and that upon the payment of the purchase money, to be agreed on between the Governor and the person or persons or company or companies aforesaid, or, in default of such agreement on the payment of such sum as hereinbefore fixed, as the maximum price to the directors of the said company or companies, if any, or to the person or persons entitled to such property, if no company or companies be entitled

thereto, or of the shares of them as are *sui juris* to them respectively, and of the shares of such of them as shall not be *sui juris*, to the Guardians' Fund, on behalf of such persons respectively, the said bridge or bridges and the tolls and rights belonging thereto by virtue of this Act, and any undertaking or agreement to be made thereunder, theretofore the property of such company or companies, person or persons, shall vest in the Governor of this Colony, to be held by him either altogether for the benefit of Her Majesty in her Colonial Government, or in such shares for the benefit of her said Majesty as aforesaid, and for the benefit of the Orange Free State as may be fixed by convention between her said Majesty on the one hand and the Government for the time being of the said Orange Free State on the other hand.

V. This Act shall not take effect unless and until it shall be notified to the Governor by the Government of the Orange Free State that an Act or Ordinance to the same effect has passed the Legislature of the Orange Free State, and become law in that State, giving the like powers to the President, or some officer of the Government of the said State, to conclude such convention as is hereinbefore mentioned, and proclamation shall have been made in the *Government Gazette*, that such Act or Ordinance has been so passed and become law as aforesaid.

SCHEDULE.

*Toll Rates payable at any Bridge over the Orange River, constructed under the regulations of this Act.*

	£	s.	d.
Upon each loaded buck-wagon drawn by any sort of animals, not exceeding sixteen in number	0	17	6
Upon each buck-wagon carrying not more than 500lb. drawn as above... ..	0	7	6
And upon each animal, over and above sixteen, drawing such vehicle ... ..	0	1	0
Upon each loaded tent or other wagon, not being a buck-wagon, drawn by any sort of animals, not exceeding twelve in number ... ..	0	12	6
			0

194 CONSTITUTION ORDINANCE AMENDMENT ACT.

No. 15—1871.

	£	s.	d.
Upon each wagon carrying not more than 500lb. not being a buck-wagon, drawn as above ...	0	5	0
And upon each animal, over and above twelve, drawing such wagon ... ..	0	1	0
Upon each travelling cart, spider, wagon, or other conveyance, drawn by not more than two animals ... ..	0	5	0
And upon each animal over and above two, drawing such vehicle ... ..	0	1	0
Upon each saddle-horse ... ..	0	1	0
Upon each loose or led horse, mule or ass, and upon each head of cattle ... ..	0	0	6
Upon sheep or goats, or other animals, for every head up to 250, one half-penny, and one farthing per head on excess.			
Upon each person of 12 years of age and upwards on foot, not engaged in driving or leading any wagon or animals upon which tolls are payable ... ..	0	0	3

No. 1—1872.]

AN ACT

28th Nov., 1872

To Amend the Ordinance enacted on the 3rd of April, 1852, by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, intituled “An Ordinance for Constituting a Parliament for the said Colony.”

Preamble.

**W**HEREAS it is expedient, in order to the introduction of the system of executive administration, commonly called Responsible Government, to amend, in certain respects the Ordinance enacted on the third day of April, in the year 1852, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, intituled “An Ordinance for Constituting a Parliament for the said 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:—

Offices of Commissioner of Crown Lands and Public Works and of Secretary for Native Affairs established.

I. From and after the taking effect of this Act, there shall be in this Colony a certain office to be called the office of “Commissioner of Crown Lands

and Public Works," and a certain other office to be called the office of "Secretary for Native Affairs."

No. 1—1872.

II. The persons to hold the said offices respectively shall be appointed by Her Majesty the Queen, and shall hold office during Her Majesty's pleasure, and shall be charged with such duties as Her Majesty shall from time to time assign to them.

Appointments to be made by Her Majesty, and to be held during pleasure.

III. The following persons holding offices of profit under Her Majesty the Queen shall be eligible, if otherwise duly qualified under the provisions of the Ordinance aforesaid, to be elected as members of the Legislative Council or of the House of Assembly, anything in the thirty-third and forty-seventh Sections of the Ordinance aforesaid to the contrary notwithstanding, that is to say,—the Colonial Secretary, the Treasurer of the Colony, the Attorney-General, the Commissioner of Crown Lands and Public Works, and the Secretary for Native Affairs: Provided, always, that it shall be lawful to appoint to any such office as aforesaid any person being already at the time of such appointment a member of the said Council or of the said Assembly.

Persons holding certain offices of profit under Her Majesty, eligible as to election as members of Legislative Council or House of Assembly.

IV. It shall be lawful for any person holding any of the offices in the third section of this Act mentioned, and being likewise a member of either the Legislative Council or of the House of Assembly, to sit and take part in any debate or discussion which may arise in the House whereof he does not happen to be a member, subject, nevertheless, to any such standing rules and orders as are in the seventy-eighth section of the Ordinance aforesaid mentioned; but it shall not be lawful for any such officer to vote on any proceeding in such House whereof he shall not be a member.

Such officers, being members of either Council or Assembly, to have right of debate in either.

V. From and after the taking effect of this Act, the seventy-ninth section of the Ordinance aforesaid shall be, and the same is, hereby repealed.

Section 79 of Constitution Ordinance repealed.

VI. In the event of the retirement from office on political grounds after the taking effect of this Act of Richard Southey, Esq., Colonial Secretary, James Christopher Davidson, Esq., Treasurer of the Colony, and William Downes Griffith, Esq., Her Majesty's Attorney-General for the Colony, or any

Pensions of present Executive officers secured.

No. 1—1872.

of them, the said officers, respectively; shall be and are hereby declared to be entitled to demand and receive from and out of the public revenue of the Colony such pension or retiring allowance as Her Majesty the Queen shall, through one of her principal Secretaries of State, fix and determine: Provided that if, after the assignment of any such pension or retiring allowance, any such officer shall accept any new appointment under the Crown in this Colony, or elsewhere, his pension or retiring allowance shall, during the tenure of such appointment, merge, or be reduced *pro tanto*, according as the salary or emolument of any such appointment shall be equal to or less than the pension or retiring allowance of such officer.

Pensions to merge, or be reduced on re-appointment to office.

Salaries of officers mentioned in section 6, fixed.

VII. Until Parliament shall otherwise determine, the officers mentioned in the third section of this Act who shall accept office after the taking effect thereof shall be entitled to and be paid the following salaries, that is to say, the Colonial Secretary twelve hundred pounds sterling per annum; and the Treasurer of the Colony, the Attorney-General, the Commissioner of Crown Lands and Public Works, and the Secretary for Native Affairs, each one thousand pounds sterling per annum.

Such officers not entitled to pension.

VIII. None of the officers in the last preceding section mentioned shall, upon ceasing to hold office, be entitled to claim or receive any pension or retiring allowance.

Commencement of Act.

IX. This Act shall commence and take effect when and so soon as the Governor shall by proclamation declare that Her Majesty has been pleased to allow and confirm the same.

Short title.

X. This Act may be cited for all purposes as "The Constitution Ordinance Amendment Act, 1872."

No. 2—1872.]

AN ACT

[31st July, 1872.

To Repeal Act No. 25, 1868, commonly called the Contagious Diseases Prevention Act.

Preamble.

WHEREAS it is expedient that Act No. 25, 1868, commonly called the Contagious Diseases

Prevention Act, should be repealed : 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. 2—1872.

I. The said Act, No 25 of 1868, shall be, and the same is hereby, repealed.

Act No. 25, 1868, repealed.

No. 3—1872.]

AN ACT

[31st July, 1872.

To Alter the Limits of the Division of Wodehouse.

**W**HEREAS it is expedient to alter and amend Preamble. the limits of the fiscal division of Wodehouse, and to make them correspond with the boundaries of the judicial district of Wodehouse : 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. So much of the provisions of the first section of Act No. 6 of 1871 as is repugnant to the provisions of this Act is hereby repealed. Repugnant provisions of section 1 of Act No. 6 of 1871 repealed.

II. From and after the promulgation of this Act the boundaries of the fiscal division of Wodehouse shall be the boundaries in the schedule to this Act set forth. Boundaries of division of Wodehouse.

### SCHEDULE.

#### *Boundaries of the Division of Wodehouse.*

A line from the highest point of Salpetre Berg along Schedule. the western boundary of the Farms Penhoek, Nooitgedacht, Crown land between Nooitgedacht and Klipplaat, Klipplaat, Strydfontein, and Leeuwe Kraal, the north-western boundary of the farms Wolfefontein, Spitskop, Uitkijk, Klipfontein, Rietfontein, and Vaalbank, the north-eastern boundary of Pretorius Kraal, the northern boundary of Driefontein to the Holle Spruit, thence along the Holle Spruit to its junction with the Kraai River, along the Kraai River to the Farm Upper Drumbo (Police Reserve), along the western boundary of the field-cornetcy Highlands, including the farms Glencoe and Reed's Dell, to the colonial boundary, thence along the eastern boundary of the Colony to the eastern boundary of the farm Geli or

No. 3—1872.

Nageli, thence along the top of the range of mountains forming the eastern boundaries of the farms granted to Sam Segeni and Malgas Songa; thence continuing along the summit of the same range westwards to the Cacado Poort; thence straight to the Shaba Intjeko range; thence along the top of that range, and crossing the Intjeko Neck, to the nearest beacon of the farm granted to Jantje Umleba; thence passing along the western boundary of that farm to the nearest summit of the Mount Arthur range; thence along the top of that range to the summit of Mount Arthur; thence along the top of the watershed leading to the Kapousie mountain, to the highest point of that mountain; thence direct to the highest point of the Gonyana mountain; thence passing along the Vaalbank Ridge to the Tjneni mountain; thence along the top of the Tjneni range to the easternmost beacon of the farm Weltevreden; thence along the north-eastern boundary of and excluding that farm; thence along the boundaries of and excluding the farms Dwaalfontein, Vaalkrantz, Wenfontein, Naudésfontein, Kloppersfontein, Rietkuil, and Gretna, to the highest point of Saltpetre Berg.

No. 4—1872.]

AN ACT

[31st July, 1872.]

To Amend the Act 11 of 1863, so far as the same relates to the Transfer Duty payable on the purchase of Immovable Property.

Preamble.

**W**HEREAS upon contracts for the sale of immovable property agreements are sometimes entered into that certain charges connected with such sales shall be payable by the purchaser: And whereas doubts have arisen whether Transfer Duty is payable upon such charges as part of the consideration for such purchases: And whereas it is expedient to remove such doubts: Be it therefore 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:—

Certain charges on sale of immovable property not to be taken as forming part of purchase money, so as to be liable to payment of transfer duty.

I. As often as by the contract of sale of any immovable property liable to the payment of transfer duty, the purchaser of such property shall become liable to pay, over and above the sum payable or the seller, all or any of the following charges texo-

penses arising out of or connected with the said sale; that is to say :— No. 4.—1872.

1. The cost of any survey of the said property which shall have been made prior to and for the purposes of the said sale, and of any survey of such property which may be made after the sale, and the cost of all diagrams and subdivisions, and of the plan of the property exhibited at the time of sale ;
2. The charge made by the auctioneer for the conditions of the said sale, not exceeding seven shillings and sixpence per lot ;
3. The commission of the auctioneer who held the said sale, not exceeding two pounds and ten shillings per centum upon the amount for which the property is knocked down ;
4. The auction duty payable upon the said sale ;
5. The transfer duty payable thereon ;
6. The cost of all deeds necessary for effecting transfer of such property, and of the mortgage deed, if any, and of all necessary stamps ;
7. The charges of conveyancers and agents incurred in effecting the transfer of the said property ;
8. The quitrent, if any, payable to Government upon the property sold ;
9. The quitrent, if any, which shall be payable upon the property sold to any committee, consistory, or any other body, for religious, educational, or charitable purposes, not being rent already due and in arrear at the time of such sale.

Then such charges or expenses shall not, nor shall any of them, be deemed or taken to form part of the purchase money of such property, so as to be liable to the payment of transfer duty : Provided that as often as the purchaser shall agree or undertake to pay any such quitrent as is in the ninth subdivision of this section mentioned, which shall, at the time of the sale to such purchaser, be already

Excepting any arrear quitrent paid by purchaser.



No. 4—1872.

due and in arrear, the amount of such arrear rent shall in the solemn declarations to be made by the seller and the purchaser respectively be added to the sum paid or to be paid to the seller in stating the amount of purchase money upon which transfer duty is to be paid.

Other sums payable by purchaser to be added to purchase amount.

II. In case the purchaser of any such property shall have undertaken, agreed, or in any manner become liable, for or in respect of, or in connection with the purchase by him of the said property, to pay to any person whomsoever any sum or sums of money over and above the sum paid or to be paid to the seller, such sum or sums not being one or more of the items of charges or expenses in the last preceding section mentioned, then such sum or sums must be added to the sum paid or to be paid to the seller in stating in the solemn declarations to be made by the seller and purchaser respectively the amount of purchase money upon which transfer duty is to be paid.

How, where valuable consideration other than money shall have been given.

III. Should any sort or description of valuable consideration other than money be given, or promised or agreed to be given, by the purchaser to the seller, or any other person, for, or in respect of, or in connection with, the purchase of the property, then the provisions of the seventh section of the Act No. 7, 1864, shall apply to the consideration given or to be given to such other person, in like manner as if it had been given, or were to be given, to the seller.

Declarations of seller and purchaser.

IV. From and after the taking effect of this Act, the forms of solemn declarations to be made respectively by the seller and purchaser of immovable property, annexed to the Ordinance 18, 1844, and marked respectively No. 2 and No. 3, shall be cancelled and annulled, and the forms in that behalf contained in the schedule to this Act shall be substituted in the place and stead of those so cancelled and annulled.

Modification of declaration.

V. As often as it shall become necessary to make any other of the solemn declarations set forth in the forms respectively annexed to the aforesaid Ordinance No. 18 of 1844, to the Act No. 15 of

1855, and to the Act No. 8 of 1861, then such declarations shall respectively be modified, when necessary, in such manner as to make them conform to the provisions of this Act, in regard to the amount of purchase money upon which transfer duty shall be payable: Provided that nothing in this and the immediately preceding sections aforesaid shall be construed to extend or apply to any declarations already at the time of the taking effect of this Act made in the forms prescribed by the Ordinance No. 18, 1844, the Act No. 15, 1855, or the Act No. 8, 1861, which shall, when tendered for the purposes of the payment of duty, be received and acted upon as if this Act had not been passed.

No. 4—1872.

Not to apply to  
declarations made  
previous to  
of this Act. passing

VI. This Act may be cited for all purposes as the "Transfer Duty Amendment Act, 1872." Short title.

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## SCHEDULE.

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### DECLARATION FOR THE SELLER.

I (A. B.) do solemnly and sincerely declare that the sum of £— is the full and entire purchase money for which I have sold to (C D) the following property, that is to say: [Here describe the property.] And I declare that I sold the same to the said (C D), on the—day of —, 18—, and not before; and that there is not any agreement, condition, or understanding between me and the said (C D), whereby he has paid or is to pay to me or to any other person whomsoever, for, or in respect of, or in connection with, the purchase by him of the said property, any sum of money over and above the said sum of £—, save and except certain charges or payments which fall under or come within one or more of the heads or items of charges of payments following: [Here set forth in order from No. 1 to No. 9, both inclusive, the heads or items of charges or payments in the first section of the "Transfer Duty Amendment Act, 1872," contained.] And I further declare that I have not received, and that I am not to receive, nor has any other person received, nor is any other person to

No. 4—1872.

receive, for my use or benefit, or at my instance or request, any valuable consideration besides the said sum of £—, save and except in so far as any of the charges above specified, and to be paid by the said (C D), might be held or taken to be payable for me or on my behalf. And I further declare that the said (C D) is the only person who has ever purchased the said property from me, and that I never sold the same to any other person. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the Ordinance No. 6 of 1845, entitled “An Ordinance for substituting Declarations in the place of certain Oaths, and for the suppression of voluntary and extra-judicial Oaths and Affidavits.”

Signed (A B).

Declared before me this — day of —, 18—.

## DECLARATION OF THE PURCHASER.

I (C D) do solemnly and sincerely declare that the sum of £— is the full and entire purchase money given, or to be given, by me to (A B) for the property following, bought by me from him, that is to say: [Here describe the property.] And I declare that I bought the same from the said (A B) on the — day of —, 18—, and not before, and that I have not, nor has any person to my knowledge, on my account, given, nor is there by me or on my behalf, to be given, any other valuable consideration for, or in respect of, or in connection with, the alienation to me of the said property, save and except certain charges or payments which fall under, or come within, some one or more of the heads or items of charges or payments following: [Here set forth in order from No. 1 to No. 9, both inclusive, the heads or items of charges or payments in the first section of the “Transfer Duty Amendment Act 1872,” contained.] And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Ordinance No. 6, 1845, entitled “An Ordinance for substituting Declarations in the place of certain Oaths, and for the suppression of voluntary and extra-judicial Oaths and Affidavits.”

Signed (C D).

Declared before me this — day of —, 18—.

No. 5—1872.]

AN ACT

[31st July, 1872.

To Authorize the Port Elizabeth and Uitenhage Railway Company (Limited) to deviate from and extend the Line of Railway authorized by Act No. 8 of 1871, "The Port Elizabeth and Uitenhage Railway Company (Limited) Act, 1871."

**W**HEREAS greater facilities for the transport of Preamble. passengers, goods, merchandise, and other articles between Port Elizabeth and Uitenhage, would be afforded by a deviation from and extension of the line authorized by the said Act No. 8 of 1871, entitled "An Act to incorporate the Port Elizabeth and Uitenhage Railway Company (Limited)," and the construction of the portion of railway hereinafter mentioned and described: And whereas the said company is willing to undertake the construction and working of the said portion of railway upon being empowered for that purpose in manner hereinafter mentioned and 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. The Port Elizabeth and Uitenhage Railway Company (Limited) is hereby empowered to deviate Deviation authorized and defined. from and extend the line of railway authorized by the aforesaid Act, and to construct, maintain, and work a portion of railway, commencing from a point on the line within the cricket-ground within the municipality of Uitenhage, authorized by the said Act, and passing through the property of Mr. Edward Dobson, and through land belonging to the said municipality to a terminal point in Market-square, within the said municipality, in accordance with plans and sections deposited in the office of the Clerk of the House of Assembly.

II. The said company is hereby authorized to Power to enter upon lands within limits of deviation. enter upon and to take possession of and retain all such land and buildings within the limits of devia-

204 PORT ELIZABETH AND UITENHAGE RAILWAY ACT.

No. 5—1872.

tion shown by the said plans ; and also to dig for, excavate, and carry away, all such stones, clay, or other materials, within the said limits, as may be required for the construction and maintenance of the said portion of railway : Provided that the extent of land taken or used for the said portion of railway shall not exceed the width of thirty feet, with sufficient additional width for slopes, drainage, stations, approach roads, terminal station, with all requisite buildings and appurtenances, and all other works, matters, and things, which may be requisite or necessary for the efficient construction and working of the said portion of railway.

Certain provisions of Act No. 8 of 1871 to apply.

III. All and singular the provisions contained in the twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, and forty-first sections of the said Act, and every other provision contained in the said Act which can be made applicable thereto shall apply to the said portion of railway and works hereby authorized, precisely as if the said sections respectively and every other provision as aforesaid contained in the said Act which can be made applicable thereto were *mutatis mutandis* herein again set forth and word for word repeated.

Short title.

IV. This Act may be cited for all purposes as "The Port Elizabeth and Uitenhage Railway Extension Act, 1872."

No. 6—1872.]

AN ACT

[31st July, 1872.]

To Amend the Act No. 3, 1865, entitled "An Act to make provision for the Incorporation of British Kaffraria with the Colony of the Cape of Good Hope, and to increase the number of the Members of both Houses of Parliament of the said Colony," and to remove the existing Disqualification of certain Persons, otherwise well qualified, from being admitted Attorneys of the Supreme Court.

**W**HEREAS by the sixth section of Act No. 3, Preamble. 1865, entitled "An Act to make provision for the Incorporation of British Kaffraria with the Colony of the Cape of Good Hope, and to increase the number of the Members of both Houses of Parliament of the said Colony," the Supreme Court of British Kaffraria, existing at the time of such incorporation, was abolished: And whereas by the eighth section of the aforesaid Act, it is provided that every advocate admitted and enrolled in the Supreme Court of British Kaffraria shall be entitled after such incorporation, upon proof of such admission and enrolment, to be admitted and enrolled as an advocate in the Supreme Court and in the Court of the Eastern Districts, without the payment of any fee or charge; and that all attorneys admitted and enrolled in the Supreme Court of British Kaffraria shall be entitled after such incorporation, upon proof of such admission and enrolment, to be admitted and enrolled as attorneys of the Court of the Eastern Districts, without the payment of any fee or charge: And whereas the ninth section of the said Act provides that no person admitted and enrolled as an attorney of the Court of the Eastern Districts under and by virtue of the eighth section of the said Act shall be entitled, by reason of such admission and enrolment, to be admitted and enrolled as an attorney of the Supreme Court: And whereas it is expedient to repeal the ninth section of the aforesaid Act, and to make other provisions

No. 6—1872.

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:—

Section 9 of Act No. 3 of 1865 repealed.

I. The ninth section of the aforesaid Act No. 3, 1865, is hereby repealed.

Attorneys of Eastern Districts Court entitled to enrolment in Supreme Court.

II. Every person admitted and enrolled as an attorney of the Court of the Eastern Districts of the Cape of Good Hope, under and by virtue of the eighth section of the aforesaid Act No. 3, 1865, shall, upon proof of such admission and enrolment, be entitled to be admitted and enrolled an attorney of the Supreme Court of the Colony of the Cape of Good Hope, without the payment of any fee or charge.

Service of articulated clerks, how to be reckoned.

III. Service rendered before the taking effect of this Act under articles by any clerk to any attorney of the Court of the Eastern Districts admitted as such under and by virtue of the said eighth section of said Act 3 of 1865, shall, for the purpose of entitling the articulated clerk so serving to be admitted and enrolled as an attorney of the said Supreme Court, be reckoned as if the attorney to whom such service was rendered had been, when the articles were executed, and thereafter, an attorney of the said Supreme Court; provided that in case the attorney to whom such clerk shall have been articulated shall be admitted and enrolled as an attorney of the said Supreme Court within three months next after the taking effect of this Act, such service shall be deemed and taken to have been unbroken, and shall be reckoned continuously from the first commencement thereof.

No. 7—1872.]

AN ACT

[31st July, 1872

To Constitute the Division of Wodehouse an Electoral Division.

Preamble.

WHEREAS it is expedient that the fiscal division of Wodehouse should be constituted an electoral division, and be entitled to send two

members to the House of Assembly 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. So much of the Ordinance enacted on the 3rd day of April in the year 1852, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, intituled “An Ordinance for Constituting a Parliament for the said Colony,” so much of the Act No. 3, 1865, intituled the “British Kaffraria Incorporation and Parliamentary Representation Amendment Act of 1865,” and so much of the Act No. 6, 1871, intituled “An Act to Erect the District of Wodehouse into a Fiscal Division,” or of any other Law or Ordinance in force in this Colony, as shall be repugnant to or inconsistent with the provisions of this Act shall be and the same are hereby repealed.

Repugnant laws repealed.

II. The fiscal division of Wodehouse shall be and the same is hereby constituted an electoral division, and shall be entitled from time to time to elect two members of the House of Assembly.

Wodehouse constituted an electoral division.

III. Nothing in this Act contained shall be construed so as to deprive any of the electoral divisions of which, before the taking effect of this Act, the said electoral division of Wodehouse constituted by this Act formed a portion, of the right to continue to elect members as before the taking effect of this Act, or to vacate or affect the seat of any member of Parliament elected before the taking effect of this Act.

Electoral rights of divisions previously forming part of new electoral division of Wodehouse not affected.

IV. Forthwith upon the taking effect of this Act the civil commissioners of the divisions of Albert, Aliwal North, and Queen’s Town, respectively, shall make out and transmit to the civil commissioner of the division of Wodehouse, a list of all registered voters resident in the said electoral division hereby created, and the list so transmitted shall form the list of registered voters for the said division; and the lists of registered voters, from which the said last-mentioned list was taken, as

Formation of voters’ list.



No. 7—1872.

they shall stand respectively, after deduction of the names contained in the list transmitted, shall form the lists of registered voters for the time being of the said electoral divisions of Albert, Aliwal North, and Queen's Town.

Election of members.

V. The electoral division of Wodehouse shall become entitled to elect members under this Act at the next ensuing general election for members of the House of Assembly, and not sooner.

Short title.

VI. This Act may be cited for all purposes as the "Wodehouse Representation Act, 1872."

No. 8—1872.]

AN ACT

[31st July, 1872

To Empower the Governor to raise a Sum not exceeding Seventy-nine Thousand Nine Hundred and Fifty Pounds Sterling for the purpose of constructing a Graving Dock in Table Bay, and for redeeming certain Debentures issued under authority of the Acts No. 26 of 1868 and No. 11 of 1870.

Preamble.

**W**HEREAS it is desirable that a Graving Dock should be constructed in connection with the Harbour of Table Bay, and the Imperial Government has agreed to contribute towards the construction of such dock, and it is expedient that a sum of not exceeding thirty thousand pounds sterling should, in addition, be raised or taken up by the Governor, as hereinafter is provided, for the purpose of constructing the same: And whereas debentures in the whole, amounting to the sum of forty-nine thousand nine hundred and fifty pounds sterling, issued under authority of the Acts No. 26 of 1868 and No. 11 of 1870, respectively, will be payable on the fifteenth day of October, 1872, and it is desirable that the said sum should be raised or taken up by the Governor as hereinafter is provided, for the purpose of redeeming the said debentures: 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 stock or perpetual annuities such sum or sums of money not exceeding in the whole the sum of seventy-nine thousand nine hundred and fifty pounds sterling, to be applied as hereinafter mentioned, that is to say, a sum not exceeding thirty thousand pounds sterling, for the purpose of constructing the said dock, and a sum not exceeding forty-nine thousand nine hundred and fifty thousand pounds sterling for the purpose of redeeming the said debentures. Loan authorized.

II. The application of the sum or sums of money to be from time to time raised as aforesaid for the purpose of constructing the said dock, shall be entrusted to the commissioners for the time being appointed or to be appointed under the provisions of any Act relating to the management of the docks and breakwater in Table Bay, and such commissioners shall, in respect to such application, have and exercise all the powers conferred upon them by any such Act. Application of loan.

III. The stock to be raised and taken up as aforesaid shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be opened for that purpose by the Treasurer-General 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 for the time being by command of the Governor, and countersigned by the said Treasurer and by the Auditor of the Colony, and which scrip certificate shall be preserved in the office of the said Treasurer. Mode of raising stock.

IV. Such stock shall bear interest after the rate of five pounds sterling per centum of the nominal amount of such stock, from the first day of January or the first day of July next before the issue of the said scrip certificate, which shall last happen, and Rate of interest, and when payable.

No. 8—1872

such interest shall be payable thereafter half-yearly, on the first day of July and the first day of January 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 Treasurer-General 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 Treasury in Cape Town.

Stock and interest  
charged on general  
revenue.

V. 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.

But charged, in first  
instance, on harbour  
revenues.

VI. Notwithstanding that the stock to be issued as aforesaid, together with the interest thereon, is hereby charged upon the general revenue of this Colony, the same shall be and is hereby made a charge in the first instance upon the dues of wharfage and cranagè, dock dues, harbour rates, warehouse rent, and all other revenues accruing to the commissioners aforesaid, and who shall, out of such revenues, indemnify the Governor for all moneys paid out of the general revenue of the Colony on account of such stock, or of any interest thereon.

Transfer of stock.

VII. Such stock shall be transferable by transfer in the books of the Treasurer-General, 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-General a receipt or certificate stating the amount of such stock standing to his credit in such books.

Fee payable on trans-  
fer.

VIII. 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—1872.

IX. 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 : Provided that it shall be lawful to dispose of to the Master of the Supreme Court, in his capacity of administrator of the Guardians' Fund, and he is hereby authorized to invest any unemployed moneys belonging to such fund in so much of the said stock as he may apply for, at par, with interest at the rate of five per cent. per annum : Provided, further, that any such investment by the said Master shall be made with the same advice, or upon the same authority, as if such investment were a loan upon mortgage.

Disposal of stock.

Stock may be disposed of to Master of Supreme Court.

X. 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 respective purposes mentioned in the preamble of this Act.

Separate accounts to be kept.

XI. An account showing the amount of all stock issued under authority of this Act, and the moneys realized by the issue and sale thereof, vouched by the Auditor-General of the Colony, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof ; and an account of the amount of the same stock for the time being outstanding, and of all such sums thereof as shall from time to time be bought in and cancelled, if any, shall also be laid before Parliament in each succeeding session thereof.

Accounts to be laid before Parliament.

No. 9—1872.]

AN ACT

[31st July, 1872.

For Applying a Sum not exceeding Four Hundred and Twenty-eight Thousand Eight Hundred and Thirty Pounds Fourteen Shillings and Ten Pence Sterling, for the Service of the Year 1872.

Preamble.

WHEREAS by the Act No. 14 of 1871, entitled “An Act for applying a Sum not exceeding One Hundred and Eighty-eight Thousand and Ninety-one Pounds Nineteen Shillings and Five Pence for the Service of the Year 1872,” the said sum of one hundred and eighty-eight thousand and ninety-one pounds nineteen shillings and fivepence was charged upon the revenue of this Colony for the service of the Government of the Colony until the 30th June, 1872: 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 1872, 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. 14 of 1871, and to provide by one Act for the service of the year 1872: 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. 14 of 1871  
repealed.

I. The Act aforesaid, No. 14 of 1871, is hereby repealed.

Expenditure, 1872.

II. The public revenue of the Colony is hereby charged with a sum not exceeding four hundred and twenty-eight thousand eight hundred and thirty pounds fourteen shillings and tenpence sterling for the service of the year 1872, in addition to the sums already by law provided for such service; which sum of four hundred and twenty-eight thousand eight hundred and thirty pounds fourteen shillings and tenpence shall be applied in the manner following, that is to say:

- No. 9—1872.
1. For the expenditure of the Civil Establishments a sum not exceeding seventy-three thousand two hundred and thirty pounds four shillings and seven pence. Civil establishments
  2. For the expenditure of the Judicial Establishments, a sum not exceeding twenty-six thousand four hundred and eighty-eight pounds twelve shillings and sixpence. Judicial establishments.
  3. For the expenditure of the Educational Establishments, a sum not exceeding nineteen thousand five hundred and seventy pounds. Educational establishments.
  4. For the expenditure of the Medical Establishments, a sum not exceeding thirty-two thousand eight hundred and seventy-seven pounds seventeen shillings and sixpence sterling. Medical establishments.
  5. For the expenditure of the Police and Gaols Establishments, a sum not exceeding forty-two thousand three hundred and ninety-nine pounds sixteen shillings and sixpence. Police and gaols.
  6. For the expenditure on account of the Border Department (Aborigines), a sum not exceeding sixty-nine thousand seven hundred and seventy-three pounds and ninepence. Border department (aborigines).
  7. For the expenditure on account of Pensions and Retired Allowances, a sum not exceeding six thousand four hundred and forty-five pounds. 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 thirty thousand seven hundred and eighty-nine pounds and thirteen shillings. Works and buildings.
  10. For the expenditure on account of Roads and Bridges, including Convict expenditure, a sum not exceeding fifty thousand four hundred and fifty pounds and ten shillings. Roads and bridges.
  11. For the expenditure on account of Miscellaneous Services, including Parliamentary Expenses, a sum not exceeding fifty-four thousand five hundred and eighty-one pounds. Miscellaneous services
  12. For the expenditure on account of Interest, a sum not exceeding eleven thousand six hundred and ninety-four pounds. Interest.
  13. For the expenditure on account of Colonial Allowances to Military Officers, a sum not exceeding ten thousand pounds. Colonial military allowances.
  14. For the expenditure on account of Loans to be repaid, a sum not exceeding three hundred and thirty-one pounds. Loans repaid.

No. 9—1872.  
Total.

Amounting, in the whole, to four hundred and twenty-eight thousand eight hundred and thirty pounds fourteen shillings and tenpence, 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. 10—1872.]

AN ACT

[31st July, 1872

To provide for the better Management of the Customs of the Colony of the Cape of Good Hope.

Preamble.

WHEREAS it is expedient that the laws in force for the general management of the Customs in this Colony should be amended: 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:—

Ordinance No. 6 of 1853 repealed.

I. The Ordinance No. 6 of the year 1853, intituled "An Ordinance for the General Management and Regulation of the Customs in the Colony of the Cape of Good Hope," shall be and the same is hereby repealed.

Definition of terms.

II. For the purpose of any Act of the Legislature of this Colony relating to the customs, the following terms, whenever they occur, shall respectively have the following significations, that is to say:— the term "ship" shall signify any ship or vessel, howsoever built or rigged; the term "master" of any ship shall signify the person having or taking the charge or command of such ship; the term "owner" or "owners" of any ship shall signify alike one owner, if there be only one, and any or all the owners, if there be more than one; the term "mate" of any ship shall signify the person next in command of such ship to the master thereof;

the term "seaman" shall signify alike seamen, mariner, sailor, or landsman, being one of the crew of any ship; the term "warehouse" shall signify any place, whether house, shed, yard, or other place in which goods entered to be warehoused upon importation may be lodged, kept, and secured without payment of duty; and the term "Queen's warehouse" shall signify any place provided by the Crown for lodging goods therein for security of the customs.

III. Every person employed on any duty or service relating to the customs by order or with the concurrence of the Governor or the collector or other principal officer of customs, whether previously or subsequently expressed, shall be deemed to be the officer of the customs for that duty or service, and every act, matter, or thing required by any law at any time in force to be done or performed by, to, or with any particular officer nominated in such law for such purpose, being done or performed by, to, or with any person appointed by the Governor or the collector or other principal officer of customs to act for or in behalf of such particular officer, the same shall be deemed to be done or performed by, to, or with such particular officer.

IV. Every person who shall be appointed to any office or employment in the service of the customs shall, on his admission thereto, make the following declaration, that is to say:

I, A. B., do solemnly declare that I will be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge and inspection in the service of the customs of the Cape of Good Hope, and that I will not require, take, or receive any fee, perquisite, gratuity, or reward, whether pecuniary, or of any sort or description whatever, either directly or indirectly, for any service, act, duty, matter, or thing done or performed, or to be done or performed in the execution or discharge



No. 10—1872.

of any of the duties of my office or employment on any account whatever, other than my salary, and what is or shall be allowed me by law or by any special order or regulation of the Governor.

Dismissal of officers taking unauthorized fees.

V. If any officer, clerk, or other person acting in any office or employment in or belonging to the customs in this Colony, shall take or receive any fee, perquisite, gratuity, or reward, whether pecuniary or of any other sort or description whatever, directly or indirectly, from any person (not being a person duly appointed to some office in the customs and duly authorized in that behalf) on account of anything done or to be done by him in, or in any way relating to his said office or employment, except such as he shall receive under and by order or permission of the Governor, every such officer so offending shall, on proof thereof to the satisfaction of the Governor, be dismissed from his office; and if any person (not being a person duly appointed to some office in the customs and duly authorized in that behalf) shall give, offer, or promise to give any such fee, perquisite, gratuity, or reward, such person shall, for every such offence, forfeit the sum of one hundred pounds sterling.

Penalty on person giving fees.

Penalty £100.

Inquiry by collector upon oath.

VI. Upon examinations and inquiries made by the collector or principal officer of the customs within this Colony or by the principal officer of customs in charge of any port for ascertaining the truth of facts relative to the customs, or the conduct of officers or persons employed therein, any person examined before such officer as a witness may be required to deliver his testimony on oath, or by way of solemn declaration, which oath or solemn declaration shall be administered by or taken before such collector or other principal officer of customs as shall examine any such witness, and who is hereby authorized to administer such oath, and to take such solemn declaration; and if any person shall be convicted of making a false oath or solemn declaration touching any of the facts so testified on oath or solemn declaration, or of giving false evidence on

his examination on oath or by solemn declaration before any such collector or principal officer of customs, every such person so convicted as aforesaid shall be deemed guilty of perjury, and shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

VII. In all cases wherein proof on oath or by solemn declaration shall be required by any law relating to the customs, or for the satisfaction or consideration of the Governor, in any matter relating to the customs, the same may be made before the collector or other principal officer of the customs of the port where such proofs shall be required to be made, or before the persons acting for them respectively, and who are hereby authorised and empowered to administer the same.

Officers before whom  
oath may be taken.

VIII. It shall be lawful for the Governor from time to time to appoint the hours of general attendance of the respective officers of the customs at their proper offices and places of employment, and to appoint the times during such hours at which any particular parts of the duties of such officers respectively shall be performed by them.

Hours of attendance.

IX. No day shall be kept a public holiday by the customs except Sundays, Christmas Day, Good Friday, and New Year's Day in every year, and any days proclaimed by the Governor as a general fast or a general thanksgiving, and also such days as shall have been or shall be appointed for the celebration of the birthdays of Her Majesty and of her successors.

Holidays.

X. It shall be lawful for the proper officers of customs to board any ship arriving at any port in this Colony, or being within one league of the coast thereof, and freely to stay on board until all goods laden therein shall have been duly delivered from the same, and such officer shall have free access to every part of such ship, with power to fasten down hatchways and to mark any goods before landing, and to lock up, seal, mark, or otherwise secure any goods on board of such ship; and if any place or any box or chest be locked and the keys be withheld, such officers, if they be of a degree superior

Boarding and searching  
of ships.

No. 10—1872.

to tidewaiters, may open any such place, box, or chest, in the best manner in their power, and if any goods liable to duty be found concealed on board of any such ship they shall be forfeited, and if the officer shall place any lock, mark, or seal upon any goods on board, and such lock, mark, or seal be wilfully opened, altered, or broken before due delivery of such goods, or if any such goods be secretly conveyed away, or if the hatchways, after having been fastened down by the officer, be opened, the master of such ship shall forfeit the sum of one hundred pounds sterling.

Penalty £100.

Stationing of officers on board of ship.

XI. It shall be lawful for the collector or other principal officer of customs of any port of this Colony to station any officer or officers on board of any ship while within the limits of such port, and the master of every ship on board of which any officer is so stationed, shall provide according to his means every such officer sufficient accommodation and subsistence in accordance with his rank, and in case of neglect or refusal so to do, shall forfeit the sum of twenty pounds sterling; but in the absence of express agreement such master shall not be liable to reimburse the Government for any other expenses incurred.

Penalty £20.

Master's name on registry of ship.

XII. It shall be lawful for the officers of the customs at any port in this Colony, to refuse to admit any person to do any act at such port as master of any British ship, unless the name of such person shall be inserted in or have been endorsed upon the certificate of registry of such ship as being the master thereof, or until the name shall have been so endorsed by the proper officer at such port as aforesaid.

Examination of goods at importer's expense.

XIII. The unshipping, carrying and landing of all goods, and the bringing of the same to the proper place after landing for examination, or for weighing, or for gauging, and the putting the same into the scales, and the taking the same out of and from the scales after weighing, shall be performed by or at the expense of the importer.

Prohibitions.

XIV. No articles of foreign manufacture, nor any packages of such articles bearing any names,

brands, or marks purporting to be the names, brands, or marks of manufacturers resident in the United Kingdom, or any British possession, and no base or counterfeit coin, and no indecent or obscene prints, paintings, photographs, books, cards, lithographic or other engravings, or any other indecent or obscene articles, shall be imported or brought into this Colony; and it shall be lawful for the Governor, by proclamation, to prohibit the importation of gunpowder, arms, ammunition, or utensils of war from any place or places other than the United Kingdom or some British possession; and if any of the articles herein enumerated shall be imported or brought in contrary to the provisions hereof, the same shall be forfeited.

Power of Governor.

Penalty.

XV. The ports of Cape Town, Simon's Town, Port Beaufort, Mossel Bay, Port Elizabeth, Port Alfred, and East London, and such other ports within this Colony as may be hereafter declared by the Governor by proclamation for that purpose, shall be free ports,—that is to say, ports into or from which any goods may be imported or exported; and if any goods shall be imported into or exported from any other ports than free ports, except in conformity with the provisions of any Act relating to the customs, all such goods shall be forfeited.

Free ports.

Penalty.

XVI. If any goods, wares, or merchandise liable to the payment of duties of customs on importation shall be imported by the Crown, or by any party legally entitled to claim exemption from such duties, and shall afterwards be sold by the Crown or by such party in the like condition as when the same were imported, then and in every such case such goods, wares, and merchandise shall be charged with such duties as shall by law be payable on the importation of the same at the time of such sale; and any such goods, wares, or merchandise which shall be sold after having been in use, except in the case of guns, pistols, gun-barrels, pistol-barrels, and gunpowder, which shall in every case be charged with the duty leviable on such articles on importation, shall be charged with a duty of ten

Liability to duty of Crown property or of goods legally exempted when subsequently sold.

No. 10—1872.

pounds sterling per centum on the amount for which the same shall be sold, in case such rate shall not exceed in amount the duty which would have been payable thereon on the importation thereof : and in case such rate of ten pounds sterling per centum shall exceed such duty, then such goods, wares, or merchandise shall on such sale as aforesaid be charged with the same duties as would be payable on the importation thereof at the time of such sale ; and all sales to be held under the provisions of this section shall be made in conformity with such regulations as shall from time to time be made in that behalf by the Governor, with the advice of the Executive Council : and any such goods, wares, or merchandise which may be sold in violation of the provisions hereof shall be forfeited.

Regulations for sale.

Penalty.

Weights and measures

XVII. All duties shall, unless otherwise specially provided, be charged, paid and received on and according to the weights and measures by law established in this Colony ; and in all cases where such duties are imposed according to any specific quantity, or any specific value, the same shall be deemed to apply proportionally to any greater or less quantity or value ; and all such duties shall be under the management of the Governor.

Governor to manage duties.

Duties collected to be paid into Colonial Treasury.

XVIII. The gross produce of the duties received under any law in force in this Colony relating to the customs shall be paid by the collector or other principal officer of customs into the hands of the Treasurer-General of this Colony, or other proper officer authorized to receive the same.

Report at custom-house of ship's arrival within twenty-four hours.

XIX. The master of every ship arriving at any port or place in this Colony, whether laden, or in ballast, shall, within twenty-four hours after such arrival, and before bulk be broken, come to the custom-house for the port or place where he arrives, and there make due report in writing, in duplicate, of such ship, and shall make and subscribe a declaration to the truth of the same, before the collector or other proper officer of customs at such port, and such report shall contain the particulars of the arrival and voyage of such ship, stating her name,

Particulars of report

country, and tonnage (and, if British) the port of registry, the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such ship, and whether she be laden or in ballast, and, if she has on board any goods for any port in this Colony, the marks, numbers, and contents of every package and parcel of goods on board, and where the same were laden, and where, and to whom consigned, and where and what goods, if any, had been unladen during the voyage ; as also a list of all unconsumed stores on board of such ship, as far as such particulars are known to him ; and the master of any ship arriving at any port or place in this Colony without having on board any goods for any port therein, shall, when reporting his ship deposit at the custom-house the manifest or bills of lading of the cargo of such ship (which shall be returned to him when clearing his vessel outwards) ; and the master shall, at the same time, answer all such questions concerning the ship and cargo, and the crew, passengers, and voyage, as shall be demanded of him by such officer of customs ; and if any goods be unladen from any ship before such report be made, or if the master fail to make such report, or make an untrue report, or do not truly answer the questions demanded of him, he shall forfeit the sum of one hundred pounds sterling, and if any goods be not reported, such goods shall be forfeited : Provided, however, that if at any port which the Governor shall consider as not sufficiently sheltered, it shall be not reasonably possible for the master, having regard to the nature of his voyage, to present himself in person at the custom-house, for the purpose of making such report and answering such questions as aforesaid, then, if the agent for the ship or other person duly authorized by the master shall, for and on behalf and at the risk of the master, make such report and answer all such questions as aforesaid, such report may be taken as made and such answers as given by the master under the provisions of this section, and shall be considered in all respects and for all purposes as his report and answers respectively.

