

*Clerk to the Executive and
Legislative Councils.*



ORDINANCES

OF THE

TRANSVAAL COLONY,

1902.

With INDEX, TABLES OF CONTENTS (Alphabetical and
Chronological), & TABLES OF LAWS, &c., REPEALED

And AMENDED by the ORDINANCES of 1902.

PUBLISHED BY AUTHORITY.

Pretoria :

Government Printing and Stationery Office,

1903.

CONTENTS.

ORDINANCES (Chronological).

Number of Ordinance.	SUBJECT.	Page.
1	Official Duties	1
2	Establishment of Supreme Court and High Court	2
3	Native Commissioners' Jurisdiction	5
4	Incorporated Law Society (Amendment of Constitution)	7
5	<i>Regulation of Volunteer Corps</i>	8
6	Amendment of "Registration of Mining Rights Proclamation, 1902"	14
7	Dutch Reformed Church enabled to transfer certain land to the Government	16
8	Amendment of Law No. 16 of 1895	18
9	Amendment of Law No. 12 of 1899	19
10	Juries	20
11	Arrear License Moneys on Claims and Stands	30
12	Supreme Court constituted a Court of Appeal from the Courts of the O.R.C.	35
13	The possession of Arms and Ammunition	37
14	Amendment of Stamp Duties Amendment Proclamation, 1902	55
15	Amendment of Law relating to Resident Justices of the Peace	57
16	National Bank of South Africa, provision for continued incorporation	58
17	Diseases amongst Stock	60
18	Arrear License Moneys on Claims and Stands (explaining No. 11)	63
19	Advances to ex-Burghers—maintenance of property in the Crown	64
20	Native Taxes	67
21	Pegging of Claims in certain mining districts of the Colony	68
22	Customs Tariff Amendment	69
23	Customs Management	74
24	Lieutenant-Governor's Official Duties	94
25	Bye-laws regulating the C.S.A. Railways	95
26	Legalization of certain Marriages	97
27	Liquidation of liabilities of debts of late Stadsraad (Johannesburg)	99
28	Relief of certain classes of Natives from the Pass Law	101
29	Game Preservation	104
30	Grant of certain powers to Johannesburg Insanitary Area Commission of Enquiry	111
31	Amendment of Pretoria Municipal Proclamation, 1902	114
32	Liquor Licenses	116

Number of Ordinance.	TITLE OR SUBJECT.	Page.
33	Regulation of Volunteer Corps	154
34	Johannesburg Municipality—Duties of Chairman ...	181
35	Protection of Stock	183
36	Governor and Deputy-Governor of Pretoria Prison ...	185
37	Discharge of duties of Officials during illness or absence	187
38	Withdrawal of Martial Law : Indemnity and Peace Preservation	188
39	Concentration Camps and Military Structures ...	198
40	Crown Land Disposal	201
41	Johannesburg Municipality—Amendment of Proclamation tion	206
42	Mortgage Bonds passed before 25th October, 1899 ...	208
43	Natives' Night Passes	211
44	Amendment of Law 4 of 1885 (Jurisdiction of Native Commissioners	212
45	Settlers	213
46	Naturalization of Aliens	237
47	Amendment of Magistrates' Court Proclamation, 1902	241
48	Telegraph Messages Protection	242
49	Newspaper Registration	244
50	Licensing Law Amendment	247

CONTENTS.

ORDINANCES (Alphabetical).

Number of Ordinance.	TITLE OR SUBJECT.	Page.
19	Advances to ex-Burghers by the Government—Inalienability of	64
44	Amendment of Law 4 of 1885 (Jurisdiction of Native Commissioners)	212
8	Amendment of Law 16 of 1895	18
9	Amendment of Law 12 of 1899	19
13	Arms and Ammunition Ordinance	37
11	Arrear License Moneys on Claims and Stands Ordinance	30
18	Arrear License Moneys on Claims and Stand (Explanatory) Ordinance	63
25	Central South African Railways (Bye-laws) Ordinance	95
30	Commissions' Powers Ordinance	111
39	Concentration Camps and Military Structures Ordinance	198
40	Crown Land Disposal Ordinance	201
23	Customs Management Ordinance	74
22	Customs Tariff Amendment Ordinance	69
17	Diseases of Stock Ordinance	60
7	Dutch Reformed Church (Transfer of Property) Ordinance	16
2	Establishment of Supreme Court and High Court Ordinance	2
29	Game Preservation Ordinance	104
19	Inalienability of Government Advances to ex-Burghers	64
4	Incorporated Law Society—Amendment of Constitution	7
38	Indemnity and Peace Preservation Ordinance	188
41	Johannesburg Municipality Amendment Ordinance ...	206
34	Johannesburg Municipality (Duties of Chairman) Ordinance	181
27	Johannesburg Municipality (Stadsraad Liabilities Liquidation)	99
10	Jury Ordinance	20
26	Legalization of Marriages Ordinance	97
50	Licensing Law Amendment Ordinance	247
24	Lieutenant-Governor's Official Duties Ordinance ...	94
32	Liquor Licensing Ordinance	116
47	Magistrates' Court Proclamation Amendment Ordinance	241
42	Mortgage Bonds Ordinance	208
16	National Bank of South Africa (Continued Incorporation) Ordinance	58
3	Native Commissioners' Jurisdiction Ordinance	5
20	Natives' Tax Ordinance	65
43	Natives' Night Passes Ordinance	210

Number of Ordinance.	TITLE OR SUBJECT.	Page.
28	Natives' Relief Ordinance	101
46	Naturalization of Aliens Ordinance	237
49	Newspaper Registration Ordinance	244
1	Officials' Duties Ordinance	1
37	Officials—Discharge of Duties during Absence, &c. ...	187
21	Pegging of Claims in certain Mining Districts ...	68
31	Pretoria Municipal Proclamation Amendment Ordinance	114
36	Pretoria Prison (Appointment of Governor) Ordinance	185
35	Protection of Stock Ordinance	183
6	Registration of Mining Rights Amendment Ordinance	14
15	Resident Justices of the Peace Amendment Ordinance	57
45	Settlers Ordinance	213
27	Stadsraad (Johannesburg) Liabilities Liquidation Ordinance	99
14	Stamp Duty Further Amendment Ordinance ...	55
2	Supreme Court and High Court Establishment Ordinance	2
12	Supreme Court Appellate Jurisdiction Extension Ordinance	35
48	Telegraph Messages Protection Ordinance ...	242
5	<i>Volunteer Corps Ordinance</i>	8
33	Volunteer Corps Ordinance	154
2	Witwatersrand High Court Establishment ...	2

REPEAL OF LAWS : VOLKSRAAD RESOLUTIONS :
PROCLAMATIONS : and ORDINANCES :
By ORDINANCES of 1902.

Law. &c., Repealed.	Page in Statute Book.	Extent of Repeal.	Repealed by.	Page.
V.R. 27 May, 1875		Article 148	Ord. No. 32, Sec. 1	116
Law No. 1 of 1875	131	The whole	" " 13, " 33	52
Law No. 6 of 1880	146	The whole & rules & regulations made under Article 9	" " 20, " 1	65
Law No. 4 of 1884	237	The whole	" " 13, " 33	52
V.R. 20 Sept., 1884	239	Article 522	" " 20, " 1	65
Law No. 8 of 1886	272	The whole	" " 40, " 1	201
F.V.R. 21 July, 1888	328	The whole Article 1076	" " 13, " 33	52
Law No. 1 of 1892	382	Section 3 & 4	" " 32, " 1	116
V.R. 21 June, 1892		Article 499	" " 40, " 1	201
V.R. 22 June, 1892		Article 508	" " 40, " 1	201
V.R. 5 July, 1893	453	Article 539	" " 40, " 1	201
Law No. 4 of 1894	475	Section 4 after " Stamp "	" " 13, " 33	52
Law No. 4 of 1894	475	Sect. 5 to the end	" " 23, " 53	93
Law No. 5 of 1894	494	The whole	" " 29, " 1	104
Law No. 16 of 1895	694	The whole except Art. 2 (last 2 pars) & Art. 20, 23 & 24	" " 8	18
Law No. 24 of 1895	710	The whole	" " 20, " 1	65
Law No. 26 of 1896	769	The whole	" " 49, " 9	245
V.R. 1 Oct., 1897		Article 1370	" " 40, " 1	201
V.R. 11 Nov., 1897		Article 1700	" " 40, " 1	201
Law No. 19 of 1898	964	The whole	" " 32, " 1	116
F.V.R. 14 July, 1898	1031	Article 815	" " 20, " 1	65
E.C.R. 26 Aug., 1898	1032	Article 792	" " 20, " 1	65
Law No. 12 of 1899	1062	Arts. 6, 7, 8 & 18,		
	1063	& in certain events		
	1067	5, 9, 15, 16, 17	" " 9, " 4	19
Law No. 17 of 1899	1083	Article 26	" " 50, " 3	248
Proc. No. 24 of 1900	8	Section 19	" " 32, " 1	116
Proc. No. 15 of 1901	39	Section 37	" " 32, " 1	116
Proc. Tr. No. 36 of 1901	131	The whole	" " 32, " 1	116
Proc. Tr. No. 3 of 1902	151	The whole	" " 22, " 3	72
Proc. Tr. No. 14 of 1902	268-9	Section 16 (sub-section 1 & 2)	" " 38, " 2 sub-Sec. 1	188
Ordinance No. 5 of 1902	9	The whole	" " 33, Sec. 81	177

AMENDMENT OF LAWS: VOLKSRAAD RESOLUTIONS: and PROCLAMATIONS:
By ORDINANCES of 1902.

Law, &c., Amended.	Page in Statute Book.	Extent of Amendment.	Amended by.	Page.
Law No. 4 of 1885	254	Schedule ; by addition of words extending jurisdiction of Native Commissioners	Ord. No. 44	212
F.V.R. 26 Aug., 1893 Article 1227		Art. 4 & 6 of Constitution of Incorporated Law Society as confirmed and amended by the F.V.R.	Ord. No. 4, Sec. 7 Ord. No. 22, Sec. 1	7 69
Law No. 4 of 1894	472	. . Article 2	Ord. No. 22, Sec. 1	69
Law No. 7 of 1894	504	Sec. 10 as to maximum punishments to be inflicted by Resident Justices of the Peace	Ord. No. 15, Sec. 1	57
Law No. 12 of 1899	1062	. . Articles 1, 4 & 5	Ord. No. 9, Sec. 1, 2 & 3	19
Law No. 17 of 1899	1080	Article 6 so far as it imposes certain license payments on certain callings	Ord. No. 50, Sec. 1	247
Proc. No. 16 of 1901	54	. . Section 23	Ord. No. 41, Sec. 1	206
Proc. Tr. No. 7 of 1902	168, 170, 174, 177	Section 6, 19, 27, 36 & 37	Ord. No. 31, Sec. 1, 3, 5 & 6	114
Proc. Tr. No. 12 of 1902	252, 255, 259, 260, 262	Section 18, 28 and Schedule	Ord. No. 14, Sec. 1, 2, 3 & 4	55
Proc. Tr. No. 21 of 1902	317	Section 36 by substitution and omission of words	Ord. No. 47, Sec. 1	241
Proc. Tr. No. 35 of 1902	446-7, 450-1-2, 454-5	Section 1, 4, 9, 11, 13, 14, 17, 26 & 27	Ord. No. 6, Sec. 1 & 2	14
Proc. Tr. No. 35 of 1902	456	. . Section 32	Ord. No. 21, Sec. 1	68
Proc. Tr. No. 38 of 1902	478	. . Section 9 (a)	Ord. No. 34, Sec. 2	181
Proc. Tr. No. 39 of 1902	490	. . Section 3	Ord. No. 41, Sec. 2	207

ORDINANCE

To provide for the discharge of the duties imposed on certain officers under Proclamation by certain other officers.

BE IT ENACTED by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. All the duties and functions hitherto by law assigned to and exercised by the Secretary to the Transvaal Administration, the Legal Adviser to the Transvaal Administration, and the Controller of the Treasury shall from and after the taking effect of this Ordinance be discharged and performed respectively by the Colonial Secretary, the Attorney-General and the Colonial Treasurer.

Duties hitherto performed by certain members of the Transvaal Administration to be performed by certain members of Executive Council.

2. The appointments of all Magistrates, Assistant Magistrates, Justices of the Peace and other officials by the Administrator of the Transvaal shall be to all intents and purposes as valid as if such appointments had been made by the Governor of the Transvaal.

Appointments made by Administrator to be deemed as valid as if made by Governor.

3. This Ordinance may be cited for all purposes as the "Officials Duties Ordinance, 1902."

Title.

Passed in Council the Twenty-first day of June, One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-first day of June, One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 2, 1902.]

[June 21st, 1902.

ORDINANCE

To Establish a Supreme Court for the Transvaal and a High Court for the District of Witwatersrand.

Preamble.

WHEREAS the "Administration of Justice Proclamation, 1902" makes provision for the administration of justice within this Colony pending the establishment of the Supreme Court of the Transvaal:

And whereas it is desirable to establish the said Supreme Court:

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Establishment of Supreme Court.

1. There shall be and there is hereby created, erected and constituted within this Colony a Court which shall be called "The Supreme Court of the Transvaal," and which shall consist of one Chief Justice and so many Puisne Judges as the Governor may from time to time appoint not being less than three.

Establishment of High Court for Witwatersrand District.

2. There shall be and is hereby created, erected and constituted within this Colony a Court for the district of Witwatersrand, which shall be constituted of a single Judge of the Supreme Court, and shall be called the "Witwatersrand High Court."

"Administration of Justice Proclamation 1902" to form part of this Ordinance.

3. The "Administration of Justice Proclamation 1902" shall form part of and be read as one with this Ordinance, and shall apply to the Courts established by this Ordinance with the following adaptations:—

- (1) For "High Court of the Transvaal" or "High Court" wherever those expressions occur in the said Proclamation there shall be substituted "Supreme Court of the Transvaal" or "Supreme Court" respectively.

- (2) For "Witwatersrand District Court" or "District Court" wherever those expressions occur in the said Proclamation shall be read "Witwatersrand High Court" or "High Court" respectively.
- (3) For the expression "Judge President" wherever it occurs in the said Proclamation shall be substituted "Chief Justice."

4. All proceedings commenced in the High Court of the Transvaal or in the Witwatersrand District Court shall be continued respectively in the Supreme Court of the Transvaal and the Witwatersrand High Court as if they had been originally commenced in the latter Courts and the Rules of the High Court of the Transvaal and the Witwatersrand District Court shall until amended be *mutatis mutandis* the Rules respectively of the Supreme Court and of the Witwatersrand High Court.

Proceedings already commenced in High Court of Transvaal or District Court to be continued in Supreme Court and High Court.

5. Wherever in any law the High Court of the Transvaal or Witwatersrand District Court is mentioned the Supreme Court of the Transvaal or Witwatersrand High Court shall respectively be meant thereby.

6. Upon the taking effect of this Ordinance the Judge President of the High Court of the Transvaal shall without any further appointment or taking of oaths become the Chief Justice of the Transvaal and the Judges of the said High Court shall similarly become the Judges of the Supreme Court of the Transvaal; and all officers of the said High Court and of the Witwatersrand District Court shall similarly become officers of the Supreme Court of the Transvaal and of the Witwatersrand High Court respectively and in every law in which the expression "Judge President of the High Court," "Judge or members of the High Court" is used Chief Justice of the Transvaal or Judge of the Supreme Court of the Transvaal shall respectively be taken to be meant thereby.

Judge President and Members of High Court to become *ipso facto* Chief Justice and Judges of Supreme Court.

7. Notwithstanding anything to the contrary contained in Section eighteen of the "Administration of Justice Proclamation, 1902," it shall be competent for the Supreme Court, the Witwatersrand High Court or any Circuit Court hereafter to be established to allow the use of the Dutch language at the

When Dutch language may be used at hearing of certain cases.

hearing of any civil or criminal suit before it whenever it appears to such Court to be necessary for the better and more effectual administration of justice.

Title.

8. This Ordinance shall for all purposes be cited as "The Establishment of the Supreme Court and High Court Ordinance, 1902," and shall take effect from and after the first day of July, 1902.

Passed in Council the Twenty-first day of June, One thousand Nine hundred and Two.

G. CRAIG SELLAR,

Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-first day of June, One thousand Nine hundred and Two.

W. E. DAVIDSON,

Colonial Secretary.

No. 3 of 1902.]

[July 3, 1902.

ORDINANCE

To provide for the appointment of Native Commissioners and Sub-Commissioners and to define their Jurisdiction and Powers.

WHEREAS it is advisable in certain districts in this Colony where large numbers of natives reside to appoint Native Commissioners and Sub-Commissioners and to define their powers and jurisdiction:

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. It shall be lawful for the Governor from time to time to appoint for any district in this Colony in which a large number of natives reside a Native Commissioner and so many Native Sub-Commissioners as the Governor may consider advisable.

Governor may appoint Native Commissioners & Sub-Commissioners.

2. The powers and jurisdiction conferred and the duties imposed on Commissioners and Sub-Commissioners of Natives by Law No. 4 of 1885 and any other law are hereby conferred and imposed on Native Commissioners and Sub-Commissioners respectively appointed under this Ordinance.

Powers jurisdiction and duties of Commissioners and Sub-Commissioners.

3. Every Native Commissioner and Sub-Commissioner appointed under this Ordinance shall on such appointment be a Resident Justice of the Peace within the district for which he is appointed excluding therefrom an area of twenty miles from the place in such district at which the Court of Resident Magistrate is established.

Commissioners and Sub-Commissioners to be Resident Justices of the Peace.

Punishment
of lashes.

4. No sentence of lashes shall be imposed by any Native Commissioner or Sub-Commissioner either as such Commissioner or Sub-Commissioner or as a Resident Justice of the Peace except in the case of a second or subsequent conviction for some crime or offence within the space of three years; and no lashes shall be inflicted until the sentence under which they are imposed shall have been confirmed by a Judge of the Supreme Court. The provisions of Section *Thirty-nine* of the "Magistrates Court Proclamation 1902" shall *mutatis mutandis* apply to the review of such sentences by such Judge as aforesaid.

Commis-
sioners and
Sub-Commis-
sioners
authorized to
solemnize
native
marriages.

5. Every Native Commissioner and Sub-Commissioner shall within the district for which he is appointed be deemed and taken to be a person appointed to solemnize marriages between natives under Art. 1 of Law No. 3 of 1897 regulating the marriages of coloured persons.

Title.

6. This Ordinance shall be cited for all purposes as the "Native Commissioners Jurisdiction Ordinance No. 3 of 1902."

Passed in Council the Third day of July, One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Third day of July, One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

ORDINANCE

To amend the Constitution and Regulations of the Incorporated Law Society of the Transvaal.

WHEREAS it is expedient to amend in certain respects the Constitution and Regulations of the Incorporated Law Society of the Transvaal:

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. Section 4 and Section 6 of the Constitution of the Incorporated Law Society of the Transvaal as confirmed and amended by First Volksraad Resolution of the 26th of August 1893 Article 1227 shall be and are hereby repealed, and the following section shall be and is hereby substituted in place thereof, namely—

Sections 4
and 6 of the
Constitution
repealed.

“The Council of the Society shall consist of nine persons being members of the Society who shall from among their number elect a Chairman and a Vice-Chairman.”

2. Notwithstanding anything to the contrary in the Bye Laws of the said Society contained any notice required to be given to members of the Society by the Secretary or Council thereof shall be deemed to be duly and properly given if published in three successive issues of the *Gazette* and in one Pretoria and one Johannesburg newspaper.

Notice in
Gazette
sufficient.

3. This Ordinance may be cited for all purposes as the “Incorporated Law Society Amendment Ordinance 1902.”

Short title.

Passed in Council the Sixteenth day of July One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Sixteenth day of July One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

ORDINANCE

For the regulation of Volunteer Corps.

WHEREAS IT IS EXPEDIENT that provision be made for the formation discipline and maintenance of Volunteer Corps:

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Definition of terms.

1. In this Ordinance unless the context otherwise denotes the following expressions in inverted commas shall bear the meanings respectively set opposite to them:—

“Active Service.”—Any Volunteer Corps shall be deemed to be on active service—

- (1) When it has been called out for active service by Proclamation under this Ordinance.
- (2) When it is in military occupation of any place outside this Colony;

“Military Service.”—Any Volunteer Corps shall be deemed to be on military service—

- (1) When being trained or exercised with any portion of His Majesty's Regular Forces;
- (2) When assembled in a camp of training or instruction;
- (3) When called out to aid the Civil Power in the protection of life or property by the Governor under this Ordinance.

Governor may accept services of Volunteer Corps.

2. The Governor may accept the services of any persons desiring to be formed under this Ordinance into a Volunteer Corps for military duties on such terms as he may think fit; and in such acceptance the proposed corps shall be deemed to be lawfully formed into a Volunteer Corps under this Ordinance.

3. The Governor may at any time discontinue the services of and cause to be disbanded any Volunteer Corps formed under the last preceding section; and he may dispense with the services of or dismiss any member of any Volunteer Corps.

Governor may discontinue service of any Volunteer Corps.

4. Every Volunteer Corps whose services are accepted after the taking effect of this Ordinance shall be liable to serve subject to the provisions of this Ordinance for and during any period and wherever the interest of the Colony may require within the Colony or beyond its borders.

Volunteer Corps liable to service whenever required.

5. (1) It shall be lawful for the Governor in the case of danger to the Colony from without or of actual or apprehended invasion or rebellion by Proclamation in the *Gazette* to call out for active service the whole or any portion of any Volunteer Corps constituted by this Ordinance; and any member of such force not incapacitated by bodily infirmity who refuses or neglects to assemble or march as ordered shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding one year.

Governor may call out Volunteer Corps for active or military service.

(2) It shall be lawful for the Governor to call out the whole or any portion of a Volunteer Corps constituted by this Ordinance for the protection of life or property; any member of a Volunteer Corps so called out who not being prevented by bodily infirmity or any other reasonable cause refuses or neglects to obey such order shall be liable on conviction to a fine not exceeding *fifty* pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

6. Any Volunteer Corps which has been called out on active or military service shall assemble at such place and time as may be notified and shall be liable to render the active or military service required of it; and every such corps so called out shall so long as their services may be lawfully required by the Governor be subject to such regulations relating to discipline as the Governor may from time to time make.

Effect of Volunteer Corps being called out on active or military service.

Command when on active service.

7. Whenever any Volunteer Corps is on active or military service or is undergoing inspection or is voluntarily doing any military duty the Governor may place it under the command of such officer of the Imperial Forces as he may appoint; provided that the officer so appointed shall be senior in rank to every officer of the corps so placed under his command and that such corps shall be led by its own officers under such command as aforesaid.

Officers of Volunteer Corps.

8. Every officer of a Volunteer Corps shall be appointed and commissioned by the Governor.

Payment when on active or military service.

9. All volunteers while on active service or on military service for the protection of life or property shall be entitled to pay at such rates according to their respective ranks as the Governor may determine.

Rules and regulations.

10. The Governor may from time to time make regulations for all or any of the matters or things following:—

- (1) The mode of enrolment of volunteers and the disbandment of any Volunteer Corps.
- (2) The appointment promotion and rank of volunteer officers.
- (3) The appointment of non-commissioned officers.
- (4) The qualifications entitling a volunteer to be deemed efficient.
- (5) The constitution assembling and mode of procedure of courts of inquiry to receive and examine evidence relating to and report upon any matter connected with the government or discipline of any Volunteer Corps or on any charge brought against any officer or member of any such corps.
- (6) The power of arrest and maintenance of discipline among volunteers when not on active or military service.
- (7) The power of a Commanding Officer to dismiss any member of his corps.
- (8) The payment and recovery of subscriptions fines and penalties.
- (9) The general government and management of Volunteer Corps.

Liabilities of volunteer after dismissal.

11. Every volunteer who has been dismissed by the Governor or by the Commanding Officer of his corps shall be bound to deliver up in good order fair wear

and tear only excepted all arms clothing and appointments which are public property or the property of the corps and which have been issued to him and he shall be liable to pay all money due or becoming due by him under the rules of his corps either before or at the time or by reason of his dismissal.

12. Every volunteer who shall be guilty of contravening any of the regulations made by the Governor shall upon conviction be liable to a penalty not exceeding ten pounds which penalty may be recovered before any Court of Resident Magistrate having jurisdiction at the instance of any officer of the corps to which the offender belongs.

Penalty for contravention of regulations.

13. If any volunteer while under arms or on march or duty or while engaged in any military exercise or drill with his corps or any portion of it or while wearing his uniform and going to or returning from any place of exercise or assembly of his corps disobeys any lawful order of any officer under whose command he then is or is guilty of misconduct the officer in command of his corps or any superior officer under whose command the corps then is may order the offender if an officer into arrest and if not an officer into the custody of any member of his corps or of any volunteer non-commissioned officer: Provided that such arrest or custody shall not continue any longer than the time during which the corps or portion of a corps to which the offender belongs remains under arms or on the march or duty or continues to be engaged in the military exercise or drill as aforesaid.

Misconduct whilst on duty or in uniform.

14. (1) Every volunteer enrolled under the provisions of this Ordinance shall be enrolled for a minimum period of one year but he may obtain his discharge at an earlier date—

Conditions on which volunteer enrolled under this Ordinance may quit corps.

(a) If he shall produce proof to the satisfaction of the Commanding Officer of his corps that he is about to remove from the district in which the headquarters of his corps is situated or that he is prevented by ill-health from continuing to serve; or

- (b) If he shall pay to the Commanding Officer for the benefit of the funds of the corps such sum of money by way of penalty as the Governor may by regulation determine.
- (2) Every volunteer taking his discharge whether on or before the expiration of one year from the date of his enrolment shall—
- (a) Give to the Commanding Officer of his corps one month's notice in writing of his intention to quit the corps;
- (b) Deliver up in good order and condition fair wear and tear only excepted all arms clothing and accoutrements being the property of the Government or of the corps issued to him or placed under his charge;
- (c) Pay all money due or becoming due under any regulations of the corps either before or at the time of or by reason of his quitting the corps.
- (3) No volunteer shall be allowed to take his discharge after the issue of a Proclamation under section *five* of this Ordinance until the termination of the period of active service unless permitted by the Governor in writing.

Appeal from
Commanding
Officer to
Resident
Magistrate.

15. If any volunteer gives notice of his desire to obtain his discharge under the provisions of the foregoing Section and the Commanding Officer refuses to strike him out of the muster roll and the volunteer considers himself aggrieved thereby the volunteer may appeal to the Resident Magistrate of the district in which the head-quarters of the corps are situate who shall hear and determine the appeal and may for the purpose thereof administer oaths and summon and examine any person as a witness and if it appears to such Resident Magistrate that the arms clothing and accoutrements issued to the volunteer being public property or property of his corps have been delivered up in good order (fair wear and tear only excepted) or that he has paid or is ready to pay sufficient compensation for any damage that such articles may have sustained and that all money due or becoming due by him under the rules of his corps either before or at the time or by reason of his quitting it

has been paid such Magistrate may order the Commanding Officer forthwith to strike such volunteer out of the muster roll of his corps and his determination shall be binding on all persons.

16. The Governor may with the consent of the Executive Council make provision out of money voted for that purpose for the proper equipment maintenance and pay of any Volunteer Corps constituted by this Ordinance.

Expenditure
of money
for proper
equipment
of Volunteer
Corps.

17. This Ordinance may be cited for all purposes as the "Volunteer Corps Ordinance 1902."

Title.

Passed in Council the Eleventh day of July, One thousand Nine hundred and Two.

G. CRAIG SELLAR,

Clerk to the Council.

Assented to by His Excellency the Governor the Sixteenth day of July, One thousand Nine hundred and Two.

W. E. DAVIDSON,

Colonial Secretary.

No. 6 of 1902.]

[July 22nd, 1902.

ORDINANCE

(Amending Proclamation Transvaal No. 35 of 1902).

WHEREAS IT IS DESIRABLE to amend the
“Registration of Mining Rights Proclamation, 1902.”

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. The “Registration of Mining Rights Proclamation 1902” shall be and is hereby amended as follows:—

(1) By the omission of the definition of “confirmed diagram” in Section one of the said Proclamation and the substitution of the following:—

“Diagram” means a diagram prepared by an admitted Surveyor.

“Approved diagram” means a diagram approved by the Surveyor-General without publication.

“Confirmed diagram” means a diagram confirmed by the Surveyor-General after publication in the *Gazette* in terms of Law No. 15 of 1898.

(2) By omitting in Section four of the said Proclamation —

(a) The proviso to Sub-Section (*f*).

(b) The following words in Sub-Section (*g*) to wit: “and in places which in his opinion are in the indisputable lawful possession of others.”

(c) Sub-Sections (*o*) and (*r*).

(3) By inserting in Sub-Section (*h*) of Section four after the words “deed of transfer” the following words to wit “or constituted by notarial deed.”

(4) By omitting Sub-Section (*c*) of Section nine and Sub-Section (*e*) of Section eleven.

(5) By inserting the words “receipt or” before the word “certificate” in Sub-Section (*a*) of Section thirteen.

- (6) By omitting in Section fourteen the first words of the Section to wit: "Subject to Sub-Section (r) of Section four of this Proclamation."
- (7) By inserting in line seventeen of Section twenty-four after the words "debts or demands shall" the word "not."
- (8) By omitting in Section twenty-six the word "confirmed" wherever it appears.
- (9) By omitting Section twenty-eight.

2. Section twenty-seven of the said Proclamation is amended by substituting the word "approved" for the word "confirmed" in the second line thereof and by omitting the second paragraph therefrom and substituting the following:—

Amendment in Section 27 of Proclamation.

"Any such owner or lessee who shall fail to comply with the terms of this Section shall except for good cause shown be liable to a penalty of one hundred pounds and to a further penalty of one hundred pounds for every month during which he continues to be in default. Every such penalty shall be a debt due to the Crown and may be recovered in any competent Court."

3. Every transfer of a mining right or stand or portion thereof and every transfer of any lease of a mining right stand or lot or portion thereof shall be accompanied by a diagram of such mining right stand or lot or portion thereof as the case may be unless such a diagram is at the date of such transfer already filed in the office of the Registrar of Mining Rights; provided always that when any stand or lot is situated in a township a general plan or diagram of which is filed in the said office it shall be a sufficient compliance with this section to quote in any deed of transfer the registered number of such plan or diagram.

Diagram to be filed.

4. This Ordinance may be cited as the "Registration of Mining Rights Amendment Ordinance 1902."

Short title.

Passed in Council the Twenty-second day of July One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-third day of July One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 7 of 1902.]

[July 22, 1902.

ORDINANCE.

**(An Ordinance enabling the Dutch Reformed Church
to transfer a certain piece of land to the
Colonial Government.)**

Preamble.

WHEREAS BY CERTAIN RESOLUTIONS of the Executive Council of the late South African Republic a certain piece of ground measuring 200 feet by 300 feet situate in Von Brandis Square, Johannesburg, was vested in the Nederduitsche Hervormde of Gereformeerde Gemeente, Johannesburg hereinafter called the said Church:

And whereas the said Church is now represented by three bodies or congregations owning the said property jointly:

And whereas the three Kerkeeraads of the said three bodies or congregations have been duly authorised by their respective congregations to sell the said property and have appointed Sarel Johannes Liebenberg, Christian Lodewijk de Jongh, Jan van Dyl, Jacobus Johannes Symington, Adriaan Iman Willem Vissée, Hendrik Jacobus Raubenheimer, Johannes Nicolaas Theron, Petrus Johannes Pentz and Johannes Daniel Olwage (hereinafter called the agents for sale) a commission to carry out the said sale:

And whereas by a Deed of Sale dated the 13th day of February, 1902, between the said agents for sale and John Dale Lace acting on behalf of the Transvaal Government the said agents for sale sold the said piece of ground to the Transvaal Government:

And whereas although the said Church was empowered by Volksraad Resolution No. 175 dated the 24th May, 1890, to sell any of its immovable property no provision

has been made as to the person or persons by whom the transfer of such property may be effected on its behalf:

And whereas it is expedient to enable the said Church to carry out the said contract:

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. The Deed of Sale of the thirteenth day of February, 1902, shall be a valid and effectual contract of sale to the Transvaal Government of the rights and interest of the said Church in the piece of land aforesaid. Contract of sale to be valid.
2. The power of attorney dated the sixth day of June, 1902, signed by the nine agents mentioned in the said Deed shall be sufficient authority to the Registrar of Mining Rights, Johannesburg, or to any other Registering Officer to transfer in the Register kept in his Department the said piece of land from the name of the said Church into that of Walter Edward Davidson in his capacity as Colonial Secretary of the Transvaal or the Officer for the time being acting as such his successors or assigns. Power of attorney to be sufficient authority to transfer.
3. Upon such transfer all the rights and interests of the said Church in the said piece of land shall vest henceforth in the Transvaal Government to be used for such purposes as to the said Government shall seem fit. Land to vest in the Government.

Passed in Council the Twenty-second day of July One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-third day of July One Thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 8 of 1902.]

[July 23, 1902.

ORDINANCE

To Amend Law No. 16 of 1895.

BE IT ENACTED by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Law No. 16 of 1895, except the last two paragraphs of Article *two* and Articles *twenty*, *twenty-three* and *twenty-four* is hereby repealed.

Passed in Council the Twenty-third day of July, One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-third day of July, One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 9 of 1902.]

[July 23, 1902.]

ORDINANCE

To Amend Law No. 12 of 1899.

BE IT ENACTED by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. In Article *one* of Law No. 12 of 1899 for the words “Registrar or Landdrost Clerk” the words “Clerk of the Court” are hereby substituted.

2. In Article *four* of the said Law for the words “Registrars of the Lower Court or Landdrost Clerks” the words “Clerks of the Lower Courts” are hereby substituted.

3. In Article *five* of the said Law for the words “Articles *six* and *seven*” the words “Article *nine*” are hereby substituted.

4. Articles *six*, *seven*, *eight* and *eighteen* of the said Law are hereby repealed.

5. It shall be lawful for the members of the Supreme Court of the Transvaal or the majority of them to frame Rules touching and concerning the fees to be lawfully demanded by and payable to any officers and attorneys in the Circuit Courts to be hereafter established.

6. Upon the taking effect of any Rule of Court made under the provisions of Section *thirty-one* of the “Administration of Justice Proclamation, 1902,” or of the last preceding Section fixing the fees to be lawfully demanded by and payable to attorneys in respect of work done and services rendered in connection with any proceedings in the Supreme Court or in the Witwatersrand High Court or any Circuit Court Articles *five* (as hereby amended), *nine*, *fifteen* (except in so far as it refers to Lower Courts) *sixteen* and the first paragraph of Article *seventeen* of the said Law No. 12 of 1899 shall be repealed.

Passed in Council the 23rd day of July One thousand Nine hundred and Two.

G. CRAIG SELLAR,

Clerk to the Council.

Assented to by His Excellency the Governor the 23rd day of July, One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 10 of 1902.]

July 24, 1902.

ORDINANCE

To amend the Law relating to Juries.

BE it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Laws repealed.

1. Any law repugnant to or inconsistent with this Ordinance is hereby repealed.

QUALIFICATION OF JURORS.

Qualification of Jurors.

2. Every white male person residing in this Colony between the ages of thirty and sixty years who shall be the owner or occupier of any immovable property of the value of not less than £500 according to the valuation roll of any Divisional Council or Municipality or shall be in the receipt of salary or wages amounting to not less than £300 per annum and who shall not be disqualified or exempted by the terms of this Ordinance shall be qualified and liable to serve as a Juror on any Jury empanelled for any trial or enquiry within the Jury district hereinafter defined in which such person shall reside.

For the purposes of this section the holder of a stand license shall be deemed and taken to be the owner of immovable property.

Joint owners or occupiers of property when qualified.

3. When any such property shall be jointly owned or occupied by more persons than one each of such joint owners or occupiers if otherwise qualified or liable shall be qualified and liable to serve as a Juror as aforesaid in case the value of such property when divided by the number of joint owners or occupiers shall give a sum not less than £500 for each such owner or occupier.

When no Divisional Council Valuation Roll Valuation to be made by person making the Jury lists.

4. If in any Jury district there shall not be for the whole or any portion thereof any valuation roll of a Divisional Council or Municipality the officer appointed to make the lists of persons qualified and liable to serve as jurors shall in the absence of such valuation roll estimate the value of the properties owned or occupied in such Jury district to the best of his judgment.

DISQUALIFICATION OF JURORS.

5. The following persons shall not be qualified to serve as Jurors in any Court or on any occasion nor shall their names be inserted in any Jury list:—

Disqualifications of Jurors.

- (1) Any person who is not a subject of His Majesty the King.
- (2) Anyone who has been convicted whether in this Colony or elsewhere of treason murder rape theft fraud perjury forgery fraudulent insolvency or of any crime of equal degree with any of the aforesaid crimes unless he shall have received a free pardon.
- (3) Any person who cannot read and write.
- (4) Any person incapacitated by deafness blindness or other permanent infirmity for service on a Jury.

EXEMPTIONS.

6. The following persons shall be exempt from serving as Jurors and their names shall not be inserted in any Jury list:—

Exemptions from serving on Juries.

- (1) Members of the Executive and Legislative Councils.
- (2) Judges of the Supreme Court.
- (3) All ministers of religion.
- (4) All advocates and attorneys duly admitted and actually practising articled or managing clerks to attorneys and enrolled agents in the Magistrates' Courts.
- (5) All medical practitioners dentists and chemists and druggists legally qualified and actually practising.
- (6) All persons in the Military or Naval or Civil Service or enrolled in any Volunteer Corps or holding any paid office under His Majesty.
- (7) All Deputy Sheriffs and Sheriffs' Officers.
- (8) All Schoolmasters and School Inspectors.
- (9) All persons continuously employed in the working of any railway or tramway.

JURY DISTRICTS.

7. The area within a radius of six miles from the Court House of the Resident Magistrate of Pretoria and every area within a radius of thirty-six miles from the Court House of the Resident Magistrate of every other town where a Circuit Court is to be held and within the district in which such town is situated shall be deemed to be a "Jury District."

Jury Districts defined.

The "Jury District" for the Witwatersrand District shall be the area within the jurisdiction of the Witwatersrand High Court and the list of Jurors for such district

shall be framed in the manner set forth in the Schedule to this Ordinance.

Jury Districts to be extended in case not fifty-four qualified persons.

8. If within a radius of thirty-six miles mentioned in the last preceding section there shall not be found in any such Jury district *fifty-four* men qualified and liable to serve as Jurors such radius shall be extended to forty-eight miles and such extended area shall be a Jury district until the said number shall at any subsequent taking of a Jury list be found within thirty-six miles.

Where the number of persons qualified to be Jurors within the aforesaid radius of thirty-six miles is unnecessarily large it shall be lawful for the Governor by Proclamation to reduce the radius to any lesser distance

JURY LISTS.

Magistrates shall annually require lists to be framed of persons qualified to serve as Jurors.

9. As soon as possible after the taking effect of this Ordinance or after the issue of a Proclamation declaring that a Circuit Court will be held in any town as the case may be and thereafter on or before the first day of January 1904 and every succeeding year so long as a Circuit Court shall continue to be held the Resident Magistrate of every district which includes any such "Jury District" as aforesaid shall by written order require the persons who may be assigned by the Governor for such duty to prepare in alphabetical order a true list or return of all men residing within the limits mentioned in such order qualified and liable to serve as Jurors; provided that the first lists framed under this Ordinance shall be the Jury lists for the period ending the 31st December 1903.

Persons appointed to frame list.

10. Each person so assigned shall after the receipt of such order without delay make out such list or return as aforesaid giving the name and surname written at full length and the place of abode title calling or business of every person residing within the limits mentioned in such order qualified and liable to serve as a Juror in such form as may be prescribed or required and shall deliver such list or return to the Resident Magistrate within one month from the date of his receiving such order as aforesaid.

Copies of previous year's list to be supplied each year.

11. In the year 1904 and every year thereafter the persons required to make out the lists of persons qualified and liable to serve as Jurors shall respectively be supplied with copies of the lists made up for the previous year from which they shall strike out the names of persons who have since died removed or become disqualified or exempted by reason of age or other cause and shall add the names of persons not on such lists who are qualified and liable to serve

Questions which may be put by persons making lists.

12. For the purpose of preparing such lists the persons engaged in their preparation may put such

questions as they think proper relating to the said lists and to the name surname place of abode calling business occupation qualification or age of any man residing in any Jury district.

13. Every such person preparing such lists as aforesaid shall for the purpose of framing his return have free access to the Valuation and Voters' Rolls of any Divisional Council or Municipality and may make copies or extracts from such rolls.

Access to Valuation Roll of Divisional Council or Municipality.

14. The Resident Magistrate receiving such lists or returns as aforesaid shall cause to be prepared and made out a true list of the persons qualified and liable to serve as Jurors within the "Jury District" of which his Court House is the centre.

Duty of Magistrate on receiving lists.

15. A copy of such list shall be affixed on or near the principal door of the Court House with a notice stating that a Court will be held on a day to be stated not being less than fourteen days after the day on which such notice is posted to revise such list. Such notice shall also be published once at least in some newspaper circulating in the town where the Court is to be held.

Copy of list and notice to be affixed on door of Court House.

16. If at any time it shall happen that no Jury list shall have been made for the current year for any Jury district the Jury list for the preceding year shall be deemed to be the proper Jury list and used as such.

If no Jury list for the year, Jury list of previous year to be used.

COURT OF REVISION OF JURY LISTS.

17. On the day and at the place appointed in the notice aforesaid the Resident Magistrate shall hold a Court for revising the Jury Lists.

Court of revision of Jury lists.

18. The said Court may be adjourned from time to time and all persons whose duty it is to make out such lists as aforesaid shall produce the lists prepared or made out by them as in this Ordinance directed and shall answer on oath such questions as may be put to them by the said Court.

Lists to be produced at Court.

19. If the name of any person not qualified and liable to serve as aforesaid is inserted in any such list the said Court if satisfied upon the oath of any person objecting or by other proof or upon the knowledge of the said Court that he is not qualified and liable to serve as a Juror shall strike his name out of such list.

Court may strike out names on list.

The Court may insert the name of any person duly qualified and liable to serve who has been omitted from such list.

20. The said Court may correct any errors or supply any omissions which shall appear to have been committed or made in respect of the name place of abode calling or otherwise of any one included in such list.

Court may correct errors in lists.

After lists revised transmitted to Sheriff.

21. When any such list shall be revised and completed the Resident Magistrate holding the said Court shall certify the allowance thereof by the said Court and transmit the same to the Sheriff of the Colony.

JURORS' BOOKS.

Sheriff to record lists in Jurors' book.

22. The Sheriff receiving such lists from the Resident Magistrates shall cause the same respectively to be fairly and truly copied in a book to be called "The Jurors' Book of the district of" (inserting the district) and shall prefix to every name its proper number beginning the numbers from the first name and continuing them in regular arithmetical series to the last name.

SUMMONING JURORS.

Sheriff to summon Juries for Criminal Sessions.

23. Ten days at the least before the holding of a Session for the trial of Criminal Cases in the Supreme Court Witwatersrand High Court or in any Circuit Court the Sheriff or his lawful deputy shall summon twenty-seven qualified Jurors taken from the Jurors' book of the Jury district wherein such Courts shall respectively be held to serve on Juries in the said Courts.

Mode of summoning Juries.

24. The Sheriff or his deputy shall summon or cause to be summoned each of such Jurors by leaving with the person to be summoned or in case he shall be absent from his usual place of abode by leaving with some adult white person in occupation thereof a notice under the hand of the Sheriff or his deputy requiring such Juror's attendance in such Court and at a place and on a day and hour to be therein stated.

Return of services made to Registrar.

25. The Officer summoning such Jurors shall make a return under his hand to the Registrars of the said Courts respectively of the manner of serving every such summons; or shall attend before the Court and verify the same by oath.

DRAWING NAMES OF JURORS FOR SERVICE.

Mode of drawing names of Jurors to be summoned and directions to be observed.

26. In drawing names of Jurors to be summoned for Service the Sheriff or his deputy shall observe the following directions:—

- (1) He shall place in a box cards of equal size having written or printed thereon the numbers corresponding to the numbers opposite to the names of Jurors on the Jurors' list except those referred to in sub-section *six* of this section.
- (2) He shall after shaking the box to distribute the cards therein draw out of the box singly as many cards as are equal to the number of Jurors required to be summoned.

- (3) After the cards are drawn he shall refer to the corresponding numbers in the Jurors' book and if it be found that the names of two or more persons nearly related or connected or residing upon the same property or engaged or employed in the same house of business are both or all drawn he shall lay aside the cards corresponding to the names of all but one of such persons separately and draw out others and shall so proceed until the requisite number of Jurors be obtained.
- (4) If before or after the issue or service of notices requiring the persons drawn to attend as Jurors he shall discover that any person whose name has been so drawn is dead absent or unable from sickness or any infirmity or other sufficient cause to attend he shall draw other cards to make up the deficiency and summon the Jurors whose numbers have been drawn; provided such last mentioned Jurors shall have the requisite number of days' notice.
- (5) He shall make out and return a list of the names of the persons so drawn and summoned to the Registrar of the Court in which the Jurors are to serve.
- (6) The cards bearing the numbers corresponding to the names of persons who have served as Jurors at successive Criminal Sessions or Circuit Courts shall be kept separate until all the cards bearing the numbers corresponding to the names of persons who have not been drawn for service or being drawn have not served are drawn out of the Jurors' box.
- (7) When all the cards have been drawn out of the Jurors' box the cards bearing the numbers corresponding to the names of persons who have performed their rota of service as Jurors shall be returned to the Jurors' box to be again drawn from and returned in like manner.