List of unconsumed stores.

Deposit of manifest when ship has no goods for port of arrival.

Master bound to give information required.

Penalty £100.

Report may, in certain cases, be made by agent for ship, instead of by master.

No. 10—1872.

Duty of master when any goods are consigned to ports other than that of arrival.

XX. If any of the goods on board of any ship arriving at any port of this Colony shall be consigned to any other port or ports in the same, the master shall at the time of making report, in manner provided in the preceding section, deliver an extract of such report, describing the goods consigned to the port of arrival; and when such ship shall clear for any such other port, the duplicate of the report made on first arrival shall be returned to the master, enclosed under the proper seal of the proper officer of customs at such port of arrival, addressed to the proper officer of customs at such other port as aforesaid: And the master shall deliver the same to the proper officer of customs at such other port, together with an extract, in duplicate, if so required by such officer, describing the goods consigned to such lastmentioned port; and if the master shall fail to make such extract as aforesaid, or shall make an untrue extract, he shall forfeit the sum of one hundred pounds sterling; and if any goods shall be landed at any port, which are not entered in the extract of goods consigned to the same, they shall be forfeited.

Penalty.

Entry outwards of ship bound from the Colony.

XXI. The master of every ship bound from any port or place in this Colony shall, before any goods be laden therein, deliver to the collector, or other proper officer of customs, an entry outwards, under his hand, of the destination of such ship, stating her name, country and tonnage (and, if British) the port of registry, the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such ship; and if any goods be laden on board of any ship before such entry be made, the master of such ship shall forfeit the sum of fifty pounds sterling; and before such ship depart the master shall bring and deliver to the collector or other proper officer of customs a content, in writing, under his hand, of the goods laden and the names of the respective shippers and consignees of the goods, with the marks and numbers of the packages or parcels of the same, together with a victualling bill containing a full account of all stores shipped on board of such

Penalty £50.

Delivery of content to officer of customs before departure.

Victualling bill.

vessel from bond, and shall make and subscribe a declaration to the truth of such content and victualling bill as far as any such particulars are known to him; and the master of every ship bound from any port or place, in this Colony, whether in ballast or laden shall, before, departure, come before the collector or other proper officer of customs, and answer all such questions concerning the ship and the cargo, if any, and the crew, passengers, and voyage, as shall be demanded of him by such officer, and thereupon the collector or other proper officer of customs, if such ship be laden, shall make out and give to the master a certificate of the clearance of such ship for her intended voyage, containing an account of the total quantities of the several sorts of goods laden therein, or a certificate of her clearance in ballast, as the case may be; and if the ship shall depart without such clearance, or if the master shall deliver a false content, or shall not truly answer the questions demanded of him, he shall forfeit the sum of one hundred pounds sterling.

Certificate of clearance.

Penalty £100.

XXII. Notwithstanding anything in the last foregoing section contained, it shall be lawful for the principal officer of customs of any port, if it shall be made to appear to him that it is necessary to lade any heavy goods or ballast on board of any ship before the whole of the inward cargo shall have been discharged, to grant a stiffening order for that purpose, prior to the entry outwards of such ship.

Stiffening order may be granted previous to entry outwards.

XXIII. Except as is hereafter provided, no goods shall be laden or water-borne to be laden on board of any ship, or unladen from any ship in this Colony until due entry shall have been made of such goods, and warrants granted for the lading or unlading of the same, and no goods shall be so laden or water-borne, or so unladen, except at some place at which an officer of customs is appointed to attend the lading or unlading of such goods, or at some place for which a sufferance shall have been granted by the collector or other principal officer of customs of the port, for the lading or unlading of

Entry of goods previous to being landed or shipped.



No. 10—1872.

Exception in favour  
of facilitating dis-  
patch of ship.

such goods, and no goods shall be so laden or unladen, except in the presence or with the permission, in writing, of the proper officer: Provided, however, that before entry be made for the landing of any goods, the same may be landed, for the purpose of facilitating the dispatch of the vessel, by order of the collector or other principal officer of customs of the port, within the hours duly appointed for the transaction of business of the customs and at a duly appointed and approved landing-place; but in every such case the same shall be by the importer thereof, or by the agent of the ship, taken to the Queen's warehouse, and may be there detained until due entry shall have been made thereof, and the duties and charges payable thereon shall have been paid, or the goods duly warehoused, and such charges as may be due thereon paid; and if such entry shall not be duly made, and such duties and charges duly paid, or such goods duly warehoused, and such charges as may be due thereon paid, within the period of three months, then such goods may be sold on account of the owners thereof, and the balance of the proceeds of the sale, if any, after payment of all duties and charges, including expenses of warehouse and sale due in respect thereof, not exceeding, as to warehouse rent, a rent for three months, shall be paid to the owners thereof, and all goods laden or water-borne, or unladen, contrary to the provisions of this Act, unless in conformity with any Act for the regulation of the coasting trade of this Colony, shall be forfeited.

Penalty.

Particulars of bill of  
entry.

XXIV. The person entering any goods on behalf of any importer or exporter shall deliver to the collector or other proper officer of customs a separate bill of the entry of the goods imported or exported on behalf of each separate importer or exporter; and such bill may be in the form in that behalf, as the case may be, in the first schedule hereto annexed, containing the name of the importer or exporter, and of the ship and of the master, and of the place from or to which bound, and of the place within the port where the goods are to be laden or unladen, and the parti-

culars of the quality and quantity of the goods and of the packages containing the same, and the marks and numbers on the packages, and setting forth whether such goods be the produce of the United Kingdom or of any British possession or not, and shall also, at the same time, deliver such duplicates of such bill, as may be required, not exceeding two, in which all sums and numbers may be expressed in figures; and the particulars to be contained in such bill of entry shall be written and arranged in such form and manner as the collector or other principal officer of customs shall require, and such person shall, at the same time, pay down all duties due upon the goods, unless the same shall be entered to be warehoused, and the collector or other proper officer of customs shall thereupon grant his warrant for the lading or unlading of such goods.

XXV. If the importer of any goods, or his agent, shall make and subscribe a declaration before the collector or other proper officer of customs that he cannot, for want of full information, make perfect entry thereof, it shall be lawful for the collector or such other proper officer to receive an entry by bill of sight, which may be in the form in that behalf in the first schedule hereto annexed, for the packages or parcels of such goods by the best description which can be given, and to grant a warrant thereupon, in order that the same may be landed and secured to the satisfaction of the officer of the customs, and at the expense of the importer, and may be seen and examined by such importer, or his agent, in the presence of the proper officers; and within three days after the goods shall have been so landed, the importer, or his agent, shall make a perfect entry thereof and pay down all duties due thereon or duly warehouse the same; and in default of such entry, such goods shall be taken to the Queen's warehouse, and if the importer or his agent shall not, within three months after such landing, make perfect entry of such goods, and pay the duties due thereon, or duly warehouse the same, paying at the same time the charges of removal and Queen's warehouse rent, such goods

Entry by bill of sight.

No. 10—1872.

shall be sold for the payment thereof, and the overplus, if any, shall be paid to the proprietor of the goods.

Valuation of goods subject to *ad valorem* duty.

XXVI. In all cases where the duties imposed upon the importation of articles into this Colony are charged, not according to the weight, tale, gauge, or measure, but according to the value thereof, such value shall be ascertained by the declaration of the importer of such articles, or his agent, in the manner and form following, that is to say :

Form of declaration to entry.

I, A.B., do hereby declare that the current value of the articles mentioned in this entry, and contained in the packages specified, at the port whence the same are imported, is ———

Witness my hand, the — day of ——. A.B.

The above declaration signed the — day of —, in the presence of

C.D., Collector (or other proper officer.)

Declaration to be signed in presence of customs officer.

Which declaration shall be written on the bill of entry of such articles, and shall be subscribed with the hand of the importer thereof, or of his agent, in the presence of the collector or other proper officer of the customs, and the said value, with the addition of ten pounds per centum, shall be the sum whereon duty shall be levied: Provided that if, upon view and examination of such articles by the proper officer of the customs, it shall appear to him that the said articles are not valued according to the current value thereof, at the port whence the same were imported, then and in such case the collector or other proper officer may, if he deem it fitting so to do, require the importer, or his agent, to declare on oath before him to the truth of the aforesaid declaration, according to the best of the belief of such importer or his agent, and to adduce any documentary evidence he may possess in support thereof: Provided, also, that if it shall appear to the collector or other proper officer whether such oath as aforesaid shall have been required or not, that such articles have been declared at a value below the current value thereof at the place from whence the same were imported, the articles shall,

And to be made under oath if required.

Documentary evidence. Examination of goods when customs officer is not satisfied with declared value.

in such case, be examined by two competent persons, one to be nominated and appointed by the Governor, and the other by the importer; and such two persons shall, before entering into the inquiry, appoint an umpire, and shall then declare on oath, before the collector or proper officer of customs, what is the current value of such articles at the port whence the same were imported, and in case such persons shall not agree, then the declaration of such value on oath, as aforesaid, of the umpire shall be final; and if any importer shall fail, within three days from his being required so to do by the proper officer of customs, to make an appointment as hereinbefore provided, or if no declaration shall be made by the persons appointed, or by the umpire selected by them, within three days from their appointment or selection, then, in any such case, the declaration of the person to be appointed as aforesaid by the Governor shall be final, and the duties shall be charged and paid upon the value as ascertained and declared in conformity therewith, with the addition of ten pounds per centum thereon as aforesaid: Provided, further, that should the value so ascertained and declared under any of the provisions hereinbefore contained for arbitration exceed by fifteen per cent. and not by thirty per cent. the value originally declared by the importer, there shall be payable on such goods double the amount of duty otherwise chargeable thereon, and should the value so ascertained and declared as aforesaid exceed by thirty per cent. and not by sixty per cent. or the value originally declared by the importer, then there shall be payable on such goods four times the amount of duty otherwise chargeable thereon, and should the value so ascertained and declared as aforesaid exceed by sixty per cent. or upwards, the value originally declared by the importer, then such goods shall be forfeited: Pro-

No. 10—1872.

Fines on under valuation.

Penalty.

Transport expenses in United Kingdom not included in valuation.

No. 10—1872.

factured or purchased to the port of shipment shall not be reckoned as part of the current value thereof for payment of duty.

Proceedings on refusal of importer to pay duty.

XXVII. If the importer of such articles shall refuse to pay the duties imposed thereon under the preceding section, it shall and may be lawful for the collector or other principal officer of customs of the port, and he is hereby required, to take and secure the same, with the casks or other packages thereof, and to cause the same to be publicly sold within the space of twenty days at the most after such refusal made, and at such time and place as such officer shall, by four or more days' public notice, appoint for that purpose, which articles shall be sold to the highest bidder; and the money arising from the sale thereof shall be applied, in the first place, in payment of the said duties, together with the charges which shall have been occasioned by the said sale, and all costs and charges of arbitration, and the overplus, if any, shall be paid to such importer, or proprietor, or any other person authorized to receive the same.

Entry to be made of goods within fourteen days of ship's arrival.

XXVIII. Every importer of any goods shall, within fourteen days after the arrival of the importing ship, make due entry inwards of such goods, and land the same; and in default of such entry, it shall be lawful for the officers of customs to convey such goods to the Queen's warehouse, and if the duties due upon such goods be not paid within three months after such fourteen days shall have expired, together with all charges of removal and warehouse rent, the same shall be sold, and the produce thereof shall be applied, first to the payment of freight and charges, next of duties, and the overplus, if any, shall be paid to the proprietor of the goods, or any person authorized to receive the same.

Rent of Queen's warehouse.

XXIX. Whenever any goods shall be taken to and secured in any of the Queen's warehouses in this Colony for security of the duties thereon, or to prevent the same coming into home use, it shall be lawful for the collector or other principal officer of customs to charge and demand and receive ware-

house rent for such goods for all such time as the same shall remain in such warehouse: Provided, always, that it shall be lawful for the collector of customs, with the sanction of the Governor, to fix the rates or amount of rent which shall be payable for any goods secured in any of the Queen's warehouses aforesaid.

No. 10—1872.  
Rate chargeable.

XXX. If at any time it shall be necessary temporarily to discharge the cargo of any ship arriving at any port in this Colony, in order that such ship may be repaired, it shall be lawful for the master of such ship to place such cargo, during the progress of such repairs, in any convenient store or warehouse, which may for that purpose be to the satisfaction of the collector or other principal officer of customs of the port specially and exclusively set apart and secured.

Temporary discharge  
of distressed vessels.

XXXI. No entry nor any warrant for the landing of any goods or for the taking of any goods out of any warehouse shall be deemed valid unless the particulars of the goods and packages in such entry shall correspond with the particulars of the goods and packages purporting to be the same in the report of the ship, or in the certificate, or other document where any is required, by which the importation or entry of such goods is authorized, nor unless the goods shall have been properly described in such entry by the denomination and with the characters and circumstances according to which such goods are charged with duty, or may be imported; and any goods taken or delivered out of any ship or out of any warehouse by virtue of any entry or warrant not corresponding or agreeing in all such respects, or not properly describing the same, shall be deemed to be goods landed or taken without due entry thereof, and shall be forfeited: Provided, however, that should the goods so declared to be forfeited be contained in any entry or warrant embracing more than one package, and it shall be shown that the non-correspondence, or non-agreement, or improper description as aforesaid arose without any wilful default or neglect of anyone connected with such goods, and that such non-cor-

Particulars of good  
in entry.

No. 10—1872.

Penalty.

respondence, or non-agreement, or improper description does not exist as to the whole of the packages in such entry or warrant, only the package or packages not corresponding or agreeing with the particulars of the same hereinbefore-mentioned, or not properly described as aforesaid shall be forfeited.

Free ports.

warehousing

XXXII. The ports of Cape Town, Simon's Town, Mossel Bay, Port Elizabeth, Port Alfred, and East London, and such other ports within this Colony, as may hereafter be declared by the Governor, by proclamation, to be fit for that purpose, shall be "free warehousing ports" for the purpose of any Act relating to the customs.

Ports for limited purposes.

XXXIII. It shall be lawful for the Governor, with the advice of the Executive Council, by proclamation in the *Government Gazette*, to establish ports within this Colony for such particular and limited purposes, and for such periods as shall be specified in such proclamation: And it shall be lawful, in case export only be allowed from any such port, and there shall be no officer of customs resident thereat, that the export entry of any ship or vessel taking in cargo at such port for export may be passed, and her clearance may be granted at such free port as shall be ordered by the Governor for that purpose, before such ship or vessel shall clear for the port of export aforesaid.

Bonded warehouses.

XXXIV. It shall be lawful for the collector or other principal officer of customs, by notice, in writing, under his hand, to appoint, from time to time, such warehouses at any of the free warehousing ports, as shall be approved of by him for the warehousing and securing of goods therein for the purposes of any Act relating to the customs, and also in such notice to declare what sort of goods may be so warehoused, and also, by like notice, to revoke or alter any such appointment or declaration: Provided, always, that every such notice shall be published in the *Government Gazette*.

Storing of goods in bonded warehouses without payment of duty.

XXXV. It shall be lawful for the importer, of any such goods to warehouse the same in the warehouses so appointed without payment of any

duty on the first entry thereof, subject, nevertheless, to the rules, regulations, restrictions and conditions hereinafter contained: Provided, always, that any goods warehoused at any warehousing port, may be delivered under the authority of the proper officer of customs, upon a sufferance granted in that behalf without payment of duty, except for any deficiency thereof, for the purpose of removal to another warehousing port in this Colony, under bond, to the satisfaction of such officer, for the due arrival and re-warehousing of such goods at such other port.

XXXVI. All goods so warehoused shall be stowed Stowage of goods.

in such parts or divisions of the warehouse and in such manner as the collector or other principal officer of customs of the port shall direct, and the warehouse shall be locked and secured in such manner, and shall be opened and visited only at such times and in the presence of such officers and under such rules and regulations as the collector or other principal officer of customs shall direct, and all such goods shall, after being landed upon importation, be carried to the warehouse, or shall, after being taken out of the warehouse for exportation, be carried to be shipped under such rules and regulations as the collector or other principal officer of customs shall direct. Securing and opening of warehouse.

XXXVII. Upon the entry of any goods to be warehoused, the importer of such goods, instead of paying down the duties due thereon, shall give bond with one sufficient surety, to be approved of by the collector or other principal officer of customs of the port, in double the duties payable on such goods, with condition for the safe depositing of such goods in the warehouse mentioned in such entry, and for the payment of all duties due upon such goods, or for the exportation thereof, or shipment thereof, as stores, according to the first account taken of such goods upon the landing of the same, and with further condition that the whole of such goods shall be so cleared from such warehouse and the duties upon any deficiency in the quantity according to such first account shall be Importer to give bond and security in double duties payable.



No. 10—1872.

Stores.

Fresh security on  
cessation of bonder's  
interest.General bond of pro-  
prietor or occupier of  
bonded warehouse.

paid within five years from the date of the first entry thereof; and with further condition that no part thereof shall be taken out of such warehouse until cleared from thence, upon due entry and payment of duty, or upon due entry for exportation, or for the shipment as stores; and with further condition that if, at end of two years from the date of such bond, the quantity of goods of any particular denomination in respect of which the same shall have been given, still remaining in the warehouse, shall be so reduced that the duties payable on the balance shall not exceed ten pounds sterling, that then such balance shall be cleared from the warehouse, and the duties thereon forthwith paid; and if after such bond shall have been given, the goods, or any part thereof, shall be sold or disposed of, so that the original bonder shall be no longer interested in or have any control over the same, it shall be lawful for the collector or other principal officer of the port, to admit fresh security, to be given by the bond of the new proprietor, or other person having control over such goods, with his sufficient surety, and to cancel the bond given by the original bonder of such goods, or to exonerate him to the extent of the fresh security so given; but nothing in this section contained shall be deemed to invalidate or to alter the condition of any bond given under the law heretofore relating to the customs of this Colony, but every such bond shall remain in force as if this Act had not been passed.

XXXVIII. It shall be lawful for the proprietor or occupier of any bonded warehouse, appointed under authority of this Act, if he be willing to give general security by bond, with two sufficient sureties, to the satisfaction of the collector or other principal officer of customs, for the payment of the full duties of importation on all such goods as shall at any time be warehoused therein, or for the due exportation thereof, upon the like terms and conditions with regard to times of payment and clearance of balances as those contained in the bond in the last foregoing section mentioned, and

where such general securities shall have been given in respect of any bonded warehouse, it shall not be necessary for the importer to give bond as by the last foregoing section required in respect of the particular goods imported and entered to be warehoused therein ; but nothing herein contained shall be deemed to invalidate or to alter the conditions of any bond given under the law heretofore in force with regard to the customs of this Colony, but every such bond shall remain in force as if this Act had not been passed.

XXXIX. If any goods which have been entered to be warehoused shall not be duly carried into and deposited in the warehouse, or shall afterwards be taken out of the warehouse, without due entry and clearance, or having been entered or cleared for exportation, shall not be duly carried and shipped, or shall afterwards be re-landed, except with the permission of the proper officer of the customs, such goods shall be forfeited.

Forfeiture of goods entered to be warehoused if removed without permission.

XL. Upon the entry and landing of any goods to be warehoused, the proper officer of customs shall take a particular account of the same, and shall, if he see fit, mark the contents on each package, and shall enter the same in a book to be kept for that purpose ; and no goods which shall have been so warehoused shall be taken or delivered from the warehouse except upon due entry and under the care of the proper officers for exportation, or upon due entry and payment of duty for home use ; and whenever the whole of the goods warehoused under any entry shall be cleared from the warehouse, for home use, or whenever further time shall be granted for any such goods to remain warehoused, an account shall be made out of the quantity upon which the duties have been paid, if any, and of the quantity exported, if any, and of the quantity (to be then ascertained) of the goods still remaining in the warehouse, as the case may be, deducting from the whole the quantity contained in any whole packages, if any, which may have been abandoned for duties ; and if upon such account there shall, in either case, appear to be any defi-

Account of goods entered to be warehoused to be taken.

Delivery from warehouse.

Account of goods cleared, &c.

Payment of duty on deficiency.

No. 10—1872.

Exceptions.

ciency of the original quantity, the duty payable upon the amount of such deficiency shall then be paid; except as to the following goods, namely, ale, beer, spirits and wine in the wood, and currants, figs, dates, raisins, unrefined sugar, and tobacco (not being cigars or snuff), the duties whereon, when cleared from the warehouse for home use, shall be charged upon the quantity of such goods, ascertained by weight, measure, and quantity, and in case of spirits by the quantity, if not overproof, or by the strength, if overproof, at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of the deficiency or difference between the weight, measure, and quantity as above mentioned, ascertained on landing and first examination of such lastmentioned goods, and that ascertained at the time of actual delivery, has been caused by illegal or improper means, in which case the proper officer of customs shall make such allowance only for loss as he may consider justly to have arisen from natural evaporation, or other legitimate cause; in no instance are the allowances to exceed, in the case of ale, beer, spirits, and wine, those specified in the second schedule hereto annexed: Provided that nothing in this section contained shall extend or apply to any goods entered and cleared from the warehouse for exportation, as hereinafter in the forty-seventh section of this Act mentioned and provided for.

Exception.

Samples of ware-  
housed goods.

XLII. It shall be lawful for the collector or other principal officer of customs, under such regulations as he shall see fit, to permit moderate samples to be taken by the importer or his agent of any goods so warehoused without entry and without payment of duty, except as the same shall eventually become payable as on a deficiency of the original quantity.

Sorting, repacking,  
or destroying goods  
under collector's au-  
thority.

XLII. It shall be lawful for the collector or other principal officer of customs, under such regulations as he shall see fit, to permit the proprietor or other person having control over the goods so warehoused, to sort, separate, and pack and repack any such goods, and to make such lawful alterations therein, or arrangements and assortments thereof,

as may be necessary for the preservation of such goods, or in order to the sale, exportation, or shipment as stores to ships not being then proceeding coastwise, either in original packages, or such other packages as the collector or other principal officer of customs may authorize, or in order to other legal disposal of the same, and also to permit any parts of such goods so separated to be destroyed, but without prejudice to the claim for duty upon the remaining quantity of such goods; and further, to permit, by the admixture of vinegar, or salt, crude, in the proportions shown in the second schedule hereto annexed, with unsound wine, to enable the person entering such wine for home use to receive delivery upon the payment of the duty upon vinegar: Provided, always, that no duty shall be payable upon any goods so destroyed as aforesaid, and that it shall be lawful for any person to abandon any whole packages to the officers of customs for the duties which would otherwise have been chargeable thereon.

No. 10—1872.

Stores.

Admixture of vinegar or salt to unsound wine.

Abandonment of whole packages.

XLIII. All goods warehoused or re-warehoused shall be duly cleared, either for exportation or for home consumption, according to the terms of the conditions of the bonds whereunder the same shall have been warehoused or re-warehoused; and if any such goods be not so cleared, it shall be lawful for the collector or other principal officer of customs to cause the same to be sold, and the produce shall be applied, first to the payment of the duties, next to warehouse rent and other charges, and the overplus, if any, shall be paid to the proprietor: Provided, always, that it shall be lawful for the collector or other principal officer of customs to grant further time for any such goods to remain warehoused if he shall see fit so to do.

Clearing of goods in terms of bond.

Time may be extended.

XLIV. Upon the entry outwards of any goods to be exported from the warehouse, the person entering the same shall give security, by bond, in double the duties of importation on the quantity of such goods, or if such goods are prohibited to be imported for home use, in double the value of such goods, with one sufficient surety, to be approved

Export of bonded goods. Bond to be given for double duty or double value.

No. 10-1872.

Transshipment  
bonded goods.

of by the collector or other principal officer of customs of the port of export, that the same shall be landed at the place for which they are entered outwards, or be otherwise accounted for to the satisfaction of such collector or other principal officer, and the collector or other principal officer of customs of the port, should he see fit, may require that a certificate shall be produced by the exporter from the proper authorities at the port or place of destination in proof of the actual landing of thereat of the goods shipped: Provided, always, that it shall be lawful for any person who shall have duly made entry at any port in this Colony of any goods to be there lodged in the warehouse, and who shall in all other respects have complied with the law respecting the warehousing of such goods, to tranship the same for exportation within the limits of the said port into any vessel, without the actual landing thereof on shore, if such person shall in all respects comply with and observe the regulations in the next following section mentioned, or such other regulations and conditions as may be hereafter made or required by the collector or other principal officer of customs, for effecting any such transshipment.

Transshipment  
bond.

in XLV. In case of the transshipment of goods entered to be warehoused at any of the free warehousing ports of this Colony, the bond required to be given by the thirty-seventh section of this Act upon the entry of the goods, shall be dispensed with, and the transshipment allowed to take place under the care and superintendence of the officers of customs, on due entries inwards and outwards being previously passed for the goods, and bond being entered into for the exportation of the same, in like manner as if they had been actually landed and deposited in the warehouse.

Transshipment  
transit goods.

of XLVI. Transshipment, within any free warehousing port in this Colony, of goods in transit from any place beyond the limits of this Colony, consigned to any other place beyond the limits of this Colony, shall be deemed to be transshipment of goods entered to be warehoused at such free ware-

housing port; but in any such case where the value and contents of any package of such goods are unknown to the persons desiring to tranship the same, the specification of such contents and value in the bills of entry of such goods may be dispensed with, and the bond for the exportation thereof may be given upon such estimated value as the persons so desiring to tranship the same and the collector or other principal officer of customs of the port shall agree to.

No. 10—1872.

XLVII. No duty shall be charged in respect of any deficiency in goods entered and cleared from the warehouse for exportation unless the officers of customs have reasonable ground to suppose the deficiency, or any part thereof, has arisen from illegal abstraction; if any goods duly entered for delivery from the warehouse for removal to another port in this Colony, or for exportation, shall be destroyed by unavoidable accident, either in the delivery from the warehouse or the shipping thereof, the collector or other principal officer of customs shall remit the duties due thereon; if goods entered to be warehoused, or entered to be delivered from the warehouse, shall be destroyed by fire or other unavoidable accident, either on shipboard, or in landing, or in receiving into the warehouse, or in the warehouse, the collector or other principal officer of customs shall return the duties, if any, paid thereon.

Duty not chargeable on deficiency of goods entered and cleared for exportation.

Or on goods accidentally destroyed

XLVIII. All appointments of warehouses for the warehousing of goods at present in force shall continue in force as if the same had been made under the authority of this Act.

Act to apply to existing bonded warehouses.

XLIX. All goods whatsoever, which now are or may be deposited in any warehouse or place of security, under lawful authority, without payment of duty upon the first importation thereof, or which may be imported and on board of any ship or vessel, shall, upon being entered for home consumption, be subject and liable to such and the like duties as may at the time of passing such entry be due and payable upon the like sort of goods under any Act for the time being in force relating to the customs.

Liability of bonded goods to duty at date of entry.

No. 10—1872.

Boarding and searching of ships.

L. It shall be lawful for the officers of customs to go on board of any ship in any port in this Colony, and to rummage and search all parts of such ship for prohibited or uncustomed goods, and also to go on board of any ship hovering within one league of the coast of this Colony, and in either case freely to stay on board of such ship, so long as she shall remain in such port or within such distance ; and if any such ship be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for the officers of customs to bring such ship into port and to search and examine her cargo, and to examine the master on oath touching the cargo and voyage ; and if there be any goods on board prohibited to be imported into this Colony, such ship and her cargo shall be forfeited, and if the master shall not truly answer the questions which shall be demanded of him on such examination, he shall forfeit the sum of one hundred pounds sterling.

Examination of ship hovering about port.

Penalties on discovery of prohibited goods, and on master untruly answering, £100.

Searching of persons.

LI. Any officer of customs may search any person on board of any ship or boat within the limits of any port in this Colony, or any person who shall have landed from any ship or boat, provided such officer shall have good reason to suppose that such person has any uncustomed or prohibited goods secreted about his or her person ; and if any passenger or other person on board of such ship or boat, or who may have landed from such ship or boat, shall upon being questioned by such officer whether he or she has any dutiable goods upon his or her person, or in his or her possession, deny the same, and any such goods shall after such denial be discovered to be, or to have been at the time of such denial, in his or her possession, such goods shall be forfeited, and such person shall forfeit treble the value of such goods.

Penalty:

Person may require to be brought before collector before being searched.

LII. Before any person shall be searched by any officer as aforesaid, such person may require such officer to take him or her before the collector or other principal officer of customs of the port, who shall, if he see no reasonable cause for search, discharge

such person, but if otherwise, direct such person to be searched, and, if a female she shall not be searched by any other than a female.

No. 10—1872.

Female to search female.

LIII. Any person required to take such person before such collector or other principal officer of customs of the port, shall do so with all reasonable dispatch; and any officer guilty of any contravention of this enactment shall forfeit the sum of ten pounds sterling.

Penalty on customs officer contravening foregoing section, £10

LIV. All vessels, boats, carriages, and cattle made use of in the removal of any goods liable to forfeiture under any Act relating to the customs shall be forfeited, except it shall be shown that the same were made use of in the removal of goods liable to forfeiture without the consent or knowledge of the owner thereof, or his agent or other person in possession or charge thereof with the consent of such owner, and every person who shall knowingly by himself or by his agent in that behalf assist or be otherwise concerned in the unshipping, landing, or removal, or in harbouring of such goods, or into whose hands or possession the same shall knowingly come, shall forfeit the treble value thereof, or the penalty of one hundred pounds sterling at the election of the principal officer of customs, and the averment in any information or libel to be exhibited for the recovery of such penalty that the officer proceeding has elected to sue for the sum mentioned in the information, shall be deemed sufficient proof of such election without any other or further evidence of such fact.

Forfeiture of vessels, &c., carrying goods liable to forfeiture.

Penalty on persons unshipping, landing, &c., such goods, £100.

LV. All goods, and all ships, vessels, and boats, and all carriages, and all cattle liable to forfeiture under any Act relating to the customs shall and may be seized and secured by any officer of the customs; and every person who shall in any way hinder, oppose, molest, or obstruct any officer of customs, or any person acting in his aid and assistance, shall, for every such offence, forfeit the sum of two hundred pounds sterling: Provided that no such seizure shall be made at any time later than six months reckoned from the day on which such goods, ships, or other articles first became liable to for-

Seizure of vessels, &c. by customs officers.

Penalties on obstruction, £200.

Period within which seizure may be made,



No. 10—1872.

feiture, unless, firstly, such goods, ships, or other articles shall, before the expiration of such six months, have been removed out of this Colony, in which case such goods, ships, or other articles may, when found again in this Colony, be seized at any time, if then owned by the same person who owned the same when they became liable to forfeiture, or by any person who became owner with knowledge or notice that the same were so liable, or if in the possession or charge of any person who took such possession or charge with such knowledge or notice; or unless, secondly, such goods, ships, or other articles, although never removed out of this Colony, shall be found in the possession of some such owner as above described, or of some person who took such possession with such knowledge or notice as aforesaid.

Collusive seizure or agreement not to seize

LVI. If any officer of customs, or any person duly employed for the prevention of smuggling, shall make any collusive seizure, or deliver up, or make any agreement to deliver up or not to seize any vessel, boat, or goods, liable to forfeiture under any Act relating to the customs, or shall take any bribe, recompense, gratuity, or reward for the neglect or non-performance of his duty, every such officer or other person shall forfeit for any such offence the sum of five hundred pounds sterling; or may be liable on conviction to imprisonment, with or without hard labour, for any period not exceeding five years; and every person who shall give or offer, or promise to give, or procure to be given, any bribe, recompense, or reward to, or shall make any collusive agreement with any such officer or person as aforesaid in this Colony, to induce him in any way to neglect his duty, or to do, or conceal, or connive at anything whereby the provisions of any Act relating to the customs may be evaded, shall forfeit the sum of two hundred pounds sterling.

Penalty on officers and others.

Period within which notice of claim may be given by owner of seized vessel, &c.

LVII. All vessels, boats, goods, and other things which shall have been or shall hereafter be seized as forfeited in this Colony under any Act relating to the customs, shall be deemed and taken to be condemned, and may be dealt with in the manner

hereinafter by the sixtieth section of this Act directed, unless the person from whom such vessels, boats, goods, and other things shall have been seized, or the owner of them, or some person authorized by him, shall within one calendar month from the day of seizing the same, give notice, in writing, to the person or persons seizing the same, or to the collector or other principal officer of customs of the port where the same shall have been seized, that he claims the vessel, boat, goods, or other things, or intends to claim them, and in default of giving such notice as aforesaid, no action, suit, or proceeding shall be capable of being brought or instituted against any officer of customs grounded merely upon the seizure of any of the vessels, boats, goods, or other things so seized as aforesaid.

In default of notice, action grounded on seizure barred.

LVIII. Under the authority of any writ of assistance granted by the Supreme Court of this Colony, or Court of Vice-Admiralty having jurisdiction in this Colony (which court or courts are hereby authorized and required to grant such writs of assistance upon application made to them for that purpose by the principal officer of customs within this Colony), it shall be lawful for any officer of the customs, taking with him any officer of the law proper for the execution of criminal warrants, to enter any building or other place in the day time, and to search for and seize and secure any goods liable to forfeiture under any Act relating to the customs, and, in case of necessity, to break open any doors and any chests or other packages for that purpose; and such writs of assistance, when issued, shall be deemed to be in force during the whole of the reign in which the same shall have been granted, and for twelve months from the conclusion of such reign.

Powers under writs of assistance granted by Supreme or Vice-Admiralty Courts.

LIX. If any person shall, by force or violence, assault, resist, oppose, molest, hinder, or obstruct any officer of the customs or other person employed as aforesaid in the exercise of his office, or any person acting in his aid or assistance, such person, being thereof convicted, shall be liable to a fine not exceeding five hundred pounds sterling, or to be

Penalty on obstruction of officers, £500, or imprisonment, five years.

No. 10—1872.

imprisoned, with or without hard labour, for any period not exceeding five years.

Disposal of seizures.

LX. All things which shall be seized as being liable to forfeiture under any Act relating to the customs, shall be taken forthwith to and delivered into the custody of the collector or other principal officer of customs, at the custom-house next to the place where the same were seized, who shall secure the same, and, after condemnation thereof, the collector or such other principal officer shall cause the same to be advertised and sold by public auction to the highest bidder: Provided, always, that it shall be lawful for the Governor to direct that, in lieu of such sale, any of such things shall be destroyed, or shall be reserved for the public service: Provided, also, that the produce of such sale shall be exempt from the payment of auction dues thereon.

Governor may direct things seized to be destroyed.

Auction dues not chargeable.

Recovery of penalties, &c.

LXI. All penalties and forfeitures which may have been heretofore or may be hereafter incurred under any Act relating to the customs, may be prosecuted, sued for, and recovered in the Supreme Court, or in the Court of the Eastern Districts (in case the act or omission entailing such forfeiture shall have taken place in any of the districts in or over which such court shall have jurisdiction), or in any circuit court having jurisdiction, or in the Vice-Admiralty Court of this Colony.

Authority for delivery of seizure under security by bond.

LXII. If any goods, or any ship, or vessel, shall be seized as forfeited under any Act relating to the customs, and detained, it shall be lawful for the Supreme Court, or Court of the Eastern Districts in the case supposed in the preceding section mentioned, or any judge of either of these Courts, or the judge of the Vice-Admiralty Court aforesaid, with the consent of the collector or other principal officer of customs, to order the delivery thereof, on security by bond, with two sufficient sureties, to be first approved by such collector or other principal officer, to answer double the value of the same in case of condemnation; and such bond shall be taken to the use of Her Majesty, in the name of the collector or other principal officer of the

Custody of bond.

customs in whose custody the goods, or the ship, or the vessel may be lodged, and such bond shall be delivered to and kept in the custody of such collector or officer, and in case the goods, or the ship, or vessel shall be condemned, the value thereof shall be paid into the hands of such collector or officer, who shall thereupon cancel such bond.

LXIII. Every suit for the recovery of any penalty or forfeiture under any Act relating to the customs shall be commenced in the name of the collector or other principal officer of the customs, or of Her Majesty's Attorney-General for this Colony; and if a question shall arise whether the person suing is such collector or other principal officer of the customs, *viva voce* evidence may be given of such fact, and shall be deemed legal and sufficient evidence.

Mode of procedure in suits for penalties, &c.

LXIV. If any goods shall be stopped or seized for non-payment of duties, or any other cause of forfeiture, and any dispute shall arise whether the duties have been paid for the same, or the same have been lawfully imported or lawfully laden or exported, the proof of the affirmative of these facts shall be on the owner or claimer of such goods, and not on the officer who shall seize or stop the same.

Proof of improper seizure on claimant of goods.

LXV. When and as often as the collector or other principal officer of customs at the port within this Colony, where any vessel, boat, goods, or other things shall have been seized as forfeited under any Act relating to the customs shall have received the certain notice, in writing, hereinbefore in the fifty-seventh section of this Act mentioned, the said collector or other officer shall, within one month, cause proceedings to be commenced in the Supreme Court of this Colony, or in the Eastern Districts Court, as the case may require, or in some competent circuit court thereof, or in the Vice-Admiralty Court thereof, for the purpose of obtaining the condemnation of the matters or things which shall have been so seized.

Period for commencing proceedings for condemnation limited

LXVI. When and as often as the said collector or other officer shall cause such proceedings as in

Defendant to declare on oath property in seizure.

No. 10—1872.

the last preceding section mentioned to be commenced, no owner or other lawful claimant shall make any claim or be admitted to defend the said suit, or in any way to dispute the legality of the said seizure, unless oath to the property in the matter or thing so seized be made by the owner, or by his attorney or agent, by whom such action, suit, or proceeding shall be defended, to the best

Penalty on false oath.

of his knowledge and belief; and every person making a false oath thereto shall be deemed to be guilty of the crime of perjury, and shall be liable to the punishment by law provided for the said crime.

Security for costs of suit, £100.

LXVII. No owner or other lawful claimant shall be admitted to enter a claim in the Vice-Admiralty Court aforesaid, or to defend any action, suit, or proceeding in any other court as aforesaid, in regard to anything seized in pursuance of any Act relating to the customs, until sufficient security shall have been given in the court where such proceedings shall have been instituted, in a penalty not exceeding one hundred pounds sterling, to answer and pay such costs as may be awarded against the party giving such security.

Notice of action to be given to customs officer within one month.

LXVIII. No writ shall be sued out against, nor a copy of any process served upon, any officer of the customs for anything done by him in pursuance of any Act relating to the customs until one calendar month after notice, in writing, shall have been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained, the cause of the action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent, and no evidence of the cause of such action shall be produced except of such cause as shall be contained in such notice, and no verdict shall be given for the plaintiff unless he shall prove on the trial that such notice was given, and in default of such proof the defendant shall receive in such action a verdict and costs.

Period for bringing action limited.

LXIX. Every such action shall be brought within

three calendar months after the accruing of the cause thereof, and the defendant may plead the general issue, and give the special matter in evidence, and if the plaintiff shall become non-suited, or shall discontinue the action, or if judgment shall be given against the plaintiff, the defendant shall receive as costs full indemnity for all expenses incurred by him in or about the cause of action, and have such remedy for the same as any defendant can have in other cases where costs are given by law.

**LXX.** In case any action or suit instituted by any officer of customs, or by the said Attorney-General, shall be brought to trial on account of any seizure made under any Act relating to the customs, and judgment shall be given for the defendant, and the court before which such cause shall have been tried shall find and adjudge that there was probable cause of seizure, the defendant shall not be entitled to any costs of suit; and in case any action or suit shall be brought by any person against any officer of customs for or on account of any such seizure by such officer made, wherein judgment shall be given for the plaintiff, such plaintiff, in case the court by and before which such cause shall have been tried, shall find and adjudge that there was probable cause of seizure, shall recover only the things seized, or the value thereof, without costs of suit.

**LXXI.** It shall be lawful for such officer, within one calendar month after such notice as aforesaid, to tender amends to the party complaining, or his attorney or agent, and to plead such tender in bar to any action, together with any other pleas, and if the court shall find the amends sufficient, it shall give a judgment for the defendant, except as to the amends tendered, and in such case, or in case the plaintiff shall become non-suited, or shall discontinue his action, then such defendant shall be entitled to full costs; but if upon the trial of any such cause the court shall find and adjudge that no amends were tendered, or that the same were not sufficient, or shall find against the defendant upon such other plea or pleas, then such court shall give judgment

No. 10—1872:

Costs of suit where probable cause of seizure is found by judgment.

Tender of amends and effect thereof.

No. 10—1872.

for the plaintiff, with such damages as such court shall think proper, together with costs of suit.

Payment and disposal  
of penalties and for-  
feitures.

LXXII. All penalties and forfeitures recovered under any Act relating to the customs shall be paid into the hands of the collector or other principal officer of customs of the port where such penalties or forfeitures shall be recovered, and shall be divided, paid, and applied as follows, that is to say,—after deducting the charges of prosecution, if any, and of the costs of sale from the produce, two third parts of the net produce shall be paid into the hands of the collector or other principal officer of customs of such port for the use of Her Majesty the Queen in her colonial treasury, and the other third part shall be placed at the disposal of the Governor, for the purpose of granting there-out such sum or sums of money, or the whole thereof, to such officer or officers, or other persons as may have rendered efficient service, either by information or active assistance, in leading to the recovery of such penalty or forfeiture, and the balance of such third part, if any, shall be repaid to the public treasury for the use of Her Majesty: Provided that if it shall be made to appear to the Governor of the Colony in any particular case that one-third part will be insufficient for the adequate acknowledgment of such services as above mentioned, such third part may be increased to one-half of such net produce, instead of one-third.

Power of Governor.

Bar of suit for pen-  
alties, &c., after three  
years.

LXXIII. All actions or suits for the recovery of any of the penalties or forfeitures imposed by any Act relating to the customs may be commenced or prosecuted at any time within three years after the offence committed, but not later: Provided that nothing in this section contained shall extend to alter or affect any of the provisions of the fifty-fifth section of this A

Exception.

Proceedings in appeal  
from Vice-Admiralty  
Court.

LXXIV. No appeal shall be presented from any decree or sentence of the Vice-Admiralty Court aforesaid, touching any penalty or forfeiture imposed by any Act relating to the customs, unless the inhibition shall be applied for and decreed within twelve months from the time when such

decree or sentence was pronounced: Provided, always, that in every case in which proceedings shall have been or shall hereafter be instituted in the Vice-Admiralty Court aforesaid, against any ship, vessel, boat, goods, or effects, or for the recovery of any penalty or forfeiture under any Act relating to the customs, the execution of any sentence or decree restoring such ship, vessel, boats, goods, or effects, to the claimant thereof, which shall be pronounced by the said Vice-Admiralty Court in which such proceedings shall have been had, shall not be suspended by reason of any appeal which shall be prayed and allowed from such sentence: Provided that the claimant shall give sufficient security, to be approved of by the court, to render and deliver the ship, vessel, boat, goods, or effects concerning which such sentence or decree shall be pronounced, or the full value thereof, to be ascertained, either by agreement between the parties, or, in case the said parties cannot agree, then by appraisement under authority of the said court, to the appellant or appellants in case the sentence or decree, so appealed from, shall be reversed, and such ship, vessel, boat, goods, or effects be ultimately condemned.

No. 10—1872.

Non-suspension of decree restoring ship &amp;c., on appeal.

Security by claimant

LXXV. It shall and may be lawful for the Governor to direct any vessel, boat, goods, or commodities whatever, seized under any Act relating to the customs, to be delivered to the proprietor or proprietors thereof, whether condemnation shall have taken place or not, and also to mitigate or remit any penalty or fine incurred under any such Act, or to release from confinement any person or persons committed under any such Act as aforesaid, on such terms and conditions as to him shall appear to be proper: Provided, always, that no person shall be entitled to the benefit of any order for such delivery, mitigation, remission, or release, unless such terms and conditions are fully and effectually complied with: And provided that if the proprietor or proprietors of the goods seized as aforesaid shall accept the terms and conditions prescribed by the Governor, he or they shall not have or maintain any

Power of Governor to restore seizures and to mitigate or remit penalties.

But terms prescribed to be complied with.



- No. 10—1872.* action for recompense or damage on account of such seizure or detention; and the person making such seizure shall not proceed in any manner for condemnation.
- And action for damage barred.**
- Falsification of documents, &c.** LXXVI. If any person shall in this Colony counterfeit, or falsely, or wilfully use, when counterfeited or falsified, any entry, warrant, cocket, transire, or other document for the unlading, lading, entering, reporting, or clearing any ship or vessel, or for the landing, shipping, or removing of any goods, stores, baggage, or article whatever, or shall, by any false statement, procure any writing or document to be made for any such purposes, or shall falsely make any oath or affirmation required by any Act relating to the customs, or shall forge or counterfeit a certificate of the said oath or affirmation, or shall publish such certificate, knowing the same to be so forged or counterfeited, every person so offending shall, for every such offence, forfeit the sum of two hundred pounds sterling, and such penalty shall and may be prosecuted, sued for, and recovered in like manner, and by such ways and means as any penalty may be prosecuted, sued for, and recovered under the provisions and directions of this Act.
- Penalty £200.**
- Forms in schedule.** LXXVII. All entries, reports, warrants, clearances, and other documents required to carry out the provisions of this Act, shall, as near as may be, follow the forms thereto respectively applicable, as set forth in the first schedule hereto annexed, and where any of such forms require a declaration to be made thereto by a master, shipper, or other person, such declaration shall be made before the collector or other proper officer of the customs at the port where such declaration is required or directed to be made.
- Short title.** LXXVIII. This Act may for all purposes be cited as the "Customs Act, 1872."

SCHEDULE I.

No. 10—1872.

(FORM A.)

Rotation No. —.

Port of —

MASTER'S REPORT INWARDS.

Particulars of Arrival { Date ———  
Time — o'clock—m.

Name of Ship |

Whether British, or of what Country |

If British, Port of Registry |

Number of Crew | { British Men,  
Country of Ship | —

Name and Country of the Master in full |

Name and Country of the Owner |

Whether in Ballast or Laden | Tonnage |

Names of any other Ports at which the Vessel may  
have touched (since her loading) and discharged  
part Cargo |

Marks of Packages.	Numbers of Packages.	Where and by whom Laden.	Quantity and Contents of every Package and Parcel of Goods on Board, as far as any such particulars can be known to the Master.		Where and to whom consigned.
			Number of Packages.	Description.	

Whether any Goods have been unladen during this Voyage, and if so

What Goods unladen as far as can be known by the Master.

Where.

No. 10—1872.

I do declare that this report now made and subscribed by me is a just report of the name of the abovementioned ship, its burden, build, property, number, and country of mariners, the present master and voyage; and that it further contains a true account of the lading of the ship, with the particular marks, numbers, quantity, quality, and consignment of all the goods and merchandise in the said ship, to the best of my knowledge, and that bulk hath not been broke, nor any goods delivered out of the said ship since her loading in—

\_\_\_\_\_, Master.

Signed and declared at the Custom-house, the \_\_\_\_\_ day of \_\_\_\_\_, in the presence of—

\_\_\_\_\_, Sub-Collector.

Port of—

(FORM B.)

LIST OF UNCONSUMED STORES.

On board the \_\_\_\_\_, \_\_\_\_\_, Master, from \_\_\_\_\_, \_\_\_\_\_ Men, \_\_\_\_\_ Passengers or Troops. \_\_\_\_\_ Guns, \_\_\_\_\_ Tons.

Description.	Quantities.	Description.	Quantities.
Ale or Beer (in bottle)		Nutmegs . . . . .	
Ditto (in wood)		Oatmeal . . . . .	
Barley (Pearl) . . . . .		Oil (Lamp) . . . . .	
Beef . . . . .		Peas . . . . .	
Bread and Biscuit . . . . .		Pepper . . . . .	
Butter . . . . .		Pickles . . . . .	
Candles . . . . .		Pork . . . . .	
Cassia . . . . .		Raisins . . . . .	
Cheese . . . . .		Rice . . . . .	
Chow-Chow or Preserved		Soap . . . . .	
Ginger . . . . .		Spirits (sweetened) in	
Cigars . . . . .		bottles . . . . .	
Cinnamon . . . . .		Ditto ditto in wood	
Cloves . . . . .		Ditto (unsweetened) in	
Coffee (raw) . . . . .		bottles . . . . .	
Cocoa . . . . .		Ditto ditto in wood	
Currants . . . . .		Sugar (refined) . . . . .	
Figs . . . . .		Ditto (unrefined) . . . . .	
Fish (preserved) . . . . .		Ditto (candy) . . . . .	
Flour (wheaten) . . . . .		Tamarinds . . . . .	
Fruits (bottled) . . . . .		Tea . . . . .	
Ditto (dried) . . . . .		Tobacco (manufactured)	
Ginger (preserved) or		tured) . . . . .	
Chow Chow . . . . .		Ditto (unmanufactured)	
Ginger (dry) . . . . .		factured) . . . . .	
Jams . . . . .		Vegetables (preserved)	
Lard . . . . .		Vinegar (in bottles) . . . . .	
Mace . . . . .		Ditto (in wood) . . . . .	
Meats (preserved) . . . . .		Wine (in bottles) . . . . .	
Molasses . . . . .		Ditto (in wood) . . . . .	

I declare the above to be a true account.

\_\_\_\_\_, Master.

Declared before me at the Custom-house,  
this \_\_\_\_\_ day of \_\_\_\_\_, 18--.

\_\_\_\_\_, Sub-Collector.

(FORM C.)

Rotation No. —, —

No. 10—1872,

Port of —

MASTER'S CONTENT OUTWARDS.

Name of Ship			
Whether British, or of what Country			
If British, Port of Registry			
Number of Crew		{ British Men	—
		{ Country of Ship	
Name and Country of the Master in full			
Name and Country of the Owner			
Whether in Ballast or Laden		Tonnage	
Where Bound			

Marks of Packages.	Numbers of Packages.	Whence and by whom shipped.	Quantity and Contents of every Package and Parcel of Goods on Board, as far as any such particulars can be known to the Master.		Whither and to whom consigned.
			Number of Packages.	Description and Contents.	

I, —, Master of the vessel abovenamed, do declare that the content above written now tendered and subscribed by me is a just and true account of all the goods laden on board my ship for the present voyage, and of the names of the respective shippers and consignees of the said goods, and of the marks and numbers of the packages containing the same.

—, Master.

Signed and declared before me,  
at the Custom-house, the — day of —, 18—

—, Sub-Collector.

Recapitulation of Abstract of this Content (to be made by Examining Officer on the back of form C.)

## (FORM D.)

## CONTENT OUTWARD—ADDITIONAL.

Port of ———  
 Additional Content in the ———, ——— Master,  
 for ———

Marks and Numbers of Packages.	Whence and by whom shipped.	Quantity and Description of Goods.	Whither and to whom consigned.

I, ———, Master of the vessel abovenamed, do declare that the content above written, now tendered and subscribed by me, is a just and true account of all the goods laden on board my ship for the present voyage, in addition to the goods mentioned in the content declared to by me on the ——— day of ——— last; and also of the names of the respective shippers and consignees of such goods, and of the marks and numbers of the packages containing the same.

Declared before me, at the Custom-house, the ——— day of ———, 18—.

—————, Master.

—————, Sub-Collector.

## (FORM E.)

No. —.

## CERTIFICATE OF CLEARANCE.

## CAPE OF GOOD HOPE.

Port of ———

These are to certify to all whom it doth concern, that ———, Master or Commander of the ———, Burthen ——— Tons, ——— Ship, bound for ———, having on board ———, hath here entered and cleared his Vessel according to Law.

Date of Clearance ———

—————, Sub-Collector.

(FORM F.)

No. 10-1872.

STIFFENING ORDER.

Port of \_\_\_\_\_

Place within the Port where the }  
 Goods may be shipped and laden }

(1) Quantity and Description of the Goods.

Application having been made to me to permit (1) \_\_\_\_\_ to be shipped on board the \_\_\_\_\_, \_\_\_\_\_ Master, for \_\_\_\_\_, before the whole of her inward cargo is discharged, in order to stiffen the said vessel, and to prevent her upsetting, you may permit the same to be done accordingly, previous to her being entered outwards, taking care that no expense be incurred by the Crown or risk to the revenue.  
 \_\_\_\_\_, Sub-Collector.

Custom-house,  
 (date) \_\_\_\_\_

To the Examining Officer.

(FORM G.)

LANDING SUFFERANCE.

Place within the Port where the Goods }  
 are to be unladen and landed. }

Port of \_\_\_\_\_

Custom-house,

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

Suffer to be landed from on board the \_\_\_\_\_, whereof \_\_\_\_\_ is Master, from \_\_\_\_\_

Marks of Packages.	Numbers of Packages.	Description and Number of Packages.

To be deposited in the Queen's Warehouse for security of duty, on account of \_\_\_\_\_.

\_\_\_\_\_, Sub-Collector.

(No. —)

No. 10—1872

(FORM H.)

SHIPPING SUFFERANCE.

Place within the Port where the Goods }  
 are to be laden and shipped } \_\_\_\_\_  
 Port of \_\_\_\_\_  
 Custom-house, this \_\_\_\_\_ day of \_\_\_\_\_ 18—.  
 Suffer to be shipped on board the \_\_\_\_\_, whereof  
 \_\_\_\_\_ is Master for \_\_\_\_\_

Marks of Packages.	Number of Packages.	Description and Number of Packages.

On account of \_\_\_\_\_, Sub-Collector.  
 (FORM I.) No. —

BILL OF ENTRY.—For Payment of Duty.

Port of } [Stamp.]  
 \_\_\_\_\_ } \_\_\_\_\_ Importer.  
 In the \_\_\_\_\_, whereof \_\_\_\_\_ is master, from \_\_\_\_\_, \_\_\_\_\_ Ship.

PACKAGES.			Particulars of the Quality and Quantity of all the Goods contained in the several Packages, and whether such Goods are the Produce or Manufacture of the United Kingdom, or of some British Possession or not.	Current value of Goods at the Port whence imported.	Duty.
Marks	Numbers.	Number and description.			
Total No. of Packages.			Total ... £		

I \_\_\_\_\_, do hereby declare that the current value of the articles mentioned in this entry, and contained in the packages specified, at the port whence the same are imported, is  
 Duty, £\_\_\_\_\_.

Witness my hand, the \_\_\_\_\_ day of \_\_\_\_\_ 18—.  
 Place within the Port where the Goods }  
 are to be unladen and landed } \_\_\_\_\_  
 The above declaration signed the \_\_\_\_\_ day of \_\_\_\_\_ 18—.  
 in the presence of \_\_\_\_\_, \_\_\_\_\_, Sub-Collector.  
 To the Examining Officer. No.—

N.B.—This Form must be filled up on one side only of the paper whereon it is written.

(FORM J.)

No. 10—1872.

[Stamp.]

Port of } BILL OF ENTRY.—WAREHOUSING.  
 \_\_\_\_\_ }

\_\_\_\_\_, Importer.

In the \_\_\_\_\_, whereof \_\_\_\_\_ is Master, from \_\_\_\_\_, \_\_\_\_\_  
 Ship.

PACKAGES.			Particulars of the Quality and Quantity of all the Goods contained in the several Packages, and whether such Goods are the Produce or Manufacture of the United Kingdom, or of some British Possession or not.	Current Value of Goods at the Port whence imported.
Marks.	Numbers.	Number and description.		
Total Number of Packages. _____			Total, £	_____

I, \_\_\_\_\_, do hereby declare that the current value of the articles mentioned in this entry, and contained in the packages specified, at the port whence the same are imported, is \_\_\_\_\_

The above to be warehoused in \_\_\_\_\_ Bond \_\_\_\_\_ Warehouse by virtue of Act No. \_\_\_\_\_ of 1872, Bond having been given.

Witness my hand the \_\_\_\_\_ day of \_\_\_\_\_, 18—.

Place within the Port where the Goods } \_\_\_\_\_  
 are to be unladen and landed }

The above declaration signed the \_\_\_\_\_ day of \_\_\_\_\_ 18—, in the presence of \_\_\_\_\_

\_\_\_\_\_, Sub-Collector.

To the Examining Officer.

No. —.

N.B.—This Form must be filled up on one side only of the paper whereon it is written, and shall be printed or written in red ink.



(FORM K.)

Port of } [Stamp.]  
 \_\_\_\_\_ } **BILL OF ENTRY.—EXPORT.**

\_\_\_\_\_, Exporter.

In the \_\_\_\_\_, whereof \_\_\_\_\_ is Master, for \_\_\_\_\_,  
 \_\_\_\_\_ Ship.

PACKAGES.			Particulars of the Quality and actual Quantity of all Goods contained in the several Packages, and stating whether they are the Produce or Manufacture of this Colony, or of what Country.	Current Value at this Port.	
Marks.	Numbers.	Number and Description.			
Total Number of Packages. _____			Total, £	_____	_____

I, \_\_\_\_\_, do hereby declare that the articles mentioned in this entry, and contained in the packages specified herein, are truly described in the above schedule.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 18—.

Place within the Port where the Goods }  
 are to be laden and shipped. } \_\_\_\_\_  
 The above declaration signed this \_\_\_\_\_ day of \_\_\_\_\_  
 18—.

In the presence of \_\_\_\_\_.

\_\_\_\_\_, Sub-Collector.

To the Examining Officer.

No. —.

N.B.—This Form must be filled up on one side only of the paper whereon it is written.

(FORM L.)

No 10-1872.

Port of \_\_\_\_\_ }  
 In the \_\_\_\_\_, whereof \_\_\_\_\_ is Master, from \_\_\_\_\_, \_\_\_\_\_-Ship.  
 [Stamp.] \_\_\_\_\_, Importer.

PACKAGES.

Marks.	Numbers.	Number and Description.

I, \_\_\_\_\_, do hereby declare that I cannot, for want of full information, make perfect entry of the above packages and their contents, and that I have not received sufficient invoice, bill of lading, or other advice, from whence the quality, quantity, or value of the goods herein mentioned can be ascertained.

Witness my hand, the \_\_\_\_\_ day of \_\_\_\_\_, 18—

The above declaration signed the \_\_\_\_\_ day of \_\_\_\_\_, 18—, in the presence of \_\_\_\_\_.

\_\_\_\_\_, Sub-Collector.

Warrant granted on the above declaration that the packages described may be landed at \_\_\_\_\_, and be brought to the examining warehouse, to enable the importer to see and examine them in the presence of the proper officer of customs, such examination, as well as the other requirements of section — of Act No. — of 1872, to take place within three days.

Dated at the Custom-house, the \_\_\_\_\_ day of \_\_\_\_\_, 18—.

\_\_\_\_\_, Sub-Collector.

No. \_\_\_\_\_.

To the Examining Officer.

N.B.—This Form must be filled up on one side only of the paper whereon it is written,

No. 10—1872.

(FORM M.)

[Stamp.]

## BILL OF ENTRY.—For Payment of Duty.

Port of } Perfect on Bill of Sight.

Dated \_\_\_\_\_ day of \_\_\_\_\_, 18—, No. \_\_\_\_\_

In the \_\_\_\_\_, whereof \_\_\_\_\_ is Master from \_\_\_\_\_, \_\_\_\_\_ Ship.

PACKAGES.			Particulars of the Quality and Quantity of all the Goods contained in the several Packages, and whether such Goods are the Produce or Manufacture of the United Kingdom, or of some British Possession or not, as far as such can be ascertained.	Current Value of Goods at the Port whence imported.	Duty.
Marks.	Numbers.	Number and Description.			
Total No. of Packages.			Total, £		

I, \_\_\_\_\_, do hereby declare that the current value of the articles mentioned in this entry, and contained in the packages specified, at the port whence the same are imported, is

Duty, £—.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 18—.

The above declaration signed the \_\_\_\_\_ day of \_\_\_\_\_, 18—, in the presence of \_\_\_\_\_.

\_\_\_\_\_, Sub-Collector.

I certify that the packages described in the above bill of entry were opened in my presence and examined, and that the values set opposite the description of the several packages and goods are, to the best of my belief, the current value of the goods therein contained at the port whence the same are imported.

\_\_\_\_\_, Examining Officer.

No. —.

N.B.—This Form must be filled up on one side only of the paper whereon it is written.

(FORM N.)

[Stamp.]

No. 10-1872

Port of }  
\_\_\_\_\_ }

BILL OF ENTRY.—WAREHOUSING.  
Perfect on Bill of Sight.

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

No. —.

\_\_\_\_\_, Importer.

In the \_\_\_\_\_, whereof \_\_\_\_\_ is Master, from \_\_\_\_\_,  
\_\_\_\_\_ Ship.

PACKAGES.			Particulars of the Quality and Quantity of all Goods contained in the several Packages, and whether such Goods are the Produce or Manufacture of the United Kingdom, or of some British Possession or not, as far as such can be ascertained.	Current Value of Goods at the Port whence imported.	
Marks.	Numbers.	Number and Description.			
Total No. of Packages.			Total, £		

I, \_\_\_\_\_, do hereby declare that the current value of the articles mentioned in this entry, and contained in the packages specified, at the port whence the same are imported, is

The above to be warehoused in \_\_\_\_\_ Bond \_\_\_\_\_ Warehouse by virtue of Act No. \_\_\_\_\_ of 1872, Bond having been given.

Witness my hand the \_\_\_\_\_ day of \_\_\_\_\_, 18—.

The above declaration signed the \_\_\_\_\_ day of \_\_\_\_\_, 18—, in the presence of \_\_\_\_\_.

\_\_\_\_\_, Sub-Collector.

I certify that the packages described in the above bill of entry were opened in my presence and examined, and that the values set opposite the description of the several packages and goods are, to the best of my belief, the current value of the goods therein contained at the port whence the same are imported.

\_\_\_\_\_, Examining Officer.

No. —.

N.B.—This Form shall be printed or written in red ink.



(FORM Q.)

Port of }  
 \_\_\_\_\_ }

BILL OF ENTRY.—EXPORT FOR WAREHOUSED GOODS.

\_\_\_\_\_ , Exporter.  
 In the \_\_\_\_\_ whereof \_\_\_\_\_ is Master, for \_\_\_\_\_,  
 \_\_\_\_\_ Ship.

PACKAGES.			Particulars of the Quality and present actual Quantity of all the Goods contained in the several Packages, and stating whether they are the produce or Manufacture of the United Kingdom, or of some British Possession or not.	Value according to the Account taken at the first landing.	
Marks.	Numbers.	Number and Description.			
Total No. of Packages.				Total, £	

I, \_\_\_\_\_, do hereby declare that the articles mentioned in this entry, and contained in the packages herein specified, originally warehoused \_\_\_\_\_ day of \_\_\_\_\_, 18—, ex \_\_\_\_\_, from \_\_\_\_\_, by \_\_\_\_\_, in \_\_\_\_\_ Bond \_\_\_\_\_ Warehouse, and now entered for exportation, for which bond is given, are truly described in the above schedule.

Witness my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 18—.

Place within the Port where the Goods }  
 are to be laden and shipped. }

The above declaration signed this \_\_\_\_\_ day of \_\_\_\_\_, 18—, in the presence of \_\_\_\_\_.

\_\_\_\_\_, Sub-Collector.  
 To the Examining Officer.

No. —.

N.B.—This form must be filled up on one side only of the paper whereon it is written, and shall be printed or written in red ink.

(FORM R.)

No. 10—1872.

Port of }  
\_\_\_\_\_ }

VICTUALLING BILL.

Stores delivered from the bonded warehouse at this port, and shipped on board the \_\_\_\_\_, \_\_\_\_\_ Master, for \_\_\_\_\_, \_\_\_\_\_ Men, \_\_\_\_\_ Passengers or Troops, \_\_\_\_\_ Guns, \_\_\_\_\_ Tons.

Description.	Quantities.	Description.	Quantities.
Ale or Beer (in bottle)		Meats (preserved)	.
Ditto (in wood)		Molasses	... ..
Barley (Pearl) ... ..		Nutmegs	... ..
Beef ... ..		Oatmeal	... ..
Bread and Biscuit	... ..	Oil (Lamp)	... ..
Butter ... ..		Peas	... ..
Candles	... ..	Pepper	... ..
Cassia	... ..	Pickles	... ..
Cheese	... ..	Pork	... ..
Chow-chow or preserved		Raisins	... ..
Ginger	... ..	Rice	... ..
Cigars	... ..	Soap	... ..
Cinnamon	... ..	Spirits (sweetened) in bot.	
Cloves	... ..	Ditto ditto in wood	
Coffee (raw)	... ..	Ditto (unsweetened) in	
Cocoa	... ..	bot. ... ..	
Currants	... ..	Ditto ditto in wood	
Figs	... ..	Sugar (refined)	... ..
Fish (preserved)	... ..	Ditto (unrefined)	... ..
Flour (wheaten)	..	Ditto Candy	... ..
Fruits (bottled)	... ..	Tamarinds	... ..
Ditto (dried)	... ..	Tea	... ..
Ginger (preserved) or		Tobacco (manufactured)	
Chow Chow	... ..	Ditto (unmanufactured)	
Ginger (dry)	... ..	Vegetables (preserved)	
Jams	... ..	Vinegar (in bottles)	... ..
Lard	... ..	Ditto (in wood)	... ..
Mace	... ..	Wine (in wood)	... ..
		Ditto (in bottles)	... ..

I declare the above to be a true account.

\_\_\_\_\_, Master.

Declared before me at the Custom-house,  
the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

\_\_\_\_\_, Sub-Collector.

Examined \_\_\_\_\_, 18\_\_\_\_, \_\_\_\_\_, Examining Officer.

Cleared \_\_\_\_\_, 18\_\_\_\_.

N.B.—This form shall be printed or written in red ink.

No. 70-1872.

(FORM S.)

## REQUISITION TO SHIP STORES FROM BOND.

Place within the Port where the Stores } \_\_\_\_\_  
 are to be laden and shipped } \_\_\_\_\_  
 Port of \_\_\_\_\_  
 Cape of Good Hope,  
 \_\_\_\_\_, 18—.

To the Sub-Collector of Customs.

SIR,—I request permission to ship, as Stores, from the Bonded Warehouse at this Port, on board the \_\_\_\_\_, whereof \_\_\_\_\_ is Master, bound for \_\_\_\_\_, the undermentioned articles, which I certify are *bonâ fide* intended for the use of the said ship, viz. :—

Quantity and Quality of the Goods.	Name of Importing Ship, and where from.	When warehoused, and by whom.	Bonding Warehouse.

I have the honour to be,

Sir,

Your obedient Servant,

No.—

\_\_\_\_\_, Master.

Permission granted this \_\_\_\_\_ day of \_\_\_\_\_, 18—.  
 \_\_\_\_\_, Sub-Collector.

N.B.—This Form must be filled up on one side only of the paper whereon it is written, and shall be printed or written in red ink.

## SCHEDULE II.

Wastage Allowance on Ale and Beer, in Wood, in Bonded Warehouses, when entered for Home Use.

For any period.	Per cent.
Not exceeding 3 months	1 gallon
"   6   "   ...   ...   ...   ...	2 gallons
"   9   "   ...   ...   ...   ...	3   "
"   12  "   ...   ...   ...   ...	4   "
"   15  "   ...   ...   ...   ...	5   "

And no allowance will be permitted for any further time in addition to the above, nor for any period less than two months.



Wastage Allowance on Spirits, in Wood, in the Bonded Warehouse, when entered for Home Use:

No. 10—1872.

For any period.	Per cent.
Not less than 3 months and not exceeding 6 months ... ..	1 gallon.
Exceeding 6 months and not exceeding 12 months ... ..	2 gallons.
Exceeding 12 months and not exceeding 18 months ... ..	3 gallons.
Exceeding 18 months and not exceeding 2 yrs. ... ..	4 gallons.
„ 2 years and upwards ... ..	5 gallons.

On the quantity, if not overproof, and on the strength, if overproof, and if the fractional parts amount to fifty hundredths of a gallon, one gallon to be allowed for such fraction.

Wastage Allowance on Wine, in Wood, in Bonded Warehouses, when entered for Home Use.

For any period.	On casks containing less than 30 gallons.	On casks containing 30 gallons and not exceeding 70 gallons.	On casks of 70 gallons and upwards.
In the warehouse not less than 6 months and not exceeding 1 year ... ..	Per cent. 2	Per cent. 1½	Per cent. 1
Exceeding 1 year and not exceeding 2 years... ..	2	3	2
Do. 2 years do. do. 3 years	6	4½	3
Do. 3 do. do. do. 4 do.	8	6	4
Do. 4 do. do. do. 5 do.	10	7½	5
Do. 5 do. do. do. 6 do.	12	9	6
Do. 6 do. do. do. 7 do.	14	10½	7
Do. 7 do. do. do. 8 do.	16	12	8
Do. 8 do. do. do. 9 do.	18	13½	9
Do. 9 do. do. do. 10 do.	20	15	10
Total allowance not to exceed under any circumstances.	5 galls.	7 galls.	9 galls.

No. 10—1872.

The duty is to be remitted on deficiencies of wine in warehouse to the extent of 2 per cent. additional to the above scale on the ullage content of each cask without application to the collector or other principal officer of customs provided such deficiencies have arisen from natural causes.

Table of Quantities of Vinegar, or Salt Crude, required to be mixed into unsound Wine, previous to its delivery from the Bonded Warehouse as Vinegar, for Home Use, viz. :

	Vinegar the gallon.	Salt crude, the lb.
For any quantity of unsound wine, not exceeding 20 gallons ... ..	1	...
Exceeding 20 gals. and not exceeding 45 gals.	2	1
Do. 45 do. do. 75 do.	4	2
Do. 75 do. do. 100 do.	6	3
And so on in proportion.		

The duty is to be levied on the re-gauged quantity.

No. 11—1872.]

AN ACT

[31st July, 1872.

To Amend, and continue as amended, the Act No. 9 of 1870, for Granting to Her Majesty in her Colonial Revenue certain Duties on Houses.

Preamble.

**W**HEREAS it is expedient to amend the Act No. 9 of 1870, for granting to Her Majesty in her Colonial Revenue certain duties on houses, and to continue the same as amended: 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 9 of 1870 continued, with exception of section 21, to 31st December, 1873.

I. The twenty-first section of the said Act No. 9 of 1870, better known as the "House Duty Act, 1870," shall be and the same is hereby repealed,

and the said Act omitting the said section shall be, and the same is, as to so much thereof as is in force, hereby continued in force until the thirty-first day of December, 1873: Provided that in regard to all duties due and in arrear on the said thirty-first of December, 1873, this Act shall be deemed and taken to remain in force.

No. 11—1872.

II. If during any year while this Act shall continue in force, including the current year from the first of July, 1872, any house which shall have been valued for assessment to the house duty shall not have been occupied during ninety days in all, counting from the first of July in one year to the first of July in the succeeding year, then it shall be lawful for the owner of the said house, and if the said house no longer exist, 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 first 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 first 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 first 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. 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.

Houses not occupied for ninety days, or no longer existing exempted.

III. The civil commissioner of each division, with the authority of the Governor, may appoint some person in each year to value any houses liable to duty within the meaning of the House Duty Act, 1870, which may have been built within

Valuation of houses built since or omitted from last valuation.

No. 11—1872.

the division whereof he is civil commissioner since the last valuation, general or partial, for the purposes of house duty, or which may have been omitted from the valuation roll, so as to keep the same as nearly as possible complete; and such person shall have for such purposes all the powers given by the said House Duty Act, 1870, to the valuator therein described, and such person shall be bound by all such duties in respect of such houses as he shall discover to have been so built within the division since the last valuation as aforesaid, or which may from other causes have been omitted from the valuation roll as aforesaid, as the valuator described in the said House Duty Act is bound with respect to the houses generally provided to be valued by him under that Act, and the occupiers and owners of such houses respectively shall, for the purposes of all house duty to become due after such houses shall have been so valued, be deemed and treated in all respects as if they were occupiers and owners, respectively, of houses valued for the first time under the said House Duty Act, 1870, and as if the time of the actual valuation under this Act were the like time as the general valuation under the said House Duty Act, 1870, and all times after the actual valuation under this Act were the like length of time after the general valuation under the said House Duty Act, 1870.

Non-liability of owner for costs of proceedings against occupier, or for fines.

IV. No owner who shall, under the House Duty Act, 1870, as continued by this Act, be liable for 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 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 any increase of duty commonly called a fine, that 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 notice.

And whereas the “temporary loans” heretofore from time to time effected for the purposes of Government amount to a considerable sum, to wit, to the sum of £155,000, or thereabouts: And whereas it is expedient that those “temporary loans” should be paid off as speedily as the other claims upon the public revenue will permit, and that, to this end the whole of the moneys to be raised under this Act should be applied to the diminution or extinction of the said temporary loans, together with such further or other moneys as may, from the state and condition of the public revenue during the continuance of this Act, become applicable to such extinction or diminution: Be it enacted as follows:—

V. All moneys arising from or under this Act shall be, and the same are hereby, appropriated, and declared to be applicable, to the diminution or extinction of the temporary loans aforesaid, and none of the said moneys shall be applicable or be applied to any other purpose whatsoever so long as such loans, or any portion of them, shall exist: Provided that no moneys which shall at the time of the taking effect of this Act be already due and in arrear for house duty, shall, for the purpose of this Act, be deemed to be moneys arising from or under this Act.

Application of money realized.

VI. There shall be prepared and laid before each House of Parliament within ten days next after the commencement of the session to be held in the year 1874, the following accounts, that is to say:—

Accounts to be laid before Parliament.

1st. An account, duly vouched, showing the amount of temporary loans due and owing by Government on the 30th day of June, 1873.

2nd. An account, duly vouched, showing the amount of house duty received from the 30th day of June, 1873, till the last day of the month next before the month in which the said session shall commence, such account, however, not to include any house duty which was already due and in

No. 11—1872.

arrear upon, although collected after, the said 30th day of June, 1873.

3rd. An account, duly vouched, showing the amount of temporary loans due and owing by Government on the day to which the account last aforesaid shall be brought down.

And like accounts shall be prepared and laid before each House within ten days next after the commencement of each succeeding session so long as any moneys shall continue to be received under this Act: Provided that in such like accounts, the first and second of them, instead of stating the amount of loans due upon, and the amount of house duty received since, the 30th day of June, 1873, shall state the amount of loans due upon, and the amount of house duty received since, the day to which the accounts last laid before both Houses were brought down.

Other moneys may be applied towards payment of temporary loans.

VII. Nothing in this Act contained shall be construed so as to prevent the Government from applying such other moneys as the state of the public revenue may, during the continuance of this Act afford, to the diminution or extinction of the temporary loans aforesaid; it being the intent and meaning of this Act to render it obligatory upon the Government to show, by the accounts aforesaid, that the temporary loans aforesaid have been reduced, during the continuance of this Act, by an amount not less than the amount received under this Act, but not to preclude the Government from reducing or extinguishing such loans by any other funds which may be applicable for that purpose.

Short title.

VIII. This Act may be cited as "The House Duty Act Continuation Act, 1872."

No. 12—1872.]

AN ACT

[31st July, 1872.

To Further Promote the Construction of a Bridge  
or Bridges over the Orange River.

Preamble.

WHEREAS difficulties have arisen with respect to entering into a treaty or convention with

the Government of the Orange Free State, as provided by the Act No. 15 of 1871, intituled "Act to promote the construction of a Bridge or Bridges over the Orange River ;" but the said Government is willing on its part to grant to any person or company erecting such bridge or bridges certain rights and privileges ; and it is expedient that any person or persons, company or companies, willing to erect such bridge or bridges, shall, as far as possible, be enabled so to do upon the same terms and conditions, and with the same rights and privileges as in the said Act mentioned, without the necessity of any such treaty or convention as aforesaid, and without any agreement between the Government of the Orange Free State and the Government 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. It shall be lawful for the Governor, acting with the advice of the Executive Council, and without any treaty or convention or agreement with the Government of the Orange Free State, to enter into an agreement or agreements with any person or persons, or company or companies, who shall be willing to erect a bridge or bridges over the Orange River, authorizing the erection of such bridge or bridges upon the like terms and conditions, and giving the same rights and privileges as in and by the said Act are authorized to be made or given by him, either by virtue or in pursuance of a treaty or convention with the Government of the Orange Free State, or in conjunction with the said Government, or otherwise so far as it is competent for the Governor by law so to do without such treaty, convention, or agreement.

Power of Governor to enter into agreement for erection of bridge without treaty or convention with Orange Free State.

II. Nothing herein contained shall prevent any treaty or convention from being entered into as provided by the said Act, but so much of the said Act as is repugnant to or inconsistent with this Act is hereby repealed.

But power of entering into such treaty or convention not affected.

For Enabling the Municipality of Swellendam to borrow Moneys for the Improvement of the Drainage and Waterworks of the Town of Swellendam and its Neighbourhood.

Preamble,

**W**HEREAS it is expedient to improve the drainage of certain lands lying within and belonging to the Municipality of Swellendam, and to extend and improve the waterworks of the said municipality : And whereas it is expedient that the commissioners of the said municipality should be empowered to borrow for that purpose a sum of money which shall not exceed in the whole the sum of five hundred pounds sterling : And whereas the commissioners of the said municipality have already borrowed a sum of five hundred pounds sterling for the purposes of draining the said lands and reclaiming certain waste lands within the said municipality : And whereas it is expedient that the said commissioners should be authorized to borrow a further sum of five hundred pounds sterling for the purpose of paying off the said debt : 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 for the time being of the municipality of Swellendam to borrow from time to time such sum or sums of money as the said commissioners shall, by a duly constituted meeting of the householders of the said municipality, of which meeting two weeks' previous notice shall have been publicly given, be authorized to borrow, not exceeding, however, the sum

Application of loan.]

of five hundred pounds sterling, for the purpose of improving the drainage of certain lands known as the Vley, situated within the said municipality, and leading water by means of pipes out of a certain river called Cornlands River, into the town of Swellendam, and doing all such other matters or things as shall or may be required for improving



and extending the waterworks of the said municipality, and to borrow a further sum of five hundred pounds sterling, for the purpose of paying off a certain debt of five hundred pounds sterling, heretofore incurred by the commissioners of the said municipality for the purposes aforesaid.

No. 13—1872.

II. It shall be lawful for the commissioners of the said municipality to impose, for the purpose of providing for the payment of the principal or interest, or principal and interest, of the moneys aforesaid, rates upon the immovable property situate within the said 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 under the provisions of Ordinance No. 9 of 1836.

Power to levy rate for payment of principal or interest.

III. The sums aforesaid are hereby charged upon and made payable out of all and singular 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 interest or principal, or interest and principal, of the moneys aforesaid, any funds or moneys coming to the said commissioners from any source whatever, and not specifically appropriated or required for any other object.

Loan chargeable on rate so levied; but may be paid from other sources.

IV. The said commissioners 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 purposes aforesaid, not exceeding in the whole the sum of one thousand pounds sterling, which acknowledgment shall in substance be in the form given in the schedule annexed to this Act, and shall be signed on behalf of the said commissioners by three of the commissioners for the time being appointed for that purpose by a resolution of the board of commissioners of the said municipality, and of which three the chairman of the said board shall be one.

Mode of effecting loan.

V. All debts lawfully incurred by the said com-

Public Bodies' Debts Act, 1867, to apply to debts of municipality.

T

No. 13—1872.

missioners for the purposes of this Act shall be subject to the provisions of the "Public Bodies' Debts Act, 1867."

Separate accounts to be kept, and be open for inspection.

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 shall yearly and every year so long as any part of any debt contracted under and by virtue of this Act shall be in existence, prepare and deposit in the office of the said municipality for the inspection, at all reasonable times, of any resident householder of the said 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 thirty-first day of December in each year, and shall be deposited in the office of the said municipality not later than the first day of March of the year next succeeding.

Date when account shall be made up.

Expenses of Act.

VII. It shall be lawful for the said commissioners to pay the necessary costs, charges, and expenses of obtaining this Act and carrying the provisions thereof into effect out of the money or moneys to be received under the provisions of this Act.

Short title.

VIII. This Act may be cited for all purposes as "The Municipality of Swellendam Loan Act, 1872."

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## SCHEDULE.

We, the Undersigned, commissioners of the municipality of Swellendam, duly authorized thereto by the board of commissioners of the said municipality, 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 "Municipality of Swellendam Loan Act," 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

A. B., Chairman.  
C. D. }  
E. F. } Commissioners.

Witnesses :

G. H.  
I. K.

No. 14—1872.] AN ACT [31st July, 1872.

To Amend "The Public Debt Consolidation Act,  
1870."

**W**HEREAS it may be expedient to alter the Preamb e. rate of interest to be payable on such Debentures as may be issued under the authority of "The Public Debt Consolidation Act, 1870:" 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 fifth section of "The Public Debt Consolidation Act, 1870," is hereby repealed, and the second section of this Act hereby substituted in lieu thereof, and the said Act shall be read and construed as if the second section hereof were therein inserted instead of the said fifth section. Section 5 of "The Public Debt Consolidation Act, 1870," repealed.

II. Interest after any rate not exceeding five Rate of interest: pounds sterling per centum per annum shall be payable on such debentures as may be issued under the authority of the aforesaid "Public Debt Consolidation Act," and shall be charged and chargeable on the revenues of this Colony as in the said last-mentioned Act is provided.

No. 15—1872.]

AN ACT

[31st July, 1872.

For Authorizing the Purchase of the Cape Town and Wellington Railway with its Appurtenances, and for Working the same, and for raising the necessary Funds for such Purchase.

Preamble!

**W**HEREAS it is desirable with a view to railway extension and otherwise that the line of railway known as the Cape Town and Wellington Railway, together with the lease of the Wynberg Railway, and all other the property of the Cape Railway Company (hereinafter called the Company) should be purchased and worked by the Colonial Government: And whereas negotiations have been going on for some time for such purchase, and heads of an agreement have been proposed between the said company and the Crown Agents for the Colonies representing the Government of this Colony, and it is desirable that the Governor should be authorized to make the said purchase upon the terms contained in the heads of agreement in the first schedule hereto, and 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:—

Purchase authorized.

I. It shall be lawful for the Governor to make and conclude a contract with the said company for the purchase of the said Cape Town and Wellington Railway, and all the property, both movable and immovable, assets, rights, and privileges of the said company including the lease of the Wynberg Railway, and all claims of the said company upon the Government, upon terms not less favourable to the Colony than those contained in the heads of agreement in the first schedule hereto.

Effect of purchase.

II. From and after such date as shall in any agreement to be entered into pursuant to this Act be in that behalf provided, the said railway and property, assets, rights, and privileges shall be handed over to and shall then and thereupon be

and become vested in Her Majesty the Queen in her Colonial Government, and the said Government shall thereupon 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 to 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. Notwithstanding the purchase of the said railway and other property by the Colonial Government as aforesaid, nothing in this Act contained shall be taken to relieve the immovable property of or belonging to the divisions of the Cape, Stellenbosch, and the Paarl, from the charge to which such property is liable, in order to make good one-half of all such sums of money as shall be paid or payable out of the public revenue of the Colony, under and by virtue of Act No. 20 of 1857, but such charge shall continue to be made as if the said railway still belonged to the said company and the Colonial Government were still liable for and paid the amount of interest guaranteed by it as in the said Act mentioned, and all and singular the provisions of the said Act No. 20 of 1857, and of the Act No. 10 of 1862, as to the said charge on such immovable property shall, *mutatis mutandis*, apply, so as to enable the said charge on such immovable property to be levied and enforced as if the guaranteed interest was still paid by the Government: Provided, that such charge shall in no case exceed the amount to which such immovable property would be liable under the provisions of Act No. 20 of 1857.

Liability to payment  
of sub-guarantee not  
affected.

IV. For the purpose of purchasing the said railway and property pursuant to the terms in the first section of this Act mentioned, it shall be lawful for the Governor, and he is hereby authorized, to issue debentures not exceeding in amount seven hundred and eighty thousand pounds.

Raising of funds for  
purpose of purchase.

No. 15—1872.  
Issue of debentures.

V. Such debentures shall be issued for sums not exceeding five hundred pounds sterling, nor less than one hundred pounds sterling each, and shall be signed by the Colonial Secretary, by command of the Governor, and countersigned by the Treasurer-General and Auditor-General, and shall bear interest at the rate of four pounds and ten shillings per centum per annum, until the same shall be redeemed, cancelled, and extinguished under any of the powers or provisions of this Act.

Debentures and interest chargeable on general colonial revenue.

VI. 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.

Interest when and where payable.

VII. Interest shall be payable on the said debentures at the office of the Crown Agents for the Colonies aforesaid on the fifteenth day of April or the fifteenth day of October next succeeding the issue thereof, which shall first happen, and thereafter on the fifteenth day of April and the fifteenth day of October in each year, until such debentures, respectively, shall be redeemed and cancelled, and such interest shall be free of all colonial taxes.

Transfer of debentures.

VIII. 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.

How where any portion of purchase amount shall be payable in money.

IX. If any of the amounts payable in pursuance of the said agreement shall be payable in money, the debentures to be issued for the purpose of raising such money shall be put up for public tender in London, 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 debentures 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.

No. 15—1872.

X. Should any or all of the holders of the debentures of the said company mentioned in the second schedule hereto be willing to receive debentures of the Colonial Government in lieu of the said debentures of the said company, it shall be lawful for the Governor, under the powers hereinbefore contained, to issue to such holders in exchange for such company's debentures, Colonial Government debentures as aforesaid, bearing interest as aforesaid, and redeemable as herein is provided, upon such equitable terms of exchange, having regard to the relative duration and value thereof, as the Governor shall empower the Crown Agents for the Colonies to accept.

Government debentures may be given in exchange for existing company's debentures.

XI. Should any holders of the debentures of the said company not be willing to receive in lieu thereof debentures of the Colonial Government as aforesaid, such company's 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, and the said company's debentures and the interest thereon shall be payable in London as they become due, free of all colonial taxes; and the Governor may, in order to raise money to pay such debentures as they fall due, issue Government debentures as aforesaid, and sell the same by public tender as aforesaid.

Company's debentures not so exchanged chargeable on general colonial revenue.

XII. To provide for the gradual extinction of the debentures to be issued under this Act, and for the payment of the interest in the meantime thereon, there shall be charged and chargeable upon and set apart out of the annual revenue of this Colony, such annual amount as shall be sufficient to satisfy the terms of agreement which shall be entered into

Sinking fund for extinction of debentures.

No. 15—1872.

under the provisions of this Act, in regard to the sinking fund stipulated in the said heads of agreement contained in the first schedule hereto, and also the annual interest upon all such debentures as shall from time to time remain due.

Application of sinking fund.

XIII. 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 said debentures, shall be applied in redeeming and cancelling the said debentures in such manner and form as shall be provided by the terms and conditions whereon and whereunder such debentures shall be issued.

Accounts to be laid before Parliament annually.

XIV. An account showing the amount of all 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 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.

Short title.

XV. This Act may for all purposes be cited as the "Cape Town and Wellington Railway Purchase Act, 1872."

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#### SCHEDULE I.

Proposed Heads of Agreement between the Government of the Colony of the Cape of Good Hope, hereinafter called the Government, of the one part, and the Cape Railway Company, hereinafter called the Company, of the other part.

1. The Government to buy and the company to sell the railways from Wellington to Fort Knokke and from Fort Knokke to Cape Town, the lease of the Wynberg railway, and all other the assets, property, rights, and privileges of the company, including all claims of the company upon the Government.



2. The purchase to be completed, the purchase money to be paid, and the Government to be let into possession of the railways and other property sold on a date to be agreed upon by the contracting parties.

3. All outgoings to be paid by the company up to and including the date so agreed upon, and after that date by the Government; and the balance to be struck, and the net surplus which may be then in the company's hands, after discharging all their existing liabilities, including a dividend of three per cent. upon the preferent stock, and a dividend of two and a half per cent. upon the ordinary stock, and including also any apportioned interest due upon debentures under clause 4 (a), for the half-year then ending, excepting the debentures hereinafter mentioned, to belong to the Government.