27. When such drawing of names of Jurors as aforesaid shall be made by a Deputy Sheriff the following provisions shall apply:--

- (1) The Deputy Sheriff shall by notice posted on or near the principal door of the Court Room of the Resident Magistrate appoint a day not less than four days after the date of posting thereof on which he will attend in the Court Room aforesaid at

Sheriff to give notice of drawing, which is to be done publicly under certain conditions.

- some hour to be stated between the hours of 9 a.m. and noon for drawing the names of Jurors for service.
- (2) Such drawing shall take place publicly in the presence of the Resident Magistrate or any Assistant Magistrate or any Clerk to the Resident Magistrate or any Justice of the Peace.
 - (3) As each card is drawn the Deputy Sheriff shall refer to the corresponding number in the Jurors' book and read aloud the name designated by such number and shall make a list of the names so drawn.
 - 4) Such list shall be signed by the Deputy Sheriff and by the Resident Magistrate Assistant Magistrate Magistrate's Clerk or Justice of the Peace in whose presence such list is made.
 - (5) Such list shall be preserved by the Deputy Sheriff until one month after the sitting of the Court to which it has relation and if the Sheriff of the Colony shall not during such month require it to be forwarded to him the said list may then be destroyed.

MISCELLANEOUS PROVISIONS.

Court may allow affirmation to be made.

28. If any person called as a Juror shall refuse or be unwilling to be sworn the Court may permit such person to make his solemn affirmation which affirmation shall be of the same force and effect as if such person had taken an oath in the customary form.

Penalty for not obeying summons to serve as Juror.

29. If any person having been duly summoned to attend before any Court to serve as a Juror for the trial of cases shall not attend pursuant to such summons or being thrice called shall not answer to his name or after his appearance shall wilfully absent himself during the sittings of the Court or after any adjournment thereof before the Jury shall be discharged from attendance the Court shall impose such fine upon every person so making default as it shall think meet. Any person who shall be called or peremptorily summoned to attend in obedience to an order made or writ issued to supply a deficiency of Jurors shall for any default or refusal as aforesaid be liable to such fine as the Court shall think meet.

Penalty for false claim of exemption.

30. If any person shall claim exemption from serving as a Juror by means of any certificate or affidavit which he shall know to be false or which shall contain any false statement of fact he shall be liable to a penalty not exceeding fifty pounds and in

default of payment to imprisonment with or without hard labour for a period not exceeding three months.

31. If any Deputy Sheriff or Sheriff's Officer shall directly or indirectly take or receive any money or reward or promise of money or other reward to excuse any person from serving or being summoned to serve as a Juror he shall be liable to such penalty not exceeding one hundred pounds as the Court enquiring into the offence in a summary way shall see fit to impose.

Penalty for illegally excusing of Juror by Sheriff.

32. If any person assigned to the performance of any duty under this Ordinance shall be guilty of any of the acts or omissions in this Section mentioned he shall be liable to a penalty not exceeding ten pounds.

Penalty for various acts.

- (1) Refusing or neglecting (unless prevented by sickness the proof of which shall lie on the accused) to make out any list required to be made by him under this Ordinance.
- (2) Wilfully omitting from such list the name of any person whose name ought to be inserted therein.
- (3) Wilfully inserting in such list the name of any person who ought to be omitted.
- (4) Neglecting or refusing to answer upon oath such questions as may be put to him by the Revising Court touching his list or the making thereof or refusing to be sworn.

33. Any person who shall remove or deface any list of Jurors or notice posted at or near the door of the Court House referred to in the fifteenth Section of this Ordinance shall be liable to a penalty not exceeding five pounds.

Penalty for removing or defacing Jury List posted on door of Court.

34. Any person who shall refuse to answer or shall falsely answer any question lawfully put by any person for the purposes mentioned in Section twelve of this Ordinance shall be liable on conviction to a penalty not exceeding two pounds.

Penalty for refusing to answer questions allowed by Section twelve.

35. The Judge presiding at any Criminal Sessions or Circuit Court may at any time during the Sittings remit any fine or penalty imposed upon a Juror for any default.

Judge may remit fines.

36. If any fine or penalty imposed by the Court shall not be paid or remitted before the close of the Sittings then a writ shall be issued by the Registrar of the Court for the recovery of such fine or penalty as if the order imposing the same were a judgment of the Court.

If fine or penalty not paid Registrar shall issue writ.

Payment of
Jurors.

37. Every person summoned under the provisions of this Ordinance to attend before any Court to serve as a Juror for the trial of criminal cases and attending in obedience to such summons shall be entitled to receive remuneration according to the following scale:—

- (a) When he resides within a radius of five miles of the Court to which he is summoned he shall be allowed ten shillings for every day or fraction of a day he is required to attend the sitting of the Court;
- (b) When he resides beyond five miles of the Court to which he is summoned he shall be allowed ten shillings for every day or fraction of a day he is required to attend the sitting of the Court; and in addition thereto four shillings for every six miles or portion thereof actually travelled by him by the usual route in proceeding to and to be travelled in returning from the Court to which he is summoned.
- (c) The amount payable under the last preceding sub-section is to be calculated on the total distance travelled in going and returning and not upon the separate journeys to and fro. Travelling allowance can only be paid for one journey each way in respect of the same Sittings.

Payments defrayed
out of revenue.

38. All payments under the provisions of the preceding Section shall be defrayed from the public revenue of the Colony.

Short title.

30. This Ordinance may be cited for all purposes as the "Jury Ordinance 1902."

Passed in Council the Twenty-fourth day of July, One Thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-fourth day of July, One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

 SCHEDULE.

Jurors List for period ending.	To consist of persons qualified to be jurors resident within.
31st December, 1903.	The limits of the Municipality of Johannesburg.
31st ,, 1904.	The area formerly within the jurisdiction of the Mining Commissioner at Krugersdorp.
31st ,, 1905.	The area formerly within the jurisdiction of the Mining Commissioner at Boksburg.
31st ,, 1906.	The limits of the Municipality of Johannesburg.
And so on in rotation.	

ORDINANCE.

(Arrear License Moneys on Claims and Stands).

WHEREAS by a judgment of the Supreme Court of this Colony claim-holders were held not to be exempt from the payment of license moneys due on their claims during the period of the war by reason of not having had beneficial occupation thereof:

And whereas it is desirable to make provision in respect of such license moneys both on claims and stands:

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Definition
of terms.

1. (1) The following expressions in inverted commas shall have the meaning placed opposite to them.

“Period of the War” shall mean the period between the 11th October 1899 and the 31st May 1902, inclusive.

“Treasurer” shall mean the Colonial Treasurer.

“Claim” and “Stand” shall mean respectively a claim and stand falling under the provisions of Law No. 15 of 1898.

“Owner’s share of License Moneys on any Claim or Stand” shall mean the share of the license moneys on any claim or stand to which the owner of the land on which such claim or stand is situated is entitled as against the Government under the provisions of Law No. 15 of 1898.

“Government’s share of License Moneys on any Claim or Stand” shall mean the share of the license moneys on any claim or stand to which the Government is entitled after deducting the owner’s share as above defined.

- (2). For the purpose of this Ordinance—
- (a) A person shall be deemed and taken to have had beneficial occupation of a stand if he has had the occupation thereof by himself or any member of his family or if he has derived any profit from the occupation thereof by some other person.
- (b) A person shall be deemed to have had beneficial occupation of any claim from the date after the 11th October 1899 when he commenced to do mining or prospecting work thereon within the meaning of those terms as defined by Article 3 of Law No. 15 of 1898.
- (c) Any person holding more claims than one situated in one block shall be deemed to have had beneficial occupation of the whole block if he has had beneficial occupation of any one claim in such block.

PART I.

2. The provisions of Part I. of this Ordinance shall apply only to claims and stands situated on Crown Land or Government Ground.

Application of Part I.

3. The holder of any claim or stand shall be and is hereby discharged from the payment of license moneys due thereon for any portion of the period of the war during which he had not the beneficial occupation thereof.

When holder of claim or stand is discharged from payment of licence moneys thereon.

4. The holder of any claim or stand who has paid license moneys in respect thereof for any portion of the period of the war during which he had not the beneficial occupation thereof shall be entitled to have such payment refunded to him by the Treasurer on his proving (on oath if required) to the satisfaction of the Commissioner of Mines that he had not such beneficial occupation as aforesaid.

When holder of claim or stand may obtain of refund licence moneys already paid

5. The registered holder of any claim or stand applying for the renewal or transfer of the license thereto or for the registration of any mortgage thereon and claiming to be exempt under Section three of this Ordinance from the payment of license moneys which may have accrued in respect of such claim or stand during any portion of the period of the war shall on making

Application for renewal or transfer of license to claim or stand or for registration of mortgage thereon.

such application lodge with the said Registering Officer a statement on oath setting forth the period, if any, during which he had the beneficial occupation of such claim or stand and such statement shall for the purposes of this Section be binding on the Registering Officer provided always that it shall be competent for the said officer in case he find that the said statement is false and that the applicant had beneficial occupation for some portion of the period of the war not mentioned in the said statement, to recover by action in some competent Court the license money on such claim or stand due and in arrear for such portion as aforesaid.

Certain sections of Law No. 15 of 1898 to apply

6. The provisions of the *eighty-fifth, ninety-fourth, one hundred and fourth, and one hundred and fifth* Articles of Law No. 15 of 1898 shall apply in respect of any license moneys due and in arrear on any claim or stand prior to the 14th October 1899 or due and in arrear for any portion of the period of the war during which the holder of such claims or stand was in the beneficial occupation thereof or which have become due since the 31st May 1902.

PART II.

Application of Part II.

7. The provisions of Part II. of this Ordinance shall apply only to claims and stands situate on proclaimed private ground and to stands in proclaimed stand townships on proclaimed private ground.

When holder of claim or stand discharged from payment of Government's share of license moneys thereon.

8. (1) The holder of any claim or stand shall be and is hereby discharged from the payment of the Government's share of the license moneys due and in arrear thereon for any portion of the period of the war during which such holder had not the beneficial occupation thereof.

No duty cast on Government to collect owner's share of license moneys,

(2) It shall not be the duty of the Government to collect or recover from the holder of such claim or stand the owner's share of the license moneys due and in arrear thereon for the portion of the period mentioned in the last preceding sub-section: but it shall be competent for the said owner to recover such share in manner hereinafter set forth.

9. The holder of any claim or stand who has paid license moneys in respect thereof for any portion of the period of the war during which he had not the beneficial occupation thereof shall be entitled on similar proof to that required under Section four to a refund from the Treasurer of so much of such payment as represents the Government's share in such license moneys.

Refund of license moneys to owners who have paid.

10. (1) Notwithstanding anything to the contrary contained in Law No. 15 of 1898 it shall be competent for the owner of land on which any claim or stand is situated to claim by action in any competent Court from the person who is the registered holder of such claim or stand at the date such action is commenced the owner's share in the license money due and in arrear on such claim or stand for any portion of the period of the war during which such claim or stand was not beneficially occupied; and it shall be competent for the defendant in such action to avail himself of any defence thereto which he or any previous holder of such claim or stand would be entitled to under this Ordinance or any other law.
- (2) No such action as aforesaid shall be commenced before the expiration of twelve months or after the expiration of two years reckoned from the taking effect of this Ordinance.
- (3) The amount of license moneys on such claim or stand as aforesaid to which the said owner may in law be entitled shall for a period not exceeding two years reckoned from the taking effect of this Ordinance unless sooner satisfied be a charge on the said claim or stand and shall rank next in priority to any existing special mortgage thereon.

How owner may recover his share of license moneys.

11. The provisions of Section *five* of this Ordinance shall apply *mutatis mutandis* to any application for a renewal or transfer of a license to any claim or stand falling under Part II. of this Ordinance or to the registration of any mortgage bond thereon; and the non-payment of the owner's share in the license

Non-payment of owner's share of license money not to prevent renewal of licence or registration of mortgage.

moneys due and in arrear on such claim or stand for any portion of the period of the war during which the holder of such claim or stand had not the beneficial occupation thereof shall not prevent the renewal or transfer of such license as aforesaid or the registration of any mortgage on such claim or stand.

Provisions of Section 6 to apply to Part II.

12. The provisions of Section *six* shall apply *mutatis mutandis* as if the same were repeated in Part II. of this Ordinance.

Provisions of this Ordinance to apply to any right held under Law 15 of 1898.

13. The provisions of this Ordinance in respect of the payment of license money due and in arrear on any claim shall apply to any right held under Law No. 15 of 1898 in connection with such claim, on which license money is payable under the said Law.

Short title.

14. This Ordinance may be cited for all purposes as the "Arrear License Moneys on Claims and Stands Ordinance, 1902."

Passed in Council the Twenty-fourth day of July One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-fourth day of July One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 12 of 1902.]

[July 31st, 1902.

ORDINANCE

**To Constitute the Supreme Court of the Transvaal
a Court of Appeal from the decisions of the
High Court of the Orange River Colony.**

BE IT ENACTED by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. The Supreme Court of this Colony shall have jurisdiction as a Court of Appeal to entertain hear and determine appeals in all civil suits brought before it from the High Court or any Circuit Court of the Orange River Colony; Provided that an appeal from any judgment of such Supreme Court shall lie to His Majesty in Council in the same manner and on the same conditions as appeals from the judgments of the said Court in its ordinary jurisdiction save and except that the appealable amount shall be five hundred pounds instead of two thousand pounds as provided in Section *thirty-nine* of "The Administration of Justice Proclamation 1902."

Appeal Court
Jurisdiction Civil.

2. The said Supreme Court shall likewise have jurisdiction as a Court of Appeal to entertain hear and determine:

Appeal Court
Criminal Jurisdiction.

- (1) Appeals in criminal cases from the High Court or any Circuit Court in the Orange River Colony in all cases in which provision has been made by law in the said Colony for such appeals.
- (2) Any question of law reserved for its consideration and determination by the said High Court or a judge thereof and arising on review of the judgment or sentence of any inferior Court in the Orange River Colony by such High Court or Judge or arising on the trial of any person in the said High Court or any Circuit Court of the said Colony.

3. In case of any appeal against a conviction or of any question being reserved as aforesaid it shall be lawful for the Supreme Court—

Power of Supreme
Court on appeal in
criminal cases.

- (a) To confirm the judgment of the Court below; or

- (b) Direct that the judgment shall be set aside; or
- (c) Direct that the judgment of the Court shall be set aside and that instead thereof such judgment shall be given by the Court before which the trial took place as ought to have been given at the trial; or
- (d) Make such order as justice may require.

Provided that no conviction shall be set aside by reason only of some irregularity or illegality whereby the defendant was not prejudiced in his defence or because evidence was improperly admitted or rejected by which no substantial wrong was done to the defendant.

Procedure on Appeal.

4. All appeals to the said Supreme Court from the said High Court or any Circuit Court in the Orange River Colony shall be brought within such time and in such manner as regards the form and transmission of the appeal as may be prescribed by any rule of procedure made by the said Supreme Court and as regards matters not provided for by such rules the procedure on appeal to and in the Supreme Court shall be the same as the ordinary procedure of that Court on appeal and the order of the said Supreme Court on appeal shall be certified under its seal to the Registrar of the Court before which the case was tried; provided however that no rule made by the Supreme Court shall be repugnant to or inconsistent with any of the provisions of any law in force in the Orange River Colony relating to appeals from the High Court or any Circuit Court thereof to the Supreme Court of this Colony.

The said Supreme Court shall determine any matter brought before it on appeal in accordance with the law which the said High Court may lawfully apply to the decision and determination of such matter.

Appeal Court to consist of not less than three Judges.

5. For the hearing of all appeals and the determination of all questions of law referred to it under this Ordinance the Supreme Court shall be constituted in the same manner as is provided for in the "Administration of Justice Proclamation 1902" for the hearing of appeals by the said Court from the Witwatersrand High Court.

Short title.

6. This Ordinance may be cited as "The Supreme Court Appellate Jurisdiction Extension Ordinance 1902."

Passed in Council the Thirty-first day of July One thousand Nine hundred and Two.

G. CRAIG SELLAR,

Clerk to the Council.

Assented to by His Excellency the Governor the Thirty-first day of July One thousand Nine hundred and Two.

W. E. DAVIDSON,

Colonial Secretary.

No. 13 of 1902.]

[August 7, 1902.]

ORDINANCE

Regulating the Possession of Arms and Ammunition.

WHEREAS it is desirable to make provisions regulating the possession of arms and ammunition and the dealing therein:—

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:

1. The following expressions in inverted commas shall have the meaning placed opposite to them:—

Definition of
Terms.

“Arms” shall include any cannon gun rifle revolver pistol or other fire-arm or any material part of any arms so defined.

“Rifle” shall mean any arm with a rifled barrel which is capable of being fired from the shoulder.

“Ammunition” shall include all cartridges bullets shot gun-powder percussion caps and any other articles used in the discharge of arms.

“Gunpowder” shall include all explosives used in the discharge of arms.

“Constabulary” shall mean the South African Constabulary.

“Town Police” shall mean the Police Force established under Proclamation No. 15 of 1901.

“Police Officer” shall mean any Officer of the Constabulary or Town Police.

2. Within two months after the taking effect of this Ordinance every person save and except an Officer serving in His Majesty's naval or military forces; or in any Volunteer or other Corps in this Colony

Deposit of
arms and
ammunition
at Office of
Resident
Magistrate.

authorised by the Governor or an Officer of the Constabulary or Town Police or a person having a license as hereinafter provided shall deposit and leave at the office of the Resident Magistrate of his District or at the office of the Assistant Resident Magistrate for any portion of the District in which he resides or at such other place as may be notified in the *Gazette* all arms and ball ammunition in his possession custody or power and a receipt for the same shall be given by the person authorised to receive them to the person so depositing them.

The holder of a license for a rifle shall be entitled to have and keep in his possession ball ammunition not exceeding two hundred rounds, but any ball ammunition in excess of that number in the possession custody or power of any such holder shall be deposited as aforesaid.

This Section shall not apply to Government arms temporarily in the lawful possession of duly enrolled members of the Regular or Volunteer Forces or of the Constabulary or Town Police.

Licenses to
possess arms.

3. (1) Notwithstanding anything in the last preceding Section contained it shall be lawful for the Resident Magistrate of a District or some other person specially named and appointed by the Governor to issue to fit and proper white male inhabitants of this Colony licenses to possess and carry such arms as may be mentioned therein.
- (2). Every such license shall be as nearly as may be in the form set forth in the first schedule to this Ordinance and there shall be paid in respect of such license ten shillings in the case of a rifle and five shillings in the case of any other arm.
- (3). Every such license shall expire on the *thirtieth* day of June next after the date of its issue.

All licenses granted before the taking effect of this Ordinance shall expire on the *thirtieth* June, 1903.

- (4). Every rifle held on a license issued after the taking effect of this Ordin-

ance shall be stamped by the official issuing it with a number and with such distinctive letter or mark for the district in which the license was issued as shall be notified in the *Gazette*; such number and letter or mark shall be set forth in the license.

No license for a rifle shall be issued except with the concurrence of the Chief Constabulary Officer of the District in which the applicant for the license resides.

- (5). All licenses to possess arms issued by duly authorised Military or Constabulary Officers before the taking effect of this Ordinance shall be deemed and taken to be licenses issued under this Ordinance and it shall not be required of the holders of such licenses to deposit the arms mentioned therein and in their possession under Section *two* of this Ordinance; but every such holder shall be bound before the expiration of the period mentioned in the said Section to have any rifle in his possession stamped in manner prescribed in the last preceding sub-section and the license under which he is in possession of such rifle countersigned by the Resident Magistrate and the number and mark stamped on the rifle inserted in such license.

Any person contravening the provisions of this sub-section shall be liable to a fine not exceeding *fifty pounds* or in default of payment to imprisonment for a period not exceeding three months.

4. It shall not be necessary for any dealer in or manufacturer of arms or ammunition to deliver up under Section *two* of this Ordinance any arms or ammunition (except rifles and ball ammunition) in his possession for the purposes of sale, if before the expiration of the period mentioned in the said Section he shall have obtained from the Resident Magistrate of his district or other person authorised to issue licenses therein under this Ordinance, a license to

Dealers in or manufacturers of arms and ammunition.

retain the same, which shall be as nearly as may be in the Form set forth in the *second* Schedule to this Ordinance.

Delivery of arms and ammunition to persons who have deposited them and afterwards obtained licenses.

5. Any person to whom any license as aforesaid shall be issued who shall have deposited under the provisions of Section *two* of this Ordinance any arms mentioned in such license shall be entitled on producing such licence as aforesaid and on production and delivery of the receipt in the said Section previously mentioned, but without any right to claim for loss by deterioration, to have such arms re-delivered to him.

Penalty for carrying arms, &c. without license.

6. From and after the expiration of the period mentioned in Section *two* for the deposit of arms and ball ammunition, it shall not be lawful for any person, not being one of the excepted persons in the said Section mentioned to have in his possession any arms or any ball ammunition nor shall it be lawful for any person holding a license for a rifle and not having a permit under sub-section (5) of Section *fifteen* of this Ordinance to be in possession of more than two hundred rounds of ball ammunition at any one time and any person guilty of contravening the provisions of this Section shall, upon conviction, be sentenced to imprisonment with or without hard labour for a period not exceeding one year, or to pay a fine not exceeding two hundred and fifty pounds and in default thereof to imprisonment with or without hard labour for a period not exceeding six months, or to both such fine and such imprisonment and any arms found in his possession shall be confiscated.

Arrest of person in possession of arms without license.

7. Every person, not being such an officer as is mentioned in Section *two* who shall be found in possession of any arms or ball ammunition (not being government arms or ammunition lawfully in his possession) after the expiration of the period for their deposit under this Ordinance, may be required by any Resident Magistrate, Justice of the Peace, or member of the Constabulary or Town Police to produce and exhibit his license under this Ordinance for the possession of the same; and upon his refusal or inability to do so he may forthwith be arrested with-

out any warrant and taken before the Resident Magistrate of the district in which he shall be so found to be dealt with according to law.

8. It shall be lawful for the Governor at any time to revoke any license for the possession of a rifle granted under this Ordinance, and upon such revocation the holder of such license shall be obliged within the space of fourteen days from the receipt of notice of such revocation to deposit and leave at the Office of the Resident Magistrate of the district within which he resides, or other place named in such notice, every rifle and all ball ammunition then being in his possession; and on his failure to do so such person shall be liable to the penalties in the *sixth* Section of this Ordinance provided, precisely as if he had never been licensed to have or carry a rifle.

Governor
may revoke
licenses.