4. In consideration of such purchase, the Government to assume the following liabilities:

- (a) To take upon itself the debenture debt of the company, amounting to £200,000, and to pay the interest and principal thereof as they shall respectively from time to time fall due. The interest accrued to the day of transfer to be provided by the company. All the rights of the debenture-holders to be preserved.
- (b) To pay to the company for the extinction of its preference stock, representing £30,000, the sum of £32,400 in money.
- (c) To hand over to the company for the extinction of its ordinary stock, representing £523,109, and to cover all expenses incidental to the liquidation of the company, including the cost of obtaining an Act of the Imperial Legislature, if necessary, to carry the same into effect, debentures of the Government representing £530,000.

These debentures (a) to be issued in sums of £100, and multiples of £100; (b) To bear interest at four and a half per cent. per annum; (c) To be paid off at par by the operation of a one per cent. cumulative sinking fund applied to annual drawings. The accretions to such fund to commence at the expiration of one year from the date of the debenture, and the first drawing to take place towards the end of the second year, and thenceforward yearly.

- (d) The interest and principle of the debentures to be paid in London, free of all colonial taxes.

5. The company to pay their own expenses of liquidation, including the expense of obtaining an Act of the Imperial Legislature, if necessary, to carry the same into effect.

6. The Government to pay the expenses of transfer, and

No. 15—1872.

of obtaining an Act of the Colonial Legislature to carry this agreement into effect.

7. The Government to pay in cash such reasonable compensation to the officers and persons engaged in the management of the company in England as shall (in case of dispute) be awarded by the Crown Agents for the Colonies, or either of them.

\*8. The Government to take upon itself all the engagements of the company to all their officers and servants in the Colony, and either to continue to employ the said officers and servants upon the railway upon terms not less favourable to them than those on which they are now employed by the company, or to make to them respectively such reasonable compensation as shall, in case of dispute, be awarded by the Chief Justice of the Colony, or by an arbitrator appointed by him.

9. The directors of the company to use their best endeavours to obtain a ratification of this agreement by the stock-holders of the company, and if necessary to carry a Bill confirming it through the Imperial Parliament.

10. If this agreement shall not, within such time as shall be agreed to, in writing, between the Crown Agents and the chairman of the company, be ratified by the stock-holders of the company, it shall be void, and everything contained herein shall be of no effect.

### SCHEDULE II.

Statement of the Railway Company's Liabilities in respect of Debentures.

Nature of Debt.	Amount.	Rate of Interest.	Date of Expiry.
Debentures	£		
	38,700	6 per cent.	1st June, 1873
	4,400	" "	1st October, 1873
	31,500	5½ "	" "
	500	6 "	1st June, 1874
	24,600	" "	1st October, 1874
	11,500	" "	1st June, 1875
	7,300	" "	1st October, 1875
	1,000	" "	" 1876
	10,200	" "	" 1879
	23,300	" "	1st December, 1879
	47,000	" "	1st April, 1882
200,000			

No. 16—1872].

AN ACT

[31st July, 1872.

To Authorize the Taking and Retaining of such Lands and Materials required for Constructing a Railway between Port Elizabeth and the Bushman's River as are not already authorized to be taken.

**W**HEREAS, for the purpose of constructing the Preamble. line of railway between the Zwartkop's River and the Bushman's River, it is desirable that authority be given to enter upon and acquire lands and materials required for the construction of such railway : And whereas for the purpose of constructing the line of railway between the Zwartkop's River and Port Elizabeth it is desirable that, in addition to the powers contained in the "Port Elizabeth and Uitenhage Railway Company (Limited) Act, 1871," power should be given to take and retain such land as may be required at Port Elizabeth, situate between the terminus of the Port Elizabeth and Uitenhage Railway as authorized or contemplated by the said lastmentioned Act, and the land vested in the Harbour Board of Port Elizabeth : 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 powers and authorities Powers of Governor. which are by the Act No. 9 of 1858, intituled "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.

No. 17—1872.]

AN ACT

[31st July, 1872.]

To Facilitate the Construction of the Line of Railway between Wellington and Worcester.

Preamble.

WHEREAS, for the purpose of constructing the line of railway between Wellington and Worcester, it is expedient that authority be given to enter upon and acquire lands and materials required for the construction of such 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 :—

Powers of Governor.

I. All and singular the powers and authorities which are by the Act No. 9 of 1858, intituled “ 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 said line of railway, precisely as if the said powers and authorities were, *mutatis mutandis*, herein again set forth, and as if the said line of railway were a public road.

No. 18—1872.]

AN ACT

[31st July, 1872.]

To Empower the Governor to raise a Sum not exceeding Seventy Thousand Pounds Sterling for the purpose of Telegraph Purchase and Extension, and for other purposes.

Preamble.

WHEREAS it is desirable that the lines of telegraph now or lately belonging to the Cape of Good Hope Telegraph Company (Limited) should be purchased at a sum not exceeding forty-five thousand pounds sterling, if after inspection and valuation it should appear to the Governor more

profitable to make such purchase than to construct a new line, or otherwise that a new line should be constructed: And whereas it is desirable that a sum not exceeding twenty-five thousand pounds sterling should be raised for the purpose of extending the line of telegraph towards the Diamond-fields: 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 stock or perpetual annuities such sum or sums of money, not exceeding in the whole the sum of seventy thousand pounds sterling, to be applied as hereinafter mentioned, that is to say,— a sum not exceeding forty-five thousand pounds sterling, for the purpose of purchasing the lines of telegraph of the said Company, or otherwise of constructing a new line or lines of telegraph between the places at present connected by lines of telegraph, and a sum not exceeding twenty-five thousand pounds sterling for the purpose of extending the telegraph towards the Diamond-fields. Loan authorized.

II. The stock to be raised and taken up as aforesaid 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-General, 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 for the time being by command of the Governor, and countersigned by the said Treasurer and by the Auditor of the Colony, and which scrip certificate shall be preserved in the office of the said Treasurer. Mode of raising loan.

III. Such stock shall bear interest after the rate of five pounds sterling per centum per annum of the nominal amount of such stock from the first day of January or the first day of July next before the issue of the said scrip certificate which shall last happen, and such interest shall be payable Rate of interest and when payable.

No. 18—1872.

thereafter half-yearly, on the first day of July and the first day of January 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 Treasurer-General as aforesaid, and shall be paid on such days, respectively, or so soon thereafter as demand shall be made therefore 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 Treasury in Cape Town.

Loan and interest chargeable on general colonial revenue.

IV. 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 any such stock, or any part thereof.

Transfer of stock.

V. Such stock shall be transferable by transfer in the books of the Treasurer-General, 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-General a receipt or certificate stating the amount of such stock standing to his credit in such books.

Fee payable on transfer.

VI. 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 six pence upon every hundred pounds to be transferred in such books, and on every 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.

Disposal of stock.

VII. 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: Provided that it shall be lawful to dispose of to the Master of the Supreme Court, in his capacity of Administrator of the Guardian's Fund, and he is hereby authorized to invest any unemployed moneys belonging to such fund in so much of the said stock as he may apply for, at par with interest at the rate of five pounds per centum per annum: Provided, further, that any such investment by the said Master shall be made by the same advice, or upon the same authority, as if such investment were a loan upon mortgage.

No. 18--1372

Stock may be disposed  
of to Master of  
Supreme Court.

VIII. 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 respective purposes mentioned in the preamble of this Act.

Separate account to  
be kept.

IX. An account showing the amount of all stock issued under authority of this Act, and the moneys realized by the issue and sale thereof, vouched by the Auditor-General of the Colony, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof; and an account of the amount of the same stock for the time being outstanding, and of all such sums thereof as shall from time to time be bought in and cancelled, if any, shall also be laid before Parliament in each succeeding session thereof.

Accounts to be laid  
before Parliament.

X. When and so soon as any line or lines of telegraph shall be acquired or constructed under this Act, it shall be lawful for the Governor to appoint such persons, and do and perform such acts, matters, and things, as may be necessary for the efficient and proper working of such line or lines.

Appointment of off-  
cers.

XI. All and singular the provisions of "The Electric Telegraphs Act, 1861," and of the "Act to secure Precedence to Public Telegrams," shall,

Certain laws to apply.

No. 18—1872.

*mutatis mutandis*, extend and apply to the line or lines of telegraph to be constructed or acquired and worked by the Government under this Act; the Chief Inspector of Public Works being considered as substituted in the said Electric Telegraphs Act, 1861, for the superintendent of any line therein mentioned.

Main Roads Act, No. 9 of 1858, to apply.

XII. All and singular the powers and authorities which are by the Act No. 9 of 1858, intituled "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 who may under his authority be charged with the making, working, or maintaining any line of telegraph to be constructed, worked, or maintained under this Act, precisely as if the said powers and authorities were, *mutatis mutandis*, herein again set forth, and as if the said lines of telegraph were public roads.

Short title.

XIII. This Act may for all purposes be cited as the "Telegraph Act, 1872."

No. 19—1872

AN ACT

[July 31, 1872.]

For Facilitating the Apprehension of certain Offenders escaping to this Colony from any place within the Territories or Dominions of the South African Republic and Orange Free State.

Preamble.

WHEREAS persons who have committed crimes within the territories or dominions of the South African Republic and of the Orange Free State sometimes escape to this Colony, and it is expedient to provide for the apprehension of certain of such offenders in this Colony, in order that they may be sent back to the territory or



place where such crimes have been committed : 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. 19—1872.

I. That in case requisition shall at any time be made by the Government of the South African Republic or by the Government of the Orange Free State to deliver up to justice any person who, being charged with the crime of murder, or of an attempt to commit murder, or of arson, or of rape, or of robbery, or of theft, or of fraud, or of forgery, or of the utterance of any forged security for money, committed within the jurisdiction of the said South African Republic or of the said Orange Free State, shall be found within this Colony, it shall be lawful for the Governor, if he shall think fit, but not otherwise, by warrant under his hand and seal, to signify that such requisition has been made, and to require all resident magistrates and justices of the peace, and other officers of justice within their several and respective jurisdictions, to govern themselves accordingly, and to aid in apprehending the person so accused, and committing such person to gaol for the purpose of being delivered up to justice, and thereupon it shall be lawful for any resident magistrate or justice of the peace in this Colony to examine, upon oath, any person or persons touching the truth of such charge and upon such evidence as according to the law of this Colony would justify the apprehension and committal for trial of the person so charged, if the crime or offence with which he or she shall be so charged had been committed within this Colony, to issue his warrant for the apprehension of such person, and also to commit such person to gaol, there to remain until delivered pursuant to such requisition as aforesaid.

Persons charged with certain crimes and escaping into Colony may, on requisition duly made, be delivered up.

II. Provided, always, that in every case copies of the deposition or depositions upon which the original warrant for the apprehension of the offender issued by the magistrate or other authority in the South African Republic or the

Forms to be observed previous to delivery.

No. 19—1872

Orange Free State, as the case may be, was granted, certified under the hand and seal of office of the officer of the said South African Republic or Orange Free State, as the case may be, making such requisition, may be received in evidence of the criminality of the person so apprehended.

Powers of Governor  
in case of escaped  
prisoner.

III. Upon the certificate of such resident magistrate or justice of the peace that such supposed offender has been committed to gaol, it shall be lawful for the Governor, by warrant under his hand and seal, to order the person so committed to be delivered to such person or persons as shall be authorized by any warrant under the hand of the officer of the said South African Republic or the said Orange Free State, as the case may be, making such requisition as aforesaid, to receive the person so committed, and to convey such person to the border of the said Republic or Free State, and such person shall be delivered up accordingly; and it shall be lawful for the person or persons authorized as aforesaid to hold such person in custody, and take him or her to the border of the said South African Republic or Orange Free State, as the case may be, and if the person so accused shall escape out of any such custody to which he or she shall be delivered as aforesaid, it shall be lawful to retake such person in the same manner as any person accused of the like crime within this Colony may be retaken upon an escape.

Prisoner not deli-  
vered up within two  
months may apply  
for discharge.

IV. Where any person who shall have been committed under this law to remain until delivered up pursuant to requisition as aforesaid shall not be delivered up pursuant thereto and conveyed out of this Colony within two calendar months after such committal, it shall in every case be lawful for the Supreme Court of this Colony, or Court of the Eastern Districts, or any Circuit Court, or any judge thereof, upon application made to them or him, by or on behalf of any person so committed, and upon proof made to them or him that reasonable notice of the intention to make such application has been given to the Attorney-General, to

order the person so committed to be discharged out of custody, unless sufficient cause shall be shown to such court or judge why such discharge ought not to be ordered.

No. 19—1872

V. This Act shall commence and take effect, so far as concerns the extradition of the persons accused of the crimes herein mentioned escaping from territories or dominions of the South African Republic, when and so soon as the Governor shall, by proclamation under his hand and the public seal of this Colony, declare and proclaim that the Legislature of the said South African Republic has made sufficient provision by law for the apprehension and delivering to the officers of justice of this Colony authorized to that effect of offenders escaping to any place within the territories of the said South African Republic, who may be charged with having committed within this Colony any of the crimes or offences hereinbefore mentioned, and shall commence and take effect so far as concerns the extradition of the persons accused of the crimes herein mentioned, escaping from the territories and dominions of the Orange Free State, when and so soon as the Governor shall, by proclamation under his hand and the public seal of this Colony, declare and proclaim that the Legislature of the said Orange Free State has made sufficient provision by law for the apprehension and delivering to the officers of justice in this Colony authorized to that effect of offenders escaping to any place within the territories of the said Orange Free State, who may be charged with having committed within this Colony any of the crimes or offences hereinbefore mentioned.

Commencement of Act.

VI. This Act may for all purposes be cited as the "Extradition of Criminals Act, 1872."

Short title.

No. 20—1872.]

AN ACT

[July 31, 1872.]

For Defining the Limits of and preventing the Mischief arising from cutting, rooting up, and destroying the Trees, Shrubs, Bushes, and Fibrous Rooted Plants within an area bounded on the East and South by the Sea, on the West by the Farm Bushy Park, and including Northwards such portions of the divided Farm Buffels Fontein, the Village and Commonage of Walmer, formerly the Farm Nooitgedacht, and the Farm Paape Biesjesfontein, in the Division of Port Elizabeth, as the Drift Sands have extended or may extend over.

reamble.

**W**HEREAS it has become of the utmost importance to the port and harbour of Algoa Bay to preserve from the effects of drifting sands the works already made and to be made for improving the said port and harbour, and for preventing portions of the Crown lands and other property within the said area from further injury therefrom: And whereas a mischievous and illegal practice prevails of cutting down, rooting up, and carrying away from within the said area for firewood and other purposes, the trees, shrubs, bushes, and fibrous rooted plants growing thereon, by means of which practice the sands are loosened and exposed, and are carried by the wind and deposited along the eastern boundary of the said area, and within the wash of the sea, to the serious detriment of the said port and harbour: And whereas it is expedient that the commissioners for improving the port and harbour of Algoa Bay, should be enabled to purchase land within the said area, and that provision should be made therefor, and for suppressing the said practice within the said area, and for binding and fixing those portions of the said area from which the sands are carried, by causing them to be planted with trees, shrubs, bushes, and other fibrous rooted plants, and to erect or cause to be erected

fencing, mounds, or other protection for the same: 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. That the lands within an area bounded by the east and south by the sea, on the west by the farm Bushy Park, and including northwards such portions of the divided farm Buffels Fontein, the village and commonage of Walmer, formerly the farm Nooitgedacht, and the farm Paape Biesjesfontein, in the division of Port Elizabeth, as the drift sands have extended or may extend over, shall, for the purposes of this Act, be deemed and taken to be included in the said area. Area defined.

II. It shall and may be lawful for the said commissioners, and they are hereby authorized to enter upon and take possession of such lands within the said area as may be required for the purposes of this Act: Provided that the proprietors of the said lands shall be paid by the said commissioners the just value by way of compensation for such lands. Right of entry upon lands within area defined.

III. In the event of the said commissioners and any such proprietor or proprietors or the person or persons claiming compensation not being able to agree upon the sum to be paid by the said commissioners and accepted by such proprietor or proprietors or person or persons claiming compensation, then the said commissioners shall cause to be served upon such proprietor or proprietors or person or persons claiming compensation a written notice, offering as recompense or compensation whatever sum of money they shall deem sufficient, and requiring such proprietor or proprietors, or person or persons claiming compensation to state in writing to the said commissioners within a certain limited time to be specified in the said notice, whether he or they is or are willing to accept the sum therein mentioned or not, and in case he or they shall refuse to accept the sum offered, or shall neglect to reply to the said notice, then the said commissioners shall, by another notice in writing, call upon such proprietor or proprietors, How, where difference exists as to amount of compensation.

No. 20—1872.  
Arbitration.

or person or persons claiming compensation, to refer to arbitration the amount of recompense or compensation to be paid to him or them by the said commissioners, and for that purpose to transmit to the representative in Port Elizabeth, within a certain reasonable time, to be specified in the said last-mentioned notice, the name of some person whom he or they shall select to be an arbitrator upon such arbitration, and the said commissioners, upon receiving the name of the person so elected shall nominate a second arbitrator, and the said arbitrators shall before proceeding in the arbitration choose a third arbitrator, and the said commissioners shall cause a deed of submission to be prepared, which shall be signed by the chairman of the said board of commissioners and by the said proprietor or proprietors or person or persons 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 and are hereby 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; and in case such proprietor or proprietors or person or persons as aforesaid claiming compensation or recompense 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 commissioners, and they are hereby authorized, to lodge in some joint-stock bank in Port Elizabeth the sum of money offered by them as aforesaid for or on account and at the risk of such proprietor or proprietors or person or persons as aforesaid, who shall at all times be entitled to draw the same out of the said bank as his or their absolute property, and the said commissioners, 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 sum to be paid or had been awarded by the arbitrators, and thereupon or upon payment of any sum which may be awarded, or which may be agreed to be accepted as and for recompense and compensation as aforesaid, the said land shall be held and taken to be vested in the said commissioners 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 commissioners according to the law and custom of this Colony, or as if all Acts by law required for vesting in the said commissioners a sufficient title thereto had been duly done and performed: Provided, further, that the costs of the arbitration aforesaid shall be in the discretion of the arbitrators.

IV. It shall be lawful for the said commissioners, and they are hereby authorized and empowered to enter upon and take possession of any land within the said area belonging to Her Majesty the Queen, known as Crown lands, for the purpose of binding or fixing those portions of the said land within the said area from which the sands are carried, by causing them to be planted with trees, shrubs, bushes, or other fibrous rooted plants, and to erect or cause to be erected and made, fencings, mounds or other protections to the same.

V. If any person shall cut, root up, burn, break, or otherwise injure, destroy, or carry away any tree, shrub, bush, or other fibrous rooted plant growing or being upon any land, whether the same be Crown land or land acquired by the commissioners under section two of this Act, or shall trespass upon the same, or shall injure or destroy any fencing, mounds, or other means of protection to the same, such person shall, upon the first conviction for any such offence, forfeit any sum not exceeding five pounds sterling, and upon non-payment thereof, shall be imprisoned for any term not exceeding one calendar month, and upon a second conviction for

Entry upon public lands.

Penalty for cutting, &c., bushes, &c.

No. 20—1872.

any such offence shall forfeit a sum not exceeding ten pounds sterling, and upon non-payment thereof shall be imprisoned for any term not exceeding two months, and for a third or any subsequent offence shall forfeit any sum not exceeding twenty pounds sterling, and upon non-payment thereof shall be imprisoned for any term not exceeding six months.

Inquiry as to destruction of bushes, shrubs, &c.

VI. When and so often as any wagon, cart, or other vehicle shall be found within or upon any part of the said area as aforesaid, or upon any road leading from thence having in or upon any such wagon, cart, or vehicle, trees, shrubs, bushes, or other fibrous rooted plants commonly found growing upon the Crown lands and upon lands the property of the said commissioners within the said area, it shall be lawful for any person finding the same, and suspecting that the said trees, shrubs, bushes, or other fibrous rooted plants have been cut or taken away from such lands as aforesaid, to forcibly compel the person in charge thereof to proceed forthwith to the nearest resident magistrate, there to be dealt with according to law in the exercise of the jurisdiction hereinafter conferred.

Funds to be applied to fixing drift sands.

VII. It shall be lawful for the said commissioners, with the consent of the Governor, acting with the advice of the Executive Council of the Colony, out of any moneys which may come to them as such commissioners, to apply such sum or sums as may be necessary for the purpose of fixing the said sands within the said area and maintaining the same.

Courts having jurisdiction.

VIII. The court of the resident magistrate of Port Elizabeth and district thereof, and the court of the resident magistrate of Uitenhage and district thereof, shall have jurisdiction to inquire into and determine all cases and questions of fines, forfeiture, penalties, or contraventions of this Act.

Short title.

IX. This Act may be cited for all purposes as the "Port Elizabeth Sands Act, 1872."



No. 21—1872.] AN ACT [July 31, 1872.

To Amend Ordinance No. 1 of 1847, intituled  
 “Ordinance for Removing Vessels stranded  
 in the Ports and Harbours of this Colony.”

**W**HEREAS by the Ordinance No. 1 of 1847, Preamble.  
 intituled “Ordinance for Removing Vessels  
 stranded in the Ports and Harbours of this Colony,”  
 it is enacted that ships or vessels, or hulls or  
 remains of any ships or vessels which shall be  
 stranded or aground below high water mark in  
 certain ports or harbours, may be removed and the  
 materials sold, and in case the proceeds of sale are  
 insufficient to pay the expenses thereof, together  
 with the reasonable costs and charges of the  
 removal of the materials sold, there may be  
 recovered for the use of Her Majesty in Her  
 Colonial Treasury from any person in this Colony  
 who shall have taken on him the sale or other  
 disposition of the hull of the said vessel, her tackle,  
 apparel, furniture, or stores, or any part thereof,  
 the amount of such reasonable costs and charges,  
 or so much thereof as shall still remain unsatisfied,  
 not exceeding, however, in any case the proceeds  
 realized by such person from such sale, or the  
 value of the property disposed of otherwise than  
 by the sale thereof: And whereas it not unfre-  
 quently happens that such costs and charges as  
 aforesaid are greater than the proceeds realized as  
 aforesaid, or the value of the property disposed of  
 otherwise than by the sale thereof as aforesaid;  
 and it is expedient that in such case so much of  
 the said costs and charges as are not recoverable  
 under the said Ordinance shall be borne by the  
 Public Treasury; and whereas it is advisable that  
 the provisions of the said Ordinance should apply  
 to sunken vessels: 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 case any ship or vessel, or the hull or  
 remains thereof, shall be removed or caused to be  
 removed under and by virtue of the provisions of  
Cost of removal of  
 stranded vessels to be  
 borne, under certain  
 circumstances, by  
 Public Treasury.

No. 21—1872.

the aforesaid Ordinance by any harbour-master or port-captain or person thereto authorized by the civil commissioner of the division, as in the said Ordinance mentioned, and the materials so removed shall have been sold; and the proceeds of such sale shall be insufficient to pay the expenses thereof, together with the reasonable costs and charges of the removal of the materials sold, and the whole of the deficiency cannot, under and by virtue of the provisions of the said Ordinance or otherwise, be recovered from any person as therein mentioned, so much of the said deficiency as cannot be recovered may be paid out of the Public Treasury, upon production of a warrant of the Governor, authorizing such payment: Provided, however, that where there is reason to believe that any payment will have to be borne by the Public Treasury under this Act, no expense shall be incurred in removal as aforesaid by any such harbour-master, port-captain, or person authorized as aforesaid, unless the same shall have been previously authorized by the Governor, with the advice of his Executive Council.

But Governor's authority to be had previously.

Proceeds of sale of stranded vessel not to be paid over to person entitled thereto unless security for cost of removal be given.

II. Should any ship or vessel hereafter be stranded or aground below high-water mark in any port or harbour of this Colony in which the provisions of the said Ordinance may be in force, and the same or the hull or remains thereof, or her tackle, apparel, furniture, or stores, or any part thereof, be sold or disposed of in this Colony; the proceeds realized by such sale or disposition shall not be paid over to the person causing such sale or disposition to be made or to any one for or on his behalf, unless and until security shall be given to the civil commissioner of the division in which such port or harbour shall be situated, and to his satisfaction, for the due payment to Her Majesty in her Colonial Treasury of the difference (if any there shall be) between the amount realized by the sale of the materials removed, or to be removed, by any harbour-master, port-captain, or person authorized as in the last preceding section mentioned, and the expenses of such sale, together with the

costs and charges of such removal ; such difference, however, not exceeding the amount realized by such sale or disposition as aforesaid ; and if such proceeds shall be paid over to or received by such persons as aforesaid, without such security as aforesaid having been entered into, both the person paying and receiving such proceeds shall be liable to a penalty of double the amount paid over or received as aforesaid : Provided, always, that should the hull and materials of such stranded vessel be satisfactorily removed by owners thereof within the four months allowed by the said Ordinance for that purpose, the said security shall be discharged and annulled upon the order of the Governor, with the advice of his Executive Council. Should it be desired by the purchaser of any condemned or other vessel to put her on shore in any port or harbour for the purpose of breaking up the said vessel or for other purposes, the like security shall be taken in like manner for the entire removal of the hull of the said vessel within a specified time, and the said vessel shall not be put on shore except at such part of any port or harbour as may be directed by the harbour board at such port or harbour, or by the civil commissioner of the division, should no such board exist.

No. 21—1872.

Penalty

Security to be discharged on removal of stranded vessel.

Breaking up of condemned vessel.

III. All the provisions of Ordinance No. 1 of 1847, and of this Act, shall apply to all sunken vessels in any port or harbour of this Colony.

Provisions of Ord. No. 1 of 1847 applicable.

IV. This Act may for all purposes be cited as the "Stranded and Sunken Vessels Act, 1872."

Short title.

No. 22—1872.]

AN ACT

[July 31, 1872

For the Management of the Docks and Breakwater  
of Table Bay.

**W**HEREAS it is necessary and expedient that due and proper provision should be made for the management of the Docks and Breakwater of Table Bay : Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and

Preamble.

No. 22—1872.

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

Repulsive laws re-  
pealed.

I. So much of the Ordinance No. 6 of 1851, intituled "Ordinance for Regulating the Rates of Wharfage Dues in Cape Town and Simon's Town," as applies to the port of Cape Town; Section III. of Act No. 20 of 1858, intituled an Act "For Constructing a Breakwater to form a Harbour of Refuge in Table Bay and otherwise improving the said Harbour;" and the Act No. 18 of 1868, intituled an Act "To provide for the Management of the Docks in Table Bay," shall be and the same are hereby repealed: Provided, however, that notwithstanding the repeal of Act No. 18, 1868, all regulations duly made under the provisions thereof, and in force at the time of taking effect of this Act, shall remain and continue in force in the same way as if they had been made under the provisions of this Act.

Management of docks

II. The management of the docks and breakwater in Table Bay, as well as of any further works of construction or maintenance, shall be vested in a board of commissioners to be appointed under this Act.

Appointment  
board.

III. It shall be lawful for the Governor by proclamation to appoint a board of commissioners to consist of five persons, of whom two shall be officers holding office of profit under Her Majesty the Queen, and the other three shall at all times be persons not holding any office of profit under Her Majesty the Queen.

Chairman.

IV. The Governor shall nominate some member of the board to be the chairman thereof, who shall, when present, preside at all meetings of such commissioners, and in case the votes upon any question shall be equally divided, the presiding member shall, in addition to his original or deliberative vote, have also a casting vote: Provided that if at any such meeting such chairman as aforesaid shall not be present, the members present shall elect from amongst themselves a chairman to preside thereat.

Quorum.

V. At every meeting of such commissioners three members shall form a quorum.

Removal from office  
of commissioners.

VI. Notwithstanding anything in this Act con-

tained the Governor shall have the power to remove any commissioner either on account of failure to attend meetings of the board, or for any other cause, by proclamation, and appoint another commissioner in his place ; and if any commissioner shall become insolvent or assign his estate for the benefit of his creditors, then the office of such commissioner shall, *ipso facto*, become vacant, and another commissioner shall be appointed in his place ; and no commissioner shall vote on any question in which he shall have any personal or pecuniary interest, directly or indirectly, under a penalty not exceeding one hundred pounds sterling, to be sued for by the Attorney-General.

No. 22—1872.

Vacation of office.

No commissioner to vote on question in which he shall have personal interest.

VII. Save as hereinafter excepted, all goods of whatever kind or nature that may be brought into the port of Cape Town for importation from any part within or beyond the limits of the Colony, and all goods intended for exportation from the port of Cape Town to any part within or beyond such limits, shall be landed or shipped, as the case may be, at the dock known as the Alfred Dock, and at no other place in the said bay ; but it shall be lawful for the Collector or other principal officer of Customs of the port to grant permission, on such terms as he may think fit, for the landing and shipping of any such goods at some other place in the said port.

Where goods may be landed or shipped.

Power of collector.

VIII. All goods which may be landed or shipped otherwise than in conformity with the preceding section shall be deemed and taken to have been illegally landed or shipped, and may be seized by any officer of the Customs, and shall be forfeited ; and all such goods shall be dealt with in like manner as by the Ordinance No. 6 of the year 1853, or any Act for the time being in force for the regulation and management of the Customs of the Cape of Good Hope in lieu thereof, it is or shall be directed that goods forfeited thereunder shall be dealt with.

Penalty on contravention.

IX. No goods brought to the dock on importation or for exportation shall be landed or shipped except by persons authorized by the commissioners in the second section of this Act mentioned.

Who may land or ship goods.

No. 22—1872.

Warehouse  
chargeable.

X. It shall be lawful for the said commissioners to charge for and in respect of any goods that may be warehoused by the owners thereof in any warehouse under the management of the said commissioners, warehouse rent at such rates as may from time to time be fixed by the said commissioners and approved by the Governor and published in the *Government Gazette*.

Dock dues charge-  
able.

XI. It shall be lawful for the said commissioners to demand and receive from any owner or master of any vessel that may enter the dock, dock dues at such rates as may from time to time be fixed by the said commissioners and approved by the Governor, and published in the *Government Gazette*.

Employment of offi-  
cers.

XII. It shall be lawful for the said commissioners, with the approval of the Governor, to employ for the construction, maintenance and management of such docks, breakwater, and other works in connection therewith, and for the conduct of the business thereof, so many officers and to pay them such salaries, and impose upon their appointments such conditions as may be deemed expedient; and it shall not be competent for any officer who may be employed under the authority of this Act under pain of immediate dismissal, to be directly or indirectly engaged or concerned in any business or trade whatsoever, nor shall any such officer accept any fees or emoluments other than his salary or allowance paid by the said commissioners, without the previous sanction of the said commissioners and the approval of the Governor.

Officers not to engage  
in trade or accept  
fees, &c.Dues fixed in schedule  
chargeable.

XIII. From and after the taking effect of this Act the said commissioners shall be entitled to demand and receive from the importers, exporters, or transhippers, as the case may be, of all such goods, articles, matters, or things imported, exported, or transhipped in Table Bay, save as hereinafter excepted in the schedule hereto, as dock dues, such sums as are in the said schedule respectively set forth, or such lesser sums, respectively, as may be appointed by the said commissioners, and approved of by the Governor from

time to time, and published in the *Government Gazette*: Provided that in every case in which any lesser sums shall be so appointed and approved of as aforesaid, goods landed from or shipped to ports or places within this Colony shall not be charged more than one-half of the rates for goods landed from or shipped to ports or places beyond the limits of this Colony: Provided, also, that transshipment shall, for the purposes of this Act, mean the act of removing goods direct by boat or otherwise from one ship into another without touching the shore, as also the act of removing goods from one ship to another by carrying them along the shore directly and continuously from the one ship to the other.

No. 22—1872.

Transshipment defined.

XIV. All sums accruing to the said commissioners under the provisions of this or any other Act shall (unless it shall be otherwise arranged between the said commissioners and the Governor) be collected by the Collector of Customs, and shall be paid into the Treasury to a separate account; and all moneys received under this Act shall in the first place be applied to the payment of interest upon the money borrowed or to be borrowed for the construction of the breakwater and dock and other works connected therewith, and next to the payment of the expenses of collecting the moneys aforesaid, and of managing and maintaining the said works, as well as to the construction of any further works connected with the works aforesaid, which shall be deemed by the said board to be necessary to render the said last-mentioned works more serviceable and efficient: Provided that no such further work which shall be estimated to cost £500 or upwards shall be commenced without the previous sanction of the Governor: Provided, also, that any surplus which may exist after defraying the charges aforesaid, shall be applied to the extinction of the money borrowed as aforesaid, in such manner as the Parliament shall hereafter direct.

Dues, by whom to be collected.

Application of moneys. of

Previous sanction of Governor to commencement of further works required.

Application of surplus moneys.

XV. The commissioners aforesaid shall, at the close of every half-year reckoned from the first day of January, 1873, prepare and transmit to the

Annual accounts to be rendered and laid before Parliament.

No. 22—1872.

Governor, an account or statement showing the receipts and disbursements of the said commissioners during the past half-year, and every such account shall by the Governor be laid before both Houses of Parliament, if then sitting, or if not sitting, then within ten days from the commencement of the Session of Parliament which shall be held next after the receipt of such account.

Clearance outwards may be refused until regulations have been complied with and dues paid.

XVI. It shall be lawful for the Collector or other principal officer of customs at the port to refuse to any master of any ship in the said port of Cape Town or Table Bay clearance outward until he shall have paid the dock dues of all kinds which may be due from him or his ship, and have in other matters complied with the regulations of the port.

Framing of regulations.

XVII. Subject to the provisions hereinbefore contained, it shall be lawful for the said commissioners, with the approval of the Governor, to make all necessary regulations for the management of the said dock, and of the landing, shipping, transshipping, and warehousing of goods, and for the proper control of all vessels entering the same; and from time to time, as to them may appear proper and with the like approval, to alter and amend any such regulations; and all such regulations shall be published in the *Government Gazette*, and any person violating the same shall be liable on conviction to a fine not exceeding five hundred pounds sterling, or to imprisonment with or without hard labour for any period not exceeding six months, unless the fine be sooner paid.

Penalty for contravention.

What shall be deemed a ton.

XVIII. For the purposes of this Act, of solids two thousand pounds by weight or forty cubic feet by measurement, whichever shall be of least bulk, and of liquids two hundred gallons, shall be deemed to be a ton.

Act when to take effect.

XIX. This Act shall take effect upon and from the first day of January, 1873.



## SCHEDULE.

No. 22--1872.

## TARIFF OF RATES. s. d.

Upon all goods landed from or shipped to ports or places beyond the limits of this Colony, or transhipped ... ..	5	0	per ton.
Upon engines, plant, machinery, coals and other articles required for the construction or working of the Cape Town and Wellington Railway during the term of years during which the Cape Railway Company has the privilege by its contract with the Colonial Government of having the said articles admitted into the Colony free of dues of wharfage ... ..	2	6	„
Upon all goods landed from or shipped to ports or places within the limits of this Colony ... ..	2	6	„
On horses, mules, asses, and horned cattle, landed, shipped, or transhipped ...	5	0	each.
On calves, sheep, pigs, and goats, landed, shipped, or transhipped ... ..	0	3	„
Upon goods less than a ton, proportions of the above respective rates shall be payable, as follows:—			

Upon one-fifth of a ton and under,—one-fifth of the above rates.

Over one-fifth and not exceeding two-fifths,—two-fifths of the above rates.

Over two-fifths and not exceeding three-fifths,—three-fifths of the above rates.

Over three-fifths and not exceeding four-fifths,—four-fifths of the above rates.

Over four-fifths of a ton and under a ton shall be charged as one ton; and any fraction of a ton over one ton or over any greater number of tons shall be charged as a ton.

## EXEMPTIONS.

1. All Naval and Military Stores for the use of Her Majesty's Naval and Military Forces, or for the use of Her Majesty's Civil Departments.
2. All stores for the use of Her Majesty in her Local Executive Government.
3. Such reasonable personal baggage of passengers and of masters and seamen as Customs duties shall not be levied on.
4. All such Military and Naval baggage as Customs duties shall not be levied on.

No. 22—1872.

Governor, an account or statement showing the receipts and disbursements of the said commissioners during the past half-year, and every such account shall by the Governor be laid before both Houses of Parliament, if then sitting, or if not sitting, then within ten days from the commencement of the Session of Parliament which shall be held next after the receipt of such account.

Clearance outwards may be refused until regulations have been complied with and dues paid.

XVI. It shall be lawful for the Collector or other principal officer of customs at the port to refuse to any master of any ship in the said port of Cape Town or Table Bay clearance outward until he shall have paid the dock dues of all kinds which may be due from him or his ship, and have in other matters complied with the regulations of the port.

Framing of regulations.

XVII. Subject to the provisions hereinbefore contained, it shall be lawful for the said commissioners, with the approval of the Governor, to make all necessary regulations for the management of the said dock, and of the landing, shipping, transshipping, and warehousing of goods, and for the proper control of all vessels entering the same; and from time to time, as to them may appear proper and with the like approval, to alter and amend any such regulations; and all such regulations shall be published in the *Government Gazette*, and any person violating the same shall be liable on conviction to a fine not exceeding five hundred pounds sterling, or to imprisonment with or without hard labour for any period not exceeding six months, unless the fine be sooner paid.

Penalty for contravention.

What shall be deemed a ton.

XVIII. For the purposes of this Act, of solids two thousand pounds by weight or forty cubic feet by measurement, whichever shall be of least bulk, and of liquids two hundred gallons, shall be deemed to be a ton.

Act when to take effect.

XIX. This Act shall take effect upon and from the first day of January, 1873.

## SCHEDULE.

No. 22--1872.

## TARIFF OF RATES. s. d.

Upon all goods landed from or shipped to ports or places beyond the limits of this Colony, or transhipped ... ..	5	0	per ton.
Upon engines, plant, machinery, coals and other articles required for the construction or working of the Cape Town and Wellington Railway during the term of years during which the Cape Railway Company has the privilege by its contract with the Colonial Government of having the said articles admitted into the Colony free of dues of wharfage ... ..	2	6	„
Upon all goods landed from or shipped to ports or places within the limits of this Colony ... ..	2	6	„
On horses, mules, asses, and horned cattle, landed, shipped, or transhipped ... ..	5	0	each.
On calves, sheep, pigs, and goats, landed, shipped, or transhipped ... ..	0	3	„

Upon goods less than a ton, proportions of the above respective rates shall be payable, as follows:—

- Upon one-fifth of a ton and under,—one-fifth of the above rates.
- Over one-fifth and not exceeding two-fifths,—two-fifths of the above rates.
- Over two-fifths and not exceeding three-fifths,—three-fifths of the above rates.
- Over three-fifths and not exceeding four-fifths,—four-fifths of the above rates.
- Over four-fifths of a ton and under a ton shall be charged as one ton; and any fraction of a ton over one ton or over any greater number of tons shall be charged as a ton.

## EXEMPTIONS.

1. All Naval and Military Stores for the use of Her Majesty's Naval and Military Forces, or for the use of Her Majesty's Civil Departments.
2. All stores for the use of Her Majesty in her Local Executive Government.
3. Such reasonable personal baggage of passengers and of masters and seamen as Customs duties shall not be levied on.
4. All such Military and Naval baggage as Customs duties shall not be levied on.

306 APPROPRIATION ACT (1872—ADDITIONAL).

No. 22—1872.

5. All provisions and stores, not liable to Customs duties, shipped at this port, for daily consumption on board the ship while in harbour.
6. All animals, living, not specified in the above tariff.
7. Coals shipped, on which the dock dues were paid when landed.

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No. 23—1872.]

AN ACT

[July 31, 1872.

To continue to the end of 1873 the Act No. 10 of 1864.

Preamble.

WHEREAS it is expedient that the provisions of an Act passed in the session of Parliament holden in the year 1864, numbered 10, and intituled "An Act to provide for the Construction and Maintenance of the Main Roads of the Colony," and continued by subsequent Acts, should be further continued until the 31st day of December, 1873: 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. 10 of 1864 continued.

I. The provisions of the Act No. 10 of the year 1864 shall, except any of the same which have been repealed by any subsequent Act, be continued until the thirty-first day of December, 1873.

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No. 24—1872.]

AN ACT

[July 31, 1872.

For Applying a further Sum not exceeding Fourteen Thousand Nine Hundred and Eighty Pounds Sterling for the Service of the Year 1872.

Preamble.

WHEREAS it is expedient to provide further sums, in addition to those by law provided, for the service of the Government of the Colony for the year 1872: 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:— No. 24—1872.

I. That a sum not exceeding fourteen thousand nine hundred and eighty pounds sterling, in addition to the sum already provided as aforesaid, be charged upon the revenue of the said Colony, towards the service of the year 1872, and applied in the manner and for the purposes herein set forth, that is to say:— Additional expenditure, 1872.

For the expenditure of the Civil Establishments, a sum not exceeding one hundred and seventy-six pounds sterling. Civil establishments.

For the expenditure of the Judicial Establishments, a sum not exceeding one thousand four hundred and ten pounds sterling. Judicial establishments.

For the expenditure of the Educational Establishment, a sum not exceeding four hundred pounds sterling. Educational establishment.

For expenditure on account of Roads and Bridges, including Convict Department, a sum not exceeding eight thousand eight hundred and forty-four pounds sterling. Roads and bridges.

For the expenditure on account of Works and Buildings, a sum not exceeding one hundred pounds sterling. Works and buildings.

For the Expenditure on account of Miscellaneous Services, exclusive of Establishments, including Parliamentary Expenses, a sum not exceeding four thousand and fifty pounds sterling. Miscellaneous services.

Amounting in the whole to fourteen thousand nine hundred and eighty pounds sterling. Total.

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

No. 25—1872.]

AN ACT

[July 31, 1872.

For Applying a Sum not exceeding Two Hundred and Five Thousand Nine Hundred and Ninety-five Pounds Seven Shillings and Five Pence Sterling for the Service of the Year 1873.

Preamble.

WHEREAS it is expedient to provide further sums, in addition to those by law provided, for the service of the Government of this Colony until the 30th June, 1873 : Be it hereby 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.

I. That a sum not exceeding two hundred and five thousand nine hundred and ninety-five pounds seven shillings and five pence sterling shall be charged upon the revenue of the said Colony towards the service of the year 1873, 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 thirty-six thousand seven hundred and three pounds two shillings and three pence sterling.

Judicial establishments.

2. For the expenditure of the Judicial Establishments, a sum not exceeding thirteen thousand nine hundred and forty-nine pounds six shillings and three pence sterling.

Educational establishments.

3. For the expenditure of the Educational Establishments, a sum not exceeding ten thousand one hundred and eighty-five pounds sterling.

Medical ment.

4. For the expenditure of the Medical Establishment, a sum not exceeding sixteen thousand four hundred and thirty-eight pounds eighteen shillings and nine pence sterling.

Police and gaols.

5. For the expenditure of the Police and Gaols Establishments, a sum not exceeding twenty-one thousand one hundred and ninety-nine pounds eighteen shillings and three pence sterling.

6. For the expenditure on account of the Border Department, a sum not exceeding thirty-four thousand eight hundred and eighty-six pounds ten shillings and five pence sterling. No. 25-1872.  
Border department  
(aborigines).
7. For the expenditure on account of Pensions, Retired Allowances, and Gratuities, a sum not exceeding three thousand two hundred and twenty-two pounds and ten shillings sterling. Pensions and retired  
allowances.
8. For the expenditure on account of Charitable Allowances, a sum not exceeding one hundred pounds sterling. Charitable allowance.
9. For the expenditure on account of Works and Buildings, a sum not exceeding nine thousand and forty-four pounds sixteen shillings and six pence sterling. Works and buildings.
10. For the expenditure on account of Roads and Bridges, a sum not exceeding twenty-five thousand two hundred and twenty-five pounds and five shillings sterling. Roads and bridges.
11. For the expenditure on account of Miscellaneous Services, a sum not exceeding twenty-four thousand one hundred and ninety-three pounds sterling. Miscellaneous service.
12. For the expenditure on account of Interest, a sum not exceeding five thousand eight hundred and forty-seven pounds sterling. Interest.
13. For the expenditure on account of Colonial Military Allowances, a sum not exceeding five thousand pounds sterling. Colonial military  
allowances.

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 sup-  
plies.





For the Expenditure of the Police and  
Gaols Establishments :

Police and Gaols (Estab- lishments)...	...	£14,206	18	3	
Ditto (exclusive of Establishments) ...	...	5,610	10	0	
Rents ...	...	257	10	0	
Transport ...	...	1,125	0	0	
					£21,199 18 3

## For the Expenditure on Account of the

Border Department ...	£34,886	10	5	
Pensions, Retired Allow- ances, and Gratuities	3,222	10	0	
Charitable Allowances...	100	0	0	
Works and Buildings ...	9,044	16	6	
Roads and Bridges ...	25,225	5	0	
Miscellaneous Services and Transport ...	24,193	0	0	
Interest ...	5,847	0	0	
Colonial Military Allow- ances ...	5,000	0	0	
				£107,519 1 11
Total ...	£205,995	7	5	

No. 26-1872.]

AN ACT

[31st July, 1872.]

For Regulating the Coasting Trade of the Colony  
of the Cape of Good Hope.

WHEREAS by an Imperial Act passed in the <sup>Preambl.</sup> thirty-second year of the reign of Her Majesty Queen Victoria, intituled "An Act for Amending the Law relating to the Coasting Trade and Merchant Shipping in British Possessions," it is enacted that subject to certain conditions in the said Act contained, the Legislature of a British Possession may, by any Act or Ordinance, from time to time regulate the coasting trade of the same: And whereas it is desirable to make provision for regulating the coasting trade of this Colony: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and

No. 26—1872.

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

Conveyance of goods and passengers.

I. Subject to the provisions of any Act of the Imperial Parliament of the United Kingdom, and so long as Her Majesty's Order in Council of the 7th day of December, 1855, shall remain unrevoked and in force, goods and passengers may be conveyed from any one port of this Colony to any other port thereof in other than British ships.

Definition of coasting trade and coasting vessels.

II. All trade by sea from any one part, port, or place in this Colony to any other part thereof shall, except as hereinafter provided, be deemed to be a coasting trade, and all ships while employed therein shall, except as hereinafter provided, be deemed

Exception as regards ship arriving from or proceeding to port beyond colonial limits.

to be coasting ships: Provided that no ship arriving from a port beyond the limits of this Colony, although bound to more than one port in this Colony, and no ship clearing outwards from any port in this Colony for a port beyond the limits of this Colony, although bound to one or more intermediate ports in this Colony, shall be deemed a coasting ship, nor shall her voyage between such ports in this Colony be deemed a coasting voyage.

Certain goods may be conveyed coastwise by other than coasting vessels.

III. Any goods which shall be the growth, produce, or manufacture of this Colony, or which shall have already paid duty on importation into this Colony, may be shipped and conveyed coastwise from any one port in this Colony to any other port thereof in any ship, although such ship may not be a coasting ship.

Goods illegally landed or shipped forfeited.

IV. If any goods shall be unshipped from any coasting ship arriving coastwise, or be shipped or water-borne to be shipped to be carried coastwise, unless in the presence or with the authority of the proper officer of the Customs, and at such times and places as shall be appointed or approved by him for that purpose, the same shall be forfeited, and the master of the ship on board whereof any such goods shall be shipped, or wherefrom such goods shall be unshipped, shall forfeit a sum not

Penalty on master £50.

exceeding fifty pounds sterling, and every person who shall land or ship, or place on board any lighter or boat to be shipped, or assist or be other-

Penalty on other persons £50.

wise concerned in landing, shipping, or placing on board any lighter or boat to be shipped, any of such goods otherwise than in the presence or with the authority of the proper officer, or otherwise than at such times or places as shall be appointed or approved by him for that purpose, shall, in like manner, forfeit a sum not exceeding fifty pounds sterling.

No. 26-1872.

V. All persons shipping goods on board of any coasting ship shall furnish the master with a shipping-note, stating generally the description of goods, and, so far as may be known to the said shipper, whether the goods be the produce of this Colony or otherwise; and the master shall be bound to exhibit such note whenever so required to the proper officer of the Customs at the port whence the goods shall have been shipped, and also at the port to which the same shall have been shipped, and at any intervening port at which such coasting ship may touch on its voyage between such ports; and any goods respecting which any false statement shall be made in any such shipping-note, shall be forfeited.

Shippers to furnish shipping note.

Penalty.

VI. Before any coasting ship shall depart from the port of lading, an account, with duplicate thereof, signed by the master, shall be delivered to the Collector or other proper officer of Customs at such port, and such officer shall retain the duplicate and return the original account, dated and signed by him, and such account shall be the clearance of the ship for the voyage, and the transire or pass for the goods expressed therein; and if any such account be false, the master shall forfeit the sum of twenty pounds sterling: Provided, always, that the Collector or principal officer of Customs may, whenever it shall appear to him expedient, permit general or special transires to be given under such regulations as such Collector or principal officer may direct, for the lading or clearance and for the entry and unlading of any coasting ship to proceed to any place in this Colony therein mentioned, and there to discharge the whole or any part of the cargo of such coaster, and

Clearance and transire.

Special transire may be given.

No. 26—1872.

there to reload a cargo for shipment back to the port whence such coasting ship obtained such transire, or such other port in this Colony as shall be therein mentioned, and the same may be

And may be revoked

by notice, in writing, under the hand of such Collector or other principal officer as aforesaid, delivered to the master or owner of any such ship, or any of the crew on board.

Record by master.

VII. The master of any ship proceeding coastwise to load or discharge cargo under the permission of a transire shall keep a correct record of the dates of the ship's arrival and departure at any port or ports, place or places, and of the goods laden on board or discharged thereat, and whether so far as the said master may have been informed, such goods are the produce of the Colony or otherwise, and such record shall be open for the inspection of any officer of Customs at all times and places; and should any master make any false entry in such record, or wilfully omit to make the proper entries thereon, he shall be liable to a penalty of twenty pounds sterling for each offence.

Penalty £20.

Transire to be delivered within 24 hours

VIII. Within twenty-four hours after the arrival of any coasting-ship at the port of discharge, and before any goods be unladen, the transire, with the name of the place or wharf where the lading is to be discharged noted thereon, shall be delivered to the Collector or other proper officer of Customs at such port of discharge, who shall note thereon the date of delivery; and if any goods be unladen contrary hereto, the master shall forfeit a sum not exceeding twenty pounds sterling, and if any goods shall be laden on board of any ship in any port or place in this Colony and carried coastwise, or having been brought coastwise shall be unladen in any such port or place contrary to these or any other lawful regulations relating to the coasting trade of this Colony, such goods shall be forfeited.

penalty £20.

Goods forfeited.

Prosecution, in whose name.

IX. Every suit for the recovery of any penalty or forfeiture under this Act shall be commenced in the name of the Collector or other principal officer of the Customs, or of Her Majesty's Attorney-General for this Colony; and if a question shall arise

whether the person suing is such a Collector or other principal officer of the Customs, *viva voce* evidence may be given of such fact, and shall be deemed legal and sufficient evidence.

X. Any officer of the Customs may go on board of any coasting ship in any port or place in this Colony, or at any period of her voyage, search such ship and examine all goods on board, and all goods then lading or unlading, and demand all documents which ought to be on board of such ship, and the Collector or other proper officer may require that all or any such documents shall be brought to him for inspection; and the master of any ship refusing to produce such documents, or to bring the same to the Collector or other proper officer when required, shall forfeit and pay the sum of twenty pounds sterling.

Boarding of ships by officers.

Penalty £20.

XI. The days fixed as Customs holidays, and the hours for general attendance of the respective officers of Customs at the proper offices and places of employment, and the times during such hours at which any particular part or parts of the duties of such officers respectively shall be performed by them, shall be the same as those provided in the general law for Customs management and regulations.

Holidays and hours of attendance.

XII. The forms to be used in carrying out the provisions of this Act shall, as near as may be, be those set forth in the first and second schedules hereto annexed, as the same shall be respectively applicable; and where any of such forms requires a declaration to be made thereto by a master, consignee, or other person, such declaration shall be made before the Collector or other proper officer of the Customs at the port where such declaration is required to be made.

Forms.

XIII. This Act shall take effect when and so soon as the Governor shall, by proclamation to be published in the *Government Gazette*, declare that Her Majesty has been pleased to assent to the same.

Commencement of Act.

## SCHEDULE I.

[Forms to be used for Ships exclusively employed in the  
Coasting Trade.]

## TRANSIRE.

Port of Ship's Name					Rotation No.
Whether British, or of what Country					
If British, Port of Registry					
Number of Crew		British Men, Country of Ship			
Name and Country of Master in full					
Name and Country of Owner					
Whether in Ballast or Laden		Tonnage			
Where bound					
Marks of Packages.	Number of Packages.	Names of the Shippers of the Goods, and where Shipped.	Quantity and Contents of every Package and Parcel of Goods on board, as far as any such particulars are known to the Master.		Names of the Consignees of the Goods, and where to be discharged.
			Number of Packages	Description of Packages and Con- tents.	

I declare the above to be a true account.

\_\_\_\_\_, Master.

Declared before me at the Custom-house and cleared  
this \_\_\_\_\_ day of \_\_\_\_\_, 18—.

\_\_\_\_\_, Sub-Collector.

Port of } LANDING SUFFERANCE.

Place within the Port where the goods are to be landed and unladen.

Custom-house, \_\_\_\_\_, 18

Suffer to be landed from on board the \_\_\_\_\_, whereof \_\_\_\_\_ is master, from \_\_\_\_\_, for account of consignees, \_\_\_\_\_, a cargo coastwise, consisting of goods, the growth, produce, or manufacture of this Colony, as also imported Articles upon which Customs duties have been paid, not including \_\_\_\_\_ as per master's report inwards or transire from \_\_\_\_\_.

No. \_\_\_\_\_, Sub-Collector.

Port of } SHIPPING SUFFERANCE.

Place within the Port where the goods are to be laden and shipped.

Custom-house, \_\_\_\_\_, 18

Suffer to be shipped on board the \_\_\_\_\_, whereof \_\_\_\_\_ is Master, \_\_\_\_\_, for account of shippers, \_\_\_\_\_, a cargo coastwise, consisting of goods, the growth, produce, or manufacture of this Colony, as also imported articles upon which the Customs duties have been paid, not including \_\_\_\_\_.

No. \_\_\_\_\_, Sub-Collector.

SCHEDULE II.

Form to be used for the delivery, free of Duty, of Goods which arrive at any Port in this Colony from any other Port in the same, in other than coasting ships.

LANDING SUFFERANCE.—FREE OF DUTY.

In the \_\_\_\_\_, whereof \_\_\_\_\_ is Master, from \_\_\_\_\_, \_\_\_\_\_, Consignee.

Packages.		Number of Packages.	Description, quality, and quantity, and whether such Goods are the growth, produce, or manufacture of this Colony, or Duty Paid on importation.	Value.		
Marks.	Numbers.			—	—	—
Total, £						

No. 26—1872.

I, \_\_\_\_\_, declare that the above is a true account of the goods specified, and that the goods and packages were *bonâ fide* shipped at the port of \_\_\_\_\_ in this Colony, for this port, and are entitled to be delivered free of duty.

Witness my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 18—.

\_\_\_\_\_, Consignee.

Place within the Port where the goods }  
are to be landed and unladen, } \_\_\_\_\_

Declared before me at the Custom-house,  
this \_\_\_\_\_ day of \_\_\_\_\_, 18—

No. — \_\_\_\_\_, Sub-Collector.

No. 1—1873.]

AN ACT

[June 26, 1873.]

To Confirm the Annexation to this Colony of the Islands, Islets, or Rocks, on the South-west Coast of South Africa, called Ichaboe, Holland's Bird, Mercury, Long Island, Seal Island, Penguin Island, Halifax, Possession Island, Albatross Rock, Pomona, Plumpudding and Roast Beef or Sinclair's Island.

Preamble.

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 behoof of Her Britannic Majesty Queen Victoria, and on her behalf: And whereas on the fifth day of May, 1866, certain other islands, islets, and rocks on the said south-west coast of South Africa, that is to say:—Holland's Bird, Mercury, Long Island, Seal Island, Penguin Island, Halifax, Possession Island, Albatross Rock, Pomona, Plumpudding and Roast Beef or Sinclair's Island, hereinafter called the Penguin Islands, were also duly taken possession of for behoof of her said



Majesty and on her behalf: And whereas by a proclamation dated the sixteenth day of July, 1866, by His Excellency Sir Philip Edmond Wodehouse, Knight Commander of the Most Honourable Order of the Bath, then the Governor of this Colony, the said island of Ichaboe and the said Penguin Islands were declared to be annexed to and form part of this Colony: And whereas it is expedient that the declarations in the said proclamation contained should be confirmed by the Parliament of this Colony by an Act 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:—

Confirming proclamation of 16th July, 1866, annexing Ichaboe and Penguin Islands to Colony.

I. The declarations contained in the said proclamation of the sixteenth day of July, 1866, shall be, and the same are, hereby confirmed; and the said Island of Ichaboe and the said Penguin Islands shall be held to have been duly annexed to and have formed part of the Colony from and after the date of the said proclamation.

II. Notwithstanding such annexation as in this Act is contained, 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.

To be deemed "foreign ports" for Customs purposes.

III. This Act may be cited for all purposes as the "Annexation of Ichaboe and Penguin Islands Act, 1873."

Short title.

No. 2—1873.]

AN ACT

[June 26, 1873.]

To Protect and Regulate the Rights of Authors in respect of their Works.

**W**HEREAS it is expedient to protect the rights of authors in this Colony in respect of their works, and to afford encouragement to the production of literary works of lasting benefit to the Colony: Be it enacted by the Governor of the

Preamble.

No. 2—1873

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

Duration of copy-  
right of books pub-  
lished during the  
author's lifetime.

I. The copyright in every book which shall after the passing of this Act be published in the lifetime of its author, shall endure for the natural life of such author, and for the further term of five years, commencing at the time of his death, and shall be the property of such author and his assigns : Provided, always, that if the said term of five years shall expire before the end of thirty years from the first publication of such book, the copyright shall in that case endure for such period of thirty years.

Of posthumous work.

II. The copyright in every book which shall be published after the death of its author shall endure for the term of thirty years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript from which such book shall be first published and his assigns.

Regulations for regis-  
try.

III. A registry book wherein may be registered, as hereinafter enacted, the proprietorship in the copyright of books and assignments thereof, shall be kept by the Registrar of Deeds, in his office in Cape Town, and shall at all convenient times be open to the inspection of any person on payment of one shilling for every entry which shall be searched for or inspected in the said book of registry ; and the Registrar of Deeds shall, whenever thereunto reasonably required, give a copy of any entry in such book, certified under his hand, to any person requiring the same, on payment to him of the sum of five shillings ; and such copies so certified shall be received in evidence in all courts, and shall be *prima facie* proof of the proprietorship or assignment of copyright as therein expressed, but subject to be rebutted by other evidence.

Mode of registering  
and assigning copy-  
right.

IV. It shall be lawful for the proprietor of copyright in any book heretofore published, or in any book hereafter to be published, to make entry in the registry book aforesaid of the title of such book, the time of the first publication thereof, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the

copyright of the said book, or of any portion of such copyright, upon payment to the Registrar of Deeds of the sum of five shillings; and it shall be lawful for such registered proprietor to assign his interest or any portion of his interest therein, by making entry in the said registry book of such assignment and of the name and place of abode of the assignee thereof, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed or other instrument.

V. If any person shall deem himself aggrieved by any entry made under colour of this Act in the said registry book, it shall be lawful for such person to apply by motion to the Supreme Court in term time, or to any judge of the Supreme Court in vacation, for an order that such entry may be expunged or varied, and thereupon such court or judge shall make such order for expunging, or varying, or confirming such entry, either with or without costs, as to such court or judge shall seem just; and the Registrar of Deeds shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same accordingly.

VI. If any person shall print or cause to be printed any book in which there shall be subsisting copyright without the consent in writing of the proprietor thereof, or shall import for sale from parts beyond the Colony any such book so printed in parts beyond the Colony, or, knowing such book to have been so unlawfully printed or imported, shall sell, publish, or expose for sale, or shall have in his possession for sale, any book so unlawfully printed or imported, without such consent as aforesaid, such offender shall be liable to an action for damages at the suit of the proprietor of such copyright.

VII. All copies of any book wherein there shall be copyright and of which an entry shall have been made in the said registry book, and which

No. 2—1873.

shall have been unlawfully printed or imported without the consent of the registered proprietor of such copyright in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such, and such registered proprietor shall, after demand thereof in writing, be entitled to demand delivery up to him of all existing copies, and to sue for and recover the same, or damages for the detention or conversion thereof, in an action against the party who shall detain the same.

Copy of every book published in colony to be presented to South African and Graham's Town Libraries.

VIII. A printed copy of the whole of every book which shall be published in this Colony after the passing of this Act, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be published, shall within three months after such book shall first be sold, published, or offered for sale within this Colony, be delivered gratis on behalf of the publisher thereof to the librarian of the South African Public Library, and also to the librarian of the Graham's Town Public Library; and if any publisher of any such book shall neglect to deliver the same, pursuant to this Act, he shall for every such default forfeit a sum of five pounds sterling, to be recovered by such librarians respectively for and on behalf of the said libraries.

Penalty for default.

Interpretation terms.

of IX. In the construction of this Act the word "book" shall be construed to mean and include every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, and map, chart, or plan separately published; the word "copyright" shall be construed to mean the sole and exclusive liberty of printing or otherwise multiplying copies of any book; and the word "assigns" shall be construed to mean and include every person in whom the interest of an author in copyright shall be vested, whether derived from such author before or after the publication of any book, and whether acquired by sale, donation, legacy, or by operation of law or otherwise.

Short title:

X. This Act may be cited for all purposes as the "Copyright Act of 1873."

No. 3—1873.]

AN ACT

[June 26, 1873.]

To Remove Doubts as to the Ownership of Immovable Property held in Trust for Unincorporated Joint-stock Companies and other Bodies, and for the Appointment, when necessary, of Trustees for such Companies or Bodies.

**W**HEREAS in and by the trust deeds or deeds Preamble. of settlement of divers unincorporated joint-stock companies formed in this Colony for trading purposes, it is amongst other things provided that all and singular the properties and effects belonging to such companies, respectively, shall be, and that the same are thereby, vested in trustees, to be from time to time appointed in manner and form as in the said deeds, respectively, set forth: And whereas as often as any such company purchases, or becomes otherwise entitled to, any immovable property for its use or benefit, the practice in this Colony has been to transfer such immovable property to the trustees of such company and to the trustees thereof for the time being: And whereas immovable property, acquired for the uses and purposes of religious, charitable, and educational associations, has been from time to time granted or transferred to certain office-bearers or other trustees for such associations, and to such office-bearers or other trustees for the time being: And whereas doubts have recently arisen whether, in regard to such joint-stock companies and to such associations, it is not necessary, in order that the ownership of immovable property granted or transferred in manner aforesaid shall pass to and vest in the trustees or office-bearers for the time being, that the out-going office-bearers or other trustees should make transfer in the Deeds Registry to their successors as often as any change in the persons of such office-bearers or other trustees takes place: And whereas it is expedient to remove such doubts by declaring that no such successive transfers shall

No. 3—1873.

be necessary : 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 :—

Interpretation  
terms.

I. In the interpretation of this Act the terms following shall have the meanings respectively assigned to them :

1. The term "company" shall comprise any company or co-partnership carrying on any trade or business in this Colony, whereof the capital stock shall be divided into shares transferable without express consent of all the shareholders or co-partners and any mutual assurance society, and whereof the shareholders or co-partners shall consist of not fewer than twenty-five persons.
2. The term "association" shall comprise any congregation, society, or denomination, Christian or otherwise, united for the public worship of Almighty God, as also every missionary society or other agency engaged in promoting the spread of religion and civilization amongst the native races ; and every school for the education of the poor, and every hospital for the relief of the sick, and every library, and every museum, which school, hospital, library, or museum shall be supported wholly or in part by subscriptions or donations, and be under the management of a committee or other board periodically chosen by the subscribers or donors. The term "association" shall also comprise every benefit society, masonic body, or other institution, not carrying on any trade or business, and consisting of not fewer than twenty-five members.
3. The term "office-bearers" shall, in regard to associations for the public worship of Almighty God, and in regard to missionary societies and other agencies for the spread of Christianity and civilization amongst the native races, comprise bishops of Episcopal churches, moderators of Presbyterian

churches, ministers of Congregational churches, general superintendents of Wesleyan districts and superintendents of Wesleyan circuits, consistories, elders, deacons, and generally all functionaries by whatsoever name called, who hold office in any church or denomination, whether Christian or not, or in any missionary society, or who form or act for any other such agency as aforesaid.

4. The term "trustee" shall comprise the persons in whom by the provisions of any trust deed or deed of settlement of any such company as aforesaid, the property, estate, and effects of such company shall for the time being be vested in trust for such company; and all persons not designated as office-bearers, in whom the property, estate, and effects of any such association as aforesaid shall for the time being be vested in trust for such association, as also the persons in whom the property, estate, or effects belonging to any such school, hospital, library, or museum as aforesaid shall by the rules and regulations thereof as agreed upon or established by the subscribers or donors to such school, hospital, library, and museum, be vested for the purposes thereof.

II. As often as any immovable property shall be or shall have been granted or transferred to the trustees of any company, in their capacity as such trustees, and to the trustees of such company for the time being, the trustees for the time being of such company shall be, and they are hereby declared to be, the owners in their said capacity of such property, as fully and absolutely as if the transfer of such property had been originally made to them, in their said capacity, by their own proper names; and no transfer in the Deeds Registry from any former trustee to any new trustee shall be necessary.

Trustees for the time being of any "company" to be owners of property held in trust without fresh transfer.

III. As often as any immovable property shall be, or shall have been, granted or transferred to

Office-bearers of any association to be owners in like manner.

No. 3—1873,

any office-bearer or office-bearers of any association, and to the bearer or bearers of such office or offices for the time being for the objects or purposes of such association, or to any trustees of or for any association, and to the trustees for the time being, for the objects or purposes aforesaid, such office-bearer or office-bearers or such trustees for the time being shall be, and they are hereby declared to be, the owner or owners, in his or their capacity, of such property, as fully and absolutely as if the grant or transfer of such property had been originally made to him or them in their said capacity, by his or their own proper name or names; and no transfer in the Deeds Registry from any former office-bearer or trustee to any new office-bearer or trustee shall be necessary.

Governor in Council may extend the provisions of the preceding section in certain cases.

IV. It shall be lawful for the Governor, with the advice of the Executive Council, to extend the provisions of the last preceding section so as to embrace the office-bearer or office-bearers, or the trustees of any charitable or educational association, not being such a school, hospital, library, or museum as aforesaid, to which association it shall seem right and proper, and in unison with the spirit of this Act, to extend such provisions; and a certificate signed by the Colonial Secretary and deposited in the Deeds Registry, to the effect that the association named in such certificate has been by the Governor, with the advice of the Executive Council, placed under the provisions of the last preceding section of this Act, shall for all purposes be conclusive evidence that such association has been so placed.

This Act not to extend to companies managed by any Ordinance or Act of Parliament.

V. Nothing in this Act contained shall extend to any company or association which shall, at the time of the taking effect of this Act, be regulated or managed under the provisions of any Ordinance or any Act of Parliament, or which may hereafter be regulated or managed under any such Act:

And whereas it is expedient that provision should be made for the appointment by the court of new trustees for any such company or association as aforesaid which may stand in need of such new trustees, and be without other means of lawfully appointing them, be it enacted as follows:—



VI. As often as by death, unsoundness of mind, resignation, failure to elect, absence from the Colony, or other cause, the trustees, or any of them of any such company, or the office-bearers or other trustees of any such association as is in this Act described, or of any association which, under the provisions of the fourth section of this Act shall be placed under the provisions of this Act, shall become incapable of acting in the execution of the trusts for such company or association, it shall be lawful for any person who shall be a member of or interested in such company or association to apply by petition to the Supreme Court, or (in case such company or association shall be one established within any of the districts over which the Court of the Eastern Districts has jurisdiction) to the Court of the Eastern Districts, for such order as he shall conceive himself entitled to, and he may by affidavit give such evidence in support of such petition as he shall think fit, and may serve notice of such petition upon such person or persons as he may think it needful or expedient to serve with such notice: Provided that upon or before the hearing of such petition the court in which it shall be pending may order service of notice of such petition upon any person or persons whom the court shall think fit, and may order such notice to be published in the *Government Gazette*.

VII. Upon the hearing of such petition the court may take such evidence by affidavit or *viva voce* as such court shall deem necessary, and by order appoint trustees for the time being for such company or association, and may by such order direct how new trustees for such company or association shall be afterwards from time to time appointed; and the trustees for the time being may be nominated and appointed by their proper names, or may be described as persons filling, for the time being, certain specified offices or positions, according as the court, having regard to the nature and circumstances of the company or association then in question, shall deem expedient and direct; and the court may by such order make such provision,

No. 3—1873.

Supreme or Eastern Districts Court may be moved to appoint new trustees when no other means of supplying vacancy exists.

In such cases Court may appoint trustees and regulate future appointments.

No. 3—1873.

if any, as may in the particular case appear to be required for the more effectual performance by the trustees of the trusts reposed in them.

Mode in which trustees may be appointed to unincorporated societies.

VIII. If in any case it shall happen that any immovable property shall have been granted or transferred to any unincorporated society or body established for religious, charitable, or educational purposes by the name borne by such society or body, and not through the instrumentality or intervention of office-bearers or other trustees acting for and representing such society or body, it shall be lawful for any person who shall be a member of, or interested in, such society or body, to apply by petition in manner and form as hereinbefore in the sixth section of this Act mentioned for the appointment of trustees for such society or body; and the court to which such petition shall be presented, proceeding in manner and form as in the sixth and seventh sections of this Act mentioned, may, if satisfied that the appointment of trustees to act for and represent such society or body is expedient, appoint such trustees; and the provisions of the seventh section shall in substance apply to the appointment of such trustees, and to the power of providing how new trustees shall be afterwards from time to time appointed, and to all other matters in the said seventh section contained.

Trustees appointed under 7th and 8th sections to be owners of property as in the 2nd and 3rd sections of this Act

IX. The trustees for the time being appointed under or in conformity with the provisions of the seventh or eighth sections of this Act shall be and are hereby declared to be the owners in trust of all the immovable property granted or transferred to, or for the benefit or purposes of, the company, association, society, or body for which such trustees shall have been appointed agreed to in like manner as is hereinbefore in the second and third sections provided in regard to the trustees and office-bearers therein mentioned; and shall also be, and are hereby declared to be, the owners in trust of all movable property belonging to such company, association, society, or body; and shall also be, and are hereby declared to be, invested in trust with all the rights, and entitled to all the claims of

And invested in trust with all rights and liabilities of such company, &c.

such company, association, society, or body, and to be subject as such trustees to all the liabilities of and demands against the same.

No. 3—1873.

X. This Act may be cited for all purposes as Short title. “The Companies and Associations Trustees Act, 1873.”

No. 4—1873.]

AN ACT

[June 23, 1873.

To Repeal the Eighteenth Section of Act No. 22 of 1872, and to enable the Commissioners of Table Bay Docks to fix the Tonnage of Goods subject to Dues.

**W**HEREAS it is expedient to repeal the Preamble. eighteenth section of Act No. 22 of 1872, and to substitute certain other provisions 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, as follows:—

I. The eighteenth section of Act No. 22 of 1872, Section 18 of Act No. 22 of 1872 repealed. intituled “An Act for the Management of the Docks and Breakwater of Table Bay,” is hereby repealed.

II. It shall be lawful for the commissioners Commissioners of Table Bay Docks to fix the scale of tonnage subject to certain provisions. provided for by the said Act from time to time to fix the scale of tonnage, either by weight or by measurement, of any goods being solids, whereon dock dues shall be payable under and by virtue of the provisions of the said Act: Provided, however, that such scale of tonnage shall not be valid or binding unless and until it shall have been approved of by the Governor with the advice of the Executive Council, and published in the *Government Gazette*: Provided, further, that of solids in regard to which no scale of tonnage shall have been fixed, approved of, and published in manner aforesaid, two thousand pounds by weight or forty cubic feet by measurement, whichever shall be of least bulk, and of all liquids, two hundred gallons, shall for the purposes of the said Act be deemed to be a ton.

No. 5—1873.]

AN ACT

[June 26, 1873.]

To Amend Act No. 16 of 1859, by enabling the Commissioners for improving the Port and Harbour of Algoa Bay to make Regulations for the better Management of the Breakwater and the Wharfs, Jetties, and Approaches belonging thereto.

Preamble.

WHEREAS it is expedient that the Commissioners for improving the Port and Harbour of Algoa Bay should be enabled from time to time to make regulations for the preservation of good order on the beach of Algoa Bay and on the breakwater, wharfs, jetties, and approaches belonging thereto: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice of the Legislative Council and House of Assembly thereof, as follows:—

Commissioners for improving the port and harbour of Algoa Bay to make certain regulations subject to the approval of the Governor and publication in *Gazette*, &c.

I. Subject to the provisions contained in the Act No. 16 of 1859, it shall be lawful for the said commissioners from time to time, with the approval of the Governor, to make all such necessary regulations to preserve good order on the beach of Algoa Bay and on the breakwater, wharfs, jetties, and approaches belonging thereto, as to the said commissioners shall appear proper; and with the like approval to alter and amend any such regulations: Provided, however, that all such regulations so approved of shall after the approval of the Governor be forthwith published in the *Government Gazette* and in one or more newspapers published in Port Elizabeth.

Penalties for contravening such regulations.

II. Any person contravening any such regulation as aforesaid shall be liable on conviction to such and the like penalty as in the said Act No. 16 of 1859 is provided.

No. 6—1873.]

AN ACT

[June 26, 1873.]

For Regulating the use of Locomotives on Turnpike and other Roads, and the Tolls to be levied on such Locomotives and on the Wagons and Carriages drawn or propelled by the same.

**W**HEREAS it is desirable that the use of loco- Preamble.  
motives on the public roads of the Colony should be regulated by uniform general provisions, and that tolls should be levied upon such locomotives and the wagons or carriages drawn by such locomotives upon the said roads: 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 all Tolls may be de-  
divisional councils and other public bodies or manded.  
authorities, acting lawfully in the management, custody, and maintenance of any public road in this Colony, and entitled to demand tolls thereon in respect of vehicles drawn by animal power, may demand and take tolls at any toll-bar or place at which they may respectively be entitled to demand tolls, not exceeding the following, that is to say:—

For every locomotive containing within itself the Rate for locomotives  
machinery for its own propulsion, a toll equal to four times the amount of toll which would be legally payable in respect of such locomotive at such toll-bar or other such place as aforesaid if the said locomotive were an ordinary vehicle running on wheels and drawn by horses, mules, or other cattle.

For every wagon, cart, or other vehicle drawn or Rate for wagons, &c.,  
drawn by same.  
propelled by such locomotive, as aforesaid, a toll of the like amount as would be payable in respect of such wagon, cart, or other vehicle if the same were drawn by horses, mules, or other cattle.

II. It shall not be lawful for the owner or driver Locomotives not to  
be driven over certain  
bridges without con-  
of any locomotive to drive it over any suspension sent.

No. 6—1873.

Officer to be appointed by Governor in case of dispute.

bridge, nor over any bridge on which a conspicuous notice has been placed by the authority of the persons or public body liable to the repair of the bridge, that the bridge is insufficient to carry weights beyond the ordinary traffic of the district, without previously obtaining the consent of such persons or public body; and in case such owner of the locomotive and such persons or public body as aforesaid shall differ in opinion as to the sufficiency of any bridge to sustain the transit of the locomotive, then the question shall be determined by an officer to be appointed on the application of either party by the Governor, whose certificate of sufficiency of such bridge shall entitle the owner of the locomotive to take the same over such bridge.

Damage to any bridge to be repaired by owner of locomotive.

III. Where any public roads upon which locomotives are or hereafter may be used, pass, or are or shall be carried over or across any stream or watercourse, river, canal, or railway, by means of any bridge or arch, whether stationary or movable, and such bridge or arch, or any of the walls, buttresses, or supports thereof shall be damaged by reason of any locomotive or any wagon or carriage drawn or propelled by or together with a locomotive passing over the same or coming into contact therewith, every such damage shall be forthwith repaired to the satisfaction of the persons or public body liable to the repair of such bridge or arch by and at the expense of the owner or owners of or the person or persons having the charge of such locomotive at the time of the happening of such damage: Provided, always, that if the repair be not done forthwith, it shall be in the power of the body having the management of the road and bridge to have the repair done at the expense of the owner of the locomotive having done the damage.

Locomotive not to be so constructed or used as to be a nuisance.

IV. Nothing in this Act contained shall authorize any person to use a locomotive which may be so constructed or used as to be a public nuisance at common law, and nothing herein contained shall affect the right of any person to recover damages in respect of any injury he may have sustained in consequence of the use of a locomotive. But any

Damages may be recovered for injury.

locomotive not being such a nuisance as aforesaid may, except as hereinafter is excepted, lawfully be used on any public road.

No. 6—1873.

V. Upon receipt of a report from the divisional council of any division to the effect that the use of such locomotive as aforesaid upon any mountain pass within such division would be dangerous to the public safety, it shall be lawful for the Governor, with the advice of the Executive Council, if upon inquiry such report should be found to be correct, to order, by a notice to be published in the *Government Gazette*, that no such locomotive shall be used upon such mountain pass, and any person who shall after the date of such notice use any locomotive on such pass, shall for or in respect of each occasion on which he shall use the same be liable to a penalty of ten pounds sterling.

Governor in Council on report of divisional council may order that locomotives are not to be used on any mountain pass.

VI. This Act may be cited as “The Locomotives Act, 1873.” Short title.

No. 7—1873.]

AN ACT

[June 26, 1873.]

To Repeal the Twenty-third Section of Ordinance No. 73 of 1830, intituled “An Ordinance for explaining, altering, and amending the Ordinance No. 10.”

WHEREAS it is expedient to repeal the twenty-third section of Ordinance No. 73 of 1830, and to re-enact the sixtieth section of Ordinance No. 40 of 1828: 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 twenty-third section of Ordinance No. 73 of 1830 is hereby repealed, and the sixtieth section of Ordinance No. 40 of 1828 is hereby re-enacted. Repealing section 23 of Ordinance 73 and re-enacting section 60 of Ordinance 40.

No. 8—1873.]

AN ACT

[June 26, 1873.]

For Enabling the several Divisions of this Colony to obtain a Force or Additional Force of Police by contributing towards the Expenses thereof.

Preamble.

**W**HEREAS it is expedient that the several divisions of this Colony should be enabled, if so willing, to obtain the services of a force or an additional force of police, as the case may be, by contributing towards the expenses of raising and maintaining such force or an additional force : 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 Assémbly thereof, as follows :—

Governor may, on petition, arrange with divisional council the number of police required, and furnish said Council with estimate of cost for one year.

I. On the receipt of a petition from the divisional council for any division signifying the desire of such council that a force or an additional force, as the case may be, of police, mounted or unmounted, or partly mounted and partly unmounted, should be raised and maintained for the purpose of preserving order and repressing crime within such division, the Governor may arrange with the council preferring such petition the number or additional number of men which will be required for the purpose aforesaid, and furnish such council with an estimate of the cost of raising and maintaining such force or additional force for the year next ensuing the raising of the same.

On payment of one-third of estimated cost by divisional council.

II. If the divisional council shall, on receipt of such estimate, be willing to contribute one-third of the estimated amount, it shall pay to the civil commissioner for the behoof of Her Majesty, in her colonial revenue, such third of such estimated amount, and the civil commissioner shall forthwith grant his receipt for the same, and shall inform, or the divisional council may inform, the Governor that such amount has been so paid as aforesaid, and on the Governor being satisfied of such payment, it shall be lawful for him to authorize the appointment and employment by the resident magistrate of the district of such force or additional force in and for such division as the Governor shall have

Governor may authorize resident magistrate to appoint police force.



approved of during the year next ensuing such payment as aforesaid : Provided that in any division where there is more than one resident magistrate, the divisional council for that division shall apportion the number of the police force to be appointed by each magistrate in such division.

No. 8—1873.

Divisional council to apportion when more than one magistrate in division.

III. A true and correct account shall be kept of the cost in each division of the police force or additional police force raised and maintained under the provisions of this Act, and a copy or abstract of such account, or of such part thereof as relates to each division, shall be furnished to the divisional council of such division at the expiration of the year, reckoning from the date of such payment as aforesaid to the civil commissioner; and if the third of such actual expenditure shall exceed the amount so paid as aforesaid to the civil commissioner, then the divisional council shall make good the excess of the third of the actual expenditure over the amount so paid as aforesaid, by paying such excess to the civil commissioner on behalf of the colonial treasury; but if the third of such actual expenditure shall fall short of the amount so paid as aforesaid, then the balance shall be repaid by the colonial treasury to the divisional council which shall have paid such amount as aforesaid, or shall be allowed in account by the civil commissioner to such divisional council on its next payment, if any, under the provisions of this Act.

Accounts to be furnished to divisional council annually.

Mode of procedure if estimate be exceeded or otherwise.

IV. As to every year succeeding the first in which any such payment as aforesaid shall have been made by any divisional council to the civil commissioner for the purposes of this Act, the Governor shall, within the first three months after the commencement thereof, dating from the time of such first payment as aforesaid, furnish such council with an estimate of the cost of maintaining such force, or additional force, as the case may be, for the succeeding year, and if the third of such estimated cost shall be paid by such council to the civil commissioner on or before the termination of three calendar months from the anniversary of such payment as aforesaid, as well as any excess

In succeeding years new estimate of cost to be furnished and one-third paid by divisional council with excess, if any;

No. 8—1873.

by which the third of the actual expenditure occasioned by such force or additional force, as the case may be, shall have exceeded the third of the original estimate so paid as aforesaid, then it shall be lawful for the Governor to maintain the like force to be stationed within such division during the year next ensuing the anniversary of such first payment as aforesaid; but if such sum and such excess, if any, or any part thereof, respectively, shall not be paid as aforesaid, then such force shall be disbanded or withdrawn from such division, and such council shall immediately be compelled to pay to the colonial treasury all such excess as last aforesaid, and further one-twelfth part of the estimated cost of such force or additional force, as the case may be, for the year whereof such three months as aforesaid shall have expired, unless such notice as is hereinafter provided of the intention of such division to discontinue the maintenance of such force shall have been duly given.

Force to be disbanded or withdrawn on non-payment.

Course to be adopted in years succeeding the first year.

V. A like account shall be kept and rendered as to every year succeeding the first year in which any such force shall be maintained as is hereinbefore provided regarding the first year, and the like course shall be followed as to any difference or balance, if any, between the third of the estimate paid and the third of the actual expenditure for the past year, as is provided in respect of the first year in which such force shall be maintained under the provisions of this Act.

What notice, &c., necessary when divisional council desirous to cease to maintain such force.

VI. If any divisional council shall be desirous to cease to maintain such force or additional force as aforesaid, or any portion thereof, such council may, by resolution duly forwarded by address to the Governor, make known the wish of such council at any time not less than three months before the expiration of the year for which provision shall have been already made, and the Governor shall on the receipt of such address within such three months, make provision for disbanding or otherwise disposing of the said force or additional force, or portion thereof, as the case may be; and if such notice shall have been duly forwarded in proper

time as aforesaid, the divisional council shall be bound to pay to the colonial treasury only the sum, if any, by which the third of the actual expenditure for the current year may exceed the third of the estimated expenditure therefor already paid in respect of such force, or additional force, as the case may be, and any payment to be made for the succeeding year shall be only for such force as such divisions shall desire to continue to maintain, if any.

VII. The divisional council for every division within which any force or additional force of police shall be stationed under the provisions of this Act may, out of funds at its disposal, make such payments to the civil commissioner as hereinbefore are provided to be made, or, if necessary, levy a special rate for this purpose, and such rate shall be assessed and levied by such divisional council in like manner as road rates are assessed and levied.

Divisional council may levy a special rate if necessary.

VIII. The police or additional police to be raised and maintained under the provisions of this Act shall, save as is hereinafter excepted, be deemed to be under the orders and directions of the resident magistrate of the district to which the same belong, subject to such rules and regulations as the civil commissioner of the division, in concurrence with the divisional council of the division, shall frame, and the Governor shall approve of.

Police to be under orders of magistrate, subject to certain rules.

IX. All such police as aforesaid shall, save as is hereinafter excepted, be deemed and taken to be appointed under the Ordinance No. 25 of 1847, intitled "An Ordinance for Improving the Police of the Colony," and shall possess all the powers and perform all the duties belonging to the members of the police force in the said Ordinance mentioned.

Powers and duties of police.

X. It shall be lawful for the Governor, in the case of any war or other emergency, to employ any of the police raised under the provisions of this Act for the purpose of assisting in the defence of the Colony, and to place such police under the orders and directions of such person as the Governor shall appoint in that behalf, and such police

Police may be employed in colonial defence.

No. 8—1873.

Expense whilst so employed to be borne by general revenue.

If divisional council pays half the expense of police, they are not to be removed without consent of such council.

Short title.

while so employed shall possess the powers and be subject to the rules and regulations appertaining to the force of Armed and Mounted Police : Provided, however, that, at the expiration of any year during which any police shall have been so employed by the Governor for any period, the divisional council which shall have contributed towards the expenses of such police under the provisions of this Act shall be entitled to receive from the colonial treasury a sum of money equal to one-third of the estimated cost of maintaining such police within such division for such period of employment as aforesaid ; but if the divisional council of any division shall offer and agree to pay, and shall pay, one-half of the expense for raising and maintaining such police force or additional police force for such division, it shall not be lawful to remove such police force from such division for employment elsewhere without the concurrence and consent of such divisional council, signified by resolution adopted at any meeting of the same.

XI. This Act may for all purposes be cited as the " Divisional Police Act, 1873."

No. 9—1873.]

AN ACT

[June 26, 1873.]

For Authorizing certain Expenditure not provided for by Parliament in the Year 1871.

Preamble.

WHEREAS divers public moneys, amounting in all to the sum of twenty-five thousand five hundred and twenty-eight pounds sixteen shillings and ten pence sterling, have been necessarily advanced during the year 1871 by authority of the Governor of this Colony, but without the previous authority of the Parliament : And whereas these advances have been found to have been duly applied to and expended upon certain necessary expenses 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 twenty-five thousand five hundred and twenty-eight pounds sixteen shillings and ten pence sterling, in addition to the sums already provided for the service of the year 1871, which shall be applied and accounted for in the manner specified in the schedule hereunto attached.

Additional expenditure for 1871 authorized.

### SCHEDULE.

For the expenditure of the

Civil Establishment	...	...	...	£1,163	2	1
Judicial do.	...	...	...	83	17	8
Medical do.	...	...	...	83	3	9
Border Department (Aborigines)	...	...	...	2,468	0	4

### Services exclusive of Establishments.

Charitable allowances	...	...	...	21	3	9
Hospitals	...	...	...	1,150	9	11
Rent	...	...	...	105	13	1
Transport	...	...	...	1,530	18	7
Works and buildings	...	...	...	8,327	7	10
Miscellaneous	...	...	...	1,417	17	6
Do. Parliamentary	...	...	...	156	0	10
Do. Railways	...	...	...	143	16	5
Do. Special payments	...	...	...	8,895	15	1
Total	...	...	...	£25,528	16	10

340 UNAUTHORIZED EXPENDITURE ACT, 1872.

No. 10—1873.] AN ACT [June 26, 1873.

For authorizing certain Expenditure not provided for by Parliament in the Year 1872.

Preamble.

WHEREAS divers public moneys, amounting in all to the sum of eighteen thousand and twenty-two pounds one shilling and eight pence sterling, have been necessarily advanced during the year 1872 by authority of the Governor of this Colony, but without the previous authority of the Parliament: And whereas these advances have been found to have been duly applied to and expended upon certain necessary expenses 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:—

Additional expenditure for 1872 authorized.

I. The public revenue of the Colony is hereby charged with a further sum of eighteen thousand and twenty-two pounds one shilling and eight pence sterling, in addition to the sums already provided for the service of the year 1872, which shall be applied and accounted for in the manner specified in the schedule hereunto attached.

SCHEDULE.

For the expenditure of the Civil Establishment	£	s.	d.
... ..	222	4	5
Services exclusive of Establishments.			
Transport	568	7	2
Works and buildings	3,610	4	5
Miscellaneous	3,951	19	5
Do. Parliamentary	669	8	7
Special payments	3,292	15	2
Railways	5,707	2	6
Total,	£18,022	1	8

No. 11—1873.]