9. No person shall sell or deliver to or make, mend, repair or keep for any person whomsoever required by this Ordinance to obtain a license to possess arms, any arms or ammunition, without production by such last mentioned person of his license under this Ordinance; and any person guilty of contravening the provisions in this Section contained shall upon conviction be liable to the punishment in the *sixth* Section of this Ordinance provided.

Prohibition
to make or
sell arms and
ammunition
to unlicensed
persons.

10. Every person authorised to issue licenses under this Ordinance shall be bound to keep a register thereof setting forth the names, addresses, and description of the persons to whom such licenses have been issued, together with the number and full description of arms represented therein, which register shall be open for public inspection at all reasonable times, and issuers of licenses as aforesaid shall further be bound to transmit to the office of the Colonial Secretary, during the first month of each year, copies certified under their hands of such registers.

Register to be
kept of all
licenses
issued.

11. Every person authorised to issue licenses under this Ordinance shall have power to issue permits, in the form set forth in the *third* Schedule to this Ordinance, to licensed dealers in arms and ammunition

Permits for
transportation
of arms
and ammunition.

who shall require the same to enable them to transport arms and ammunition from any place in the district for which such person is authorised to issue licenses as aforesaid, to any other place in or outside this Colony; provided that such permit shall be of no force or effect except for the purpose of transporting the said arms and ammunition from the place mentioned in the said permit to the place therein mentioned, and any person transporting arms and ammunition without such permit shall be liable to the penalties provided in Section *six* of this Ordinance, and the arms and ammunition so being transported shall be liable to be confiscated. A copy of such permit shall be sent by the person issuing it to the person authorised to issue licenses in the district to which the arms and ammunition are to be transported.

The person in charge of any arms and ammunition transported as aforesaid who is in possession of a permit for such transportation and refuses to produce it when the same is demanded by any member of the Constabulary or Town Police shall be liable to a penalty not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Search for
Arms and
Ammunition

12. It shall be lawful for any Resident Magistrate Justice of the Peace or Officer of Police to enter into and search or cause to be searched any land house place wagon or other vehicle in which there may be reason to suspect that any arms or ammunition are kept or hidden contrary to the provisions of this Ordinance; and to stop and search any person wagon or vehicle by whom or upon which there may be reason to suspect that arms and ammunition are being transported contrary to the provisions of this Ordinance. Any person found in unlawful possession of any arms and ammunition may be arrested by any police constable without a warrant and the said arms and ammunition shall be confiscated.

Valuation of
arms and
ammunition
delivered up
under this
Ordinance

13. All arms and ammunition which shall have been deposited under Sections *two* or *eight* of this Ordinance and which shall belong to persons who have not been licensed to possess the same or whose

licenses have been revoked shall within six months from the date of such deposit be valued by some proper and competent person to be appointed for that purpose by the Resident Magistrate of the district in which they shall have been so deposited and the value fixed by such person of such arms and ammunition shall be paid on application to the respective owners thereof or their lawful representatives upon the production of the receipt mentioned in the said *second* Section and upon satisfactory proof of ownership.

and payment of such valuation to owner of arms or ammunition.

14. (1). No person save as hereinafter provided shall import into this Colony arms or ammunition without first having obtained from the Colonial Secretary a permit for such purpose in the form (A) in the *fourth* Schedule annexed hereto. Any person contravening the provisions of this section shall on conviction be liable to imprisonment with or without hard labour for a period not exceeding one year or to pay a fine not exceeding two hundred and fifty pounds sterling and in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to both such imprisonment and such fine.
- (2). Any arms or ammunition imported without such permit may be detained by any Customs Officer or member of the Constabulary or Town Police until a permit for the same is produced, and if a permit be not produced within one month such arms and ammunition may be disposed of in such manner as the Governor may direct.
- (3). It shall be lawful for any Customs Officer to grant to any person entering this Colony not being a licensed dealer in arms and ammunition a permit for the importation for his own personal use of a reasonable amount of shot ammunition and not more than three shot guns being in his possession at the time of his so entering. A copy of such permit shall be sent by the said officer to the Colonial Secretary.

Permit required for importation of arms and ammunition into Colony.

Importer of arms and ammunition must hold license.

- (4). Any person not being a licensed dealer importing arms shall within seven days after such importation as aforesaid obtain a license to possess the same in terms of the provisions of this Ordinance.

Importation and sale of rifles and ball ammunition.

15. No person except as is hereinafter provided shall import into this Colony any rifle or ball ammunition; but such importation shall be made exclusively by the Government. Rifles and ball ammunition may be supplied to persons residing in this Colony subject to the following provisions:—

- (1). The Governor shall authorize depôts or magazines to be provided for the storing of all Government rifles and ball ammunition and may appoint from time to time such persons as he may think proper to be in charge of such depôts or magazines.
- (2). It shall be lawful for the person in charge of any magazine to sell any rifle therein at such price as may be fixed by the Colonial Secretary to any person producing a license issued under Section *three* of this Ordinance entitling him to possess a rifle; provided that no rifle sold as aforesaid shall be delivered to the purchaser until it is stamped by the person in charge of the magazine in manner prescribed in Sub-section (4) of Section *three* of this Ordinance and the number letter or mark so stamped be inserted in the license.
- (3). The Resident Magistrate of any district may if he thinks fit grant to any person holding a license under this Ordinance to possess a rifle a permit entitling him to purchase on production of such license from the person in charge of a magazine the quantity and description of ball ammunition mentioned therein. The Resident Magistrate shall keep a register of all permits granted under this Sub-section and the provisions of Section *ten* of this Ordinance shall *mutatis mutandis* apply to such register.
- (4). Every person in charge of a magazine shall within seven days after the commencement of each month make a return in writing to the Resident

Magistrate of the District containing the names and residences of all persons to whom rifles and ball ammunition have been sold by them and the description and quantity of the ammunition sold supported by the permits required by this Section for such sales. The said Magistrate to whom such returns are sent shall transmit copies thereof certified by him as correct for transmission to the Colonial Secretary.

- (5). It shall be lawful for the Colonial Secretary to grant a permit enabling and entitling any person holding a license for the possession of a rifle to import for his own use one or more sporting rifles and ball ammunition for the same not exceeding five hundred rounds for each such rifle.
- (6). Any person who imports any rifle or ball ammunition except under a permit issued under the last preceding Sub-section and any person appointed in charge of a magazine who gives, sells or delivers any rifle or ball ammunition to any person not entitled to obtain the same under the provisions of this Section shall be liable to the penalties in the *sixth* Section of this Ordinance provided.

16. From and after the taking effect of this Ordinance no person shall deal in arms and ammunition or either of them in any store shop or other premises without having previously taken out a license to be duly issued by the Receiver of Revenue for the District which license shall be in the form B in the *fourth* Schedule annexed hereto and shall be issued subject to the following conditions:—

No person to deal in arms and ammunition without being licensed.

- (a). No such license shall authorize the dealing in rifles and ball ammunition.
- (b) No such license shall be issued by any Receiver of Revenue without a certificate from the Resident Magistrate of the district that the applicant for such license is a fit and proper person to deal in arms and ammunition and without an endorsement on the said certificate by the Colonial Secretary of his sanction to the issue of the said license.

- (c) The sum of twenty pounds sterling shall be payable in respect of any annual license to deal in arms and ammunition taken out before the *thirtieth* of June of any year and the sum of ten pounds in respect of any license taken out after such date.
- (d) Every such license shall expire on the *thirty-first* day of December of the year in which it was issued.
- Penalties or dealing in arms and ammunition without license. 17. (1) Every person who shall trade in arms and ammunition without having previously taken out such license as aforesaid or who having taken out such license shall sell exchange or deliver any rifle or ball ammunition to any person shall on conviction be liable to be imprisoned with or without hard labour for a period not exceeding three years; or be liable to a fine not exceeding one thousand pounds sterling or in default of payment thereof to imprisonment with or without hard labour for a period not exceeding two years unless such fine be sooner paid or to both such imprisonment and such fine.
- Definition of dealers. (2) Every person being the keeper either individually or as one of some number of co-partners in trade or the agent of any Company of any store shop or other place where wares and merchandise are exposed for sale who shall have in his possession any arms and ammunition other than those in his possession under a license or permit shall be deemed and taken until the contrary be proved to be a dealer in arms and ammunition within the meaning of this section.
- Liability of dealer for acts of clerks, &c. (3) The acts or omissions of any co-partner in trade of any such dealer or of any clerk agent or servant of any such dealer in regard to any of the matters by sections *seventeen twenty-two twenty-three* and *twenty-six* of this Ordinance required shall be deemed to be the acts or omissions (as the case may be) of such dealer himself.
- No transfer of a license to deal in arms without consent of Resident Magistrate. 18. (1) No transfer or assignment of any such license as is in Section *sixteen* mentioned shall be effected without the production by the person to whom the license is to be assigned or

transferred of a certificate by the Resident Magistrate of the district in which such last-mentioned person resides that he is a fit and proper person to deal in arms and ammunition and without an endorsement on the said certificate by the Colonial Secretary of his sanction to the transfer or assignment of the said license. Every such transfer or assignment shall bear a Revenue stamp of the value of one pound sterling which shall be defaced by the Colonial Secretary.

- (2) If any person to whom any such license as aforesaid shall have been granted which shall then be in force for any one place shall desire to deal in arms and ammunition at any other place instead such person may with the consent of the Resident Magistrate of the district in which such last-mentioned place shall be situate apply to the Receiver of Revenue for that district who is hereby authorised and required to make and sign an endorsement on such license setting forth that from the date of such endorsement such license shall no longer be in force for the place or premises originally specified therein but shall henceforth be in force for the place or premises specified in such endorsement.

19. Every person who shall have obtained any such license to deal in arms and ammunition as aforesaid, shall cause to be printed on some conspicuous place on the walls or on a board affixed to some such conspicuous place on the walls outside and over or near the door of the premises specified in his license in letters publicly visible and legible at least one inch long his name at full length (or where there are partners the name or style of the firm or partnership) and after such name or style the words "licensed dealer in arms and ammunition" and in default of having such name or style and such words as aforesaid so painted as to be publicly visible and legible in manner aforesaid at any time during the continuance of such license such person shall be liable to a fine not exceeding ten pounds sterling or in default of payment to imprisonment for any period not exceeding one month.

Notice to the public of the license.

Penalty for
fixing notice
without
having
license.

20. Every person who shall not have obtained any such license to deal in arms and ammunition as aforesaid, and who shall paint on his premises or give any other notice importing that he is a dealer or is licensed to deal in arms and ammunition, shall for every such offence incur and be liable to the pains and penalties imposed on persons convicted of dealing in arms and ammunition without a license.

Storage of
gunpowder

21. (1). All gunpowder in possession of any licensed dealer in arms and ammunition shall be stored in some magazine authorized by the Governor under Section *fifteen* of this Ordinance; provided always that any such dealer may store on the premises occupied by him for the purpose of his business any quantity of gunpowder not exceeding fifty pounds in weight.
- (2). Any licensed dealer who has stored gun-powder or any other ammunition in a magazine may at any time obtain a permit from the Resident Magistrate authorizing him to receive from the person in charge of such magazine such quantity of gun-powder or ammunition as aforesaid not being ball ammunition as he may require provided always that he shall not obtain a larger quantity of gunpowder than will with such quantity as may be on his premises amount to fifty pounds in weight.
- (3). Any licensed dealer having at any one time on his premises more than fifty pounds in weight of gunpowder shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding two months.
- (4). The Governor may when public safety requires it order through the Resident Magistrate of the District that all arms and ammunition in the possession of a licensed dealer be stored in a magazine and any person wilfully disobeying such order shall be liable to imprisonment with or without hard labour for a period not exceeding twelve months or to a fine not exceeding two hundred and fifty pounds and in default of payment

to imprisonment with or without hard labour for a period not exceeding six months.

22. Every licensed dealer in arms and ammunition shall enter in a book to be kept by him for the purpose, a list of all such arms and ammunition together with a description thereof, as he shall have in stock for purposes of sale at the time of the taking effect of this Ordinance; and the said dealer shall also enter in the said book all arms and ammunition received by him for purposes of sale subsequent to this Ordinance coming into force, together with a description thereof and the date on which the same shall have been received; and the said dealer shall also record in the said book any sale or other mode of disposal of any such arms and ammunition as aforesaid and the name and address of the person to whom such arms and ammunition were delivered in pursuance of such sale or other transaction.

Licensed Dealers in arms and ammunition to keep books of their transactions.

23. Every such licensed dealer shall on the thirty-first December of this year and on the thirtieth of June and thirty-first of December of each succeeding year return to the Resident Magistrate of the district in which such person shall carry on business as such dealer for transmission to the Colonial Secretary an account of all arms and ammunition in his possession and of all arms and ammunition received and disposed of by him during the previous half-year.

Licensed Dealers in arms and ammunition to render accounts to Resident Magistrates.

24. Any licensed dealer in arms and ammunition who shall contravene any of the provisions of the last two preceding sections shall on conviction be liable to a fine not exceeding twenty-five pounds sterling or in default of payment to imprisonment not exceeding two months.

Penalties.

25. The book referred to in section *twenty-two* hereof and the arms and ammunition in the possession of any licensed dealer shall at all reasonable times be open to the inspection of any officer of the Constabulary or Town Police serving in the district wherein any such aforementioned dealer shall trade in arms, or of any other person authorised for the purpose by the Resident Magistrate of the district; and any such dealer failing or refusing to produce within a reasonable time the said book and the

Books kept by licensed dealers to be open to inspection by Police Officers.

said arms and ammunition for inspection by any such officer or other authorised person after receiving notice so to do, shall on conviction be liable to a fine not exceeding fifty pounds sterling, or in default of payment to imprisonment for a period not exceeding three months: Provided that no liability shall attach to any such dealer for the non-production of the said book as aforesaid in any case where the said dealer shall prove to the satisfaction of the Court before whom he is arraigned that the said book has been lost or destroyed without wilful default on his part.

Penalties for false entries in books kept by licensed dealers or for false returns.

26. Every licensed dealer who shall make any false entry in the book referred to in section *twenty-two* or in any such accounts as are mentioned in section *twenty-three* or who shall transmit to the Resident Magistrate any paper purporting to be a true copy of such accounts kept by him and which shall not be a true copy thereof shall on conviction be liable to a fine not exceeding fifty pounds sterling or in default of payment to imprisonment for a period not exceeding three months.

Penalty.

27. Any person who shall without lawful authority wilfully alter in any material particular any receipt, license, permit register account statement or any other document or any number letter or mark given granted or made under or in pursuance of any of the provisions of this Ordinance shall be liable to the same punishment as if he had committed the crime of forgery.

Governor may prohibit the issue of ammunition from stores or magazines.

28. It shall be lawful for the Governor, with the advice of the Executive Council, when, and as often as he shall see fit, by proclamation to be issued for that purpose and published in the *Gazette*, to prohibit, throughout the whole, or such part or parts of this Colony, as he shall see fit, the sale or removal of arms and ammunition for such time as may be fixed in that behalf in any such proclamation; or to subject such sale or removal during such time as aforesaid to such conditions to be mentioned in any such proclamation as may to him, with such advice as aforesaid, seem necessary or expedient; and any person who shall sell or remove any arms or ammunition after such prohibition as aforesaid

or without observing, or performing, the conditions prescribed in any such proclamation, shall, upon conviction thereof, be liable to imprisonment with or without hard labour for a period not exceeding one year, or to a fine not exceeding two hundred and fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and such imprisonment.

29. It shall be lawful for the Commissioner for Native Affairs when he thinks fit to grant a license in the form in the *First* Schedule hereto to any Native Chief or headman to possess arms.

Natives.

Any person who shall sell, barter, exchange or deliver for any cause whatsoever to any native not holding a license under the last preceding sub-section any arms or ammunition shall be liable to imprisonment with or without hard labour for a period not exceeding five years or to a fine not exceeding one thousand pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding two years or to both such imprisonment and such fine.

30. Nothing contained in this Ordinance shall extend or be construed to extend to any case in which any ammunition shall within this Colony be imported, bought, sold, stored, issued from store, removed, transported or conveyed by the order of the Governor or any officer belonging to His Majesty's Regular Military Forces or by any officer in the Service of the Government of this Colony while acting in the discharge of his duty, nor to any such officer nor any other person in respect of anything done by such officer or by such other person under and by virtue of and in obedience to any lawful orders given by any such officer while acting in the discharge of his duty.

Ordinance not to apply to Military or Government officers acting in discharge of public duty.

31. Nothing contained in this Ordinance shall extend or be construed to extend to require any Sheriff or other Officer to take out any license for the sale of any arms or ammunition made by such Sheriff or other officer while acting under the authority of any Court, Judge or Magistrate.

No license required for judicial sales

32. All offences against this Ordinance save and except those mentioned in Sections *seventeen* and *twenty-nine* may be summarily

Summary Jurisdiction.

tried in the Court of the Resident Magistrate of the District in which they were committed and such Court shall have jurisdiction to impose the penalties by this Ordinance provided.

Repeal of Laws.

33. Law No. 1 of 1875, Law No. 4 of 1884, Resolution No. 1076 of the First Volksraad dated 21st July 1888, Section 4 of Law No. 4 of 1894 from the commencement to the word "stamp" and so much of any other law as may be repugnant to or inconsistent with the provisions of this Ordinance shall be and is hereby repealed.

Title.

34. This Ordinance shall be cited for all purposes as the "Arms and Ammunition Ordinance, 1902."

Passed in Council the seventh day of August One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Assented to by His Excellency the Governor the seventh day of August One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

First Schedule.

TRANSVAAL.

No.....

License for the Possession of a Fire-arm.

Name in full of Person }
to whom License is issued }

Farm or Residence.....

Sub-District (Wijk).....

District

Description of Weapon.....

Number and Mark

Issued at..... on the.....
day of..... 190..

By

Resident Magistrate.

This License is valid until the 30th June, 190....

Second Schedule.

I, A. B., having been duly appointed in that behalf under Ordinance No..... of 1902, entitled the "Arms and Ammunition Ordinance 1902," do hereby grant to C. D.....
 (here insert the name, description and place of business and quantity of arms and ammunition in possession of C. D.)
 a dealer or manufacturer in arms and ammunition, permission to retain at such place of business such arms and ammunition in his possession for sale to persons duly licensed to purchase the same.

A. B.

Dated.....day of.....190..

Third Schedule.

Form of Permit to Transport Arms, &c.

I, A. B., having been duly appointed in that behalf under the "Arms and Ammunition Ordinance, 1902," do hereby authorise C. D., of.....
 (here insert name and place of business)
 to transport.....
 (here insert quantity and description of arms and ammunition to be transported)
 from.....to.....
 This Permit to be in force for.....days.

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

Signed A. B.

Fourth Schedule.

FORM A.

Permit to Import Arms and Ammunition into the Transvaal.

(Under the "Arms and Ammunition Ordinance, 1902").

I,.....
 Colonial Secretary, hereby authorise.....
 (state name and description of Importer)
 of.....in this District to import the following Arms and Ammunition, namely.....
 (here set out the Arms)

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

Signed.....
 Colonial Secretary.

Fourth Schedule.

FORM B.

License to deal in Arms and Ammunition.

(Granted under the "Arms and Ammunition Ordinance, 1902.")

.....of.....
 is hereby authorised to deal in Arms and Ammunition
 at.....
 from the date hereof until the 31st day of December,
 19...

Dated this.....day of.....19...

Signed.....

Revenue Officer
 District of.....

No. 14 of 1902.]

[August 7, 1902.

ORDINANCE

(To further amend the "Stamp Duties Amendment Proclamation 1902.")

BE IT ENACTED by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. Except where express provision to the contrary is contained in the "Stamp Duties Amendment Proclamation 1902" (hereinafter referred to as the said Proclamation) any instrument required to be stamped on its execution which has not been so stamped may be tendered at the office of any Receiver of Revenue within twenty-one days next after the date of its execution with an adhesive stamp denoting the stamp duty chargeable upon such instrument affixed thereon in accordance with the said Proclamation. The said Receiver of Revenue shall thereupon deface such adhesive stamp by writing his name upon or across such stamp and impressing his office stamp thereon together with the true date of his so doing and such instrument shall from and after such defacement as aforesaid be deemed and taken to be and to have been duly stamped and to be of the same force and effect in all respects as if it had been duly stamped when executed.

Receiver of Revenue to deface adhesive stamps on documents not stamped on execution but subsequently stamped.

2. Sub-section (a) of Section *eighteen* of the said Proclamation is amended by substituting "twenty-one" for the word "ten" in the said Sub-section.

Amendment of Section eighteen of Stamp Duties Amendment Proclamation 1902.

3. Sub-section (2) of Section *twenty-eight* of the said Proclamation is hereby amended by omitting all the words therein after the word "stamp." The said sub-section shall be read and construed as if the said words had never appeared therein.

Amendment of Section *twenty-eight* of the Stamp Duties Amendment Proclamation.

Amendment
of Schedule
to Stamp
Duties
Amendment
Proclama-
tion, 1902.

4. The Schedule to the said Proclamation shall be and is hereby amended in the following respects:—

- (a). By omitting the item "copy of any instrument, passed before a Notary Public, 2s. 6d."
- (b). By omitting the item "Every notarial attestation of any instrument &c." and substituting the following:—
Notarial instrument or grosse or notarial attestation of any instrument or of any duplicate or copy of any instrument, 2/6.
- (c). By altering the duty of five shillings into one shilling in paragraph (2) under the head of "Power of Attorney."

Short Title.

5. This Ordinance may be cited for all purposes as the "Stamp Duty further Amendment Ordinance, 1902."

Passed in Council the seventh day of August One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Assented to by His Excellency the Governor the seventh day of August One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 15 of 1902]

[August 7, 1902.

ORDINANCE

To amend the Law relating to Resident Justices of the Peace.

WHEREAS it is desirable to amend the provisions of Law No. 7 of 1894 which relate to Resident Justices of the Peace: Preamble.

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:

1. Notwithstanding anything to the contrary contained in Law No. 7 of 1894 it shall not be lawful for any Resident Justice of the Peace to punish any offender in any higher or more severe manner than by a fine not exceeding twenty-five pounds or by imprisonment with or without hard labour for a period not exceeding one month. Amendment of Law No. 7 of 1894 as to maximum punishments to be inflicted.

2. This Ordinance may be cited as the "Resident Justices of the Peace Amendment Ordinance 1902." Short title.

Passed in Council the seventh day of August One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Assented to by His Excellency the Governor the seventh day of August One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 16 of 1902.]

[August 7, 1902

ORDINANCE

Providing for the continued Incorporation of the National Bank of South Africa, Limited.

Preamble.