AN ACT

[June 26, 1873.

To Provide for lodging the Accounts of Executors, Tutors, Curators, and Trustees in the Offices of the Resident Magistrates of the respective Districts in which the Estates administered are situated.

**W**HEREAS by the thirty-third section of the Ordinance No. 104 it is enacted and provided that every executor, whether testamentary or dative, shall, so soon as the estate under his administration shall have been fully administered and distributed, lodged with the Master of the Supreme Court and the resident magistrate of the district in which such estate was situated a full and true account of the whole administration and distribution of such estate ; and whereas the provision of the said section, so far as relates to lodging such accounts as aforesaid with the resident magistrate, has not hitherto been generally observed : And whereas it is expedient to provide for more effectually carrying the object of the said section into effect, and at the same time to make similar provision in regard to the accounts of tutors, curators, and trustees administering insolvent estates, and otherwise to provide for better means of information in the country districts in regard to the estates of deceased and absent persons, minors and lunatics : 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. So much of the Ordinances numbered 104 and 105 respectively, and of the Ordinance numbered 6, 1843, as may be repugnant to or inconsistent with the provisions of this Act is hereby repealed.

II. Every executor, whether testamentary or dative, who shall pursuant to the provisions of the thirty-third section of the Ordinance No. 104, and every tutor, either testamentary or dative, and every curator, either nominate or dative or bonis, who shall, pursuant to the provisions of the thirty-

Preamble.

Repugnant laws repealed.

Certain accounts to be lodged with Master in duplicate.

No. 11—1873.

eighth section of the Ordinance No. 105, be bound to lodge with the Master of the Supreme Court the certain accounts in the said sections of the said Ordinances respectively mentioned; and every trustee who shall pursuant to the provisions of the 108th and 114th sections respectively of the Ordinance No. 6, 1843, be bound to frame and lay before the Master of the Supreme Court an account and plan of distribution of the assets of any insolvent estate, shall at the same time lodge with the said Master a duplicate, or otherwise a copy, of every such account or accounts and plan of distribution, as the case may be; and every such executor, tutor, curator, or trustee who shall fail or neglect to lodge such duplicate or copy as aforesaid shall be deemed and taken to be in the like plight and condition as if no account had ever been lodged or tendered at all: Provided that in regard to any such executor as aforesaid the lodging of such duplicate or copy with the Master shall be in place and instead of lodging an account with the resident magistrate, as required by the thirty-third section of the Ordinance No. 104.

Consequence of failure to lodge account in duplicate.

Such lodgment by an executor to be instead of lodgment with magistrate.

Master to endorse date of filing and confirmation of accounts and to examine and sign same.

III. The Master of the Supreme Court shall, when any such account as is in the last preceding section mentioned has been approved and filed in his office, endorse upon every duplicate or copy the date upon which such account was filed, or in regard to any insolvent estate the date upon which such account was confirmed by order of the Supreme Court; and as to every copy lodged as aforesaid shall cause the same to be examined and authenticated with his signature.

Master to forward duplicates to magistrates.

IV. The Master aforesaid shall, as soon as may be after the expiration of every month, forward the duplicates, or copies authenticated as aforesaid, of all 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.

Wills, codicils, death notices, inventories, &c., to be lodged in duplicate with magistrate, who shall examine and sign same.

V. Every person who shall by virtue of the third, ninth, and eighteenth sections, respectively, of the Ordinance No. 104 be bound and obliged to deliver



or transmit to the resident magistrate of the district in which he shall reside, either directly or through the field-cornet of the field-cornetcy in which any death shall occur, any deed being or purporting to be the last will, codicil, or other testamentary instrument of any deceased person, or any notice of the death, or inventory of the goods or effects of such deceased person, shall at the same time deliver or transmit, as the case may be, a duplicate or otherwise a copy fairly written of every such deed, death notice, or inventory aforesaid; and every resident magistrate receiving any such deed, death notice, or inventory, and a duplicate or copy thereof, shall cause every copy to be examined and compared with the original, and, if need be, corrected, and shall authenticate such duplicate or copy with his signature.

VI. Every resident magistrate receiving such duplicates or copies of documents as are hereinbefore in this Act mentioned shall cause the same to be preserved and registered; and any person may on any day, Sundays and holidays excepted, inspect and take copies thereof.

Magistrates to register such duplicates for inspection.

VII. Whenever any duplicate original document shall, under the provisions of this Act, have been lodged in the office of any resident magistrate, a copy or extract thereof, signed and certified as a true copy or extract by the resident magistrate having the custody of such document, and every such copy authenticated by the resident magistrate or Master of the Supreme Court, as the case may be, as shall under the provisions of this Act have been lodged in the office of any resident magistrate, shall be admissible in evidence in any court of justice, or before any person having by law or consent of parties authority to hear, receive, and examine evidence.

Copy authenticated by magistrate or Master to be admissible in evidence.

VIII. This Act may be cited for all purposes as the "Executors and Trustees Accounts Act 1873."

Short title.

No. 12—1873.]

AN ACT

[June 26, 1873.]

To Provide for the Granting of Titles in Freehold to the Inhabitants of certain Missionary Institutions, and for the better Management of such Institutions.

Preamble.

WHEREAS divers tracts of land in this Colony have at various times and in various ways been acquired by the London Missionary Society for the purpose of founding certain missionary institutions, and it is desirable to give to the inhabitants of the said institutions, on certain conditions, titles in freehold of the portions of land heretofore respectively occupied by them, free of transfer dues and expenses of survey; and whereas the inhabitants of the said institutions have hitherto been under the secular as well as the religious control of the missionaries of the said society, and it is desirable that the connection in secular matters between the said society and the said inhabitants should cease, and that under such altered circumstances, new rules and regulations should be framed for the better management of the said institutions in lieu of those heretofore in 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:—

Governor to appoint surveyors to divide and allot land of certain missionary institutions.

I. It shall be lawful for the Governor to authorize and appoint one or more duly qualified land surveyors to survey and divide such tracts of land in this Colony as shall, at the time of the passing of this Act, be in the lawful occupation of the missionary institutions of the London Missionary Society, and such surveyor or surveyors, acting under such instructions as they shall from time to time receive from the Governor, shall divide the said tracts of land in such a manner as to allot to the respective occupiers thereof such portions of land as they shall at the time of such survey be entitled to occupy under and by virtue of the customs in force in such institutions respectively; and in case there shall be

Disputes to be decided by Governor.

any dispute as to whether any person is entitled as aforesaid to any allotment of land, or as to the extent of land which ought to be allotted to any occupier, it shall be lawful for the Governor to decide whether any and what extent of land ought to be allotted to such person or occupier.

II. It shall be lawful for the Governor to cancel and annul the grant of a certain tract of land occupied by the missionary institution of Zuurbraak to the London Missionary Society in trust for the native races belonging to the said institution of Zuurbraak, dated the eleventh day of December, 1858, and the grant of a certain tract of land occupied by the missionary institution of Dysselsdorp to the missionary institution of Pacaltsdorp, dated the twelfth day of April, 1849, and to grant, free of quitrent, but subject to all other reservations usual in quitrent grants of Crown land in this Colony, to the respective occupiers of land in the said institutions of Zuurbraak and Dysselsdorp, and of the institutions of Pacaltsdorp and Bethelsdorp, such portions of such land as aforesaid as shall, under and by virtue of the last preceding section have been respectively allotted to them, or in cases of dispute, as the Governor shall decide ought to have been so allotted.

Governor to cancel grants of certain lands to missionary institutions and grant titles to individual occupiers of such land as allotted under first section.

III. It shall be lawful for the board of directors of the London Missionary Society, by a resolution, in writing, signed by the chairman and secretary of the said board, to authorize and appoint one or more persons to transfer the tracts of land occupied by the missionary institutions of Hankey and Kruisfontein, and belonging to the said society, and the person or persons so authorized and appointed shall forthwith transfer to the respective occupiers of the said institutions of Hankey and Kruisfontein such portions of land as shall have been respectively allotted to them, and the effect of such transfer shall be to vest in the respective transferees as full right and title to the portions of land respectively transferred to them as was vested in the said board of directors, or other the transferees of the farm Gamtoos River Wagondrift, and one-

London Missionary Society authorized to appoint persons to transfer lands at Hankey and Kruisfontein to individual occupiers.

No. 12—1873.

Occupiers of land at Hankey to have certain rights of grazing, subject to regulations

fourth share of the farm Fenstershoek, forming together the institution of Hankey, and the farm Kruisfontein, respectively, under and by virtue of the deeds of transfer to them of those lands, dated respectively the twenty-ninth day of March, 1822, the fifth day of September, 1845, and the second day of July, 1857: Provided that the said board of directors of the London Missionary Society, and all persons to whom any portion of land in the institution of Hankey shall be let by the said directors or shall be transferred as aforesaid, shall have the full right of grazing their sheep and cattle upon such tract of Crown land adjoining the institution, and called Zoetekloof, as shall hereafter be defined by the Governor, by proclamation in the *Government Gazette*, subject to such regulations as are hereinafter mentioned: Provided, also, that all persons to whom any portion of the land heretofore used as an outspan-place for the use of the public shall have been transferred, shall have the full right to occupy, cultivate, and build upon their respective portions: Provided, however, that after such transfer as aforesaid, the whole of the land heretofore used as commonage shall be and become a free outspan-place for the use of the public.

Survey expenses to be paid out of general revenue and transfer dues remitted:

IV. It shall be lawful for the Governor to pay out of Her Majesty's colonial revenue to such land surveyors as aforesaid the expenses of survey which shall be incurred for the purpose of carrying out the provisions of this Act, and to remit to the persons to whom any portion of land shall be granted or transferred, under and by virtue of the provisions of this Act, all duties otherwise due and payable to Her Majesty's colonial revenue in respect of any such grant or transfer as aforesaid: Provided, however, that nothing in this section contained shall be held to apply to any expenses of survey, or to the remission of any duties on any land which may be granted or transferred in connection with the institutions of Hankey and Kruisfontein.

Not to apply to Hankey and Kruisfontein

Land so granted not to be alienated for ten years without Governor's consent.

V. In all grants made or deeds of transfer passed under the provisions of this Act there shall be

inserted a condition to the effect that the land so granted or transferred in any missionary institution shall not for a period of ten years from and after the taking effect of this Act be alienated or transferred to any person unless consent of the Governor shall have been first had and obtained.

VI. For a period, of ten years after the taking effect of this Act no licence shall be granted authorizing the sale of wines or spirituous or fermented liquors on any portion of the lands which shall be granted or transferred under the provisions of this Act, unless three-fourths in number of the occupiers of land, situated within the limits of what at the time of the taking effect of this Act formed the missionary institution in which the land whereon it is desired to carry on such sale of wines or spirituous or fermented liquors as aforesaid is also situate, shall have signified their assent, in writing, to the granting of such licence, and any licence which may purport to have been granted by or in consequence of the determination of any licensing board in contravention of this provision shall, for all purposes, be null and void; but nothing in this section contained shall interfere with the right of any licensing board to refuse any application for a licence to retail wines or spirituous or fermented liquors on such lands as aforesaid.

VII. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time to make, alter and amend all such regulations as may be required for the preservation of the health of the community in any of the said missionary institutions, for the proper control and equitable distribution of all streams and springs of water, and of the salt and saltpans belonging to such community or to the use of which such community may be entitled, or which such community has possessed, for the due management of the commonage and regulation and protection of the rights of pasturage thereon, for the preservation of the timber and brushwood growing on such commonage, and for the prevention and removal of nuisances within the limits of any such institution

No. 12—1873.

Licence for selling wines, &c., in missionary institutions not to be granted for ten years without the assent of three-fourths of the occupiers of the land in such institutions.

Governor in Council to make regulations for such institutions.

No. 12—1873.

as aforesaid, due regard being had to the customs heretofore in force in such institutions.

Governor may impose certain penalties for contravention of such regulations.

VIII. It shall be lawful for the Governor, by such regulations as aforesaid, to provide that any persons contravening any such regulations may, on conviction by the resident magistrate of the district in which such contravention shall take place, be sentenced to pay a fine not exceeding five pounds sterling, or in default of payment thereof, to imprisonment with or without hard labour for any term not exceeding one month.

Regulations to be published in *Gazette*.

IX. All regulations and alterations and amendments thereof which shall be made in conformity with the provisions of this Act shall be published in the *Government Gazette*, and shall thereupon have the force of law for all purposes mentioned therein and allowed thereby.

Private rights of individual occupiers not to be affected by this Act.

X. Nothing in this Act contained shall be deemed or construed to take away, alter, or affect any private rights or privileges which may, at the time of the promulgation of this Act, be lawfully vested in any individual occupiers of land in any of the said missionary institutions.

Interpretation clause.

XI. Wherever in this Act the terms "missionary institution" or "missionary institutions" are used without specifying any particular institution, the terms shall be deemed and taken to denote and include the following institutions, to wit:—

Bethelsdorp, in the Division of Port Elizabeth,  
Dysselsdorp, in the Division of Oudtshoorn,  
Pacaltsdorp, in the Division of George, and  
Zuurbraak, in the Division of Swellendam.

Short title.

XII. This Act may be cited for all purposes as the "London Missionary Society's Institutions Act, 1873."

No. 13—1873.]

AN ACT

[June 26, 1873.]

To Provide for constructing, equipping, and working of a Railway from Port Elizabeth to the Bushman's River, and a Railway from Wellington to Worcester.

**WHEREAS** it is expedient that a railway should be constructed, equipped, maintained, and worked from Port Elizabeth to the Bushman's River, and that a railway should also be constructed, equipped, maintained, and worked from Wellington to Worcester, and that the necessary funds for constructing and equipping such 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:—

I. The Governor shall, as soon as conveniently may be after the passing of this Act, cause to be constructed, equipped, maintained, and worked the railways in the preamble of this Act mentioned, 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.

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 picking or boring in order to ascertain the nature of the soil or of setting out the line 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.

III. All and singular the powers and authorities which are by the Act No. 9 of 1858, intituled "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

Preamble.

Railways to be constructed and worked from Port Elizabeth to Bushman's River and from Wellington to Worcester, and officers appointed by Governor.

Lands may be entered upon subject to compensation to owners.

Provisions of Road Act, 1858, as to acquiring lands, &c., for road purposes, to apply to lands, &c., for railways.

No. 13—1873.

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.

Notice to absent proprietors, if published in *Gazette*, to be sufficient.

Injuries to railway lines to be regulated by provisions of Act 9 of 1858, as to main roads.

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 Railways Regulation Act 1861, except 29th and 30th sections, to apply.

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.

Loan of £660,000 to be raised, £345,000 to be applied to Port Elizabeth railway and £315,000 to Worcester railway.

VI. For the purpose of constructing the said railway from Port Elizabeth to Bushman's River, for which the sums of thirty thousand and one hundred thousand pounds respectively have already been authorized by resolution of both Houses of Parlia-



ment, and the said railway from Wellington to Worcester, for which the sum of forty thousand pounds has already been authorized in manner aforesaid, it shall be lawful for the Governor to raise, as hereinafter mentioned, a sum not exceeding six hundred and sixty thousand pounds sterling, whereof the sum of three hundred and forty-five thousand pounds sterling shall be applied for the purpose of constructing and equipping the said railway from Port Elizabeth to the Bushman's River, and a sum not exceeding three hundred and fifteen thousand pounds sterling for the purpose of constructing and equipping the said railway from Wellington to Worcester.

VII. The said sum of six hundred and sixty thousand pounds sterling may be raised from time to time, as it may be deemed expedient by the Governor, either by debentures or stock, or partly by debentures and partly by stock.

Loan to be raised by debentures or stock.

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.

Mode of issuing debentures.

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

Provisions under which stock shall be issued.

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.

Stock to be issued by scrip certificate.

No. 13—1873.

To bear interest at  $4\frac{1}{2}$   
per cent.

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 certificates, 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 demands 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 Treasury in Cape Town.

Stock and interest to  
be paid out of general  
revenue.

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.

Mode of transfer of  
stock.

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.

Fee on transfer of  
stock.

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: Pro-

vided 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. 13—1873.

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.

Tenders for stock to be called for.

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.

Accounts to be kept.

X. Any debentures which may be issued under this Act shall be subject to the provisions of the "Public Debt Consolidation Act, 1870," in like manner as if they had existed at the time of the passing of the said Act, and were included in the schedule thereto.

Debentures to be subject to Debt Consolidation Act.

XI. 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 have been outstanding, and of all such sums thereof as shall from time to time be brought 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.

Accounts to be laid before Parliament annually.

No. 13—1873.  
Short title.

XII. This Act may be cited for all purposes as the "Railway Act, 1873."

No. 14—1873.]

AN ACT

[June 26, 1873.

To Regulate the Disposal of certain Diamonds and other Property.

Preamble.

WHEREAS, on or about the 9th day of May, 1872, a mail-bag in which were certain post letters and packages containing diamonds, money, and possibly other property, was stolen from the post office at De Beer's New Rush, Griqualand West: And whereas a great many of the said diamonds were brought by the person who stole the same into this Colony, and are now deposited in the Public Treasury: And whereas some of the said stolen diamonds were sold or otherwise disposed of by the said thief, but some of the proceeds or supposed proceeds thereof were recovered and are also deposited in the said Treasury and elsewhere: And whereas, few, if any of the said diamonds so stolen as aforesaid, can be identified by the persons to whom the same belong: And whereas public notice has been given in South Africa and elsewhere, calling upon persons having any claim to or interest in any of the said diamonds or other property so stolen as aforesaid, to send in their claims to the clerk of the peace at Cape Town, not later than the 31st day of March, 1873, copy of which notice is inserted in the schedule hereto: And whereas many claims have been made to the said diamonds and other property, but by reason of the difficulty of identifying the said diamonds, and otherwise, it is impossible to distribute the same, and the said other property effectually and properly under the ordinary law: 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:—

I. Forthwith, after the taking effect of this Act, the Governor shall appoint a commission, consisting of three members, for the purposes hereinafter mentioned.

No. 14--1873.

Commission to be appointed.

II. The said commission shall, with all convenient speed, appoint a time for hearing and investigating the claims which have been made to and in respect of the diamonds and other property in the preamble of this Act mentioned, and which have been already sent in to the clerk of the peace at Cape Town, pursuant to the notice aforesaid.

Commission to appoint time for hearing claims.

III. At the time so appointed for hearing and investigating the said claims, the said commission shall, in a summary manner, and with as little cost to the parties as may be, proceed to hear and investigate the same, and to decide what claims shall be admitted and what claims shall be rejected, and as to any which are admitted, for what amount in money the same are to be admitted, and who is entitled to such money; and the decision of the said court shall be binding and conclusive.

Commission to decide claims in a summary manner.

IV. The said commission shall have power to adjourn from time to time, as may be necessary.

Power to adjourn.

V. Any claimant may appear before the said commission in person or by attorney; and with respect to any claimant who may be out of this Colony, no power of attorney shall be necessary to authorize any person to appear for such claimant: Provided it be proved to the satisfaction of the said commission that the person proposing to appear for such claimant is authorized so to appear; and provided that in case no person shall be authorized to appear for any such claimant, the said commission may, should it think fit so to do, appoint some person to appear and act for such claimant, and such appointment shall have the same effect to bind such claimant by any decision of the said commission as if the person appointed had been duly appointed by such claimant to appear and act for him.

Claimants to appear in person or by deputy.

Commission may in certain cases appoint persons to appear for claimant.

VI. The evidence to be given before the said commission shall be upon oath or affidavit, as to the commission may seem proper, and any person

Evidence to be on oath or affidavit.

No. 14—1873.

giving false evidence shall be liable to the like pains and penalties as if he had been summoned and had given evidence in an ordinary civil case before any court of record in this Colony: Provided that every commissioner shall be competent to administer any such oath or to take any such affidavit.

Diamonds to be sold.

VII. As soon as it may be conveniently done with due consideration for the interests of all concerned, the said commission shall order the said diamonds to be sold at such time and place, and in such manner, and subject to such conditions as the said commission may determine, and the said diamonds shall be sold accordingly.

Diamonds, &c., to be sold to form a fund out of which claims are to be satisfied after deducting expenses.

VIII. The said commission shall, as soon as may be, cause to be converted into money such other part of the property recovered as aforesaid as shall not be already so converted; and the money realized by the sale of the diamonds, by the conversion of the said other property into money, and the money already deposited in the said Treasury and elsewhere, shall be the fund from which the different persons whose claims shall have been decided as aforesaid to be valid shall be satisfied; and the said commission shall apportion the said fund among such persons according to the amount to which they shall respectively have been decided to be entitled by the said commission: Provided, however, that the amount of the costs incurred in the sale of the said diamonds and the fees of the said commissioners, and all other expenses lawfully incurred under this Act, shall be paid out of the said fund before the same shall be apportioned.

What claims to said property are to be admitted.

IX. No claims to or in respect of any of the diamonds or other property so stolen as aforesaid, other than the claims which have already been sent in to the said clerk of the peace, pursuant to the notice aforesaid, shall be received, except by special leave of the said commission; and after all claims received have been adjudicated upon by the said commission, no further claims whatever shall, under any circumstance, be received; and

from and after such adjudication no persons, except those whose claims have been admitted as valid as aforesaid, and then only in so far as the fund in the last preceding section mentioned shall be sufficient to satisfy the same, shall have any right, title, or claim against any person whomsoever, in respect of the theft of the said diamonds or other property.

No. 14—1873.

X. The members of the said commission shall receive such fees for and in respect of the performance of the duties by this Act imposed upon them as the Governor, with the advice of the Executive Council, shall decide.

Governor in Council  
to decide commis-  
sioners' fees.

XI. Nothing in this Act contained shall affect the rights or liabilities, *inter se*, of any owners of the said diamonds so stolen as aforesaid, and persons who either before or after the said theft thereof may have advanced money upon or in respect of the same, or have otherwise dealt with the same or the rights or liabilities, *inter se*, of the insurers of the said diamonds and the persons who may have insured the same, or for whom the same may have been insured.

Rights of parties and  
insurers, &c., *inter*  
*se*, not to be affected.

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## SCHEDULE.

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### NOTICE.

Whereas a mail bag, in which were post letters, containing diamonds, and possibly other kinds of property, was stolen from the post office at De Beer's New Rush, Griqualand West, South Africa, by one John William Harding, on the 9th of May, 1872, and whereas some of the contents of the said letters have been recovered, and are in my possession, together with certain moneys representing other portions of the contents of the said letters,—Notice is hereby given that all persons having any claim to or interest in any of the diamonds or other property contained in the said lost letters, are called upon to send in their claims to me, at Cape Town, as soon as possible, and not later than the 31st day of March, 1873.

Persons making claims are requested to give full particulars, and more especially to state the nature and value of the property claimed, the name of the sender of the letter

No. 14—18 2.

containing it, whether the letter was registered or not, the name of the person to whom it was addressed, and in case of the property claimed being diamonds, the number, weight, value, and description thereof, as far as possible, together with any other information likely to lead to the identification of the property.

It is also requested that claimants living at a distance from Cape Town will appoint an agent here with full power to represent them, it being very desirable that some arrangement may, if possible, be come to, between the several claimants, as to the disposal of the property recovered.

JOHN CURREY, Clerk of the Peace.

No. 15—1873.]

AN ACT

[June 26, 1873.]

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.

Preamble.

**W**HEREAS great loss is entailed upon the Guardians' Fund by reason of the high rate of interest payable by the Master of the Supreme Court as administrator of the Guardians' Fund, under the provisions of the twenty-eighth and twenty-ninth sections of Ordinance No. 105 of 1833, and Ordinance No. 3 of 1837: And whereas it is expedient to reduce the said rate of interest in certain cases, and for that purpose to amend in certain respects Ordinance No. 105 of 1833, and to repeal Ordinance No. 3 of 1837: 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. Ordinance No. 3 of 1837 and so much of Ordinance No. 105 of 1833 as shall be repugnant to or inconsistent with the provisions of this Act are hereby repealed.

Interest paid by Master, as administrator of the Guardians' Fund, to be 4 per cent. in certain cases.

II. In lieu and in stead of the rate of interest provided for by the twenty-eighth and twenty-ninth



sections of Ordinance No. 105 of 1833, the interest payable by the Master of the Supreme Court, 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 Master of the Supreme Court, under the provisions of the twenty-fifth and twenty-sixth sections of the said Ordinance No. 105, may be at the rate of four per cent. per annum.

No. 15—1873.

III. This Act shall take effect from and after the 30th day of June, 1873, and shall continue in operation for the period of one year from the taking effect thereof. Duration of Act.

No. 15—1873.]

AN ACT

[June 26, 1873.]

To Establish and Incorporate an University at the Cape of Good Hope.

**W**HEREAS it is expedient, for the better advancement of sound learning amongst all classes of Her Majesty's subjects in this Colony, to establish and incorporate an University at the Cape of Good Hope, and thereupon to dispense with the services of the existing Board of Public Examiners: 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. An university, consisting of a chancellor, a vice-chancellor, a council, and graduates, shall be established at the Cape of Good Hope, and shall be a body politic and corporate by the name of "The University of the Cape of Good Hope," and by such name shall have perpetual succession, and shall adopt and have a common seal, and shall be capable both to purchase and to hold property, movable and immovable, and to sell, transfer, lease, or otherwise dispose of any such property, and also to do all other matters or things incidental or appertaining Of whom university to be established shall consist. Its name and powers.

No. 16—1873

to a body politic: Provided that it shall not be lawful for the said university to sell, transfer, lease, or otherwise dispose of any immovable property to which it may become entitled, unless with the previous consent of the Governor.

First council to be appointed by Governor.

II. The council of the said university shall consist of twenty members, who shall, within three months after the taking effect of this Act, be appointed by the Governor by proclamation, and the said Governor shall in the proclamation appointing such council fix the place, day, and hour for the first meeting of the same.

Council to continue for six years.

III. The council so first appointed as aforesaid shall continue in office for six years; and at all meeting thereof five members, including the vice-chancellor or other presiding member, shall form a quorum.

Quorum.

Succeeding council to be appointed partly by Governor and partly by convocation.

IV. Not sooner than six months nor later than three months next before the expiration of the said term of six years, ten members of council shall be appointed by the Governor by proclamation, and ten other members shall be elected by the convocation hereinafter mentioned, to form the new council to replace the council about to expire by effluxion of time: Provided that the ten members to be appointed by the Governor shall be so appointed not less than thirty-one days before the holding of the meeting of convocation for the election of the ten remaining members. And such new council shall continue in office for six years, and be succeeded by another council, to be appointed in like manner, and so on for ever.

New council to continue for six years.

Casual vacancies how to be filled up.

V. In case any member of the said council shall die, or resign, or be absent from the Colony for the space of six months, his office shall become vacant. All vacancies occurring under the provisions of this section shall be filled alternately by the Governor and the convocation hereinafter mentioned, the Governor being entitled to fill the first of the vacancies which shall so occur, and the convocation the next, and so on alternately; and any member so elected to fill any such vacancy shall be appointed or elected, as the case may be, to hold office until

the expiration, by effluxion of time, of the term of office of the then existing council.

No. 16--1873.

VI. The said council shall, at the first meeting thereof, elect from amongst its own members the vice-chancellor of the university, who shall in the absence of the chancellor perform all duties and functions appertaining to the office of chancellor, and who shall, when present, preside at all meetings of the council: Provided that any meeting of such council at which the vice-chancellor shall not be present may elect its own chairman.

Council to elect vice-chancellor, who shall be chairman.

VII. The vice-chancellor shall continue in office for two years, unless during that time he shall die, resign, cease to be a member of the council, or be absent from the Colony for the space of three months, in any of which cases his office shall become vacant, and another member of the council shall be elected in his room and stead, who shall in turn continue in office for the term of two years, or until the expiration, by effluxion of time, of the term of office of the then existing council, whichever shall be the shorter period, but subject to the aforesaid conditions, and so on for ever.

Vice-chancellor to continue in office for two years.

VIII. The council shall have power to confer, after examination, and according to the by-laws and regulations of the university, the several degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Doctor of Laws, Bachelor of Medicine, and Doctor of Medicine: Provided, always, that it shall be lawful for the said council to frame such by-laws and regulations as it may deem fit for the admission, without examination to any such degree, of persons who have graduated in any other university; and provided, also, that the degree of Bachelor of Laws shall not be conferred on any person who shall not have obtained or been admitted to the degree of Bachelor of Arts in the university of the Cape of Good Hope, or who otherwise is not a holder of the second-class certificate in literature and science: Provided, further, that it shall be lawful by any such by-laws or regulations as aforesaid, to provide that every person holding the certificate granted by the said board of having passed

Council to confer degrees subject to regulations.

Holders of second-class certificates of Board of Examiners in Literature and Science may have certain privileges.

No. 16—1873.

the second-class examination in literature and science in the third order of merit, shall be entitled to proceed to the examination for the degree of Master of Arts without being subjected to the examination for the degree of Bachelor of Arts.

Council to appoint examiners.

IX. It shall be the duty of the council to appoint examiners for the examination of persons desiring to matriculate in the university or to obtain any degree, certificate, or distinction from the university, and the said council, in appointing such examiners, shall avoid, as much as may be, appointing any person to be an examiner of any candidate who shall have been under the tuition of such examiner at any time during the two years next before the examination. Every examiner shall hold office as such for a term not exceeding a year, and shall cease to hold office on some date to be fixed by the by-laws in the next succeeding section mentioned.

Council to frame by-laws as to examinations.

X. The council shall from time to time frame the by-laws and regulations for the conduct of examinations, and for establishing, in regard to the subjects of examination, the tests and standards of qualification to be applied to the candidates, and shall appoint the times and places for holding examinations; as also the subjects of the various examinations for degrees, and for such other distinctions and certificates as the university is empowered to grant.

Council to decide upon reports of examiners as to success of candidates.

XI. The council, on receiving the reports of the examiners, shall, accepting as conclusive the results of such reports, finally ascertain and decide what candidates are qualified to receive any degree, distinction, or certificate from the university.

Council to fix fees to be approved by the Governor and published in *Gazette*.

XII. It shall be lawful for the council, from time to time, to frame by-laws and regulations fixing reasonable fees to be paid for or in respect of matriculation examinations, degrees, and certificates, as well as for any other purpose regarding the university; but no by-law or regulation framed under this Act shall be repugnant to any of the provisions thereof, nor shall the same be of any force or effect until it shall have been approved of by the Governor and published in the *Government Gazette*.

Of whom convocation shall consist.

XIII. The convocation of the university shall

consist of all graduates of such university and of the persons holding certificates in literature and science, granted by the Board of Public Examiners in this Colony under the ninth section of Act 4, 1858. Meetings of convocation may be called by the vice-chancellor at his own instance, and shall be called by him as often as a requisition signed by ten members, or more, of convocation shall be delivered to him requesting him to call such meeting, and stating the subject or subjects proposed to be considered thereat. Every meeting of convocation shall be called by a notice to be published in the *Government Gazette* for not less than twenty-one days before the day appointed for holding such meeting: Provided that the term "graduate" shall mean any person upon whom the university shall have conferred any degree after examination, and also any graduate of another university whom the council shall, in the exercise of the power in that behalf hereinbefore bestowed, have admitted to any degree: Provided, also, that at all meetings of convocation, members thereof resident at a greater distance from Cape Town than ten miles may vote by proxy, under such by-laws and regulations in that behalf as shall be established.

No. 16—1873.

Meetings when and how called.

Term "graduate."

Who may vote by proxy.

XIV. As soon as the members of convocation shall have reached the number of one hundred, but not sooner, the vice-chancellor shall call a meeting of such convocation for the purpose of electing the chancellor of the university, and the chancellor so elected shall hold office for life, unless he shall sooner resign such office; and when by death or resignation a vacancy shall occur in the office of chancellor, then a meeting of convocation shall be called for the election of a successor, who shall hold office in like manner and under like conditions as his predecessor, and so on for ever.

Chancellor to be appointed when convocation consists of 100 members.

XV. The chancellor, or should he be absent, or should there be none, the vice-chancellor, shall, in the name of the university, confer degrees, in the presence of the council and the convocation.

By whom degrees are to be conferred.

XVI. All and singular the moneys, records, and other property which shall be vested in or belong-

Property of board to vest in the council.

No. 16—1873.

ing to the Board of Public Examiners at the time of the taking effect of this Act shall thereupon vest in and belong to the council of the university, in like manner and upon the like trusts, in all respects, as if the said council were the said board.

Registrar and other officers to be appointed by council.

XVII. The council shall appoint, during its pleasure, an officer to be styled "The Registrar of the University of the Cape of Good Hope," who shall be charged with such duties as shall be assigned to him by the said council; and the said council shall also appoint, during pleasure, such other officers or persons as the service of the university shall require.

Vice chancellors, chancellors and examiners eligible for re-election.

XVIII. Vice-chancellors, councillors, and examiners going out of office by effluxion of time, or councillors vacating their office by reason of absence from the Colony, under the provisions of this Act, shall be eligible for re-appointment or re-election, as the case may be.

Council may grant certificates of proficiency in law and jurisprudence.

XIX. Besides being empowered as aforesaid to grant degrees in law, the council of the university is also empowered to grant after examination certificates of proficiency in law and jurisprudence. The nature of the subjects of such examination and the degree of proficiency to be required from candidates for such certificates shall generally and in substance correspond with the practice in those respects of the Board of Public Examiners, during its existence, in regard to the lower or second-class certificates of proficiency in law and jurisprudence granted by such board. But no person shall, except as hereinafter excepted, be admitted to be a candidate for any such certificate as is in this section mentioned who shall not have passed the matriculation examination in the said university, or shall not be the holder of a third-class certificate in literature and science granted by the Board of Public Examiners: Provided that it shall not be necessary for any person to pass the matriculation examination aforesaid who shall at the time of the taking effect of this Act be serving as an apprentice or clerk under any such contract as is in the third section or in the fifth section of the Act No. 12, 1858, described.

Who eligible as candidates.

XX. Persons who shall have obtained or been admitted to the degree of Bachelor of Laws in the said university shall, for the purpose of the second section of the Act No. 12, 1858, intituled "An Act for regulating the Admission of Barristers, Attorneys, Notaries, and Conveyancers," be eligible to be enrolled as barristers or advocates of the Supreme Court, in like manner, precisely, as if such persons had obtained the certain certificates in the said section mentioned.

No. 16—1873.  
Bachelors of laws to be eligible to be enrolled as barristers, &c.

XXI. Persons who shall have obtained the certificate of proficiency in law and jurisprudence in the nineteenth section of this Act mentioned shall, for the purpose of the third and the fifth sections of the Act No. 12, 1858, in the last preceding section mentioned, be deemed to be, in all respects, in the same plight and condition as if they had obtained one or other of the certificates in law and jurisprudence in the said third and fifth sections of the said Act described.

Position of person obtaining the certificate of proficiency in law and jurisprudence under this Act in regard to the provisions of the 3rd and 5th sections of Act No. 12 of 1858.

XXII. The council of the university is hereby empowered to grant certificates of proficiency in the theory of land surveying, and should the council deem it expedient so to do, in the theory of civil engineering, and in the theory and principles of navigation, in like manner as the Board of Public Examiners was, during its existence, by the seventeenth, eighteenth, nineteenth, twentieth, and twenty-first sections of the Act No. 4, 1858, empowered to grant similar certificates.

Council may grant certificates in land surveying, engineering, and navigation,

XXIII. The council aforesaid shall also cause to be examined candidates for admission into the public service who may be authorized by the Governor to present themselves for examination in such subjects and under such regulations as may from time to time be appointed and fixed by the council, with the consent of the Governor.

Council may examine candidates for the civil service.

XXIV. No religious test shall be administered or proposed to any person in order to entitle him to be admitted as an undergraduate of the university of the Cape of Good Hope, or to hold office therein, or to graduate thereat, or to enjoy any advantage or privilege thereof.

No religious test to be required.

No. 16—1873.

Vacancies not to affect the corporate powers of the university.

XXV. No vacancy in the office of chancellor or vice-chancellor of the said university nor any deficiency in the number of members of the council thereof shall be deemed or taken to impair or affect the corporate existence or powers of the said university: Provided that no meeting of the council shall be held at which the quorum in the third section of this Act mentioned shall not be present.

Quorum necessary.

Report and accounts to be laid before Parliament annually.

XXVI. The council shall annually furnish to the Governor a report of the proceedings of the university, together with a complete statement of the receipts and expenditure of the university, which report and financial statement shall be laid before each House of Parliament.

Acts repealed.

XXVII. Upon and from and after the taking effect of this Act, the Act aforesaid No. 4, 1858, Act No. 18, 1860, intituled "An Act for amending Act No. 4, 1858, creating a Board of Public Examiners," Act No. 4, 1863, intituled "An Act to amend Act No. 4, of 1858, constituting the Board of Public Examiners," and Act No. 10, 1868, intituled "An Act to repeal the third section of the Act No. 4, of the year 1858," shall be and the same are hereby repealed.

Short title.

XXVIII. This Act may be cited for all purposes as "The University Incorporation Act, 1873."

No. 17—1873.]

AN ACT

[June 26, 1873.]

To Remove Doubts as to the necessity of Restamping certain Deeds and to Amend the Stamp Act, 1870, in so far as relates to the mode of Stamping Deeds executed before the Registrar of Deeds.

Preamble:

WHEREAS it has heretofore been customary in this Colony to cover deeds of transfer, mortgage bonds, and other deeds executed before the Registrar of Deeds with stamped paper of the value



required for such deeds respectively : And whereas such stamps have in many cases become detached from the deeds to which they belong, and have been either lost or destroyed : And whereas doubts have arisen as to the necessity of such deeds being restamped when produced in the course of legal proceedings, or at the office of the Registrar of Deeds, without the covering stamp : And whereas it is expedient to remove such doubts, and also to amend the law relating to the mode of stamping such deeds in future : 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. The first clause of the explanations or provisions contained in tariff No. 8 in the schedule in the “Stamp Act, 1870,” relating to “transfers, bonds, &c.,” and so much of any other law or custom in force in this Colony as shall be repugnant to or inconsistent with the provisions of this Act, shall be and the same is hereby repealed.

Repugnant laws repealed.

II. Every deed of transfer, mortgage bond, or other deed heretofore executed before the Registrar of Deeds of this Colony shall be deemed to have been duly stamped at the time of the execution of the same, and shall not in any place or for any purpose require to be stamped afresh.

Deeds already executed before Registrar of Deeds to be deemed to have been duly stamped.

III. Every such deed as aforesaid executed after the passing of this Act shall, if not written upon paper impressed with a stamp of the required value, have affixed thereto an adhesive stamp or adhesive stamps, and such adhesive stamps shall be defaced and cancelled by such person and in such manner as the Governor shall from time to time direct.

Adhesive stamps on deeds to be cancelled by officer duly appointed.

IV. This Act may be cited for all purposes as the “Deeds Stamp Act, 1873.”

Short title.

No. 18—1873.]

AN ACT

[June 26, 1873.]

To Amend Act No. 15, 1856, intituled “An Act to amend the Laws regulating the relative Rights and Duties of Masters, Servants, and Apprentices.

Preamble.

**W**HEREAS it is expedient to amend the Act No. 15 of 1856, intituled “An Act to amend the Laws regulating the relative Rights and Duties of Masters; Servants, and Apprentices:” 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:—

Fourth section of chapter 2 of Act 15 of 1856 repealed.

I. The fourth section of chapter two of Act No. 15 of 1856, intituled “An Act to amend the Laws regulating the relative Rights and Duties of Masters, Servants, and Apprentices,” shall be and the same is hereby repealed; and from and after the promulgation of this Act no written contract of service entered into this Colony shall be valid or binding for a longer period than one year from the date thereof, nor shall any contract for service in writing be valid or binding in any case on any servant, unless the service so contracted for shall be stipulated to commence within the period of one month from the date of the contract, except the contract be signed with the name, or in case of illiterate persons, with the mark, of the contracting parties, in the presence of a magistrate, or other proper officer, described in the second section of Act No. 15 of 1856, who shall satisfy himself by inquiry of the servant or apprentice that the contract was entered into by the parties voluntarily, and with a clear understanding of its meaning and effect, and shall then, and not till then, subscribe such written contract in attestation of that fact.

Written contract of service not valid for more than one year except on certain conditions.

Definition of punishment for certain acts of misconduct committed by servants or apprentices.

II. Any servant or apprentice may be fined any sum not exceeding one pound sterling, and in default of payment of the same may be imprisoned, with or without hard labour, for any period not

exceeding one month, in case he shall be convicted of any of the following acts or instances of misconduct, that is to say :

1. If he shall, after having entered into a contract, fail or refuse, without lawful cause, to commence the service at the stipulated time.
2. If he shall, without leave or other lawful cause, absent himself from his master's premises, or other place proper and appointed for the performance of his work.
3. If he shall, during working hours, unfit himself for the proper performance of his work by becoming or being intoxicated.
4. If he shall neglect to perform any work which it was his duty to have performed, or if he shall carelessly or improperly perform any work which from its nature it was his duty, under his contract, to have performed carefully and properly.
5. If he shall, without leave and for his own purposes, make use of any horse, vehicle, or other property belonging to his master.
6. If he shall refuse to obey any command of his master, or of any person lawfully placed by his master in authority over him, which command it was his duty to obey.
7. If he shall make any brawl or disturbance in or at his master's dwelling-house, or on his master's farm, and after being, by his master or any other person placed by his master in authority over him, desired to desist, shall, notwithstanding, continue making such brawl or disturbance.
8. 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.

III. In case of a second conviction under the last preceding section, or of more such convictions than a second, within the space of six months next after any former conviction, the offender may, in regard to such second or any further conviction, be fined

Definition of punishment under either the next ensuing section or the last preceding section in case of a second or further conviction.

No. 18—1873.

any sum not exceeding three pounds sterling, and in default of payment thereof may be imprisoned and kept at hard labour for any period not exceeding six weeks, and shall be liable during such imprisonment (or so much thereof as the convicting magistrate shall adjudge) to be kept in solitary confinement with or without spare diet, or on spare diet with or without solitary confinement, subject as hereafter is mentioned, and upon a conviction under the next ensuing section of this Act followed within six months by a conviction under the last preceding section, the offender shall be liable to the like punishment, as if both convictions have been had under the last preceding section.

Definition of punishment for acts of misconduct of a more serious nature committed by servants or apprentices.

IV. Any servant or apprentice may be fined any sum not exceeding three pounds sterling, and in default of payment, may be imprisoned, with or without hard labour, for any period not exceeding two months, or may be imprisoned without the infliction of any fine, at the discretion of the magistrate, with or without hard labour, for any period not exceeding two months, and during such imprisonment as in this section is mentioned, may be kept in solitary confinement with or without spare diet, or on spare diet with or without solitary confinement, subject as hereafter in the nineteenth section is mentioned, in case he shall be convicted in any of the following acts or instances of misconduct, that is to say :

1. If he shall by wilful breach of duty, or by neglect of duty, or through drunkenness, do any act tending to the immediate loss, damage, or serious risk of any property placed by his master in his charge, or placed by any other person in his charge for delivery to or on account of his master.
2. If he shall by wilful breach of duty, or by neglect of duty, or through drunkenness, refuse or omit to do any lawful act proper and requisite to be done by him for preserving in safety any property placed by his master in his charge, or placed by any other person in his charge for delivery to or on account of his master.

3. If being employed as a herdsman, he shall fail to report to his master the death or loss of any animals placed in his charge, which he shall allege to have died or been lost, on the earliest opportunity for so doing after he shall have discovered, or in the course of duty was bound to have discovered, such death or loss, or if he shall fail to preserve for his master's use or inspection any part or parts of any such animal as he shall allege to have died, which part or parts he shall by his master have been directed to preserve, unless such herdsman shall prove to the satisfaction of the court the death of such animals, or if it shall be made by his master to appear that any such animal or animals alleged by him to have strayed away or otherwise become irrecoverably lost, could not, under the circumstances of the case, have become irrecoverably lost without his act or default.
4. If, being employed in any capacity other than that of a herdsman, he shall allege the loss of any property placed in his charge by or for his master, and it shall be made by his master to appear that the property in question could not have been lost without his act or default.
5. If he shall, without lawful cause, assault, or attempt to assault his master, his master's wife, or any relation or visitor of his master living with him in the same house, or any of his fellow-servants: Provided that nothing herein contained shall prevent a preparatory examination being taken in any case of assault which shall seem to require that form of proceeding in order to the trial of the offender before the Supreme or some Circuit Court or the Court of the Eastern Districts.
6. If he shall, without lawful cause, depart from his master's service, with intent not to return thereto. X

V. In case of a second conviction under the last preceding section, or of more such convictions than a second, within the space of six months next after any former conviction, the offender may, in regard

Definition of punishment under either the last preceding section or the second section in cases of a second or further conviction.

No. 18—1873.

to such second or any further conviction, be fined any sum not exceeding five pounds sterling, and in default of payment thereof may be imprisoned and kept at hard labour for any period not exceeding three months, or may be imprisoned, without the infliction of any fine, at the discretion of the magistrate, with or without hard labour, for any period not exceeding three months, and shall be liable during such imprisonment as in this section is mentioned, or so much thereof as the convicting magistrate shall adjudge, to be kept in solitary confinement, with or without spare diet, or on spare diet with or without solitary confinement, subject as hereafter mentioned; and upon a conviction under the second section of this Act, followed within six months by a conviction under the last preceding section, the offender shall be liable to the like punishment as if both convictions had been had under the last preceding section.

No fine or imprisonment shall have the effect of cancelling a contract.

VI. No fine paid or period of imprisonment undergone, under this Act by a servant or apprentice shall have the effect of cancelling the contract of service or apprenticeship.

Certain exception from the second to sixth section, inclusive, and the ninth section.

VII. Nothing in any of the preceding sections, from second to sixth, both inclusive, nor in section nine, shall extend or apply to servants or apprentices under the age of sixteen years, or to servants or apprentices other than those engaged in agriculture or employed to work on farms: Provided, however, that any servant or apprentice other than those engaged in agriculture or employed to work on farms as last mentioned, not being under sixteen years of age, may:

Provision for the punishment of servants and apprentices other than those engaged in agriculture or employed to work on farms.

1. If he shall, after having entered into a contract, fail or refuse without lawful cause to commence the service at the stipulated time;
2. If he shall, without leave or other lawful cause, absent himself from his master's premises, or other place proper and appointed for the performance of his work;
3. If he shall, during working hours, unfit himself for the proper performance of his work by becoming or being intoxicated;

4. If he shall neglect to perform any work which it was his duty to have performed, or if he shall carelessly or improperly perform any work which from its nature it was his duty, under his contract, to have performed carefully and properly ;
5. If he shall, without leave or for his own purposes, make use of any horse, vehicle, or other property belonging to his master ;
6. If he shall refuse to obey any command of his master, or of any person lawfully placed by his master in authority over him, which command it was his duty to obey ;
7. If he shall by wilful breach of duty, or by neglect of duty, or through drunkenness, do any act tending to the immediate loss, damage, or serious risk of any property placed by his master in his charge, or placed by any other person in his charge for delivery to or on account of his master ;
8. If he shall by wilful breach of duty, or by neglect of duty, or through drunkenness refuse or omit to do any lawful act proper and requisite to be done by him for forwarding in safety any property placed by his master in his charge for delivery to or on account of his master ;

be fined any sum not exceeding two pounds, and in default of payment be sentenced to be imprisoned for any period not exceeding one month ; but if it shall appear that such servant or apprentice is able to pay the damage caused by such act or default as in this section aforesaid, it shall be competent for the magistrate, whether the master shall agree thereto or not, to proceed under section thirteen, chapter five, of Act No. 15, 1856.

VIII. No servant or apprentice shall be convicted under any of the foregoing sections of this Act unless the master shall lodge his complaint within one month next after the day on which he became cognizant of the offence or alleged offence.

Complaints under foregoing sections to be lodged within one month.

IX. In order to save time and expense, the master of any servant or apprentice alleging matter of complaint against such servant or apprentice may warn and order such servant or apprentice to

Servant to appear before a magistrate on order of master, and failing to appear to be liable to expenses on conviction.

No. 18—1873

appear before the magistrate of the district, on some day and hour to be named by such master, there to answer some certain charge, of the nature of which such complainant shall inform such defendant; and should the defendant fail to attend, in pursuance of such warning, the magistrate, upon the application of the complainant, and upon proof by affidavit that such defendant received such warning, and received the same a reasonable time before the time fixed for his appearance, and that to the best of the deponent's knowledge and belief, such defendant has no lawful cause for not appearing, may issue his warrant for the apprehension of such defendant, in order to the trial of the complaint; and on such trial, and if the servant or apprentice shall be convicted of the offence with which he shall be charged, the magistrate may (if he shall be satisfied that the defendant had no good and sufficient cause for failing to attend), in addition to the punishment to which the defendant may be sentenced, adjudge the said defendant to pay to his master such reasonable costs and expenses, not being more than those allowed in criminal cases, to which his master may have been put in consequence of the defendant having failed to attend as aforesaid: Provided, always, that on issuing such warrant as aforesaid, the defendant shall be warned by summons to answer the charges brought against him, and to show cause why he shall not be adjudged to pay such expenses as aforesaid in consequence of his default in attendance.

Master having warned and ordered his servant to appear before a magistrate, upon failing to appear himself to be liable to expenses, and to penalties on failure to pay them.

X. Should any complainant who shall have warned any such defendant as aforesaid to appear as aforesaid himself fail to appear at the time fixed by him for the appearance of such defendant then and there to prosecute his complaint, the magistrate, upon proof by affidavit that such defendant was warned by such complainant to appear at the said time to answer a charge of a certain nature, shall, unless satisfied that such complainant had a good and sufficient reason for failing to appear at such time, ascertain the distance which such defendant shall have travelled, and the distance which any



person or persons shall have travelled whom such defendant shall have brought with him as witnesses, and shall, upon being satisfied that such witnesses would or might have been necessary for his defence, make an order in writing against such complainant for the payment of the expenses of such defendant and his witnesses, if any, at and after the same rate as if each of the said persons had been a witness summoned at the instance of the public prosecutor, and attending to give evidence in the court of such magistrate upon a criminal case; and if such complainant shall, upon presentation to him of such order by the person or persons in whose favour the same shall have been made, refuse or neglect to comply therewith, he shall incur and be liable to a fine not exceeding five pounds sterling, and in default of payment of the same, to imprisonment, with or without hard labour, for any period not exceeding one month: Provided that one such order may include the expenses of all or any of the persons whose expenses are to be paid, or separate orders may be delivered to one or more of such persons, as may be most convenient.

XI. Should any servant or apprentice who shall have complained against his master for or on account of any offence against any of the provisions of this Act fail to appear at the time fixed by the magistrate for the appearance of the defendant, then and there to prosecute his complaint, the magistrate may, unless satisfied that such complainant had a good and sufficient reason for failing to appear at such time, ascertain in the manner in the last preceding section mentioned the expenses and costs which the defendant has reasonably incurred in appearing to answer such complaint, and he shall in the manner in the last preceding section mentioned order the payment by the complainant of such costs and expenses; and if, on the presentation to him of the order therein mentioned by the person in whose favour it is made, such complainant shall refuse or neglect to comply therewith, he shall incur and be liable to the same fine, and in default of payment thereof to the same

Servant or apprentice having complained against his master, failing to appear at time fixed to be liable to expenses, and to penalties on failure to pay them.

No. 18—1873.

punishment, as is fixed in the last preceding section: Provided that one such order may include the expenses of all or any of the persons whose expenses are to be paid, or separate orders may be delivered to one or more of such persons, as may be most convenient.

Servant or apprentice may leave his place of service to lodge complaint.

XII. No servant or apprentice who shall leave the place of his service for the purpose merely of lodging any complaint which he may have against his master, after leave for that purpose shall have been unreasonably refused, shall by reason only of his so leaving be deemed to have deserted his master's service, or to have in any wise contravened this Act.

Servant or apprentice summoned under the second section may be found guilty under the fourth section and *vice versa*.

XIII. A servant or apprentice summoned to answer for an offence alleged in the summons to be in contravention of the second section of this Act, should the proof given in the case show that he is guilty of contravening not the second but the fourth section of this Act, may be convicted and sentenced according to the evidence; and, in like manner, a servant or apprentice summoned to answer for an offence alleged in the summons to be in contravention of the fourth section aforesaid, should the proof given show that he is guilty of contravening not the fourth but the said second section, may be convicted and sentenced according to the evidence: Provided, however, that the punishment to be awarded upon a conviction in either of these cases shall not exceed the punishment provided by the said second section: Provided, also, that the servant or apprentice shall have had in every case sufficient notice of the nature of the charge which he was called upon to answer.

Definition of punishment for withholding wages by master.

XIV. As often as the master of any servant or apprentice shall be convicted of the offence of withholding the wages of such servant or apprentice without reasonable and probable cause for believing that the wages so withheld were not really due, he shall be fined any sum not exceeding five pounds sterling, and in default of payment shall be imprisoned, for any period not exceeding one month; and the convicting magistrate shall, besides passing

No. 18—1873.

the said sentence, give judgment for the amount of the wages so wrongfully withheld, and for the costs of the proceedings, which costs shall be the same as in a civil case before the said court; and the said wages and costs shall, if not paid, be levied of the movable property of the master, under and by virtue of a warrant under the hand of the said magistrate, together with the cost of such levy: Provided, however, that when and as often as the magistrate shall acquit the master of the aforesaid offence, but shall yet find that wages are due by such master to such servant or apprentice which have been retained by such master, it shall be lawful for such magistrate, and he is hereby required, forthwith, to give judgment for the amount of wages which he shall find to be due to such servant, and make such order as to the payment of costs, should he award any, by the master, as shall seem to such magistrate to be in accordance with real and substantial justice.

Judgment may be given for wages alone with or without costs.

XV. As often as the master of any servant or apprentice shall be convicted of the offence of having, either before or after the expiration of the contract of service of apprenticeship, upon demand made and without lawful cause, refused to deliver or permit to be taken away any of such servant's or apprentice's cattle, sheep, goats, or other animals lawfully remaining or being upon such master's land without reasonable and probable cause for believing that the animals in question were lawfully detained, such master shall be fined any sum not exceeding one pound sterling for every animal so unlawfully detained; provided, however that the total amount of the fine so payable shall not exceed the sum of five pounds sterling altogether; and in default of payment, shall be imprisoned for any period not exceeding one month; and the convicting magistrate shall, besides passing the said sentence, give judgment for the delivery of the said animals, and for costs, as in a civil action before the said court, which costs, if not paid, shall be levied in the same manner as in the fourteenth section directed; but the fact that the contract of service or appren-

Definition of punishment for refusing to deliver servant's property.

Penalty for default of payment of fine.

No. 18 - 1873.

ticeship of such servant or apprentice has not yet expired shall not be deemed or taken to be of itself reasonable or probable cause for such detention : Provided, however, that nothing herein contained shall impair the effect of any express contract of a lawful kind, by force of which the master shall claim a right to retain any such animals as aforesaid.

Definition of punishment for master failing to supply articles stipulated for in contract.

XVI. As often as the master of any servant or apprentice shall be convicted of the offence of failing, upon demand, to supply or deliver to such servant or apprentice the food, bedding, or other articles stipulated for in any written contract of service or apprenticeship, or of supplying or delivering food, bedding, or other articles not conformable to the said contract, he shall be liable to be fined any sum not exceeding five pounds sterling, and in default of payment, to imprisonment for any period not exceeding one month.

Contract may be cancelled if the master has not faithfully performed his part thereof.

XVII. As often as it shall be made to appear to the magistrate, in any case instituted by any servant or apprentice against his master, that the master has not fairly and faithfully performed his part of the contract of service or apprenticeship, the magistrate may, should he so think fit, and should the servant or apprentice so desire, order the cancellation of such contract of service or apprenticeship, and the same shall be cancelled accordingly.

Costs for compelling parties accused under this Act, and their witnesses, to attend the magistrate's court to be paid at the public charge under certain exceptions.

XVIII. As often as any master shall complain against his servant or apprentice, or any servant or apprentice shall complain against his master, for or on account of any offence against the provisions of this Act, the process of the court of the resident magistrate for compelling the attendance of the party accused and of all necessary witnesses shall be instituted at the public charge and without any fees of court ; Provided, always, that if at the trial the charge shall appear to have been brought without reasonable or probable cause, the party complaining shall be liable to a fine not exceeding five pounds, and also to defray the costs of process and of the witnesses in the case ; and in default of pay-

Penalties for bringing charge without reasonable cause. *By*

ment of such fine and costs, shall be liable to be imprisoned for any period not exceeding one month; Provided, also, that such fine may be imposed upon the occasion of such trial, and without any fresh action or proceeding for the recovery thereof.

No. 18—1873.

XIX. In regard to the infliction of spare diet and solitary confinement under this Act, the resident magistrate shall observe and conform to such regulations and restrictions as shall have been or shall from time to time be issued by the Governor under the Act No. 20 of 1856.

Regulations as to spare diet and solitary confinement.

XX. All fines under this Act shall, when recovered, be paid into the public treasury.

Fines to be paid into Treasury.

XXI. Sections 3, 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 22, 23, 25, and 26, of the fifth chapter, and so much of any other portion of Act No. 15 of 1856, as is inconsistent with or repugnant to any of the provisions of this Act, shall be and the same are hereby repealed.

Certain sections of Act 15 of 1856 repealed.

XXII. This Act may be cited for all purposes as the "Masters and Servants Law Amendment Act, 1873."

Short title.

No. 19--1873.]

AN ACT

[June 26, 1873.

For Promoting the Construction and Maintenance of a Line of Submarine Telegraph between the Colony of the Cape of Good Hope and Aden.

WHEREAS it is desirable that a line of submarine telegraph between this Colony and Aden, *via* Natal and Mauritius, should be constructed; 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 aforesaid is hereby authorized and empowered to pay from and out of the public revenue of this Colony, for a term of ten years, to

Governor authorized to pay for construction and maintenance of line for ten years.

No. 19—1873.

any joint-stock company, co-partnership, or individual who shall enter into a contract with the Colonial Government to construct and maintain, and who shall construct and maintain, a line of submarine telegraph between this Colony and Aden, *via* Natal and Mauritius, an annual sum not exceeding ten thousand pounds sterling.

Conditions of contract

II. The contract under or by virtue of which the said sum not exceeding ten thousand pounds shall be payable as aforesaid for the term of ten 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 :—

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.
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 a term of not less than ten years from the completion thereof.
3. The contract shall provide for the deduction of a *pro rata* share from the annual payments authorized by the first section of this Act for any period during which the said line shall not be in working order, subject to an allowance of time for repairs, to be agreed upon between the Government and the said contracting party, and to be specified in the said contract.
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 payments as aforesaid for or in respect of every month beyond the time stipulated during which the line shall remain incomplete.
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 the term of ten years aforesaid shall be reckoned.
6. The contract shall provide for the connection of

the said cable with any land telegraphs in this Colony, Natal, and Mauritius, and with any land or submarine telegraphs at Aden.

7. The contract shall provide for a maximum rate to be paid for messages which shall be sent by the said cable to Natal, Mauritius, and Aden, and for all such messages as shall be sent to any other part of the world by means of any land or submarine telegraphs connected with the said cable at Aden, and the said contract shall further provide for a diminution of the rate aforesaid 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 London of twenty words or less shall not in any case exceed the sum of five pounds sterling.

III. This Act may be cited for all purposes as Short title.  
 “The Submarine Telegraph Act, 1873.”

No. 20—1873.]

AN ACT

[June 26, 1873.]

For Applying a Sum not exceeding Six Hundred and Fifty-eight Thousand Three Hundred and Forty-seven Pounds Fifteen Shillings and Nine Pence Sterling, for the Service of the Year 1873.

**W**HEREAS by the Act No. 25 of 1872, intituled Preamble.  
 “An Act for applying a Sum not exceeding Two Hundred and Five Thousand Nine Hundred and Ninety-five Pounds Seven Shillings and Five Pence for the Service of the Year 1873,” the said sum of two hundred and five thousand nine hundred and ninety-five pounds seven shillings and five pence was charged upon the revenue of this Colony for the service of the Government of the Colony until the 30th June, 1873. And whereas

No. 20—1873.

it has become expedient, in the present session of Parliament, to take into consideration the requirements of the said service for the entire year 1873, 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. 25 of 1872, and to provide by one Act for the service of the year 1873: 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 N. 25 of 1872  
repealed.

I. The Act aforesaid No. 25 of 1872, is hereby repealed.

Expenditure, 1873.

II. The public revenue of the Colony is hereby charged with a sum not exceeding six hundred and fifty-eight thousand three hundred and forty-seven pounds fifteen shillings and nine pence sterling for the service of the year 1873, in addition to the sums already by law provided for such service, which sum of six hundred and fifty-eight thousand three hundred and forty-seven pounds fifteen shillings and nine pence shall be applied in manner following, that is to say:—

- |                                  |    |   |
|----------------------------------|----|---|
| Civil establishments.            | 1. | For the expenditure of the Civil Establishments, a sum not exceeding ninety-six thousand five hundred pounds fourteen shillings and seven pence.                    |
| Judicial establishments.         | 2. | For the expenditure of the Judicial Establishments, a sum not exceeding twenty-eight thousand nine hundred and thirty-six pounds seventeen shillings and six pence. |
| Educational establishments.      | 3. | For the expenditure of the Educational Establishments, a sum not exceeding twenty-three thousand two hundred and ten pounds.  |
| Medical establishments.          | 4. | For the expenditure of the Medical Establishments, a sum not exceeding thirty-four thousand seven hundred and fifty-three pounds nineteen shillings and six pence.  |
| Police and gaols establishments. | 5. | For the expenditure of the Police and Gaols Establishments, a sum not exceeding fifty-four thousand six hundred and ninety pounds one shilling and six pence.       |



- |     |   |   |
|-----|---|---|
| 6.  | For the expenditure of the Border Department (Aborigines) a sum not exceeding eighty-six thousand five hundred and fifty-four pounds eighteen shillings and nine pence.                         | No. 20—1873.<br>Border department (aborigines). |
| 7.  | For the expenditure on account of Pensions and Retired Allowances, a sum not exceeding seven thousand two hundred and seventy-one pounds.   | 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 ninety-two thousand nine hundred and ninety-one pounds and five pence.   | Works and buildings.                            |
| 10. | For the expenditure on account of Roads and Bridges, including Convict Expenditure, a sum not exceeding ninety-two thousand six hundred and ninety pounds and nineteen shillings.               | Roads and bridges.                              |
| 11. | For the expenditure on account of Miscellaneous Services, including Parliamentary Expenses, a sum not exceeding fifty thousand six hundred and sixty-three pounds four shillings and six pence. | Miscellaneous services.                         |
| 12. | For the expenditure on account of Interest, a sum not exceeding three 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.                   |
| 14. | For the expenditure on account of Railways, a sum not exceeding fifty-three thousand five hundred and eighty-five pounds.   | Railways.                                       |
| 15. | For the expenditure on account of Immigration, a sum not exceeding twenty-six thousand pounds.  | Immigration.                                    |

Amounting, in the whole, to six hundred and fifty-eight thousand three hundred and forty-seven pounds fifteen shillings and nine pence, as detailed in the schedules hereunto annexed.

Total amount,  
£658,347 15s. 9d.

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.

Application of supplies.

No. 21—1873.]

AN ACT

[June 26, 1873.]

For Applying a Sum not exceeding Two Hundred and Eighty-one Thousand Five Hundred and Fifty-two Pounds Eight Shillings and Six Pence Sterling for the Service of the Year 1874.

Preamble.

**W**HEREAS it is expedient to provide further sums, in addition to those by law provided, for the service of the Government of this Colony until the 30th June, 1874: Be it hereby 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, 1874.

1. That a sum not exceeding two hundred and eighty-one thousand five hundred and fifty-two pounds eight shillings and six pence sterling shall be charged upon the revenue of the said Colony towards the service of the year 1874, 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 forty-nine thousand eight hundred and seventy-five pounds seven shillings and three pence sterling.

Judicial establishments.

2. For the expenditure of the Judicial Establishments, a sum not exceeding fourteen thousand four hundred and sixty-eight pounds eight shillings and nine pence sterling.

Educational establishments.

3. For the expenditure of the Educational Establishments, a sum not exceeding eleven thousand six hundred and five pounds sterling.

Medical establishments.

4. For the expenditure of the Medical Establishments, a sum not exceeding seventeen thousand two hundred and twenty-six pounds nineteen shillings and nine pence sterling.

Police and gaols establishments.

5. For the expenditure of the Police and Gaols Establishments, a sum not exceeding twenty-seven thousand three hundred and forty-five pounds and nine pence sterling.

Border department.

6. For the expenditure on account of Border Depart-

ment, a sum not exceeding forty-three thousand two hundred and seventy-seven pounds nine shillings and four pence sterling.

7. For the expenditure on account of Pensions, Retired Allowances, and Gratuities, a sum not exceeding three thousand six hundred and thirty-five pounds and ten shillings 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 fifteen thousand nine hundred and eighty-two pounds thirteen shillings and two pence sterling. Works and buildings.
10. For the expenditure on account of Railways, a sum not exceeding twenty-five thousand seven hundred and ninety-two pounds and ten shillings sterling. Railways.
11. For the expenditure on account of Roads and Bridges, a sum not exceeding forty-six thousand one hundred and ninety-five pounds nine shillings and six pence sterling. Roads and bridges.
12. For the expenditure on account of Miscellaneous Services, a sum not exceeding twenty thousand eight hundred and ninety-eight pounds sterling. Miscellaneous services.
13. For the expenditure on account of Interest, a sum not exceeding one hundred and fifty pounds sterling. Interest.
14. For the expenditure on account of Colonial Military Allowances, a sum not exceeding five thousand pounds sterling. Colonial military allowances.

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 Establishment :

His Excellency the Governor	...	...	£900	0	0
Colonial Secretary...	...	...	525	0	0
Treasurer-General	...	...	435	0	0
Auditor-General	...	...	1,097	10	0
Registrar of Deeds...	...	...	455	0	0
Commissioner of Crown Lands and Public Works			575	0	0
Railway Service, Working Department	...	...	2,435	0	0
Engineer for Railways and Harbours	...	...	960	0	0
Surveyor-General	...	...	1,019	10	0
Department of Public Works, &c.	...	...	4,054	18	9
Secretary for Native Affairs			253	10	0
Port Department	...	...	1,161	8	6
Keeper of Public Buildings			92	0	0
Crown Agents for the Colonies	...	...	125	0	0
Post Office	...	...	33,886	10	0
Custom Department—Rent			1,000	0	0
Rents for sundry Offices	...	...	700	0	0
Civil Commissioners, &c., Transport	...	...	200	0	0
			<hr/> £49,875 7 3		

For the expenditure of the Judicial Establishments :

Supreme Court	...	...	£1,951	10	0
High Sheriff	...	...			
Attorney-General	...	...			
Solicitor-General	...	...	430	0	0
Divisional Courts	...	...	5,234	8	9
Administration of Justice...			4,227	10	0
Rent of Offices	...	...	850	0	0
Transport	...	...	1,775	0	0
			<hr/> £14,468 8 9		

For the expenditure of the Educational Establishments :

Educational (exclusive of Establishments)	...	...	£11,303	10	0
Rents	...	...	99	0	0
Transport	...	...	202	10	0
			<hr/> £11,605 0 0		

For the expenditure of the Medical Establishments :

No. 21—1873.

Medical Department	...	£5,524	9	9
Hospitals	...	11,477	10	0
Rents	...	25	0	0
Transport	...	200	0	0
		<hr/>		
		£17,226	19	9

For the expenditure of the Police and Gaols Establishments :

Police and Gaols Establish-	...	£20,444	10	9
ments	...			
Do., exclusive of do.	...	5,650	10	0
Rents	...	250	0	0
Transport	...	1,000	0	0
		<hr/>		
		£27,345	0	9

For the expenditure on Account of the

Border Department	...	43,277	9	4
Pensions, Retired Allowances and Gratuities	...	3,635	10	0
Charitable Allowances	...	100	0	0
Works and Buildings	...	15,982	13	2
Railways	...	25,792	10	0
Roads and Bridges	...	46,195	9	6
Miscellaneous Services	...	20,898	0	0
Interest	...	150	0	0
Colonial Military Allowances	...	5,000	0	0
		<hr/>		
		£281,552	8	6

No. 22 - 1873.]

AN ACT

[June 26, 1873.]

To Amend the Laws relating to the Construction and Maintenance of the Main Roads of the Colony.

WHEREAS it is expedient that the Act No. 10 Freamble. of 1864, intituled "An Act for the Construction and Maintenance of the Public Roads of the Colony," shall, in some respects, be amended, and as so amended, shall be made perpetual: And whereas it is expedient that the Governor in Council should in certain cases be authorized to supplement the funds of divisional councils available for main road purposes, by a grant in aid not exceeding in any case the amount which such councils,

No. 22—1873.

respectively, shall have assessed, and shall be prepared to expend for such 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:—

13th, 14th, 40th, and 43rd sections of Act No. 10 of 1864 repealed.

I. The thirteenth, fourteenth, fortieth, and forty-third sections of the said Act No. 10 of 1864 are hereby repealed, except as to any proceedings which may have been taken thereunder, which shall remain and continue as if such sections were still in force.

Governor may direct periodical inspection.

II. It shall be lawful for the Governor to direct periodical inspections and reports to be made of the condition and requirements of all main roads and bridges, and should the report of the inspecting officer be of such a nature as to show that any section of main road or any bridge is not properly maintained, it shall be lawful for the Governor to direct that a full report of the nature of the repairs required be sent to the secretary of the divisional council of the division in which the road or bridge is situated, and to direct that such road or bridge shall be placed in proper repair, and should the council, so addressed through their secretary, fail to place such road or bridge in proper repair, to the satisfaction of such inspecting officer as the Governor may appoint, within such reasonable time as the inspecting officer may report to be necessary for that purpose, being not less than three months, it shall be lawful for the Governor to direct that such road or bridge shall temporarily be removed from the charge of the division in which either may be situate, and the Governor may cause such road or bridge to be put into proper repair, and the sums expended in placing the road or bridge in proper repair, together with all reasonable expenses of the person or persons employed in the inspection aforesaid, shall be a debt due by the said council to the Treasurer-General of this Colony: Provided, also, that a certificate from the Chief Inspector of Public Works, and countersigned by the Auditor of the Colony, shall be transmitted to the secretary of the council, setting forth the particulars of such debt,

May order council to place road or bridge in repair, and on failure so to do, may temporarily remove charge of such road or bridge from the division, and repair it at the expense of the council.

which shall in all courts and places be conclusive evidence of the amount thereof.

No. 22—1873.

III. If on the report of such inspecting officer as aforesaid it shall appear that any main road or bridge situate in any division is not in a proper state of repair, and that such main road or bridge cannot be placed in a proper state of repair without such an expenditure as would necessitate a rate exceeding one penny in the pound for main road purposes, in such division, then in case the divisional council of such division shall impose a rate of not less than one penny in the pound for main road purposes, and shall prove to the satisfaction of the Governor that such rate has been duly assessed, and that an amount equal to the total amount of such rate will be applied to the repair of the main roads and bridges within such division, it shall be lawful for the Governor to supplement the funds of such council available for main road purposes by a grant in aid out of the public revenue, not exceeding in any case the amount to be realized by such rate as aforesaid, and to be expended upon the main roads and bridges aforesaid, in case such grant shall be required for putting or towards putting, the said main roads and bridges in a proper state of repair: Provided that no second or further grant in aid shall be made within twelve months next after the making of the first or any succeeding grant: Provided, also, that unless an amount equal to the amount contributed from the public revenue in any year shall be expended by the divisional council upon the main roads and bridges of its division within twelve months next after the making of such contribution, then the deficiency shall be recoverable from such council under the Public Bodies' Debts Act, 1867.

If rate of one penny in the pound is reported insufficient for proper repair of main roads or bridges in any division, Governor may supplement funds of council available for main road purposes.

IV. The schedule A annexed to the Act No. 23 of 1858, intituled "An Act for declaring Main Roads and regulating Tolls, is hereby repealed, and the schedule hereto annexed shall be deemed and taken in the room and stead thereof, and the said Act and all other Acts relating to roads shall be construed with reference to the schedule to this Act

Schedule A to Act No. 23 of 1858 repealed, and schedule to this Act substituted.

No. 22—1873.

as if it were the schedule to the said Act No. 23 of 1858.

Interpretation of terms in this Act and Act No. 10 of 1864.

V. In the interpretation of the Act No. 10 of 1864, and of this Act, the term "construction" shall mean the first making of a main road over ground where there was no main road before, and shall include all work necessary to be done for completing such road down to the opening thereof for traffic; and the terms "maintenance" and "keeping in repair" shall both signify the same thing, and shall include all work necessary to be done to any main road already opened for traffic, in order to put, keep, and have it in good and substantial repair and in condition fit for use and traffic; and the term "bridge" shall extend to and embrace any "pontoon" placed upon any river lying in the course of any main road: Provided, however, that if by reason of floods or other casualty, any bridge shall be carried away or shall sustain damage entailing an extraordinary expenditure for repairs of more than one hundred pounds sterling, or if from natural decay any bridge shall require to be reconstructed or to be repaired at an expenditure exceeding two hundred and fifty pounds sterling, and if in either case it shall have been proved to the satisfaction of the Governor, with the advice of the Executive Council, that notwithstanding the due exercise of reasonable foresight on the part of the divisional council to which the maintenance of such bridge belongs, such casualty by floods or otherwise could not have been prevented, and further that such divisional council has in all respects satisfactorily performed its duties of "maintenance" and "keeping in repair" in respect of such bridge, then the reconstruction or such extraordinary repairs of such bridge, as the case may be, shall be regarded as coming under the head of "construction:" Provided, further, that if at any time any doubt or question should arise whether any particular work necessary to be done on or about any main road should be regarded as coming under the head of "construction" or the head of "maintenance" such doubt or question shall be



decided by the Governor, with the advice of the Executive Council, which decision shall be final, unless Parliament shall otherwise decide.

No. 22—1873.

VI. No main road or any portion of a main road now in course of construction, or that may hereafter be constructed, shall be placed in the hands of any divisional council for maintenance before such construction shall have been completed, and as often as any divisional council shall be required to take over any main road as having been constructed, it shall be lawful for such council, in case it shall not consider that such road is yet constructed, according to the true intent and meaning of this Act, to require that the question in dispute shall be referred to two arbitrators, one to be appointed by the Governor, and the other by the divisional council, and in case of difference of opinion between such arbitrators, then the question in dispute shall be referred to an umpire, to be appointed by such arbitrators, before proceeding to inspect the said road: Provided that nothing in this section contained shall extend to any main road which shall at the time of the taking effect of this Act be already in the charge of any divisional council.

Main roads not to be handed over to divisional council until construction completed.

This section not to extend to main roads already handed over to divisional council

VII. The said Act No. 10 of 1864, as amended by this Act, is hereby made perpetual.

Act No. 10 of 1864 as now amended made perpetual.

VIII. Nothing in this Act contained shall be taken to repeal any of the provisions of Act No. 32 of 1868, intituled "Act to provide for the Maintenance of the Main Northern Road."

This Act not to affect Main Northern Road Act of 1868.

IX. This Act may be cited for all purposes as "The Road Act, 1873."

Short title.

## SCHEDULE.

### MAIN ROADS.

#### *Main Road between Cape Town and Simon's Town.*

1. From the Upper Toll at the Military Lines, by Mowbray, Rondebosch, Claremont, Wynberg Hill, Plumstead, Muizenberg, Fishhoek, and Elsjes Bay, to the Toll-gate at Simon's Town.

Main road between Cape Town and Simon's Town.

No. 22—1873.

FROM CAPE TOWN  
TO ALIWAL NORTH.First section.—To  
River Zonder End.*Main Trunk Line to Aliwal North via Port Elizabeth,  
Graham's Town, Fort Beaufort, and Queen's Town.*

2. First Section.—From the Lower Toll at the Military Lines, including the branch running into the upper road, opposite the farm Roodebloem, over Montagu bridge, through Kuils River Village to Eerste River bridge forming the portion called the Maitland road; from Eerste River bridge to the village of Somerset West by the Lourens River bridge and Sir Lowry's Pass to Steenbrazens River, over Palmiet River bridge to Houwhoek Pass, to the Bot River by Langehoogte, Boontjes Kraal, &c., to the town of Caledon; thence by Bath, Speel, and Steenbok's Rivers, to the farm of the Field-cornet Eksteen, on the River Zonder End.

*Second Section.—From Field-cornet Eksteen's to Duivenhok's  
River.*Second section.—To  
Duivenhok's River.

3. From the farm of Mr. Eksteen, by Stormsvley and Leeuwe River, over the Breede River ferry and causeway to the town of Swellendam; thence on by the Buffeljagts River Bridge, Rietkuil, Karmelk's River, and Slange River, to the village of Heidelberg, on the Duivenhok's River.

*Third Section.—From Duivenhok's River to Hartenbosch,  
River, through Mossel Bay.*Third section.—To  
Hartenbosch River.

4. From Duivenhok's River to the town of Riversdale by Krombeck's River, Melkboom, Kweek Kraal, and Brak River; thence by Vette River, Kafirkuijs River, Zoetmelk's River, Zwartwater, Karmelk's Vley and Drooge Rug, Gouritz River, Stink River, Kleinberg, to Hartenbosch River, together with the road branching from Kleinberg to the town of Aliwal (Mossel Bay), and thence to the Hartenbosch River.

*Fourth Section.—From Hartenbosch River to Keurboom's  
River Height.*Fourth section.—To  
Keurboom's River  
Height.

5. From Hartenbosch River to Great Brak River Height by the pontoon over the little Brak River and causeway over to the Great Brak River; thence crossing the height by the farms Uitkyk and Diepkloof, over the bridges across Palmietvley, Norga, to the village of Blanco; thence by the Malagas River (or Aspelings' Bridge) to the town of George; from Blanco, by the Montagu Pass, to the Langekloof, by Waterval, Grootfontein, Ezeljagts River, the village of Schoonberg, Ganzekraal, Eenzaamheid, Molen River, Diep River, by the Sanddrift, easterly along the

north side of the river, and over the ridge or neck to the northward of the Wolvehuiskop; thence descending by the first hollow to Keurboom's River.

No. 22—1873.

*Fifth Section.—From Keurboom's River Height to the Van Staden's River*

6. From Keurboom's River Height by the farms Wolvekraal, Avontuur, Welgelegen, and others, crossing the Groote River, Diep River, Klein River Appel River, to Louterwater; thence by Wagenbooms River and Twee Rivieren, to the Kromme River Height; thence along the Kromme River by Jagersbosch, Diep River, and Leeuwenbosch, to the village of Humansdorp; thence by the Kabeljaauw's River and Gamtoos River ferry, to the western height of the Van Staden's River; and thence by the new line of road made recently by the Government across the Van Staden's River, joining the old road near Cadle's Hotel, on the eastern bank.

Fifth section.—To Van Staden's River.

*Sixth Section.—Van Staden's River to Port Elizabeth.*

7. From near Cadle's Hotel by Witteklip and Green Bushes to the town of Port Elizabeth.

Sixth section.—To Port Elizabeth.

*Seventh Section.—From Port Elizabeth to Graham's Town.*

8. From the town of Port Elizabeth, by the Rawson Bridge and Amsterdam Flats, to the Coega, on to Junction Post, at the deviation of the main road to the Zuurburg; thence along the Flat to Sunday's River Ferry, through the farms Vetmaakvlakte, Zokama, Baksteenvley, and Nanaga, Langeberg, Rietfontein, Leeuwenbosch, Stilgenoeg, Woodbury, Komga, Klipfontein, Nazaar, Sevenfontein, Assegaaibosch River, and Kariega Garden, and Palmietfontein, Howison's Poort, and Waai Nek, to the city of Graham's Town.

Seventh section.—To Graham's Town.

*Eighth Section.—From Graham's Town to the Kat River near Fort Beaufort.*

9. From the city of Graham's Town past the Burying ground to the race-course flats, thence by Glen Craig, new road over Botha's Hill, the Ecce Heights and Valley, Fort Brown Bridge on the Great Fish River, along the left bank of that river to the Koonap Bridge; thence by Koonap Hill and along the heights to and by the farm Windsor, westward of the house, by the farm of Gilbert, eastward of the house, by Dans Hoogte Pass, to the Kat River near the town of Fort Beaufort.

Eighth section.—To Kat River near Port Beaufort.

No. 22—1873.

*Ninth Section.—Great Northern Road.—From near Fort Beaufort, viâ Queen's Town, to Aliwal North.*

Ninth section.—To Aliwal North (Great Northern Road).

10. From the main road between Appies Draai and point of deviation of road to the town of Fort Beaufort, near Victoria Bridge, along the western bank of the Kat River, following generally the old road by the lime-kilns on the Fort Beaufort commonage; thence on through the farm Baddaford, through the Blinkwater Poort, to the drift near the Blinkwater Hotel, through the commonage of Blinkwater; thence along the banks of the Kat River, through Ebenezer and Deel Kraal on to Ubsher, to the bridge over the Balfour River; thence ascending the Katberg through the commonages of Balfour, Philipton, Maasdorp, and Readsdales, through the Vulcan's Bellows outspan to the summit level, descending through the Fingo locations in the Queen's Town division, and by Hex's Hotel, on past Langeveld's Hotel, to the recently constructed drift over the Oxkraal River, through the farms Bushy Park, Bold's Point, Princedale, and Oxton, on through T'Saalie's Poort to homestead, viâ Causeway and Braak River Drift, to Poplar Grove; and then by Mount Hopley, Braak Kloof, Zwartfontein, and Endwell, crossing the Zwart Kei River by the Cathcart Bridge, and the Klaas Smits River by the Cathcart Bridge, on through the farms Cathcart Drift, Blaauw Krantz, Latham, Galler Hill, Maidenhead, Weltevreden, to Lesseyton Neck; thence along the Native Location at Lesseyton to the outspan on farm Kleinfontein; on through Sherwood Dell, Vaal Krantz, Naudesfontein, and other farms, to Kloppersfontein, by Rietkuil on to Penhoek, forming the boundary of the Queen's Town division, to the summit of the Stormberg; then through Droogefontein and Klip Kraal, to the outspan place on Buffelsfontein; then entering on the division of Aliwal North through Leeuwe Kraal and Allemans Poort outspan, crossing the Holspruit by Roodehoogte, Uitkyk, Klipfontein, Modderpoort, on to the outspan and hotel on the Nek; then through Morgenzon to outspan on Lemonfontein and outspan on Kalkoenkranz, crossing the Klipspruit to Theurfontein, Elandsberg and Laagte, through Buffelsvlei, to the commonage of Aliwal North on the southern banks of the Orange River, as shown in plans in the office of the Chief Inspector of Public Works.

*From Port Elizabeth, over the Zuurberg, to Cradock.*

Port Elizabeth over the Zuurberg.

11. From the northern entrance of the town by the new gaol at Port Elizabeth to the Rawson Bridge; thence over Amsterdam Flats to Clark's Hotel, at Bevan Vale; thence past Brak River outspan through Coegakamma Kloof to

Tunbridge's, at Addo Drift ; past Commando Kraal, to the outspan on southern base of the Zuurberg on the farm Wolvekop, descending the Zuurberg Ranges *viâ* Strobel's and Doornek, to Riet Valley Farm on the Boontjes River, to the summit of the highest range, thence descending the northern slope of mountain by Webster's Hotel.

*From Northern Base of Zuurberg to junction with Graham's Town and Cradock Road.*

12. From Webster's Hotel and Toll-house, crossing the Bushman's River, on to the farm of Mr. Wm. van der Merwe, on the Little Fish River ; thence to the farm of Piet Goosen, on to Cookhuis Bridge, along the western bank of the Great Fish River ; thence along the east side of the river by the road recently constructed through Esterhuysen's Poort, to junction with main road between Graham's Town and Cradock, near the Drift over the Baviaan's River, Trollip's.

To junction with Graham's Town and Cradock Road.

*From Graham's Town to Cradock.*

13. From Graham's Town over the Commonage, through Syphefontein, of Mr. G. Palmer, to the Government Outspan ; thence through Table Farm, Draai Farm, and Brak Kloof of Dr. Atherstone, and Van der Merwe's Kraal of Mr. P. van der Merwe ; thence through the Hell Poort, over the farms Bergplaats of Mr. E. H. Dell, and Mackow Kraal of S. Becker, to Carlisle Bridge, on the Great Fish River, the property of J. Lombard, and Government Outspan ; thence through Schelm Kloof and Ettrick Hill, Uitkyk of Gert Nel, Klipgat of Gert Goosen, Leeuwfontein of Harding, and Beenleepte of Joachim Blaglio, to Kleinfontein of the Rev. Welsh, and Government Outspan ; thence by Simpson's Hotel, across the Goba River, over the farms Rekwest Plaats of Jordaan, to Vleyplaats of C. van Aardt ; thence across the Baviaan's River, through the farms of that name, the properties of Messrs. B. Trollip and Roberts, to Daggerboer's Neck ; thence by Maskel's Hotel, passing the farm of Vaderlandsche Wilgeboom of W. Trollip, to Kromme River and Blaauw Heuvel of J. J. Coetzee, thence to Blaauw Krantz to the Tarka Bridge, passing to the west of a hillock ; thence along the eastern bank of the Fish River by Potgieter's Krantz, leaving the Kleine Zuurberg to the right, to Cradock Commonage and Outspan.

Graham's Town to Cradock.

*From Port Elizabeth to Graaff-Rienet, viâ Uitenhage.*

14. From the town of Port Elizabeth by the Klein School, below Bethelsdorp, leaving Mr. Korsten's Cradock

Port Elizabeth to Graaff-Rienet, viâ Uitenhage.

No. 22—1873.

Place and the Salt Pan to the left, to the town of Uitenhage; thence to the Coega River, crossing near the farm-house Prentice Kraal, thence past Sandfontein to Centlivres outspan, crossing the Coega River below the farm-house of Prentice Kraal; thence to Blaauwkrantz, crossing the Bezuidenhout's River to the left of that place; thence by Steenbokvlakte to the Kariega River, passing the outspan Roodewahl, through Grootepoort to Paardepoort; thence to Potgieter's Kraal, leaving homestead to the right, to Jansenville, on the Sunday's River; thence to Milk River by Ratelpoort and Paardefontein, crossing the Milk River above its junction with the Sunday's River; thence by Kruidfontein to the town of Graaff-Reinet, and as recently constructed by the Public Works Department.

*From Graaff-Reinet to Middelburg.*

Graaff-Reinet to Middelburg.

15. From the town of Graaff-Reinet to Perry's Hoogte, crossing the Sunday's River near the farm-house Rhoedebloem; thence by Goliathskraal's Hoogte, Goliathskraal, and to the left of Bloemhof over Naudesberg; thence by the farm Blaauwwater, Lootsberg, Rondehoogte, Lys River, crossing near the house of L. Lesing to the base of the Rhenosterberg; and thence by Bullfontein to the village of Middelburg.

*From Middelburg to Colesberg.*

Middelburg to Colesberg.

16. From Middelburg to Grootfontein; thence to Wolvekop, Tweefontein, and Naauwpoort; thence by Hartebeesthoek and Caroluspoort to Valschefontein; thence by Hartebeestfontein to Reitfontein; and thence over Government Ground to Colesberg.

*From Colesberg to Bothasdrift.*

Colesberg to Bothasdrift.

17. From the town of Colesberg, by the Klipkuil on the Colesberg Commonage, to the poort on the adjoining farm Rietfontein; thence through a part of Knoffelfontein, and Blaauwkrantz, and Rietbult, to the Bothasdrift on the Orange River.

MOSSSEL BAY TO BEAUFORT.

*From Mossel Bay to Beaufort West; from Mossel Bay to Meiring's Poort.*

To Meiring's Poort.