WHEREAS on the 5th day of August, 1890, the Government of the late South African Republic granted a Concession to form and establish a Bank to be called "De Nationale Bank der Zuid Afrikaansche Republiek, Beperkt," hereafter referred to as the said Bank and to carry on banking business as also to establish a Mint in the said Republic which Concession was ratified and confirmed by the Volksraad of the said Republic by resolutions dated 9th August 1890 Articles 1229 and 1231 under and by virtue of which resolutions the said Bank was incorporated and the liability of its Shareholders limited:

And whereas certain alterations in and modifications of the said Concession were approved of and ratified and confirmed by the First Volksraad of the late South African Republic by Resolution dated 15th June, 1899:

And whereas by an agreement between the Governor and the said Bank certain privileges enjoyed by the Bank under the said Concession have been abandoned:

And whereas it is necessary to make provision for the carrying on of its business by the Bank notwithstanding the said agreement:

And whereas the name of the Bank has been changed into "The National Bank of South Africa, Ltd."

Be it hereby enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. The incorporation of the said Bank and the limitation of the liability of the Shareholders thereof under Volksraad Resolution No. 1231 of the 9th August 1890 shall not be affected by the aforesaid agreement or by any modification of the said Concession approved of by the First Volksraad or by any change in the name of the said Bank.

Incorporation of Bank and liability of Shareholders not to be affected by modification of said Concession.

2. The shares of the said Bank issued and to be issued in terms of Volksraad Resolution of the 15th June 1899 shall be deemed and taken to be fully paid up.

Shares issued in terms of Resolution of 1899 deemed to be fully paid up. Amendment of Articles of Association.

3. The said Bank shall be and is hereby empowered to amend its Articles of Association as may be found necessary and to register the same as well as any such modifications of the said Concession as are referred to in Section one of this Ordinance in the Office of the Registrar of Deeds at Pretoria.

Passed in Council the seventh day of August One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Assented to by His Excellency the Governor the seventh day of August One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 17 of 1902.]

[August 22nd, 1902.

ORDINANCE

To provide against the spread of diseases among Stock.

WHEREAS the disease among animals, known as Rhodesian Redwater (hereinafter described as the said disease) has broken out in the Transvaal:

And whereas it is desirable to prevent the spread of the said disease:

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Owner of farm to report on breaking out of disease on his farm.

1. After the taking effect of this Ordinance every owner or occupier of a farm on which the said disease has broken out and every person owning or being in charge of cattle suffering from the said disease shall forthwith report the same to the nearest Resident Magistrate or Assistant Resident Magistrate or to the nearest police station and on failure to do so shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and such imprisonment.

Resident Magistrate on receiving report to inform Colonial Secretary.

2. Such report as aforesaid if not made direct to the Resident Magistrate shall be forthwith transmitted to him and he shall on being satisfied that the said disease exists on any farm or place forthwith inform the Colonial Secretary who shall by notice in the *Gazette* declare such farm or place to be an infected area.

Provisions in force in infected areas.

3. The following provisions shall until altered or repealed by regulations made under this Ordinance be of force in any infected area:—

- (1) No Cattle shall be moved from such area.
- (2) No other Stock shall be moved from such area unless previously disinfected

in manner prescribed by regulations made under this Ordinance.

- (3) All stock in such area shall be herded as far as practicable from any public road.
- (4) No person shall leave such area without having complied with such reasonable precautions for preventing the spread of the said disease as may be prescribed by regulations under this Ordinance.
- (5) The carcases of all animals dying from the effects of the said disease shall forthwith be either buried at a depth of not less than four feet below the surface of the ground or burnt at the expense of the owner.

Any person contravening any of the aforesaid provisions shall be liable to a fine not exceeding Fifty Pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months. Penalties.

4. It shall be lawful for the Governor by notice in the *Gazette* to prohibit for such time as to him may seem necessary the importation into this Colony of all stock from any place outside the Transvaal where the said disease prevails. Governor may prohibit importation of stock.

5. It shall be lawful for the Governor from time to time to make regulations for all or any of the following purposes and to provide penalties for the breach thereof:— Governor may make regulations

- (1) The prevention of the introduction and spread of the said disease in this Colony.
- (2) The isolation inoculation removal and slaughter of stock suffering or suspected to be suffering from the said disease.
- (3) The burial or destruction of carcases.

6. It shall be lawful for the Governor by Proclamation to make the provisions of this Ordinance apply to any other disease among stock mentioned in such Proclamation. Provisions of Ordinance may be applied by Proclamation to any other disease among stock.

7. In this Ordinance the term "stock" shall include cattle sheep goats horses mules donkeys and pigs. Definition of stock.

Title. 8. This Ordinance may be cited for all purposes as the "Diseases of Stock Ordinance, 1902."

Passed in Council the Twenty-second day of August, One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-second day of August, One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 48 of 1902.]

[August 22nd, 1902.

ORDINANCE

(License Moneys on Claims and Stands).

WHEREAS it appears that certain license moneys on Claims and Stands were paid in respect of the period of the war to the Government of the late South African Republic;

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. The right conferred by Sections *four* and *nine* of Ordinance No. 41 of 1902 on holders of Claims and Stands to a refund from the Treasurer of license moneys paid in respect of any portion of the period of the war during which they had not beneficial occupation of such Claims or Stands shall not extend to any such license moneys which may have been paid to the Government of the late South African Republic.

2. This Ordinance shall be read and construed as part of Ordinance No. 41 of 1902.

Passed in Council the Twenty-second day of August, One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-second day of August, One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 19 of 1902.]

[August 22nd, 1902.

ORDINANCE

To Maintain the Ownership of the Crown in Certain Property.

WHEREAS under the conditions of surrender of the Burgher Forces of the two late Republics dated the 31st May 1902 provision is made for rendering assistance to ex-burghers by advances of food seed stock implements and other material.

And whereas it is desirable to protect such advances from being alienated or from being seized in execution under any judgment which may be obtained against the person or persons to whom such advances are made:

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. All stock implements and other materials delivered to any person in the Transvaal for the purpose of assisting him under the tenth clause of the Conditions of Surrender dated the 31st May 1902 shall remain the property of the Government until paid for or until a written discharge shall have been given to such person from any liability to the Government in respect of the cost of such property as aforesaid.

Passed in Council the Twenty-second day of August, One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-second day of August, One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary

No. 20 of 1902.]

[August 22nd, 1902.

ORDINANCE

To Amend certain Laws relating to the Taxation of Natives.

WHEREAS it is expedient to amend in certain respects the laws relating to the taxation of Natives and to impose on them a general and uniform tax :

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows :—

1. The Laws mentioned in the Schedule to this Ordinance and so much of any other Law as may be repugnant to or inconsistent with the provisions of this Ordinance are hereby repealed.

Repeal of
Laws.

2. There shall be paid annually to the Colonial Treasurer by every adult male aboriginal native domiciled in the Transvaal a consolidated tax amounting to the sum of two pounds which shall be in lieu of all taxes imposed on natives under the Laws mentioned in Section *one*. If such native has more than one wife by native custom he shall pay a further tax of two pounds for each additional wife. The said tax shall become due and payable from and after the first day of January of each year commencing with the year 1903.

Tax to be
payable by
every adult
male native.

3. The Governor may from time to time appoint such persons as he may think fit to collect the said tax and may with the advice

Appoint-
ment of
Collectors of
tax.

F

of the Executive Council make regulations with penalties for the breaches thereof providing for the collection of the said tax and defining the duties and responsibility of Chiefs of tribes and Headmen of kraals in respect of the payment of the said tax by members of such tribes or by natives residing in such kraals.

Exemption
from pay-
ment of tax.

4. Every native holding Letters of Exemption under Proclamation Transvaal No. 35 of 1901 and every native who shall satisfy the Resident Magistrate Native Commissioner or Sub-Commissioner of his district that he is by reason of age chronic disease or other cause prevented from working and is indigent shall be exempted from the payment of the said tax.

Penalty for
failing to
pay tax.

5. Any native who shall wilfully neglect to pay the aforesaid tax due by him at the time and place appointed by the Commissioner for Native Affairs shall upon conviction before any Resident Magistrate or Assistant Resident Magistrate Native Commissioner or Sub-Commissioner be liable to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

The Resident Magistrate Assistant Resident Magistrate Native Commissioner or Sub-Commissioner shall in any case in which the accused person claims not to be liable for the whole or portion of the said tax determine the amount due if any and order payment thereof and such order may be executed in the same manner as if it were a judgment of a competent Court in a civil proceeding.

Recovery of
Penalties.

6. Every contravention of this Ordinance and of any of the regulations made thereunder shall be summarily tried before the Resident Magistrate Assistant Resident Magistrate Native Commissioner or Sub-Commissioner of the District or Ward in which such contravention has taken place.

7. This Ordinance may be cited for all Short Title purposes as the "Native Tax Ordinance 1902."

Passed in Council the Twenty-second day of August One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk to the Council.

Assented to by His Excellency the Governor the Twenty-second day of August One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary

Schedule of Laws Repealed.

Law No. 6 of 1880 and the Rules, Regulations and Orders framed under the *ninth* Section thereof.

Volksraad Resolution of 20th September, 1884, Article 522.

Law No. 24 of 1895.

First Volksraad Resolution of July 14th, 1898, Article 815.

Executive Council Resolution of August 26th, 1898, Article 792.

No. 21 of 1902.]

[August 7th, 1902.

ORDINANCE

To make provision for the pegging of Claims under license in certain mining districts of this Colony.

WHEREAS IT IS PROVIDED by the thirty-second Section of the "Registration of Mining Rights Proclamation 1902" that "anything to the contrary notwithstanding in Section fifty-nine or in any other provision of Law No. 15 of 1898 no licenses shall be issued for the pegging out of claims on any public digging whether proclaimed before or after the taking effect of this Proclamation until further provisions are made in respect thereto:"

And whereas it is desirable to exempt certain mining districts in this Colony from the operation of the said section:

Be it enacted by the Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. It shall be lawful for the Governor by notice in the *Gazette* from time to time to notify that in any mining District or portion of a mining District named in such notice the *thirty-second* Section of the "Registration of Mining Rights Proclamation 1902" shall not be in force.

2. From and after the publication of such notice as aforesaid licences shall be issued under the provisions of Law No. 15 of 1898 for the pegging out of claims on any public digging within the mining District or portion of a mining District named in such notice; provided always that notwithstanding anything to the contrary contained in the said Law it shall not be lawful for any person under a Power of Attorney to obtain a license or to peg out any claim.

Passed in Council the seventh day of August One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Assented to by His Excellency the Governor the first day of September, One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 22 of 1902.]

[October 1st, 1902.

ORDINANCE

For the Amendment of the Customs Tariff.

BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:

1. The Tariff of Customs now in operation is hereby amended to the following extent: Amendment
of existing
tariff.

- (a) The exemption established for products of the Orange River Colony and the Province of Mozambique shall not extend to spirits.
- (b) The following articles shall in addition to those already provided for be admitted free of duty:

All articles which by virtue of Section *two* of Law No. 4 of 1894 are subject to a duty of one and a half per centum on the value thereof and also the articles hereunder mentioned that is to say:—

Public Stores, imported or taken out of bond by and *bonâ fide* for the sole and exclusive use of the Government of His Britannic Majesty; provided that a certificate be delivered to the Customs given under the hand of a principal officer to be approved of by the Director of Customs, setting forth that any duty levied on such public stores would be borne directly by the Government; and provided further that no portion of such stores used or unused shall be sold or otherwise disposed of so as to come into the possession of or into consumption

by any parties not legally entitled to import the same free of duty without the consent of the Director of Customs and the payment of the duties to him by the officer so selling or disposing of such public stores.

Articles imported or taken out of bond for the sole exclusive and personal use of any member of His Majesty's Regular Forces serving on full pay in this Colony; provided that such person is receiving no emoluments from the Treasury of this Colony and subject to such regulations as the Director of Customs may make for the due protection of the revenue; provided that if any such articles shall be sold or otherwise disposed of to or for consumption by any person not legally entitled to the exemption without the consent of the Director of Customs and the payment of duty thereon to the Customs according to the tariff then in force then they shall be forfeited and the persons knowingly disposing of such articles as well as those into whose possession the same shall knowingly come shall be liable to the penalties prescribed by Section *fifty-two* of the Customs Management Ordinance 1902.

Agricultural implements;

Brass copper composition—metal iron steel lead tin zinc and other metals in the following forms:—
angle bar channel hoop rod roof plate sheet girder pipe ingot disc or block;

Cement;

Plants;

Wood: unmanufactured including planed tongued or grooved plain boards unshaped.

(c) The duty of one and a half per centum imposed by Section *two* of Law No. 4 of 1894 on the value of certain

articles therein mentioned is hereby repealed.

- (d) The special duties on the following articles are repealed:—

Barley bottles (empty) cement chaff
coal copper-wire cycles lead
mineral waters oats oathay pianos
poles printed matter shot and
sulphuric acid.

- (e) The undermentioned articles shall be charged on importation with the special duties specified hereunder in lieu of the special duties now chargeable thereon:—

Chocolate and cocoa plain
sweetened or mixed per lb. 1½d.

Coffee and milk per lb. 1½d.

Confectionery: including honey
jams jellies preserves sweet-
meats candied or preserved
ginger or chow-chow pies
tarts and puddings and all
other kinds compounded
made or preserved with
sugar but not including
purely medicinal prepara-
tions properly classed as
apothecaryware per lb. 1½d.

Fruits: preserved of all kinds
bottled tinned or otherwise
preserved including pulp and
candied peel dried fruit and
dried ginger and nuts per lb. 1½d.

Matches and wax lights in boxes
or packets containing not
more than 100 in a box or
packet per gross of boxes 2s.

Matches and wax lights for
every 100 or fraction of 100
contained in boxes or packets
per gross of hundreds 2s.

Spirits:

a. Perfumed per Imp. gall. £1

b. Liqueurs cordials and
bitters per Imp. gall. 15s.

- c.* Other sorts (with the exception of methylated spirits namely spirits mixed with some substance in such manner and quantity as to the satisfaction of the Director of Customs to render the mixture unfit for use as a beverage) according to the strength of proof
per Imp. proof gall. 14s.

(No allowance will be made for under-proof in excess of 15 per cent.)

Tobacco :

- a.* Cigars and cigarillos
per lb. 6s.
- b.* Goorak or goracco dagga and hookah mixture and all imitations or substitutes
per lb. 6s.
- c.* Snuff
per lb. 4s.
- d.* Cigarettes
per lb. 4s.
- e.* Manufactured
per lb. 3s.
- f.* Not manufactured
per lb. 2s.

Wine : other than champagne or other sparkling wines
per Imp. gall. 4s.

(Wine exceeding 50 per cent. of proof spirit to be classed as spirits.)

Repeal of
Laws.

2. Proclamation Transvaal No. 3 of 1902; and so much of Law No. 4 of 1894 and of any other law or laws as may be repugnant to or inconsistent with this Ordinance are hereby repealed.

Date of taking effect of certain alterations.

3. The alterations made in this Ordinance in the rates of duty on articles specially mentioned therein other than wines and spirits shall not come into force until after the expiration of two weeks from the date of the publication of this Ordinance.

Title.

4. This Ordinance may be cited as the "Customs Tariff Amendment Ordinance 1902."

Passed in Council this First day of October One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Assented to by His Excellency the Governor the Fourth day of October One thousand Nine hundred and Two.

W. E. DAVIDSON,
Colonial Secretary.

No. 23 of 1902.

[October 1, 1902.]

ORDINANCE

For the Management of the Customs of the Transvaal.

WHEREAS it is expedient that the laws in force for the management of the Customs of this Colony should be amended:

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Definition of terms.

1. In this Ordinance the following words and expressions are used in the following senses:—

- (a) Goods include all wares articles merchandise animals matter or things imported or brought into or exported from this Colony.
- (b) Importer includes his Agent.
- (c) Exporter includes his Agent.
- (d) Director of Customs means the Principal Officer of Customs for the time being

No importation without due entry etc.

2. No goods shall be imported into this Colony without due entry as hereinafter prescribed and the payment or securing of such duties as may be imposed by law and any goods imported contrary to this shall be forfeited; provided that such forfeiture shall not be taken to affect or remove any other fine or punishment which shall be incurred under or by virtue of this or any other law in force at the time of such importation.

3. No goods of foreign manufacture not any packages of such goods 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 or stamps and no indecent or obscene prints paintings photographs books cards or lithographs or engravings or any other indecent or obscene articles nor any goods the importation of which may be prohibited by or in virtue of any law shall be imported or brought into this Colony; and if any of the goods herein enumerated shall be imported or brought in contrary to the provisions hereof the same shall be forfeited.

Prohibitions.

4. When and as soon as notice shall have been given in the Legislative Council of the introduction in such Council of a Draft Ordinance whereby it shall be proposed to increase the rate of customs duty payable upon the importation of any goods it shall be lawful for the Officers of the Customs Department acting under instructions to that effect from the Governor to refuse to permit any of the goods mentioned in such Draft Ordinance to be entered for consumption unless and until the person proposing to pay duty upon the same shall together with a surety to be approved of by the proper Officer of Customs enter into a bond conditioned for the payment of such increased duty as may be imposed by any Ordinance passed within three months of the introduction of such Draft Ordinance.

Power of Customs to take bonds to cover proposed increased duties.

5. On the passing of any Ordinance as aforesaid whereby the rate of customs duty previously payable upon any goods mentioned in any such draft Ordinance shall be increased it shall be lawful for the Director of Customs to call upon the person who entered for consumption the said goods to pay the difference between the duty paid by him and the increased duty payable under the said Ordinance; and in case he shall refuse or neglect so to do the said bond shall by the said Director be put in suit for the recovery of such difference.

Power to enforce such bonds.

6. In the event of any increase decrease or repeal of Customs Duty chargeable upon any article after the making of any contract or agreement for the sale or delivery of such article duty paid in the absence of

Effect of alteration of duty upon purchase price of goods purchased before the

special provision in the contract it shall be lawful for the seller in case such increase shall accrue before the clearance or delivery of such article at such increased duty having paid such increased duty to add so much money to the contract price as will be equivalent to such increase of duty and he shall be entitled to be paid and to sue for and recover the same; and it shall be lawful for the purchaser under any such contract or agreement in case such decrease or repeal shall take affect before the clearance or delivery at such decreased duty or free of duty as the case may be to deduct so much money from the contract price as will be equivalent to such decrease of duty and he shall not be liable to pay or be sued for in respect of such deduction.

Form of
declaration
for *ad valorem*
goods and
procedure in
case of doubt.

7. In all cases where the duties imposed upon the importation of goods 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 goods in the manner and the form following that is to say:

I the undersigned.....A.B.....do hereby declare that the above is a true and complete return of all the goods contained in the abovementioned packages and that the values given of the same are the true current values of the same at the place where the goods were purchased for importation into the Transvaal.

.....

The above declaration signed the.....
day of.....190..., in the presence of

.....

Collector.

Which declaration shall be written on the Bill of Entry of such goods and shall be subscribed with the hand of the importer thereof in the presence of the Officer of Customs and the said values shall be the sum whereon duty shall be levied; provided that if upon view and examination of such goods by the Officer of Customs it shall appear to him that the said goods are not valued according to the current value thereof at the place where the same

were purchased then and in such case such Officer may if he deem it fitting to do so require the importer to declare on oath before him to the truth of the aforesaid declaration according to the best of the belief of such importer and to adduce any documentary evidence he may possess in support thereof: and provided further if it shall appear to the Officer of Customs whether such oath as aforesaid shall have been required or not that such goods have been declared at a value below the current value thereof at the place where the same were purchased the goods shall in such case be examined by two competent persons one to be nominated and appointed by the Director of Customs and the other by the importer and such two persons shall before entering into the enquiry appoint an umpire and shall then declare on oath before the Officer of Customs what is to the best of their knowledge and belief the current value of such goods at the place where the same were purchased and in case such persons shall not agree then the declaration of such value on oath as aforesaid of the umpire shall be final.

8. If any importer shall fail within three days from his being required to do so by the Officer of Customs to make an appointment as provided for by the last preceding section 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 appointed as aforesaid by the Director of Customs shall be final and the duties shall be charged and paid upon the value as ascertained and declared in conformity therewith.

Provision in case of failure to carry out procedure in foregoing section.

9. 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 under as aforesaid exceed by thirty per cent. and not by sixty per cent. the value originally declared

Penalties for under-valuation.

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.

Goods to be sold if additional duties not paid.

10. If the importer of such goods shall refuse to pay the duties imposed thereon under the preceding section it shall be lawful for the proper Officer of Customs and he is hereby required to take and secure the same and to cause the same to be publicly sold within the space of one month after such refusal at such time and place as such Officer shall by four or more days public notice appoint for that purpose which goods shall be sold for cash to the highest bidder and the proceeds shall be applied in the first place in payment of the said duty 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 owner or any other persons authorised to receive the same.

Form or label affixed to Post Office parcels to take the place of declaration under Section 7.

11. For the purpose of entry for customs and collection of duty on goods imported into this Colony by Parcels Post any form or label affixed to the parcel under the Postal Regulations shall be deemed to be an entry made under the provisions of this Ordinance and the statement of value entered on such form and signed by the sender shall take the place of the declaration to be made by the importer in the first portion of the *seventh* Section of this Ordinance for the purpose of ascertaining the value of the articles on importation into this Colony and all goods contained in any packets imported by Parcels Post and found not to agree with the value entered on the above-mentioned form or label shall be liable to forfeiture as if an entry and a declaration had been made.

Duties to be charged according to Colonial Weights and Measures.

12. 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 when 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.

13. It shall be lawful for the Governor by Proclamation in the *Gazette* from time to time to declare certain places as Ports for this Colony to or through which only goods may and must be imported or through which they may and must be exported and he may also declare the roads or routes in this Colony over which such goods must be conveyed to their destination. If any goods liable to Customs duties shall be imported or exported to through or from any other than the declared Ports or in any other manner than is provided in this Ordinance or by any regulation made by virtue of this Ordinance or conveyed over any other than the declared roads or routes then such goods shall be forfeited to the Government together with the vehicles and animals made use of in importing or exporting such goods.

Power of Governor to declare ports of entry roads, route, etc.

14. Every importer of goods shall immediately upon their arrival make due entry of the same at the Custom House and in default of such entry the Officer of Customs may convey such goods to the King's Warehouse for security of the duties thereon, and may charge and demand and receive warehouse rent at such rate as may be fixed for or during such times as such goods shall remain in such warehouse: provided always that it shall be lawful for the Director 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 King's Warehouses aforesaid; and should any importer neglect within three months to duly enter his goods it shall be lawful for the Director of Customs to cause the same to be sold by public auction after not less than one month's public notice and the nett proceeds shall be applied to the payment first of duties and warehouse rent and then of freight and charges and the overplus (if any) shall be paid to the importer owner or to any other person authorised to receive the same: provided however that in the case of goods of a perishable nature and goods of which it is considered that the proceeds would not

Goods not duly entered to be conveyed to King's Warehouse and sold after three months.

be sufficient to cover duties and charges the Director of Customs may authorise their immediate or an earlier sale.