18. From Doorn River, near Massyn's on the main trunk line to Graham's Town, through Campher's Poort; thence over a farm occupied by Mr. Raubenheimer, leaving the homestead to the right; thence to the farm Kamanassie, of Mr. Gert Coetzee; thence to Dysselsdorp; thence over the farm Rietfontein of Messrs. Le Roux and Snyuan; thence

over the farm Oude Muragie, of Messrs. Le Roux and De Beer; thence to the farm De Rust, of Mr. P. Meiring, sen., at Meiring's Poort.

No. 22—1873.

*Meiring's Poort.*

19. From the farm De Rust of Mr. P. Meiring, sen., through the Zwartberg range of mountains to Klaarstroom on the north side. To Klaarstroom.

*From Meiring's Poort to the Town of Beaufort West.*

20. From the northern entrance of Meiring's Poort over the farm Klaarstroom, through Droogekloof, to the farms Kafirsfontein of Mr. B. Visser, Lombardskraal of Mrs. Mocke, and Steenrotsfontein of Mr. Goozen, to the town of Beaufort West. To Beaufort.

*From Malmesbury to Cape Town.*

21. From the village of Malmesbury to a point in the road below the valley of Mr. H. du Toit, over the place Olifantsfontein; thence over the farm Amoskuil, leaving the house on the left; thence over the farm Mollenburg, leaving the house and river on the right; thence over the farm Berg en Dalen, leaving the homestead on the right; thence to the Diep River, opposite the farm Draaihoek of Mr. A. Van Niekerk; thence over the farms of Mr. J. van Schoor and Mr. van der Spuy, leaving the homestead on the right; thence to the Mosselbanks Bridge; thence to Duikervley; thence by Jan Biesjes Kraal, to the Maitland road, near Montagu Bridge. Malmesbury to Cape Town.

*From Malmesbury to Clanwilliam.*

22. From the village of Malmesbury to the Groote Valley outspan-place; thence by road constructed by Public Works Department to the Berg River Bridge; thence following the old road by Zand Valley outspan-place, Draaifontein, and Rondekuil, in a straight line to Baviaan's Kloof; thence over Piquineer's Kloof (Grey's Pass), in an easterly direction, crossing the Olifants River on the property of Mr. Hanekam, called Middelpost; and thence along the eastern bank of that river by the outspan and bridge at Rondegat; along the east side of Olifants River, to the town of Clanwilliam. Malmesbury to Clanwilliam.

*From Cape Town to Lichtenberg.*

23. From the twelfth mile on the Maitland Road, leaving Elsjes Kraal outspan to the left, to the village of D'Urban and Lichtenberg. Cape Town to Lichtenberg.

No. 22—1873.

*From Cape Town to Karoo Poort and Beaufort viâ Paarl and Wellington.*Cape Town to Karoo  
Poort and Beaufort.

24. From the fourteenth mile on the Maitland Road, by Stikland, Kruispad, Kraaifontein, and Mullersvlei, to the town of the Paarl; thence over the Berg River, by Lady Grey Bridge, through Dal Josaphat, to the village of Wellington; thence over Bain's Pass to Darling Bridge, over the Breede River; thence along the southern side of the Breede River to Mitchell's Pass, through the Pass, to the village of Ceres; thence to Karoo Poort by Breda's Bridge, Leeuwenbosch, and Hottentots Kloof; thence through the Great Karoo by Platfontein, Stinkfontein, and Brewelsfontein, the farm Patatas River, Driekop, over the Hoogeveld, to Zoutkloof, Grootfontein, crossing the Dwyka River to Wagonmakerskraal; thence to Rietfontein, Kindfontein, and Uitkyk, along the northern bank of the Gamka River by Steinkraal to the town of Beaufort.

*From Worcester to Darling Bridge.*Worcester to Darling  
Bridge.

25. From the town of Worcester, over part of the place lately belonging to Mr. Pieter Jacobs; thence in a straight line to Slangeheuvcl, passing through the lands of Messrs. Jacob de Vos and Gabriel Hugo; from Slangeheuvcl in a straight line to the eastern entrance of Bain's Kloof, where it crosses the Breede River at Darling Bridge.

*From Knysna Harbour to Langekloof, as far as Yzernek.*KNYSNA HARBOUR  
TO LANGEKLOOF,  
As far as Yzernek.

26. From Belvidere Village, crossing the Knysna River at the "Point" by pontoon; thence through the property of Mr. E. Sutherland, called Eastford; thence through the Commonage and Admiralty Lands, to the Village of Melville; thence through the property of Mr. John Sutherland, called Melkhout Kraal; thence through Government Ground, following outskirts of Messrs. Kep and Veldman's land, occupied by Stroebel; thence over Glebe Lands (Forests) granted to the Lord Bishop of the Diocese; thence through Forest Land of Mrs. the Widow John Rex; thence through Government Forest to Yzernek by the line constructed by the Public Works Department.

*From Yzernek to Avontuur, in Langekloof, Prince Alfred's Pass.*

To Avontuur.

27. From Yzernek, past a place called Buffelsnek; thence through the farm of Mr. Scholtz, Klein River; thence through a small strip of Government Ground near the Diep River; thence through the properties Kafirskraal of Mr. G. W. B. Wehmeyer, and Cloeteskraal of Mr. S.



van Huystein, Capp, and others, thence through the farm called Vlught, thence through a place called Voightskraal to its junction with the main road between Cape Town and Graham's Town, close to the farm-house of Mr. Zonda, senior, at Avontuur. No. 22—1873.

*From Hondeklip Bay to Springbok.*

28. From Hondeklip Bay to Blyfstaanhoogte; thence on to De Riet past Riethuis; thence over the Oubees Flats to the foot of the Kekokies Mountains; thence up to the farm Kekokies; thence on to the Buffels River and through the drift on to Aagenbag's Draai; thence on to Koornhuis; thence on to Dancekraal, and after joining the Messklip Road on to Springbok and O'okiep. Hondeklip Bay to Springbok.

*From Ecca Heights to King William's Town.*

29. From the point of deviation from main road between Graham's Town to Fort Beaufort, on the Ecca Heights, past the Police Station, through Pluto's Vale, on to the Fish River Drift at Committee's; from thence by road as now made to Breakfast Vlei; from thence *viâ* Montgomery Williams to Old Post, to Naude's Drift on the Keiskamma; from thence through Outspanning, Kama's Locations in the division of King William's Town, to Simpson's farms near Debe Nek; from thence along the present line of road, allowing deviation of a mile on each side, to near Liefeldt's mission station; from thence to proposed bridge over the Buffalo River at King William's Town, opposite to the Botanical Gardens, and on line recently traced out by the Public Works Department. Ecca Heights to King William's Town.

*From King William's Town to East London.*

30. From King William's Town by way of Breidbach, Berlin, Fort Jackson, and Amalinda Kop, as described more particularly in the report and plan of Messrs. C. A. Smith and A. G. de Smidt, deposited in the office of the Chief Inspector of Public Works. King William's Town to East London.

*From Cradock to Burghersdorp.*

31. From the town of Cradock in a northerly direction along the east bank of the Great Fish River, crossing Jakin's Sluit, and passing westward of Kaptein's Kop over flats, by Brak Valley, to Quaa River; thence bending to the westward, past Quaa Plaats, over flats by Adam's Fontein Nek to Grass Ridge; thence along the eastern bank of the Brak River; past Klipheuvel, Luisfontein, and Zoetfontein, to the Thebus River, close to its junction with Cradock to Burghersdorp.

No. 22—1873.

the Brak River at De Keur ; thence after crossing, following the course of the Thebus River in a north-easterly direction, passing over Kneehalter's Nek, and through the farms Grootevalley and Mossfontein ; thence over Little Kneehalter's Nek, and the farm Wagenmaker's Valley eastward, to Burghersdorp.

*From De Keur to Colesberg.*

De Keur to Colesberg. 32. From the Thebus River close to its junction with the Brak River at De Keur, on the line of main road from Cradock to Burghersdorp, to Luisfontein (Schoonbie's) passing by Schoongezicht, Henningsfontein, Macassarfontein Toll, Plaatberg (Jooste's) Rietkuil (Theunissen's) Grontfontein (Pienaar's), to Colesberg.

*From Beaufort to Graaff-Reinet.*

Beaufort to Graaff-Reinet. 33. From Beaufort West *via* Nelspoort, in the division of Beaufort, and over the following places in the Murraysburg division, viz., by Kruidfontein, Karreebosch, Kraaifontein, Tooverfontein, to Murraysburg ; thence by Valleyplaats, Voetpad, Rhenosterfontein, Poortje, and Zuurpoort (all in the Murraysburg division), to Zuurplaats, Matjesfontien, Oudeberg, to Graaff-Reinet.

*From Murraysburg to Hanover.*

Murraysburg to Hanover. 34. From Murraysburg *via* Oude Snyderskraal, Rietpoort, Roodezandhevel, Lapfontein, Liebekfontein, to Richmond, Kantfontein, Scheurfontein, Bonteboks Nek, to Hanover.

*Debe Nek to Graaff-Reinet.*

Debe Nek to Graaff-Reinet. 35. From Debe Nek to Alice ; thence to Fort Beaufort ; thence to Adelaide ; thence to Bedford ; thence to Kookhuis Drift ; thence to Somerset East ; thence over the Bruintjes Hoogte, through Pearston, to Graaff-Reinet, adopting the roads at present in use.

No. 23—1873.]

AN ACT

[June 26, 1873.]

For Enabling the Municipality of Worcester to borrow a sum of Money not exceeding Two Thousand and Two Hundred Pounds (£2,200) 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.

**W**HEREAS it is expedient to provide the in- Preamble.  
habitants of the town of Worcester and the locations of the poorer classes adjoining thereto with a supply of pure water, and to extend and improve the waterworks of the municipality of Worcester : And whereas at a public meeting of resident householders convened for the above purpose on the 21st day of August, 1872, it was resolved by a majority of such resident householders then present that the commissioners of the said municipality of Worcester be authorized to carry out the object as before mentioned, at an expense not exceeding the sum of two thousand and two hundred 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 for the time being of the municipality of Worcester to borrow 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 purpose of erecting a reservoir and filtering bed, and providing and laying certain pipe or pipes from the main watercourse flowing to the town of Worcester, and issuing from the Hex River, for the conveyance of water to any house, building, or other place situated within the said municipality ; and to con-

Commissioners authorized to borrow £2,200 for water works.

No. 23—1873.

struct dams, tanks, drinking fountains, and fire plugs wherever the same may be required within the said municipality; and, further for doing all such other matters or things as shall or may be required for improving and extending the water-works of the said municipality, and leading the water from the Hex River as aforesaid into the town of Worcester.

Rate to be imposed.

II. It shall be lawful for the commissioners of the said municipality to impose, for the purpose of providing for the payment of the principal or interest or principal and interest of the moneys aforesaid, a certain rate or tax upon any private waterleadings which may be required by any of the inhabitants as aforesaid; and every rate or tax 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 or tax imposed under the provisions of Ordinance No. 9 of 1836.

Rate to be levied as in Ordinance No. 9 of 1836 directed.

Ratepayers entitled to have a private service pipe laid on, on payment of an extra rate.

III. Every ratepayer shall be entitled, at his own expense, to have a private service pipe laid on to the main or branch pipe, for the supply of water for domestic purposes, on payment of such special or extra rate as may be fixed by the commissioners aforesaid, such special or extra rate to become due and payable in advance.

Commissioners to make regulations as to water supply and levy of rate.

IV. It shall be lawful for the commissioners of the said municipality from time to time to make such regulations as regards the quantity of water to be supplied to the inhabitants, and the time or times at which such supply is to be received, and further to make such arrangements as they the commissioners may deem expedient for levying and enforcing the payment of any rate or tax for any private waterleadings as aforesaid.

Loan to be charged upon general revenue.

V. The aforesaid sum of two thousand and two hundred pounds sterling is hereby charged upon and made payable out of all and singular the rates and general revenues of the said municipality: Provided that it shall be lawful for the said commissioners to apply to the payment of interest or principal or interest and principal of the moneys aforesaid, any funds or moneys coming to the said

commissioners from any source whatever, and not specially appropriated for any other object.

No. 23 -1873.

VI. The said commissioners 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 purposes aforesaid, not exceeding in the whole the sum of two thousand and two hundred pounds sterling, which acknowledgment shall in substance be in the form given in the schedule annexed to this Act, and shall be signed on behalf of the said commissioners by three of the commissioners for the time being, appointed for that purpose by a resolution of the board of commissioners of the said municipality, and of which three the chairman of the said board shall be one.

Acknowledgment for loan to be in form given in schedule.

To be signed by the chairman and two commissioners.

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

Debts to be subject to the Public Bodies Debts Act, 1867.

VIII. All moneys received from the water rate, and to be borrowed and taken up at interest by virtue of this Act, shall be applied for the purposes of this Act, and shall not be spent upon or applied to any other purpose.

Manner in which moneys received under this Act shall be applied.

IX. 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 yearly and every year, so long as any part of any debt contracted under and by virtue of this Act shall be in existence, prepare and deposit in the office of the said municipality for the inspection, at all reasonable times, of any resident householder of the said 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 said municipality not later than the 1st day of March of the year next succeeding.

Separate account to be made up annually of moneys borrowed under this Act, and submitted for inspection of resident householders.

No. 23—1873.

Costs of this Act to be paid out of general revenue.

Short title.

X. It shall be lawful for the said commissioners to pay the necessary costs, charges, and expenses of obtaining this Act, and carrying the provisions thereof into effect, out of the general revenues of the said municipality.

XI. This Act may be cited for all purposes as "The Municipality of Worcester Loan Act, 1873."

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SCHEDULE.

We, the undersigned, commissioners of the municipality of Worcester, duly authorized thereto by the board of commissioners of the said municipality, 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 "Municipality of Worcester Loan Act, 1873;" 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 Worcester, this—day of— 187—.

A. B., Chairman.  
 C. D., } Commissioners.  
 E. F., }

Witnesses :

G. H.  
 I. K.

No. 24—1873.]

AN ACT

[June 26, 1873.]

To Authorize the Cape Copper Mining Company (Limited) to construct and work a Tramway or Railway from Kookfontein to O'okiep.

Preamble

WHEREAS it is desirable and expedient that the Cape Copper Mining Company (Limited) should be authorized to construct the tramway or

railway hereinafter described: 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. The Cape Copper Mining Company (Limited), is hereby empowered to construct, maintain, and work for the purposes of the said company in relation to its mines, a tramway or railway for a distance of thirty-eight miles or thereabouts, commencing from the terminal point near Kookfontein mission station, and proceeding from such point in a south-westerly direction near Paardewaterbank, Ballatrap, and Staalkraal, to the said company's lands at Nababiep, and thence to a terminal point at O'okiep, in accordance with plans and sections deposited in the office of the Clerk of the House of Assembly.

Company empowered to construct thirty-eight miles of tramway or railway.

II. The said company is hereby authorized to enter upon, and to take possession of and retain, all such land within the limits of deviation as shown by the said plans, and also to dig for, excavate, and carry away all such stones, clay, or other materials within or from waste Crown lands near to the said limits as may be required for the construction and maintaining of the said tramway or railway: Provided that the extent of land taken or used for the said tramway or railway shall not exceed the width of thirty feet, with sufficient additional width for slopes, drainage, stations, stopping places, approach roads, and all other matters and things which may be requisite or necessary for the efficient construction and working of the said tramway or railway: Provided, also, that the proprietors, lessees, or other persons, holding from and under the Crown any lands so taken possession of, or of the materials so carried away and used, shall be paid by the said company the just value by way of recompense or compensation for the interests of the said proprietors, lessees, or others holding from and under the Crown as aforesaid, for such land or materials, or for any damage which may be done by reason thereof; such recompense or compensation to be settled in manner provided in and by the third section of

Company authorized to enter upon and take possession of lands, &c.

Compensation to proprietors, &c., to be settled under provisions of 3rd section of Act No. 4 of 1869.

No. 24—1873.

Act No. 4 of 1869, which for this purpose shall be taken to be embodied herein.

Company authorized to enter upon and take possession of Crown lands, &c.

III. The said company is hereby authorized to enter upon and take possession of, and to hold and retain for all the purposes of this Act, free of any charge, so much of any Crown lands as shall be required for the construction and maintaining of the said tramway or railway, or for any other purpose relating to the execution of this Act, and also to enter upon all Crown lands not previously leased by the Government to any lessee lying convenient to the said tramway or railway, and there to dig for, excavate, and carry away all such stones, clay, or other materials as may be required or be serviceable for the construction and maintaining of the said tramway or railway; and further to allow the horses, mules, or cattle required for the purpose of working the said tramway or railway to graze upon any Crown land adjoining the same; and also to obtain water from any part of such land where it can be found by digging, well-sinking, constructing dams or tanks, and conveying such water therefrom by pipes or conduits to any part of the said tramway or railway, free of any charge or interference: Provided that nothing in this Act contained shall establish any servitude in favour of the said company for such privilege, or for procuring materials for the said tramway or railway, upon any land which may at any time hereafter be sold or leased by the Colonial Government to any purchaser or lessee thereof.

Line to be completed within five years.

IV. The said company shall be bound to complete the said tramway or railway within five years from the taking effect of this Act, failing which the powers and authorities hereby conferred shall cease and determine.

Right of Government to purchase line.

V. At any time after the expiration of seven years from the date of opening for traffic of the said tramway or railway from Kookfontein to O'okiep, the Colonial Government shall have the right, if so disposed, to purchase from the said company, and the said company shall, if required thereto, be bound to sell to the Colonial Government, the said



tramway or railway, together with all fixed property of the said company lying within the limits of deviation aforesaid, at the cost price of the construction and equipment of the said tramway or railway, and of the purchase and erection of land and buildings, or at any less sum that may be agreed upon between the said company and the Colonial Government.

No. 24—1873.

VI. If at any time after the said right of pre-emption in the last section contained shall have accrued to the Government, the Government shall have waived or declined to exercise the same, or if at the expiration of the further period of twelve months thereafter the said company and the Government shall have been unable to agree upon the terms of sale and purchase as aforesaid, then and thereafter it shall be lawful for the said company to remove and carry away all plant and material from the said tramway or railway.

Failing to sell, company may remove plant, &c.

VII. It shall be lawful for the said company, with the previous sanction of the Governor, at any time to sell, dispose of, and transfer all their right, title, and interest in and to the said tramway or railway, and other property acquired or erected for the purposes of the said tramway or railway under the provisions of this Act, to any other company or companies or private individuals desirous of purchasing the same ; subject, nevertheless, to the provisions, terms, and conditions of this Act, as if the purchaser or purchasers thereof had been herein expressly made liable thereto.

Company may dispose of its rights with sanction of Governor.

No 25—1873.]

AN ACT

[June 26, 1873.

To Amend the Act No. 14 of 1868, for Constituting the Town of Port Elizabeth a Municipality.

**W**HEREAS by the sixty-third section of the Act No. 14 of 1868, for "Constituting the Town of Port Elizabeth a Municipality," the council therein constituted is empowered to make and levy in manner therein provided a rate or assessment upon Preamble.

No. 25—1875.

all immovable property within the limits of the municipality for certain purposes therein mentioned, and *inter alia* for making watercourses, reservoirs, aqueducts, and other waterworks: And whereas the rate or assessment thereby authorized to be made has been found insufficient for the purposes aforesaid, and it is expedient to empower the said council to make and levy a further rate or assessment not exceeding the sum of one penny in the pound in any one year on the value of the immovable property within the said municipality, such rate or assessment to be applied solely for the purposes of providing a water supply for the municipality, by contracting with a company or companies, or with any corporate body, individual or individuals, for the same, and the taking over and purchase of such works, with the rights and privileges appertaining hereto, at a price to be named in such contract or contracts: Be it therefore enacted by His Excellency 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:—

Council authorized  
to levy water rate.

I. Notwithstanding any clause, matter, or thing in the said Act No. 14 of 1868 contained, it shall be lawful for the council of the said municipality to make and levy in each and every year a further and separate rate or assessment for the purpose of a water supply for the town of Port Elizabeth, not exceeding one penny in the pound sterling, on the value of the immovable property within the said municipality, and the modes of assessing, collecting, and recovering the same shall be such and the like as are provided for the levying, collecting, and recovering the landlord's rate in the said Act, so far as the same are applicable.

Council may make  
contracts for supplying  
town with water.

II. It shall be lawful for the council to make and conclude any contract or contracts with any joint-stock company or co-partnership, or with any corporate body, or any individual or individuals, for supplying the town of Port Elizabeth with water: Provided that the council shall be at liberty from time to time after twelve months notice, to purchase and take over the works executed by and

under such contract or contracts on the terms and at a price or prices to be therein named.

No. 25—1873

III. It shall be lawful for the council and it is hereby authorized and empowered to borrow and take up at interest on the security of the rate herein provided to be levied, such sum or sums of money as may from time to time be required for the purposes of this Act.

Council may borrow on security of said rate.

IV. The word "municipality" used in this Act shall mean the Municipality of Port Elizabeth, and the word "council" the municipal council of Port Elizabeth.

Interpretation terms.

V. This Act may be cited for all purposes as "The Port Elizabeth Municipality Amendment Act."

Short title.

No. 26—1873.]

AN ACT

[June 26, 1873.]

To Amend the Law of Inheritance in this Colony, and repeal the "Lex Hac Edictali."

**W**HEREAS it is expedient to amend in manner hereinafter set forth the law as to the inheritance of the estates of deceased persons in this Colony, and to repeal the "Lex Hac Edictali:" 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. In no case shall any heir of any one dying after the taking effect of this Act be entitled to deduct out of the estate of the person so dying any portion under or by virtue of the laws known respectively as the Falcidian and the Trebellianic Laws, which, but for such laws respectively, such heir would not be entitled to claim or deduct.

Heir not entitled to deduct any portion under Falcidian and Trebellianic laws.

II. From and after the taking effect of this Act the sixth law of the ninth title of the fifth book of the Codes of Justinian, commencing with the words "Hac Edictali," and commonly called or known as the Law or Lex Hac Edictali, shall be and the same is hereby repealed.

Lex Hac Edictali repealed.

III. This Act may be cited for all purposes as "The Law of Inheritance Amendment Act, 1873."

Short title.

# INDEX.

	PAGE
Accounts of Executors, Trustees, &c., provision for lodging ...	341
Aden, Telegraph to, promoted ... ..	379
Agricultural Crown Lands, Disposal of, regulated... ..	82
Algoa Bay, Commissioners, for Improving the Port authorized to make Regulations ... ..	330
Annexation to the Colony of certain Islands, &c., confirmed ...	318
Annexation of Basutoland, confirmed... ..	178
Apprehension of certain Deserters and Offenders, facilitated...74,	288
Apprentices and Masters, Relative Rights and Duties of, regulated, and former Act amended... ..	368
Appropriation of Revenue, 1869 ... ..	40
Ditto ditto 1870 ... ..	88, 134
Ditto ditto 1871 ... ..	136, 173
Ditto ditto 1872 ... ..	183, 212, 306
Ditto ditto 1873 ... ..	308, 381
Ditto ditto 1874 (Partial) ... ..	387
Army, Apprehension of Deserters from ... ..	74
Associations and Companies, Doubts removed as to the ownership of Immovable Property held in trust for ... ..	323
Attorneys admitted into Eastern Districts Court under Act 3 of 1865 to be admitted into Supreme Court... ..	205
Authors, Rights of, protected and regulated... ..	319
Bank, Eastern Province, Act of 1868 amended ... ..	43
Basutoland, Annexation of, sanctioned ... ..	178
Beacons, Land Beacons Act of 1859 amended ... ..	26
Beaufort Reservoir, Municipal Commissioners authorized to raise Loan for strengthening... ..	17
Bees, Better Protection of ... ..	24
Breakwater, Table Bay, provision for Management of ... ..	299
Ditto, Algoa Bay, authorizing Resolutions by Commissioners for better Management of... ..	330
Bridges, Orange River, promoting Construction of... ..	187, 266
British Kaffraria Incorporation Act amended as to admission of Attorneys ... ..	205
Bushman's River and Port Elizabeth Railway, certain Lands and Materials authorized to be taken... ..	283
Ditto ditto Construction, &c., provided for... ..	349
Cape Copper Mining Company, Construction of Railway or Tram- way from Port Nolloth to Nonams and Jetty at Port Nolloth authorized ... ..	6
Ditto ditto Extension of Line, sanctioned ... ..	143
Ditto ditto Construction of Railway or Tramway from Kookfontein to O'okiep, authorized ... ..	404
Cape Town and Wellington Railway, Purchase of line, sanctioned	
Capital Punishment, regulating the Execution of ... ..	5
Cattle, Removal of, regulated ... ..	128

	PAGE
Clothing, Seamen's, provision for Protection of ... ..	78
Coasting Trade, Regulation of... ..	311
Commonage, Regulations as to Rights of ... ..	112
Companies and Associations, Doubts removed as to the ownership of Immovable Property held in trust for ... ..	323
Constitution Ordinance (Responsible Government) amended ... ..	194
Contagious Diseases Prevention Act, 1868, repealed ... ..	196
Convicts, Juvenile, Punishment of ... ..	46
Council, Divisional, Acts amended ... ..	32
Ditto Lessees of Crown Lands qualified to be Members of	
Copyright Act ... ..	319
Criminals, Extraditions of ... ..	379
Crown Lands, Agricultural, Disposal of, regulated... ..	82
Ditto (Leasing) Act 1864, amended... ..	81, 86
Ditto Liability and Qualification of Lessees of ... ..	81
Ditto Survey for Lease, Provision for Expenses of ... ..	73
Ditto Waschbank, authorizing Disposal of... ..	135
Curators' Accounts, provision for Lodging with Magistrate ... ..	341
Customs, provision for better Management of ... ..	341
Ditto Rates of Dues on certain Articles regulated ... ..	140
Debentures, Issue of, sanctioned ... ..	90, 113, 276, 349
Debts, Public, Consolidation of, provided for ... ..	90, 275
Deeds Stamp Act ... ..	366
Deserters, Apprehension of, regulated... ..	74
Diamonds, Disposal of certain, regulated ... ..	374
Disabilities Removal Act, 1868, Operation of, limited ... ..	19
Diseases, Contagious, Prevention Act 1868, repealed ... ..	192
Divisional Councils Acts, amended ... ..	20, 32
Ditto ditto Lessees of Crown Lands qualified to become Members of ... ..	81
Divisional Police Force, obtaining of, facilitated ... ..	334
Dock, Graving, Table Bay Loan for, sanctioned ... ..	208
Docks, Table Bay, Provision for further Loan for Completion of... ..	113
Ditto ditto, Commissioners of, to fix Tonnage of Goods subject to Dues ... ..	329
Docks, Table Bay, provision for Management of ... ..	299
Drainage, Swellendam, Loan for Improvement of, sanctioned ... ..	272
Duty, Customs, on certain Articles regulated ... ..	140
Ditto House, sanctioned ... ..	97
Ditto ditto continued to end of 1873 ... ..	266
Ditto Stamp, amended ... ..	118, 198
Ditto Transfer, on Purchase of Immovable Property, amended ... ..	198
Ditto Wharfage, Provision for levying at East London Harbour... ..	149
Eastern Province Bank Act, 1868, amended .. ..	43
East London Harbour, Loan sanctioned and Wharfage Dues pro- vided for ... ..	149
Ditto ditto Clearing the Anchorage of, provided for ... ..	39
Electoral Division of Wodehouse, Act for Creating... ..	206
Engines, Road, Use of, on Common Roads, regulated ... ..	331
Estates, Insolvent, Lodgment of Accounts in, regulated ... ..	341
Executors' Accounts, provision for lodging with Magistrate ... ..	341
Expenditure 1869 sanctioned ... ..	40
Ditto 1870 ditto ... ..	88, 133
Ditto 1871 ditto ... ..	136, 173
Ditto (unauthorized) 1871 ditto ... ..	338
Ditto 1872 ditto ... ..	183, 212, 299
Ditto (unauthorized) 1872 ditto ... ..	340
Ditto 1873 ditto ... ..	308, 381

	PAGE
Expenditure 1874 sanctioned ... ..	384
Ditto (unauthorized) Tulbagh Kloof Works, sanctioned...	96
Extradition of Criminals ... ..	288
Fiscal Division of Wodehouse, erected, and Limits altered...	148, 196
Fitzpatrick, The Hon. Mr. Justice, Retiring Pension of, regulated	142
Free State, Apprehension of Offenders from, facilitated...	288
Government, Responsible, provided for ... ..	194
Graham's Town Municipality re-established ... ..	47
Ditto ditto regulated ... ..	143
Guardians' Fund, Rate of Interest reduced...	358
Harbour, Algoa Bay, Commissioners for Improving Harbour autho- rized to make Regulations ... ..	330
Harbour, East London, Loan sanctioned and Wharfage dues authorized ... ..	149
Harbour, Kowie, Dissolution of Improvement Company, sanctioned	
Harbours, Removal of Vessels stranded in, regulated ... ..	34
Hawkers and Travelling Traders, Term defined for the purpose of "The Stamp Act, 1864" ... ..	25, 177
House Duty sanctioned ... ..	97
Ditto continued to end of 1873 ... ..	
Hut Tax, Collection of, provision for...	3
Ichaboe and Penguin Islands, Annexation to this Colony, confirmed	318
Inheritance, Law of, amended... ..	409
Insolvent Estates, Lodgment of Accounts in, regulated...	341
Institutions (see Missionary).	
Islands, Annexation of certain, to the Colony, confirmed ... ..	318
Judge Fitzpatrick, Retiring Pension of, regulated ... ..	142
Juvenile Offenders, better provision for Punishment of ... ..	45
Kaffraria, British, Incorporation Act, 1865, amended as to admission of Attorneys ... ..	205
King William's Town, Borough Council's Borrowing Powers en- larged ... ..	37
Kookfontein to O'okiep, Railway or Tramway, authorized ... ..	404
Kowie Harbour Improvement Company, Dissolution of ... ..	34
Land Beacons Act, 1859, amended ... ..	26
Lands (see Crown Lands).	
Licences, Stamp Act, 1864, amended as to ... ..	118
Loan for Purchase of Cape Town and Wellington Railway, authorized ... ..	276
Ditto Beaufort Reservoir, authorized ... ..	17
Ditto East London Harbour, sanctioned ... ..	149
Ditto King William's Town Borough Council, borrowing powers enlarged ... ..	31
Ditto Paarl Water Supply, authorized ... ..	21
Ditto Port Elizabeth and Bushman's River Railway Construction, provided for ... ..	349
Ditto Swellendam Drainage and Waterworks Improvement, sanctioned ... ..	272
Ditto Table Bay Dock, provisions for further ... ..	113
Ditto Table Bay Graving Dock, authorized ... ..	206
Ditto Telegraph Purchase and Extension, sanctioned ... ..	284
Ditto Wellington and Worcester Railway Construction, provision for ... ..	272
Ditto Worcester Water Supply, authorized ... ..	401

	PAGE
Loans, Consolidation of ... ..	90, 275
Ditto Redemption of ... ..	9, 181, 208
Locations, Native, and other, provision for Management of ...	112
Locomotives, Use of, on Common Roads, regulated ...	331
London Missionary Society's Institutions Act ... ..	344
Magistrates' Courts, Business in, facilitated ... ..	28
Main Northern Road Act, 1868, continued and extended 46, 133,	147
Main Roads Act, 1873 ... ..	387
Main Roads Act, 1864, continued ... ..	31, 133, 146, 306
Main Roads, Laws relating to the Construction and Maintenance of, amended ... ..	387
Masters and Servants, Relative Rights and Duties of, regulated, and former Act amended ... ..	368
Missionary Institutions, provision for granting Titles to Inhabitants of certain ... ..	344
Ditto ditto better Management of, provisions for ...	344
Namaqualand Railways or Tramways, authorized ... ..	6, 143, 404
Native Locations, provision for Management of ... ..	112
Natives, provision for Collection of Hut Tax from... ..	3
Nolloth, Port, Construction of Tramway or Railway from ...	6, 143
Ditto ditto Jetty at, sanctioned ... ..	6
Northern Main Road Act, 1868, continued and extended...46, 133,	147
Offenders, Juvenile, better provision for Punishment of ... ..	45
Ditto Apprehension of certain, facilitated ... ..	288
O'okiep and Kookfontein Railway or Tramway, authorized ...	404
Orange Free State, Apprehension of Offenders from, facilitated ...	288
Orange River Bridges, Construction of, promoted ... ..	187, 270
Ostriches, Domesticated, provision for Protection of Private Pro- perty in ... ..	175
Ditto Wild, Provision for better protection of ... ..	115
Paarl Water Supply, Municipal Commissioners enabled to borrow Money for increasing ... ..	21
Parliament increased by two Members ... ..	206
Penguin Islands, Annexation to the Colony, confirmed ... ..	318
Pension of Mr. Justice Fitzpatrick, provided for ... ..	142
Police, Divisions of the Colony enabled to obtain a Force or addi- tional Force of ... ..	334
Port Elizabeth Drift Sands, Prevention of Mischief by ... ..	292
Ditto and Bushman's River Railway, Certain Lands and Materials authorized to be taken ... ..	283
Ditto ditto Construction, &c., of, provided for ... ..	349
Ditto and Uitenhage Railway Company, incorporated ... ..	153
Ditto ditto Deviation and Extension, authorized ... ..	203
Ditto Municipality Amendment Act, 1873 ... ..	407
Port Nolloth to Nonams, Tramway or Railway, authorized ... ..	6
Ditto ditto ditto Extension, authorized ... ..	143
Ditto Jetty at, sanctioned ... ..	6
Pounds, Regulation of as to Stallions ... ..	1
Prisoners may be brought to Trial by Consent at any time after Commitment ... ..	333
Produce, Colonial, Hawkers of, exempted from Provisions of Stamp Act, 1864 ... ..	25, 177
Public Debts, Consolidation of, provided for ... ..	90, 275
Punishment, Capital, regulating the Execution of ... ..	5

	PAGE
Railway, Cape Town and Wellington, Purchase of, authorized ...	275
Ditto Port Elizabeth and Bushman's River, certain Lands and Materials authorized to be taken... ..	283
Ditto ditto Construction of, provided for... ..	349
Ditto Port Elizabeth and Uitenhage Company, incorporated ..	153
Ditto ditto Deviation and Extension, authorized... ..	203
Ditto Wellington to Worcester, certain Lands and Materials authorized to be taken ... ..	283
Ditto ditto Construction of, provided for... ..	349
Ditto or Tramway from Kookfontein to O'okiep, authorized... ..	404
Ditto ditto from Port Nolloth to Nonams, sanctioned ... ..	6
Ditto ditto ditto Extension authorized ..	143
Ditto Works at Tulbagh Kloof, Indemnity to Governor for Expenditure at, sanctioned ... ..	96
Redemption of Loans, authorized ... ..	28, 181, 208
Religious Disabilities Removal Act, 1868, Operation of, limited ...	19
Removal of Cattle, regulated ... ..	128
Resident Magistrates' Court, Business in, facilitated ... ..	28
Responsible Government provided for ... ..	194
Restamping Deeds, Doubts removed as to necessity of ... ..	366
Road Act, 1873 ... ..	387
Ditto Engines, Use of, on Common Roads, regulated ... ..	331
Ditto Main Northern Act, 1868, continued ... ..	46, 133, 147
Ditto Rates, Lessees of Crown Lands liable to ... ..	81
Ditto Main, Laws relating to the Construction and Maintenance of, amended ... ..	387
Roads, Main, Provisions of Act No. 10 of 1864, continued 31, 133,	146
Sands, Drift, at Port Elizabeth, Prevention of Mischief by.. ..	298
Seamen, Clothing and Property of, Provision for Protection of ...	78
Servants and Masters, Relative Rights and Duties of, regulated, and former Act amended... ..	368
Soldiers, Apprehension of Deserters, Regulations as to ... ..	74
South African Republic, Apprehension of offenders from, facilitated	288
Stallions, Trespass of, regulated ... ..	1
Stamp and Licence Duty, amended ... ..	118
Stamps on Deeds regulated ... ..	366
Stock, Loan upon, authorized ... ..	28, 149, 181, 208, 284, 349
Stock, Removal of, regulated ... ..	128
Stranded and Sunken Vessels, Ordinance for Removal of, amended	297
Submarine Telegraph between the Colony and Aden, promoted ...	379
Supreme Court, Admission of certain Attorneys of Eastern Dis- tricts Court into ... ..	205
Survey Expenses under Land Beacons Act, 1859, the Recovery of, facilitated ... ..	25
Survey of Crown Lands for Lease, Provision for Expenses of ...	73
Swellendam Loan for Improvement of Drainage and Waterworks, authorized ... ..	272
Table Bay Docks, provision for further Loan for Completion of ...	113
Ditto ditto and Breakwater, Provision for Management of ...	299
Ditto ditto Commissioners of, to fix Tonnage of Goods subject to Dues ... ..	329
Table Bay Graving Dock, Loan for, authorized ... ..	208
Tax, House, sanctioned... ..	97
Ditto ditto continued to end of 1873 ... ..	266
Tax, Hut, provision for collection of... ..	3
Telegraph of Cape of Good Hope Company, Purchase and Exten- sion of Line, authorized ... ..	284
Ditto Submarine, between this Colony and Aden, promoted ...	379



	PAGE
Title Deeds, Delivery of, under Land Beacons Act, 1859, facilitated	25
Toll-bars Erection of, by Divisional Councils, within Towns, regulated	20
Tolls on Locomotives on Common Roads, regulated	331
Tonnage of certain Goods, to be fixed by Commissioners of Table Bay Docks	329
Tide, Coasting Regulation of	311
Traders, travelling, Term defined for the purpose of the Stamp Act, 1864	25, 177
Transfer Duty on purchase of Immovable Property amended	198
Tramway or Railway from Kookfontein to O'okiep, authorized	404
Ditto ditto from Port Nolloth to Nonams, sanctioned	6
Trespasses, Prevention of, as to Stallions	1
Trial of Prisoners by consent at any time after commitment, provision for	333
Trustees' Accounts, Provision for lodging with Magistrate	341
Trustees, Appointment of, to Companies and other Bodies, regulated	323
Tulbagh Kloof Railway Works, Indemnity to Governor for Expenditure at, sanctioned	96
Tutors' Accounts, provision for lodging with Magistrate	341
Uitenhage and Port Elizabeth, Railway, incorporated	153
Ditto ditto, deviation and extension authorized	203
Unauthorized Expenditure (see Expenditure).	
University of the Cape of Good Hope, incorporated	359
Vessels, Stranded or Sunken, Ordinance for removal of, amended	297
Waschbank Lands, Disposal of, provided for	135
Water Supply, Beaufort, Loan for strengthening Reservoir, authorized	17
Ditto Paarl, Loan to increase supply, sanctioned	21
Ditto Port Elizabeth, provision for	407
Ditto Swellendam, Loan for improvement of, authorized	272
Ditto Worcester, Loan for, sanctioned	401
Wellington and Cape Town, Purchase of Railway, authorized	354
Ditto and Worcester Railway, certain Lands and Materials authorized to be taken	283
Ditto ditto, Construction of, provided for	349
Wharfage Dues, provision for levying at East London Harbour	149
Wodehouse, erected a Fiscal Division	148
Ditto Limits of Division, altered	197
Ditto constituted an Electoral Division	206
Worcester Water Supply, Loan for, sanctioned	197
Ditto and Wellington Railway, certain Lands and Materials authorized to be taken	284
Ditto ditto, Construction of, provided for	349

#### PRIVATE ACTS.

No. 4 of 1869, To authorize the Cape Copper Mining Company (Limited) to construct a Tramway or Railway between Port Nolloth and Nonams, and to build a Jetty at Port Nolloth	6
No. 5. of 1869, For enabling the Commissioners of the Municipality of Beaufort to borrow a further Sum of Money, for the purpose of strengthening and otherwise improving the Beaufort Reservoir	17
No. 8 of 1869, For enabling the Commissioners of the Municipality of the Paarl to borrow Moneys for increasing the Supply of Water for the Inhabitants of such Municipality	21

	PAGE
No. 17 of 1869, To enlarge the Powers of the Borough Council of King William's Town to borrow Money..	37
No. 20 of 1869, For amending the Act No. 13, 1868, intituled "An Act for defining and establishing the Constitution of the Joint-stock Company or Co-partnership called "The Eastern Province Bank"	43
No. 23 of 1869, To repeal the Act No. 29, 1861, intituled "An Act for establishing a Municipality for the City of Graham's Town," and to make other provisions in lieu thereof...	47
No. 2 of 1871, For removing Doubts as to the Act No. 23 of 1869, commonly called "The Graham's Town Municipality Act, 1869."	149
No. 3 of 1871, To authorize the Cape Copper Mining Company (Limited) to extend the Line of Tramway or Railway authorized by Act No. 4 of 1869; "The Port Nolloth Tramway or Jetty Act"...	149
No. 8 of 1871, To incorporate the Port Elizabeth and Uitenhage Railway Company (Limited)	153
No. 5 of 1872, To authorize the Port Elizabeth and Uitenhage Railway Company (Limited) to deviate from and extend the Line of Railway authorized by Act No. 8 of 1871; "The Port Elizabeth and Uitenhage Railway Company (Limited) Act, 1871"...	203
No. 13 of 1872, For enabling the Municipality of Swellendam to borrow Moneys for the Improvement of the Drainage and Waterworks of the Town of Swellendam and its Neighbourhood	272
No. 23 of 1873, For enabling the Municipality of Worcester to borrow a Sum of Money not exceeding £2,200 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..	401
No. 24 of 1873, To authorize the Cape Copper Mining Company (Limited) to construct and work a Tramway or Railway from Kookfontein to O'okiep	404
No. 25 of 1873, To amend the Act No. 14 of 1868, for constituting the Town of Port Elizabeth a Municipality	407

#### REPEALED ACTS.

No. 4 of 1858, For creating a Board of Public Examiners in Literature and Science.	366
No. 14 of 1860, For amending the Act No. 5 of 1855, intituled "An Act for creating Divisional Councils in this Colony"	32
No. 18 of 1860, For amending the Act No. 4 of 1858, creating a Board of Public Examiners	366
No. 29 of 1861, For establishing Municipality for the City of Graham's Town	47
No. 4 of 1863, To amend Act No. 4 1858, constituting the Board of Public Examiners	366
No. 10 of 1868, To repeal the Third Section of the Act No. 4 of the Year 1858	366
No. 18 of 1868, To provide for the Management of the Docks in Table Bay	299
No. 25 of 1868, To prevent the spread of Contagious Diseases at the Military and Naval Stations of this Colony	196
No. 30 of 1868, For applying a Sum not exceeding £208,402 19s. for the Service of the Year 1869...	40

	PAGE
No. 19 of 1870, For applying a Sum not exceeding £179,589 19s. 4d. for the Service of the Year 1871 ... ..	173
No. 14 of 1871, For applying a Sum not exceeding £188,091 19s. 5d. for the Service of the Year 1872 ... ..	212
No. 25 of 1872, For applying a Sum not exceeding £205,995 7s. 5d. Sterling for the Service of the Year 1873 ... ..	381

#### ACTS REVIVED.

No. 10 of 1864, For providing for the Construction and Maintenance of the Main Roads of the Colony ... 31, 133, 146,	306
No. 32 of 1868, To provide for the Maintenance of the Main Northern Road ... ..	46, 133, 147
No. 9 of 1870, For granting to Her Majesty in Her Colonial Revenue certain Duties on Houses ... ..	266

#### ACTS PERPETUATED.

No. 10 of 1864, For providing for the Construction and Maintenance of the Main Roads of the Colony ... ..	391
---	-----

#### ORDINANCES REPEALED.

No. 98 of 1833, For facilitating the Apprehension and Regulating the Mode of Conveyance of Deserters from Her Majesty's Land Forces within this Colony to their respective Corps; and for the more prompt Payment of Rewards and Expenses consequent thereupon ... ..	74
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 Properties 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 of July, 1833 ...	358
No. 6 of 1853, For the general Management and Regulation of the Customs in the Colony of the Cape of Good Hope ... ..	214

#### PROCLAMATION CONFIRMED

Of 16th July, 1866, Annexing Ichaboe and the Penguin Islands to this Colony ... ..	318
--	-----

#### "LEX HAC EDICTALI" REPEALED.

The sixth law of the ninth title of the fifth book of the Codes of Justinian commencing with the words "Hac Edictali" ...	409
---	-----