Importer to produce all invoices, documents etc. and to handle goods at his own expense.

15. The importer shall on demand produce to the Officer of Customs all invoices and other documents relating to the goods and shall at his own risk and expense unload and reload remove to and from the warehouse and open unpack repack and close up such of the packages as the Officer of Customs may require to examine.

Persons carrying on business to keep proper record of their transactions for Customs inspection.

16. Persons carrying on any business in this Colony shall keep proper books of their transactions and they must be prepared to produce the bills of lading invoices and other documents containing all particulars regarding imported and sold goods so that the same may at all times be open for inspection by the Director of Customs or his deputies and that the same may be attached by him if necessary. In default thereof the person or persons concerned shall be liable to punishment as provided in this Ordinance.

Persons offering goods for sale etc. to produce proof as to origin of goods and payment of duty.

17. Any person offering goods for sale or removing the same or having goods entered in his books or mentioned in documents as set forth in the last preceding paragraph shall be obliged at the request of the Director of Customs or his deputies to produce proof as to the origin of the goods and as to the place where the import dues thereon have been paid as also the date of such payment the marks and numbers of the cases packages bales etc. which must correspond with the documents produced in proof of the payment of the import dues.

Powers of Customs Officers.

18. Every Officer of Customs is hereby invested for the protection of the revenue with the several powers following:

- (1). He shall have free access to every store shop or other structure for the reception of goods and every vehicle conveying or suspected or supposed to be conveying goods with the power to seal mark or otherwise secure any packages there found;
- (2). He may board search and freely remain on any train in the pursuance of his duties;
- (3). If any such store shop or other structure or if any box or package be

locked and the keys thereof shall not be produced when demanded such Officer may open any such place box or package in the best manner in his power;

- (4). He shall have the right to examine rummage or search every part of any such place or vehicle as is above-mentioned in Sub-sections (1 and 2) for any purpose thereby authorised and to take an account of all dutiable goods found therein;
- (5). He may search any person should he have good reason to suppose that such person has any dutiable or prohibited goods secreted about his person or in his or her possession; provided that before any person shall be searched by any Officer as aforesaid such person may require such Officer to take him or her before the Principal Officer of Customs of the Port or Station who shall if he sees no reasonable cause for search discharge such person but if otherwise direct such person to be searched; provided that a female shall not be searched by any other than a female;
- (6). Any Officer required to take such person before such Principal Officer of Customs shall do so with all reasonable despatch; and any Officer guilty of any contravention of this regulation shall forfeit the sum of twenty pounds.

19. Any person who shall by force or violence assault resist oppose molest hinder or obstruct any Officer of Customs in the exercise of his office or any person acting in his aid shall be liable on conviction to a fine not exceeding one hundred pounds sterling or to be imprisoned with or without hard labour for any period not exceeding one year or to both such fine and imprisonment.

Punishment
for assault-
ing Customs
Officers.

20. Should any goods for which due entry has not been made be found in any stores shops structures vehicles or other places or in the possession of any persons they shall be liable for forfeiture and the importers or persons concerned shall be liable to the penalties prescribed by this Ordinance.

Uncustomed
goods to be
forfeited, etc.

*Clerk to the Executive and
Legislative Councils.*

Power of Governor to grant rebate on goods removed from this Colony.

21. Whenever any goods imported or warehoused on importation into this Colony shall be removed to any Colony State or Territory outside this Colony it shall be lawful for the Governor to grant a rebate of the Customs duties payable on the said goods; provided however that no such rebate shall be granted until after notice thereof shall have been given in the *Gazette* and provided further that such goods are removed only in accordance with such regulations as may from time to time be prescribed by the Governor by notice in the *Gazette*.

Appointment and licensing of Bonded Warehouses.

22. It shall be lawful for the Director of Customs by notice in the *Gazette* to appoint and license from time to time warehouses for the warehousing and securing of goods therein for the purposes of any law relating to the Customs, and also in such notice to declare what sort of goods may be so warehoused therein and also by like notice to revoke or alter any such appointment license or declaration.

The amount payable for such license shall be at the rate of one hundred pounds per annum, provided that no license shall be issued for a period of less than three months and that all such licenses shall expire on the last day of March June September or December.

Such licenses may be transferred from one warehouse to another in the possession of the person to whom issued but shall not be transferable from one person to another.

Warehousing of goods and removal to other warehousing stations.

23. It shall be lawful for the importer of any such goods on due entry to warehouse the same in the warehouses so appointed without any 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 station 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 station in this Colony under bond to the satisfaction of such Officer for the due arrival and re-warehousing of such goods at such other station.

24. All goods so warehoused shall be stowed in such parts or divisions of the warehouse and in such manner as the Director of Customs 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 Director of Customs shall direct.

Goods to be stowed, warehoused, locked and secured in accordance with Customs Regulations.

25. Upon the entry of any goods to be warehoused the importer of such goods instead of paying the duties due thereon shall give bond with sufficient surety to be approved of by the Director of Customs 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 the duties due upon such goods or for the exportation thereof 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 paid within two years from the date of the first entry thereof; and with the further condition that no part thereof shall be taken out of such warehouse until cleared from thence upon due entry and payment of the duty or upon due entry for exportation; and with the further condition that if at the end of one year 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 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 Director of Customs to admit fresh security to be given by 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

Bond to be given for security of duty, etc.

him to the extent of the fresh security so given.

General
Bond may
be given.

26. It shall be lawful for the owner or occupier of any bonded warehouse, appointed under authority of this Ordinance to give general security by bond with sufficient surety, to the satisfaction of the Director 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.

Goods
entered to be
warehoused
and improp-
erly dealt
with to be
forfeited.

27. 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 and cleared for exportation shall not be duly carried and exported or shall afterwards be re-imported except with the permission of the proper Officer of the Customs such goods shall be forfeited.

Proper record
to be kept of
warehoused
goods and
duties to be
paid on
quantities as
warehoused
with excep-
tion of un-
manufac-
tured tobacco
ale beer
spirits and
wine in the
wood.

28. 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 deficiency 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 unmanufactured tobacco the duties whereon when cleared from the warehouse for home use shall be charged upon the quantity of such goods at the time of actual delivery thereof unless there is reasonable ground to suppose that any portion of the deficiency or difference between the quantity as above-mentioned ascertained on landing and first examination of such last mentioned 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 however are such allowances to exceed in the case of ale beer spirits and wine in the wood such as may be specified by the Governor by notice in the *Gazette*: Provided that nothing in this Section contained shall extend or apply to any goods entered and cleared from the warehouse for exportation.

29. It shall be lawful for the Director of Customs under such regulations as he shall see fit to permit the owner 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 or exportation either in original packages or such other packages as the Director of Customs may authorise 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; 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

Director of
Customs may
allow re-
packing etc.
and goods
may be de-
stroyed or
abandoned.

any goods to the Officers of Customs for the duties which would otherwise have been chargeable thereon.

Penalty for contravening Director of Customs' rules and regulations.

30. Any person contravening any of the rules and regulations made by the Director of Customs under authority of this Ordinance or of any other law relating to the Customs shall forfeit the sum of ten pounds for each offence.

Goods to be cleared within terms of bond failing which they may be sold by Customs.

31. 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 Director of Customs to cause the same to be sold and the nett 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 owner or any other person duly authorised to receive the same: provided always that it shall be lawful for the Director of Customs to grant further time for any such goods to remain warehoused if he shall see fit to do so.

Duty not chargeable in respect of goods destroyed by accident.

32. 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 station in this Colony or for exportation shall be destroyed by unavoidable accident in the course of delivery from the warehouse the Director 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 in landing or in being received into the warehouse or while in the warehouse the Director of Customs shall return the duties if any paid thereon.

Warehoused goods liable to duty in force at time of clearance.

33. All goods whatsoever which may be deposited in any warehouse or place of security under lawful authority without payment of the duty upon the first importation thereof or which may be imported 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 law for the time being in force relating to the Customs.

34. Every person exporting any goods from this Colony shall deliver to the Director or other proper Officer of Customs a bill of entry shewing full details and particulars of the articles and their destination.

Exporter to deliver Bill of Entry.

35. Every person employed on any duty or service relating to the Customs by order or with the concurrence of the Governor or Director of Customs whether previously or subsequently expressed shall be deemed to be the Officer of 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 Director 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.

Who shall be deemed Officer of Customs.

36. Upon examinations and enquiries made by the Director of Customs within this Colony or by the 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 in any other form authorised by law which oath or form shall be administered by or taken before the Director or such other Officer of Customs as shall examine any such witness and who is hereby authorised to administer such oath or form; and if any person shall be convicted of giving false evidence on such examination 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.

Examinations and enquiries on oath by Customs.

37. In all other cases wherever proof on oath or in any other form authorised by law shall be required by any law relating to the Customs the same may be made before the Director of Customs or the Principal

Officer before whom oath may be taken.

Officer of Customs of the Port where such proofs shall be required to be made or before the persons acting for them respectively who are hereby authorised and empowered to administer the same.

Forfeiture of carriages cattle etc. made use of in carrying goods liable to forfeiture.

38. All carriages or other vehicles 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 removal of goods liable to forfeiture without the consent or knowledge of the owner thereof 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 unloading or removal or in harbouring of such goods or into whose hands the same shall knowingly come shall forfeit treble the duty paid value thereof or the penalty of one hundred pounds sterling at the election of the Director of Customs and the statement in any proceeding instituted 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.

Condemnation of seized goods unless claimed within one calendar month.

39. All carriages or other vehicles goods or other things which shall have been or shall hereafter be seized as forfeited in this Colony under any law relating to the Customs shall be deemed and taken to be condemned and may be dealt with in the manner hereinafter directed unless the person from whom such carriage or other vehicle goods or other things shall have been seized or the owner of them or some person authorised 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 Director of Customs or other Principal Officer of Customs of the Port where the same shall have been seized that he claims the carriage or other vehicle 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 carriages or other vehicles goods or other things so seized as aforesaid.

40. All things which shall be seized as being liable to forfeiture under any law relating to the customs shall be taken forthwith to and delivered into custody of the Director of Customs or the 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 Director of Customs 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.

Disposal of seized and condemned goods.

41. All penalties and forfeitures which may have been heretofore or may hereinafter be incurred under any law relating to the Customs may be prosecuted sued for and recovered in the Supreme Court or in the Witwatersrand High Court (in case the act or omission entailing such penalty or forfeiture shall have taken place in the district in or over which such Court shall have jurisdiction) or in any Circuit Court or Resident Magistrate's Court having jurisdiction.

Courts in which penalties to be sued for.

42. Every suit for the recovery of any penalty or forfeiture under any law relating to the Customs shall be commenced in the name of the Director of Customs or of His Majesty's Attorney-General for this Colony.

Suits for recovering penalties etc. to be commenced in name of Director of Customs or Attorney-General.

43. 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 the proof of the affirmative of these facts as well as the onus of proof of the origin of the goods shall be on the person owning or claiming such goods.

Onus of proof payment of duty and origin of goods to lie on importer.

44. The importer shall be responsible for any contravention of this Ordinance committed by the person or persons acting in his place or on his behalf whilst at the same time such person or persons shall in like manner be responsible.

Liability of importer for acts of agent.

One month's notice of action to be given to Customs Officer.

45. 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 law 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 and the name and the place of abode of the person who is to bring such action and the name and the 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.

Limit to period within which action may be commenced against Customs Officer.

46. Every such action shall be commenced within three months after the accruing of the cause thereof and if the plaintiff shall discontinue the action or if judgment shall be given against him 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.

Cost of suit where there is reasonable cause of seizure.

47. In case any action or suit instituted by the Director of Customs or by the Attorney-General shall be brought to trial on account of any seizure made under any law 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 reasonable 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 reasonable cause of seizure shall recover only the things seized or the value thereof without costs of suit.

48. All penalties and forfeitures recovered under any law relating to the Customs shall be paid into the hands of the Director of Customs 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 proceeds the balance shall be paid into the Colonial Treasury: Provided that it shall be lawful for the Director of Customs at his discretion to grant thereout such sum or sums of money not exceeding one third of the said balance 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: Provided further that if it shall be made to appear to the Governor 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 nett produce instead of one-third.

Disposal of penalties and forfeitures.

49. It shall and may be lawful for the Governor to direct any carriage or other vehicle goods or commodities whatever seized under any law relating to the Customs to be delivered to the owner thereof whether condemnation shall have taken place or not and also to mitigate or remit any penalty or fine incurred under any such law or to release from confinement any person committed under any such law 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 owner of the goods seized as aforesaid shall accept the terms and conditions prescribed by the Governor he shall not have or maintain any 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.

Power of Governor to restore seizures and to mitigate or remit penalties.

50. If any person shall in this Colony counterfeit or falsify or knowingly or wilfully use when counterfeited or falsified any entry warrant or other document for the unloading lading entering reporting of any carriage

Penalty for falsification of documents, false oath etc.

or other vehicle or for the landing or removing of any goods baggage or article whatever or shall by any false statement procure any writing or document to be made for any such purpose or shall falsely make any oath or affirmation required by any law 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 and counterfeited every person so offending shall for every such offence in addition to any penalty to which he may otherwise be liable forfeit the sum of three 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 Ordinance.

Power of Governor to make regulations.

51. The Governor may from time to time by notice published in the *Gazette* make and alter regulations providing :

- (a) for the importation entry removal or conveyance of all goods imported into this Colony ;
- (b) for all the necessary forms bills and documents for the convenient and effective carrying out of the Customs laws and regulations ;
- (c) for the functions and duties of all officers employed in the administration of this Ordinance and generally for the due and proper administration of this Ordinance.

General fines and punishment.

52. Any person who shall contravene any Section of this Ordinance for the contravention of which no special punishment has been fixed or any regulation or stipulation of any notice or regulation made and published in terms of this Ordinance shall be liable to a fine not exceeding three hundred pounds sterling and in default of payment to imprisonment with or without hard labour for any period not exceeding twelve months or to both such fine and such imprisonment ; and all goods imported and removed in contravention of any such regulation and all vehicles and animals made use of in the importation or in the removal of such goods shall become forfeited to the Government.

53. Law No. 4 of 1894 from and including Section *five* to the end thereof and all other laws repugnant to or inconsistent with this Ordinance are hereby repealed. Repeal of laws repugnant to etc.

54. This Ordinance may be cited as the "Customs Management Ordinance 1902" and shall come into effect after the expiration of seven days from the date of publication thereof. Short title.

Passed in Council the first day of October One thousand Nine hundred and Two.

G. CRAIG SELLAR,

Clerk of the Council.

Assented to by His Excellency the Governor the Fourth day of October One thousand Nine hundred and Two.

W. E. DAVIDSON,

Colonial Secretary.

No. 24 of 1902.]

[October 1, 1902.

ORDINANCE.

BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Powers and
jurisdiction
of Lieu-
tenant
Governor.

1. All authorities powers and jurisdictions whether conferred by statutory enactment or otherwise which have heretofore been exercised by the Governor of this Colony shall from and after the passing of this Ordinance and subject to the provisions of the Letters Patent dated the twenty-third day of September 1902 or any Letters Patent passed in substitution thereof be exercised by the Lieutenant-Governor.

Title.

2. This Ordinance shall be cited as the "Lieutenant-Governor's Official Duties Ordinance 1902."

Passed in Council the first day of October One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, October 8, 1902.

Assented to:—

MILNER,
Governor.

Pretoria, October 8, 1902

No. 25 of 1902.]

[October 1, 1902.]

ORDINANCE

To provide for the making of Bye-Laws regulating the management and working of the Central South African Railways.

WHEREAS it is desirable to provide for the making of bye-laws regulating the management and working of the Central South African Railways:—

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. It shall be lawful for the Lieutenant-Governor from time to time to make bye-laws for the purpose of regulating the conduct whilst on duty of the officers and servants in the employ of the Central South African Railways and for the proper and efficient management of such railways and any person contravening the provisions of any such bye-law or of any of the rules and regulations referred to in Section *three* of this Ordinance shall upon conviction before a competent Court be liable to the penalties provided by such bye-law rule or regulation and where no penalty is provided to a fine not exceeding twenty-five pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding two months.

Lieutenant-Governor may make Bye-Laws.

2. The said bye-laws shall be of full force and effect on publication in the *Gazette*.

Bye-Laws to be in force on publication in *Gazette*.

3. The rules and regulations published in the Local Laws of the late South African Republic made for the management of the Netherlands South African Railway Company (Nederlandsche Zuid Afrikaansche Spoorweg Maatschappij) and in force on the 11th October 1899 shall *mutatis mutandis* apply to the

Rules and Regulations of Netherlands Railway Company to apply

management of the Central South African Railways until repealed or amended.

Short Title. 4. This Ordinance may be cited for all purposes as the "Central South African Railways (Bye-laws) Ordinance 1902."

Passed in Council the first day of October One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal :—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, October 8, 1902.

Assented to :—

MILNER,
Governor.

Pretoria, October 8, 1902.

No. 26 of 1902.]

[October 1, 1902.

ORDINANCE

Legalizing certain Marriages solemnized in this Colony.

WHEREAS the Marriage Ordinance, Law No. 3 of 1871, requires a marriage to be solemnized either by a Landdrost or by a Minister of the Gospel authorized by the Government to solemnize marriages on the production of a certificate from the Landdrost that the provisions of the law have been complied with:

And whereas after the date of the annexation of the Transvaal to His Majesty's Dominions, to wit, the 1st day of September, 1900, marriages were solemnized under the aforesaid Law by persons who had been appointed as Landdrosts before the said date by the Government of the late South African Republic, and also by Ministers of the Gospel on certificates given by such Landdrosts after the said date: Preamble.

And whereas after the said date persons were appointed as Landdrosts by the Government of the late South African Republic and by the Commandant-General and Assistant Commandants-General of the burgher forces of the late South African Republic:

And whereas such persons appointed as Landdrosts after the said date as aforesaid did under the aforesaid Law solemnize marriages and did grant certificates on which marriages were solemnized by Ministers of the Gospel:

And whereas doubts have arisen whether the marriages solemnized by such Landdrosts after the said date and by such Ministers of the Gospel on certificates given by such Landdrosts after the said date are valid by reason of the fact that the persons appointed as Landdrosts before the said date could not legally solemnize such marriages or grant such certificates as aforesaid after the said date and also by reason of the

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fact that the Government of the late South African Republic and the Commandant-General and Assistant Commandants-General of the burgher forces of the said Republic could not legally after the said date appoint persons to act as such Landdrosts:

And whereas the said marriages were *bonâ fide* contracted by the parties thereto and were *bonâ fide* solemnized:

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:

Legalization
of certain
marriages.

1. All marriages solemnized under Law No. 3 of 1871 after the date of the annexation of the Transvaal to His Majesty's Dominions, to wit, the 1st day of September, 1900, by persons appointed as Landdrosts by the Government of the late South African Republic or by the Commandant-General or the Assistant Commandants-General of the burgher forces of the said Republic; and all marriages solemnized by Ministers of the Gospel authorized to solemnize marriages on certificates given after the said date by persons appointed as Landdrosts as aforesaid certifying that the provisions of the Law had been complied with shall be as valid to all intents and purposes as if such persons had been at the date of such marriages or at the date when such certificates were given lawfully vested with all the powers and jurisdiction conferred on Landdrosts by Law No. 3 of 1871.

Short Title.

2. This Ordinance may be cited for all purposes as the "Legalization of Marriages Ordinance, 1902."

Passed in Council the first day of October One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, October 8, 1902.

Assented to:—

MILNER,
Governor.

Pretoria, October 8, 1902.

No. 27 of 1902.]

[October 1, 1902.

ORDINANCE

To enable the Council for the Municipality of Johannesburg to liquidate the liabilities of the late Stadsraad.

BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:

1. It shall be lawful for the Council for the Municipality of Johannesburg out of moneys raised on loan to liquidate all or any of the liabilities of the late Stadsraad constituted under Law No. 9 of 1892 on such terms and conditions as the Lieutenant-Governor may approve.

Council or Municipality may liquidate liabilities of late Stadsraad.

2. Nothing contained in this Ordinance shall be taken to entitle any person to whom the late Stadsraad may have been indebted to maintain any claim in respect of such debt against the said Council except under the provisions of Section *one* of this Ordinance.

No right to maintain any claim against Council.

3. All rates and charges not already included under Proclamation Transvaal No. 16 of 1901 due and unpaid to the late Stadsraad or to the officer in charge of the Municipal affairs of Johannesburg appointed thereto by the Military Governor of Johannesburg for the period between the thirty-first day of May 1900 and the fifteenth day of May 1901 shall be and are hereby vested in the Council for the Municipality of Johannesburg and shall be deemed and taken to be due to the said Council.

Certain rates and charges due to Stadsraad vested in Council.

4. This Ordinance may be cited for all purposes as the "Stadsraad (Johannesburg) Liabilities Liquidation Ordinance 1902."

Title.

Passed in Council the first day of October One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, October 8, 1902.

Assented to:—

MILNER,
Governor.

Pretoria, October 8, 1902.

No. 28 of 1902.]

[October 4, 1902.

ORDINANCE.

WHEREAS it is desirable to relieve from the operation of the Pass Law certain respectable and deserving Natives to whom the said Law applies, but who are not entitled to Letters of Exemption under the terms of the "Coloured Persons Exemption (or Relief) Proclamation, 1901";

Be it enacted by the Lieutenant-Governor of the Transvaal, with the advice and consent of the Legislative Council thereof, as follows:—

1. Any Native, as defined by Proclamation Transvaal No. 37 of 1901, who shall be employed under a contract of service as a skilled artisan, mechanic, tradesman or other skilled employee or who shall on his own behalf carry on some trade or business may upon producing satisfactory evidence thereof on application at the offices mentioned in the next succeeding Section be granted a Certificate of Registration under this Ordinance which certificate shall exempt the holder from the operation of the existing Law relating to Passes.

Certificates of Registration may be issued to certain Natives
2. Certificates of Registration under this Ordinance shall be granted at any office where Passes or Passports are issued in the Transvaal.

Where Certificates of Registration shall be issued.
3. A Certificate of Registration shall be valid for twelve months and upon issue or renewal thereof there shall be paid by the person to whom it is issued the sum of One Pound to be denoted by Revenue Stamps which shall be affixed to the certificate by the

Fees to be paid on issue.

applicant and cancelled by the official issuing it.

If the holder of a certificate fails or neglects to renew the same within a period of twenty-one days from the date of its expiration he shall become subject to the provisions of Proclamation Transvaal No. 37 of 1901 and the Regulations thereunder until he shall again have obtained such a certificate.

Certificate not transferable.

4. A Certificate of Registration shall not be transferable, and any holder of a certificate transferring it to any other person, and any person using a certificate to which he is not entitled shall be liable on conviction to a fine not exceeding Ten Pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and such imprisonment.

Penalty.

Loss of Certificate.

5. In the event of the loss of a Certificate of Registration application may be made for a duplicate, which may be granted on payment of a fee of Five Shillings to be denoted by Revenue Stamps affixed to the duplicate by the applicant and cancelled by the official issuing it.

Form of application for certificate.

6. Every application for a Certificate of Registration shall be as nearly as possible in the form in the Schedule annexed to this Ordinance.

Title.

7. This Ordinance may be cited as the "Natives' Relief Ordinance, 1902."

Passed in Council the first day of October One thousand Nine hundred and Two.

G. CRAIG SELLAR.

Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,

Lieutenant-Governor.

Pretoria, October 8, 1902.

Assented to:—

MILNER,

Governor.

Pretoria, October 8, 1902.

Schedule.

FORM OF APPLICATION FOR CERTIFICATE OF REGISTRATION.

No.....

- Name of Applicant.....
- Residing at.....
- Working at.....
- Age.....
- Occupation.....
- Name and Descrip- } Father.....
- tion of } Mother.....
- Married or Single.....
- References.....
- (Town or District).....
- (Date).....
- Issued under Ordinance No. 28 of 1902.

ORDINANCE

To Amend the Game Laws.

WHEREAS it has been found advisable to amend the Game Laws at present in force in the Transvaal:

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Repeal of Laws.

1. Law No. 5 of 1894 and all other Laws inconsistent with or repugnant to the provisions of this Ordinance shall be and the same are hereby repealed.

Definition of Terms.

2. The following terms in inverted commas shall have the meaning placed opposite to them.

“Game” shall mean and include the several birds and animals of this Colony not being domesticated specified in the Schedules hereto annexed.

“Game License” shall mean a license to kill the game specified in Schedules A and B duly issued under the provisions of this Ordinance.

“Occupier” shall mean and include any person who under a written agreement with the owner of private land has the right of shooting over such land, and such person may exercise over such land the rights of an occupier under this Ordinance.

Lieutenant - Governor to have power to notify in the *Gazette* the close seasons for the several Districts of this Colony.

3. It shall be lawful for the Lieutenant-Governor by Proclamation in the *Gazette* from time to time to fix and prescribe for each District in this Colony the close time or fence seasons within which it shall not be lawful (save as is hereinafter provided) to take kill pursue hunt or shoot at any game within such District either with or without a game license or with or without the landowner's permission; and also from time to time to proclaim in the *Gazette* that in any District or portion of a District any bird or animal to be specified in such Proclamation shall be protected and not destroyed for any number of years not exceeding three to be mentioned in the said Proclamation.

4. (1) No person shall save as hereinafter provided take kill pursue hunt or shoot at game in any part of this Colony without having previously obtained a game license save and except game found injuring crops in cultivated lands or gardens which may be taken or destroyed at any time.

Penalty for shooting killing capturing game without a license.

(2) For a game license for the whole of the season a sum of three pounds sterling and for such license for a period of not more than two weeks a sum of one pound sterling shall be paid.

5. It shall not be lawful at any time to kill capture or destroy any game by means of nets springes gins traps or snares; any person contravening the provisions of this Section shall be liable on conviction to a penalty not exceeding *Twenty Pounds* or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

Killing &c. of game by means of nets traps &c., prohibited.

6. No person shall within this Colony during the close season take kill pursue, hunt or shoot at or wilfully disturb any of the birds or animals specified in Schedules A and B of this Ordinance unless found injuring crops in cultivated lands or gardens. Any person contravening this section shall on conviction be liable to a fine not exceeding twenty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

Prohibition to kill game mentioned in Schedule A and B during the close season.

7. No person shall at any time take kill pursue hunt shoot at or destroy by any means whatever or otherwise wilfully disturb any of the animals specified in Schedule C of this Ordinance (save and except when found injuring crops in cultivated lands or gardens) without having obtained special permission to that effect from the Colonial Secretary; such permission shall be in writing and shall bear a stamp of twenty-five pounds affixed by the applicant and cancelled by the Colonial Secretary.

Special permission of Colonial Secretary required for destruction of game.

Every permission so granted shall specify the conditions thereof the time for which the same shall endure and in what district or districts and on what lands it shall have effect.

Any person contravening the provisions of this section shall on conviction be liable to a penalty not exceeding one hundred pounds and in default of payment thereof to imprisonment with or without hard labour for any period not exceeding six months.

8. Any person who during the close season shall in any district carry sell or offer for sale dead or alive any of the animals or birds specified in the schedules to this Ordinance shall be liable to a penalty not exceeding five pounds unless such person shall prove that the animal or bird was lawfully killed

Sale of game during close season unless found to have been killed before such season commenced or to have been imported by sea prohibited.

or taken before the commencement of the close season or that it has been imported by sea.

No person to kill game on private land without consent of owner thereof.

9. No person shall at any time either with or without a game license take kill pursue hunt or shoot at any game or with gun or dog trespass on any private land within this Colony without the permission of the owner thereof. For the purposes of this section the word "owner" shall be taken to include "occupier" as defined by this Ordinance.

Trespasser in pursuit of game may be ordered to quit and give his name and place of abode.

10. Any person found trespassing on any private or Crown lands in pursuit or in search of any game with or without dogs may be lawfully required by the owner or occupier of such private lands or any servant or other person authorized by such owner or occupier or in the case of Crown lands such trespasser may be required by any Magistrate, Assistant Magistrate, or Police Constable forthwith to quit such private or Crown lands, and also to state his true name and place of abode, and any person who shall refuse or wilfully delay to quit such land on being required to do so, or to state his true name or place of abode, shall be liable to a penalty not exceeding twenty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

Burden of proof in prosecution of a person shooting without a license justifying such shooting to rest on such person.

11. Whenever any person shall be charged with killing or capturing pursuing hunting or shooting at game in any part of this Colony without a license and shall allege in defence that such game was injuring crops in cultivated lands or gardens, the proof of the truth of such allegation shall be with the person charged.

Penalty for taking away eggs of game birds or for selling or purchasing the same.

12. No person shall without the written permission of the Colonial Secretary for the purpose to be mentioned in such permission at any time wilfully take away disturb or destroy eggs or sell hawk or expose for sale or purchase the eggs of any game in any part of this Colony.

Removing or interfering with eggs of any ostrich without consent of owner prohibited.

13. No person other than the owner or lessee of any private land shall without the authority or consent of such owner or lessee remove interfere with or disturb the eggs of any ostrich found in or upon such land and any person who shall be convicted of a contravention of this section shall be liable to a fine not exceeding twenty pounds sterling, or in default of payment to imprisonment with or without hard labour for any term not exceeding one month.

License for persons selling hawking or exposing game for sale.

14. From and after the taking effect of this Ordinance no person save as hereinafter excepted shall sell barter hawk or expose for sale any game without having previously taken out a license entitling him to do so issued by any Receiver of Revenue subject to the following conditions:—

- (a) No such license shall be issued without a certificate from the Resident Magistrate of the District that the applicant for such license is to the best of his knowledge and belief a fit and proper person to sell game.
- (b) Every such license shall no matter at what period of the year the same be taken out expire on the thirty-first day of December following provided that when any such license shall be taken out from or after the 1st July there shall be payable only one half of the sum fixed in the next succeeding sub-section.
- (c) The sum of three pounds shall be payable in respect of every such license. Every person who shall sell barter hawk or expose for sale any game without having previously taken out such license shall be liable to a penalty not exceeding twenty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month unless the fine be sooner paid. Nothing in this section contained shall apply to the selling bartering hawking or exposing for sale by the owner or occupier of land of any game killed upon the land owned or occupied by him.

15. No owner or lessee of land shall require a game license for the purpose of shooting game on such land.

Owner or lessee of land may shoot game without license.

16. All fines and penalties under this Ordinance shall be recoverable in the Court of the Resident Magistrate or before any Native Commissioner or Sub-Commissioner of the District in which the offence shall have been committed.

Fines recoverable in Court of Resident Magistrate.

17. Any bird or animal or any skin hide horns tusks or carcase of any animal or animals killed or being found in the possession of any person in contravention of the provisions of this Ordinance shall be seized and forfeited without any adjudication of forfeiture being required.

Forfeiture of skins &c., of animals.

18. All fines and penalties levied under the provisions of this Ordinance shall belong to His Majesty his heirs and successors and shall be applied to the uses of the Government of this Colony; provided it shall be lawful for the Magistrate Native Commissioner or Sub-Commissioner to award any sum not exceeding one-half of any such fine or penalty to any informer by whose information any person shall be convicted of contravening any of the provisions of this Ordinance.

Fines and penalties.

Where no penalty is provided for contravention of any provision of this Ordinance.

19. Any person contravening the provisions of any section of this Ordinance for which no special provision is made shall on the first conviction be liable to a fine not exceeding five pounds or in default of payment to imprisonment for a period not exceeding seven days and on a second or any subsequent conviction shall be liable to a fine not exceeding ten pounds or in default of payment to imprisonment for a period not exceeding fourteen days.

Reserves may be established within which no person may kill game without special permit of Colonial Secretary.

20. Reserves within which it shall not be lawful to kill game without the special written permit of the Colonial Secretary may from time to time be established by the Lieutenant-Governor by Proclamation in the *Gazette* defining such reserves; and any person killing game in any such reserve without such special permit shall be liable to the penalties provided for contravening Section *seven* of this Ordinance.

Title.

21. This Ordinance may be cited for all purposes as the "Game Preservation Ordinance 1902."

Passed in Council the ninth day of October One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, October 16, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, October 17, 1902.

Schedule "A."

PARTRIDGE—		
Red billed francolin.	<i>Francolinus adspersus.</i>	Patrys.
Noisy francolin.	<i>Francolinus clamator.</i>	Patrys.
Natal francolin.	<i>Francolinus natalensis.</i>	Patrys.
Pileated francolin.	<i>Francolinus pileatus.</i>	Patrys.
Grey wing francolin.	<i>Francolinus afer.</i>	Patrys.
Le Vaillant's francolin.	<i>Francolinus levallanti.</i>	Patrys.
Orange River francolin.	<i>Francolinus gariepensis.</i>	Patrys.
Coqui francolin.	<i>Francolinus subtorquatus.</i>	Patrys.

PHEASANT—

Swainson's francolin.	<i>Pternistes swainsoni.</i>	Faisant.
Red necked francolin.	<i>Pternistes nudicollis.</i>	Faisant.
Dikkop.	<i>Oedienemus capensis.</i>	Dikkop.

GUINEAFOWL—

Crowned guineafowl.	<i>Numida coronata.</i>	Tarentaal.
Blue headed guineafowl.	<i>Numida edouardi.</i>	Kuifkop Tarentaal.

PAAUW—

Kori bustard.	<i>Eupodotis kori.</i>	Gompaauw.
Stanley bustard.	<i>Neotis caffra.</i>	Paauw.
Ludwigs bustard.	<i>Neotis Ludwigi.</i>	Paauw.
Blue bustard.	<i>Trachelotis coerulescens.</i>	Blaauw knorhaan.
Senegal bustard.	<i>Trachelotis barrovii.</i>	Knorhaan.
Black bellied bustard.	<i>Lophotis ruficrista.</i>	Zwartpens knorhaan.
African black bustard.	<i>Compsotis afra.</i>	Zwart knorhaan.
White quilled bustard.	<i>Compsotis leucoptera.</i>	

GROUSE—

Namaqua sandgrouse.	<i>Pteroclorus namaqua.</i>	Namaqua patrys.
Double banded sandgrouse.	<i>Pterocles bicinctus.</i>	
Yellow throated sandgrouse.	<i>Pterocles gutturalis.</i>	
Variegated sandgrouse.	<i>Pterocles variegatus.</i>	

WILD DUCK—

White masked duck.	<i>Dendrocygna viduata.</i>	
Knob billed duck.	<i>Sarcidiornis melanonota.</i>	Knobbel eend.
S.A. shell duck.	<i>Casarca cana.</i>	Bergeend.
Red billed teal.	<i>Poecilonetta erythrorhyncha.</i>	Smee eend.
Yellow billed teal.	<i>Anas undulata.</i>	Geelbek.
Black duck.	<i>Anas sparsa.</i>	Zwart eend.
Hottentot teal.	<i>Nettion punctatum.</i>	
Cape teal.	<i>Nettion capense.</i>	Teel eendje.
Cape shoveller.	<i>Spatula capensis.</i>	Slop.
S.A. pochard.	<i>Nyroca erythroptalma.</i>	
White backed duck.	<i>Thalassoris leuconota.</i>	Witrugeend.
Maccoa duck.	<i>Erismatura maccoa.</i>	

WILD GEESE—

Spurwinged goose.	<i>Plectropterus niger.</i>	Wilde makouw.
Egyptian goose.	<i>Chenalopex aegyptiacus.</i>	Wilde gans.
African dwarf goose.	<i>Nettopus auritus.</i>	Dwerg gans.

Schedule "B."

HARES—		
Cape hare.	<i>Lepus capensis.</i>	Vlakte haas.
Rock hare.	<i>Lepus saxatilis.</i>	Kolhaas.
Red hare.	<i>Lepus crassicaudatus.</i>	Kliphaas.
ALL VARIETIES OF THE ANTELOPE GENUS—		
Blesbuck.	<i>Damaliscus albifrons.</i>	Blesbok.
Duiker.	<i>Cephalophus grimmi.</i>	Duiker.
Red duiker.	<i>Cephalophus natalensis.</i>	Umzumbi.
Klipspringer.	<i>Oreotragus saltato</i>	Klipspringer.
Oribi.	<i>Ourebia scoparia.</i>	Oribi.
Steinbuck.	<i>Rhaphicerus campestris.</i>	Steenbok.
Grysbuck.	<i>Rhaphicerus melanotis.</i>	Grysbok.
Waterbuck.	<i>Cobus ellipsiprymnus.</i>	Waterbok.
Keedbuck.	<i>Cervicapra arundinum.</i>	Rietbok.
Rooi rhebuck.	<i>Cervicapra fulvorufula.</i>	Rooi reebok.
Vaal rhebuck.	<i>Pelea capreolus.</i>	Vaal reebok.
Pallah.	<i>Aepyceros melampus.</i>	Rooibok or Impala.
Springbuck.	<i>Antidorcas euchore.</i>	Springbok.
Bushbuck.	<i>Tragelaphus sylvaticus.</i>	Boschbok.
WILD PIG—		
Bush pig.	<i>Potamochoerus choeropotamus.</i>	Boschvark.
Warthog.	<i>Phacochoeros aethiopicus.</i>	Vlakvark.

Schedule "C."

Elephant.	<i>Elephas africanus.</i>	Olifant.
Hippo.	<i>Hippopotamus amphibius.</i>	Zeekoe.
Buffalo.	<i>Bos caffer.</i>	Buffel.
Eland.	<i>Oreas canna.</i>	Eland.
Giraffe.	<i>Giraffa capensis.</i>	Kameel.
Kudu.	<i>Strepsiceros kudu.</i>	Koedoe.
Hartebeest (red).	<i>Bubalis caama.</i>	Hartebeest.
Hartebeest (Lichtenstein).	<i>Bubalis lichtensteini.</i>	Mof hartebeest.
Sassaby.	<i>Damaliscus lunatus.</i>	Bastard hartebeest.
Rhinoceros.	<i>Rhinoceros bicornis.</i>	Rhenoster.
Quagga.	<i>Equus quagga (extinct)</i>	Kwagga.
Zebra.	<i>Equus burchelli.</i>	Kwagga or zebra.
Ostrich.	<i>Struthio australis.</i>	Vogelstruis.
Crested crane.	<i>Chrysopelargus balearica.</i>	Mahem.
Roan antelope.	<i>Hippotragus equinus.</i>	Bastard gemsbok or bastard eland.
Sable antelope.	<i>Hippotragus niger.</i>	Zwartwitpens.
Wildebeest (blue).	<i>Connochoetus taurinus.</i>	Blaauw wildebeest.
Wildebeest (black).	<i>Connochoetus gnu.</i>	Zwart wildebeest.

ORDINANCE

Giving certain powers to the Commission appointed to enquire into the Johannesburg Insanitary Area Improvement Scheme.

WHEREAS it is desirable that the Commission appointed under Government Notice No. 463 of 1902 should have powers conferred on it to compel the attendance of witnesses and the production of documents.

Be it enacted by the Lieutenant-Governor of this Colony with the advice and consent of the Legislative Council thereof as follows:—

1. The Commission appointed under Government Notice No. 463 of 1902 to enquire into and report on the Johannesburg Insanitary Area Improvement Scheme shall have for the purposes of its enquiry the powers of the Supreme Court to summon witnesses; to call for the production of and grant inspection of books and documents; and to examine witnesses on oath such oath to be administered by the Chairman.

Powers of Commission appointed under Government Notice No. 463 of 1902 to summon witnesses &c.

Summons for the attendance of witnesses or the production of documents may be in the form given in the Schedule to this Ordinance and shall be signed by the Chairman or Secretary to the Commission and served in the same manner and by the same officer as if it were a summons issued by the Resident Magistrate of the District in which the witness resides.

2. All persons summoned to attend and give evidence before the said Commission or to produce books and other documents at any of its sittings shall be bound to obey the summons served on them; and any person refusing or omitting without sufficient cause to attend and give evidence or to produce books and documents in his possession or under his control mentioned or referred to in the summons served on him at any sitting of the said Commission when summoned to do so shall be liable to a penalty not exceeding fifty pounds to be recovered in the Court of Resident Magistrate for the District

Persons summoned to give evidence and produce documents bound to obey summons.

and in default of payment to imprisonment with or without hard labour for a period not exceeding three months ; provided always that every person summoned to give evidence or produce books and documents shall be entitled to all the privileges to which a witness summoned to give evidence or produce books or documents before the Supreme Court is entitled.

Penalty for false evidence.

3. Any witness who shall after being duly sworn wilfully give false evidence before the said Commission concerning the subject matter of enquiry shall be guilty of perjury and shall be liable to be prosecuted and punished accordingly.

Penalty for refusing to answer questions or for wilfully insulting Commission.

4. Every witness who shall attend before the said Commission and shall refuse to answer or to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Commission ; and every person who shall at any sitting of the Commission wilfully insult any Commissioner or wilfully interrupt the proceedings at such sitting shall be liable to a penalty not exceeding fifty pounds to be recovered at the suit of the Public Prosecutor in the Court of the Resident Magistrate for the District.

Provisions of this Ordinance may be applied to any Commission appointed by Lieutenant-Governor.

5. The Lieutenant-Governor may by notice in the *Gazette* confer the powers jurisdiction and privileges under this Ordinance *mutatis mutandis* on any Commission appointed by him to make any public enquiry.

Title.

6. This Ordinance may be cited as the "Commissions' Powers Ordinance 1902."

Passed in Council the ninth day of October One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, October 16, 1902.

Assented to:—

Johannesburg, October 17, 1902.

MILNER,
Governor.

Schedule.

SUMMONS TO WITNESSES

To A. B. (*name of person summoned, and his calling and residence if known*).

You are hereby summoned to appear before the Commission appointed by the Governor, under Government Notice No. 463 of 1902, to enquire into and report on the Johannesburg Insanitary Area Improvement Scheme, at.....(*place*), upon theday of.....190.. at.....o'clock, and to give evidence respecting such enquiry; (*if the person summoned is to produce any documents add*). And you are required to bring with you.....(*specify the books, plans, and documents required.*)

Given under the hand of the Chairman or Secretary of the Commission this.....day of.....190...

ORDINANCE

To amend the "Pretoria Municipal Proclamation 1902."

WHEREAS it is desirable to amend the "Pretoria Municipal Proclamation 1902" and to confer on the Council of the Municipality for Pretoria power to regulate the issue of passes to natives within the said Municipality and to charge a fee for such passes:

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Amendment of Proclamation Transvaal No. 7 of 1902 Section *six*.

Power to make regulations as to the issue of native passes and the charging of fees for the same.

Amendment of Section *thirty-seven*.

Supercession of notices as to native passes by Military Governor.

1. Section *six* of the "Pretoria Municipal Proclamation 1902" shall be and is hereby amended by altering the expression "two-thirds" occurring therein into "one half."

2. Section *twenty-seven* Sub-Section *four* of the said "Pretoria Municipal Proclamation 1902" shall be and is hereby amended by striking out the words "and for the carrying of passes by any natives within the Municipality" and inserting in the place thereof the words "and for the issue of passes to and the carrying of such passes by natives within the Municipality; and to charge for each pass a fee of one shilling per month payable in advance by the employer of any native either for one month or for any period not exceeding six months."

3. Section *thirty-seven* of the said "Pretoria Municipal Proclamation 1902" shall be and is hereby amended by adding a further Sub-Section thereto as follows:—

"(5) All fees charged by the Council for passes issued to natives."

4. On publication of the Regulations made by the Council under Section *twenty-seven* Sub-Section *four* of the "Pretoria Municipal Proclamation 1902" as amended by Section *two* hereof the Regulations for native passes issued by the Military Governor

of Pretoria under Government Notices Nos. 41 and 82 of 1900 shall cease to have any force or effect whatsoever.

5. Section *thirty-six* of the said Proclamation shall be and is hereby amended by adding the following paragraph thereto viz: "The provisions of this Section shall not apply to goods imported from over-sea through the duly appointed agents of the Council." Amendment of Section *thirty-six* as to contracts.

6. On publication of Regulations made by the Council under Sub-Sections (34) (3) and (18) of Section *nineteen* nothing in Law No. 2 of 1882 Law No. 8 of 1899 Law No. 8 of 1888 Law No. 3 of 1891 contained shall apply to any Pound or Market established by the Council or to any dogs within the Municipality. General Law as to Pounds Markets or Dogs not to apply to the Municipality.

7. This Ordinance may be cited as the Title. "Pretoria Municipal Proclamation Amendment Ordinance 1902."

Passed in Council the Ninth day of October One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, October 16, 1902.

Assented to: -

MILNER,
Governor.

Johannesburg, October 17, 1902.

No. 32 of 1902.]

ORDINANCE

To Amend Law No. 19, 1898 (Regulating the Manner in which Wines, Spirituous or Malt Liquors may be Sold).

BE IT ENACTED by His Excellency the Lieutenant-Governor with the advice and consent of the Legislative Council as follows:—

Repeal of Laws.

1. The laws mentioned in the first Schedule to this Ordinance shall be and the same are hereby repealed to the extent mentioned in the said Schedule except as to offences committed against or proceedings commenced or pending under any of such repealed laws and except as to subsisting licenses which shall during the interval between the coming into operation of this Ordinance and the expiration of such licenses respectively be deemed and judged of in respect of the sales and dealings which they shall be held to authorise and the liabilities which the holders thereof shall incur as if the said repealed laws still remained in force.

Exemptions

2. (a) Nothing in this Ordinance shall apply—
- (1) To any person selling any spirituous or distilled perfume or perfumery or medicated or methylated spirits to persons other than coloured persons.
 - (2) To any Medical Practitioner Apothecary Chemist or Druggist who may administer or sell for purely medicinal purposes any *bona fide* medicine containing “intoxicating liquor” as hereinafter defined.
 - (3) To any Sheriff Messenger or other officer acting under the authority of any Court Judge or Magistrate or to any Officer of Customs in the exercise or discharge of his duties.

- (4) To any Auctioneer selling by auction liquor in quantities not less than such as are authorised to be sold under a wholesale license belonging to a licensed dealer upon the licensed premises of such dealer.
- (b) Nothing in this Ordinance relating to the application for licenses shall apply to any garrison or police canteen where liquor is supplied solely to members of such garrison or police force or to the sale of liquor by retail to passengers on railway trains under the control of the Commissioner of Railways by persons authorized by him to sell on such conditions as the Lieutenant-Governor may approve of.

3. In this Ordinance if not inconsistent with the context:

Definition of terms.

“Intoxicating Liquor” or “Liquor” means any spirit wine ale beer porter cider perry hop beer Kafir beer and any liquor containing more than 2 per cent. of alcohol and any other liquor which the Lieutenant-Governor may from time to time declare by Proclamation in the *Gazette* to be included in this definition.

“Spirituous Liquor” means intoxicating liquor manufactured by any process of distillation.

“Methylated Spirits” means spirits mixed with some substance in such manner and quantity as to the satisfaction of the Director of Customs to render the mixture unfit for use as a beverage.

“License” means any license for the sale of liquor granted under this Ordinance or any law hereafter to be in force relating to the sale of such liquor.

“New License” means a license applied for in respect of premises not licensed for the sale of intoxicating liquor at the date of the application therefor.

“Licensing Court” or “Court” means the Licensing Court of the district wherein a license is intended to take effect.

“District” means any area for which a Court of Resident Magistrate has been established.

“Local Authority” shall include the Council of any Municipality or any Health Board.

“Voters.” shall mean the persons entitled to vote at an election of members of a Local Authority.

LICENSES.

Issue of licenses.

4. The licenses authorised to be granted under this Ordinance shall be issued by the Receivers of Revenue in the several districts of this Colony who shall in regard to the issue of such licenses and any privileges allowed or granted to the holders thereof to be noted or endorsed upon any license conform to the provisions of this Ordinance and any regulations to be made by the Lieutenant-Governor relating to the performance of their duties under this Ordinance.

Fees to be paid in respect of licenses.

5. For or in respect of licenses granted or renewed or transfers or removals of licenses or privileges allowed to the holders of licenses under and in terms of this Ordinance there shall be payable and paid to the Public Treasury such sums of money as are prescribed in the second Schedule hereto.

Description of licenses.

6. Licenses under this Ordinance may be granted of the several descriptions following that is to say:—

- (1) Wholesale Liquor Licenses.
- (2) Hotel Liquor Licenses.
- (3) Restaurant or Café Liquor Licenses.
- (4) Malt Liquor Licenses.
- (5) Bottle Liquor Licenses.
- (6) General Retail Liquor Licenses.
- (7) Club Liquor Licenses.
- (8) Railway Station Liquor Licenses.
- (9) Theatre Liquor Licenses.
- (10) Temporary Liquor Licenses.
- (11) Brewers Liquor Licenses.

Definition of different kinds of licenses.

7. In regard to licenses granted under this Ordinance the following definitions and provisions shall apply:—

Wholesale license

- (1) *a.* A "Wholesale Liquor License" shall authorise the holder to sell and deliver liquor in quantities of not less than two gallons if in cask; or one case containing not less than twelve reputed quart or twenty-four reputed pint bottles to be delivered at a time. Such liquor shall not be consumed in or upon the licensed premises.
- b.* Such license may be issued to an individual or to a company or partnership when two or more persons carry on business as a company or partnership in the same premises.
- c.* The holder of a wholesale liquor license shall be obliged to keep proper books shewing the following particulars of all sales of liquor by him that is to say:—
 - (1) The name and address of the purchaser.
 - (2) The quantity description and price of the liquor sold.

- d. The books mentioned in the last preceding Sub-Section shall at all reasonable times be opened to the inspection of any officer of the Town Police or Constabulary not below the rank of inspector or captain; and any holder of a license refusing to allow such Officer to inspect such books shall for each such offence be liable to a fine not exceeding fifty pounds.
- (2) a. An "Hotel Liquor License" shall authorise the sale of liquor by retail to persons sleeping boarding or taking meals on the premises of the hotel to be consumed therein on every day between such hours as may be fixed by the Licensing Court in respect of each license. Hotel liquor license
- b. No such license shall be granted unless it is proved to the satisfaction of the Licensing Court that the premises afford reasonable accommodation for visitors and are provided with proper sanitary arrangements.
- c. In towns villages stand-townships and public diggings no hotel boarding or lodging house license shall be granted in respect of premises where intoxicating liquor is sold without the consent of the Licensing Court and such consent shall not be given unless such Court be satisfied that the premises afford reasonable accommodation for visitors or boarders and that the business therein carried on is that of a *bona fide* hotel boarding or lodging house.
- d. Nothing in this Section contained shall prevent the granting or renewal of a general retail liquor license as well as an hotel liquor license to the keeper of an hotel.
- (3) A "Restaurant" or "Café Liquor License" shall authorise the sale of liquor by retail to persons taking meals in the restaurant or café in respect of which such license has been granted to be drunk at such meals on any day during such hours as the Licensing Court may fix in respect of each license not being earlier than ten o'clock in the morning or later than nine o'clock at night. Restaurant or Café liquor license.
- (4) A "Malt Liquor License" shall authorize the sale of ale beer porter cider perry and hop beer only in quantities less than one reputed quart bottle to be consumed on the premises specified in the license during such hours as may be fixed by the Licensing Court in respect of each license not being earlier than Malt liquor license

eight o'clock in the morning nor later than nine o'clock at night on any day other than Sunday Christmas Day Good Friday and Parliamentary Municipal and Divisional Council election days before the hour of the closing of the poll.

Bottle liquor
license.

- (5) A "Bottle Liquor License" shall authorise the sale on the premises therein specified and not to be drunk thereon of not less than one reputed pint bottle or not less than one flask or bottle in its original state of importation and not more than twelve reputed quart or twenty-four reputed pint bottles of liquor in bottles properly and securely corked on any day other than Sunday Christmas Day Good Friday and Parliamentary Municipal and Divisional Council election days before the closing of the poll between such hours as may be fixed by the Licensing Court in respect of each license not being earlier than 8 o'clock in the morning nor later than 8 o'clock at night.

General retail
liquor license.

- (6) A "General Retail Liquor License" shall authorise the sale of liquors in any quantity on the premises therein specified to be consumed in or upon the premises on any day other than Sunday Christmas Day Good Friday and Parliamentary Municipal and Divisional Council election days before the hour of the closing of the poll between such hours as may be fixed by the Licensing Court in respect of each license not being earlier than eight o'clock in the morning nor later than nine o'clock at night.

Club liquor license.

- (7) *a.* A "Club Liquor License" shall authorize the sale and supply of liquor in any quantity to the members of the club at any time for consumption on the premises: Provided that no place of accommodation entertainment or refreshment shall be considered a club where others than members or the invited guests of members are allowed entry or accommodation or where others than members are charged or permitted to pay for any refreshment or accommodation they may obtain therein.

- b.* Every club liquor license shall be issued to the chief manager or steward of the club. No transfer of any such license shall be necessary upon any change of any such manager or steward but the person for the time being holding any such office shall be entitled to the privileges granted by the

license and subject to the duties and liabilities imposed upon the holder thereof.

- c. No club liquor license save such as is mentioned in the next succeeding paragraph (*d*) shall be issued or renewed under this Ordinance unless the applicant shall produce a certificate from the Licensing Court of the district which shall state that it has bene made to appear to its satisfaction that the club mentioned therein is a *bond fide* club and is a proper club to be granted a license No such certificate shall be granted by the Licensing Court unless a copy of the rules of the Club certified by the chairman thereof be deposited with the President of the said Court at least four days before the sitting thereof.
- d* A club occupying premises valued at five thousand pounds or more may obtain a Club Liquor License or a renewal thereof at any time for either six or twelve months upon application to the Receiver of Revenue in the district in which the club premises are situated on a certificate from the Resident Magistrate of such district that it has been made to appear to his satisfaction that such club is a *bond fide* club to which a license may properly be granted and that the premises occupied by it are of the value of five thousand pounds. Before such certificate is granted by the Resident Magistrate there shall be deposited with him and kept of record a copy of the rules of the said club certified by the chairman thereof.
- (8) A "Railway Station Liquor License" shall authorise the sale of liquor by retail at any railway station refreshment room on any day and between such hours as the Licensing Court may fix to passengers travelling by train or lawfully using the railway premises for railway purposes and to persons taking meals at such refreshment room and during such meals subject to the provision that the applicant must produce a written recommendation from the Commissioner of Railways that such license be granted or renewed to him. Railway Station liquor license.
- (9) A "Theatre Liquor License" shall authorize the holder thereof to sell by retail liquor in any building portion of which is used as a theatre during such hours as any entertainment in such theatre continues Theatre liquor license.

on any day excepting Sunday Christmas Day and Good Friday to be consumed on the premises.

Temporary liquor license.

- (10) *a.* A "Temporary Liquor License" shall authorise the holder being also the holder of a general retail liquor license to sell liquor by retail at any place of recreation or public amusement for the period during which such recreation or amusement continues excluding Sunday Christmas Day and Good Friday, subject to such restrictions and conditions as the Resident Magistrate authorising the issue of the same shall think fit.
- b.* No certificate from a Licensing Court shall be required in respect of the granting of such a license.
- c.* Any person being the holder of a general retail liquor license may apply to the Resident Magistrate for a certificate authorising the Receiver of Revenue to issue to him a temporary liquor license for the sale of liquor at any place of recreation or amusement.
- d.* The Resident Magistrate to whom any such application shall be made may if he shall see fit issue a certificate wherein shall be stated the name of the applicant the place for which such temporary license is to be granted the number of days and the hours during which sales thereunder are to be authorised and such restrictions and conditions as such Magistrate may impose; the number of days mentioned in such certificate shall not exceed three.
- e.* The Resident Magistrate shall give notice to the Commissioner of Police or senior Police Officer of the granting of any "temporary liquor license" and the particulars thereof.

Brewers' liquor license.

- (11) A "Brewers' Liquor License" shall authorise the holder thereof to manufacture malt liquor and to sell such liquor by wholesale only; the provisions of Sub-Section (1) of this Section shall apply *mutatis mutandis* to such license.

Prohibition of distilling.

8. It shall not be lawful for any person within this Colony to distil wine or spirituous liquors from any article or to manufacture kaffir-beer for sale.

Any person contravening the provisions of this section shall be liable on conviction to the penalties provided in section *forty-six* of this Ordinance and shall further be liable to forfeiture of all the liquor

and all the machinery used for such distilling or manufacture found on his premises.

9. The provisions of the last preceding section shall not apply to the owner or occupier of a farm or piece of land distilling wine or spirituous liquors from the grapes or fruit grown on such farm or land for his own use.

Exemptions from prohibition of distilling.

LICENSING COURTS.

10. A Court for the consideration and determination of applications for or relating to the granting renewal or transfer of licenses for the sale of intoxicating liquor is hereby constituted and shall be held in and for each district of this Colony. Such Court shall consist of:—

Constitution of Licensing Court.

- (1) The Resident Magistrate or in the absence of the Resident Magistrate such other Government official as the Lieutenant-Governor may appoint and in case no such official be appointed in time for the holding of the said Court then the Assistant Resident Magistrate.
- (2) Such Justices of the Peace (not being more than six or less than two in number) residing in the district as the Lieutenant-Governor may appoint to be members.

11. The following persons shall be disqualified for appointment and if appointed shall not continue as members of a Licensing Court that is to say:—

Disqualification of members of Court.

- (1) The holder of any license for the sale of intoxicating liquor;
- (2) Any brewer or distiller;
- (3) Any person interested or concerned in any partnership or company with any holder of such license as aforesaid or with any brewer or distiller;
- (4) Any paid officer or paid agent of any co-partnership or society interested in the sale or the prevention of the sale of intoxicating liquor;
- (5) Any person employed directly or indirectly as an agent for the purpose of making application for a license for any other person; or any partner of any person so employed as an agent;
- (6) Any person being the agent or manager of or a partner in any trade or calling carried on upon any premises licensed or about to be licensed or the owner or lessor of or the holder of any mortgage bond upon such premises;
- (7) An unrehabilitated insolvent;
- (8) Any person who in this Colony or elsewhere has had a sentence of imprisonment without

the option of a fine imposed upon him for the commission of some crime or offence not of a political character and has not received a full pardon therefor;

Any person so disqualified acting or sitting as a member of a Licensing Court shall be liable to a penalty not exceeding Five Hundred Pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three years or with imprisonment for a period not exceeding three years with or without hard labour.

The fact that a person is a member of a club holding a club liquor license shall not in itself disqualify him from being a member of a Licensing Court.

12. Every Justice of the Peace appointed a member of the Licensing Court by the Governor as aforesaid shall be appointed annually or on the occurrence of any vacancy and shall hold office until the thirty-first day of December in the year in which he is appointed unless his office shall be vacated by death resignation ceasing to be a Justice of the Peace or to reside in the district. The first members of a Licensing Court appointed under this Ordinance shall hold office until the *thirty-first* day of December 1903.

13. A meeting of the Licensing Court open to the public shall be held in each district and at such place or places therein as the Lieutenant-Governor may appoint on the second Monday in the months of June and December or as soon as possible thereafter for the purpose of taking into consideration all applications for the granting renewal transfer or removal of any license for or in respect of which proper notice shall have been given; provided that the first meeting of the Licensing Court held under this Ordinance shall take place on the second Monday in January 1903 instead of on the second Monday in December 1902.

14. At the first meeting of a Licensing Court held under this Ordinance it shall not be competent for any person to apply for the renewal of any license previously held by him; but the said Court shall hear and determine applications only for the granting of new licenses and every application for the renewal of a license shall be treated as an application for a new license.

15. Three members of the Licensing Court shall form a quorum for the despatch of business. If a quorum be not present at any meeting of such Court on the day appointed as advertised or at any adjournment thereof the said meeting shall be adjourned from day to day until a quorum can be present to hold such meeting.

Appointment of
Members.

When meetings
to be held.

No application for
renewal of license
to be entertained at
a first meeting.

Quorum.

16. The Resident Magistrate or person appointed by the Lieutenant-Governor under Sub-Section (1) of Section *ten* of this Ordinance or the Assistant Resident Magistrate as the case may be shall if present preside at every meeting of the Licensing Court; in case none of the aforesaid officials be present the members present shall elect one of their number to preside. The decision of the majority of members present shall be the decision of the Court and the officer or person presiding shall in case of an equality of votes have a casting as well as a deliberative vote.

Resident Magistrate or Assistant Resident Magistrate to preside at meetings.

17. It shall be lawful for the Lieutenant-Governor to appoint a person to act as Secretary to a Licensing Court at such salary as he may deem fit.

Lieutenant-Governor may appoint Secretary.

18. The person presiding at any meeting of the Licensing Court shall within seven days after such meeting or any adjournment thereof is concluded cause to be forwarded to the Receiver of Revenue of the district a list signed by him specifying the names and places of residence of all persons to whom certificates shall have been granted by the Court for obtaining or renewing licenses and the nature of the license authorized to be granted or renewed; and shall forward through the Commissioner of Police to the Attorney-General a return in the form in the third schedule to this Ordinance properly filled in shewing:—

Returns of licenses to be forwarded to Receiver of Revenue.

- (1) A return of the number of licenses existing immediately before the sitting of the Court.
 - (2) A return of the number of licenses authorized to be renewed.
 - (3) A return of the number of licenses transferred to other premises.
 - (4) A return of the number of new licenses authorized to be granted.
 - (5) A return of the number of applications for licenses refused.
 - (6) A return of the average adult white population per general retail liquor license and bottle liquor license falling under sub-sections (2) (3) and (4).
19. (1) The Licensing Court may anything to the contrary notwithstanding in Sub-Sections (3) and (6) of Section *seven* of this Ordinance when it shall be satisfied of its being for the convenience of the public grant to the holder of any restaurant or general retail liquor license an extension of the hours for the sale of liquor under such license until not later than twelve o'clock at night on payment of an amount equal to one-half the annual amount chargeable in respect of such licenses. Such extension of the hours shall be called Midnight Privileges.

Granting of midnight privileges.

- (2) Such privileges shall be granted only for a period of six months but may be renewed at subsequent sittings of the Licensing Court for a similar period; and may on the report of the Commissioner of Police or senior police officer in the district be withdrawn at any time by the President and two members of the Licensing Court: Provided always that on such withdrawal the holder of such privileges shall be entitled to a proportionate refund of the amount paid by him in respect thereof.

Evidence to be given on oath.

20. When any Licensing Court shall deem it necessary to take evidence respecting any question to be determined by such Court such evidence shall be given on oath (which oath the person presiding is hereby authorised to administer) and shall be filed of record in the office of the Resident Magistrate of the district.

False evidence perjury.

21. If any person shall upon any examination on oath before any Licensing Court wilfully and corruptly give false evidence such person shall be deemed and taken to be guilty of perjury.

APPLICATIONS FOR AND RELATING TO LICENSES.

When applications for licenses to be made.

22. Any person desiring to obtain a license for the sale of liquor under this Ordinance (save and except where otherwise provided for) or the renewal of any such license; or the removal of any license from the licensed premises to any other premises in the same district; or the transfer of a license by the holder thereof to any other person may make application in writing to the Resident Magistrate of the district at least six weeks before the next sitting of the Licensing Court setting forth his full name and address the full names of his partners if any; the nature or description of the license required to be obtained renewed removed or transferred as the case may be; the number or name (if any) of the house and the street or road where the business is intended to be or is carried on or in case of the transfer of a license the name of the person to whom the same is desired to be transferred: Provided always that in case any application as aforesaid shall through inadvertence not be made in due time but shall be made within *ten* days thereafter the Resident Magistrate may if he sees fit accept the same for the consideration thereof by the Licensing Court at the next meeting or any adjournment thereof upon condition of payment in case the application shall be granted or allowed of the sum of five pounds and upon such terms as to notice being given as the Magistrate may prescribe; such sum of money shall be denoted by revenue stamps to be affixed to the application and

Particulars required to be set forth.

Late applications.

cancelled by the Magistrate; provided always that such application shall be considered by the Licensing Court only after its approval of the action of the Magistrate in accepting it.

23. (1) The Resident Magistrate receiving any such application as in the last preceding section mentioned shall cause a notice to be posted in some conspicuous place at or in his office and shall cause it to be published in the *Gazette* and in some newspaper circulating in the district in which the Court is held containing the name of the applicant the nature of the application the situation of the premises in respect of which the application is made the day on which and the place where the Court will sit for hearing such application.

Resident Magistrate to publish notice of application.

(2) The Resident Magistrate shall as soon as possible on receiving such application cause the name of such applicant as aforesaid to be sent to the Commissioner of Police or senior police officer of the district whose duty it shall be before the sitting of the Court to report as fully as possible to the Resident Magistrate on all matters which would affect the decision of the said Court in respect of such application as aforesaid.

Report by Commissioner of Police.

(3) The notice mentioned in sub-section (1) of this section shall be posted and published thirty days at least before the sitting of the said Court and a copy thereof shall be sent by post or otherwise to every member constituting such Court: Provided that no license authorized to be granted by any such Court shall be capable of being questioned by reason that any such notice was not duly posted published or sent as aforesaid.

Time of publication of notice in sub-section (1).

(4) Every application as aforesaid shall bear a revenue stamp of one pound to be affixed by the applicant and cancelled by the Resident Magistrate.

Stamp to be affixed to applications.

24. In case the applicant for any license shall die or shall become insolvent after applying for the grant or renewal of a license on or before the day for considering such application by the Licensing Court such Court may if it shall think fit grant a certificate for such license to the widow of any deceased applicant or to the executor *curator bonis* or trustee as the case may be of the estate of such applicant.

Death or insolvency of applicant.

OBJECTIONS TO APPLICATIONS FOR LICENSES.

25. Any constable or member of a police force and any person residing in the municipality town or village where-

Who may object to issue of licenses.

in a license is applied for may either individually or jointly with others object personally or in writing at any meeting of a Licensing Court to the granting or renewal of such license.

Where an objection is made in writing to the renewal of a license the Licensing Court may at the request of the applicant for such renewal summons the objector to attend the said Court for the purpose of being examined on oath on the grounds of such objection.

How objections to be lodged.

26. (1) All objections to the granting or renewal of a license shall be sent in writing to the Secretary of the Licensing Court and if there be none to the Resident Magistrate and where the objection is to the renewal of a license notice thereof shall be given to the applicant personally or by means of a registered letter by the person or persons objecting at least five days before the holding of the Court.

Applicant to appear in person

(2) Every applicant for a new license or for the renewal of an existing license shall appear in person before the Licensing Court and may be called upon by the Court to answer on oath such question as the Court may deem it necessary to put to him; but it shall be lawful for him to be represented at the hearing of his application by an advocate or attorney entitled to practise as such in any Superior Court in this Colony or by an agent-at-law admitted to practise in a Court of Resident Magistrate.

but may be represented by duly admitted Advocate or Attorney.

Objector may appear personally or be represented.

(3) Every objector to the granting or renewal of a license may appear personally before the Licensing Court or be represented by any person deputed by him in writing.

Objections by Municipality.

(4) The Council of any municipality may authorize by writing under the hand of the Chairman thereof any person to appear before the Licensing Court for the purpose of objecting on behalf of the inhabitants to the granting or renewal of a license in such municipality.

Court may refuse to grant license without giving reasons.

27. The Court shall have the right to refuse to grant or renew a license without giving any reasons and may grant a license subject to such conditions as it may deem fit not repugnant to the provisions of this Ordinance which shall be embodied in the license.

Discretion of Court.

28. (1) The Licensing Court may of its own motion take notice of any matter or thing which in the opinion of the members thereof would be an objection to the granting or to the renewal transfer or removal of a license although no objection has been made thereto by any person.

(2) In any case when the application is for the renewal transfer or removal of a license the Court shall inform the applicant of the objection and shall adjourn the further consideration of the application should the applicant so request for any period not less than four days in order that the person affected by such objection may have the opportunity of replying thereto.

Objections to renewal transfer or removal.

(3) The Court shall after such adjournment give notice in writing signed by the Secretary and if there be none then by the President thereof of the cause of objection to the person affected thereby and of the day on which the adjourned application will be considered.

Notice to applicant.

29. In case the renewal of a license held by any person shall be refused by the Licensing Court and such person shall not during the preceding twelve months have been convicted of any offence against this or any other law relating to the sale of intoxicating liquors he shall upon payment of a proportional part of the cost of a license such as that held by him be entitled to obtain a license for a period of one month for the purpose of disposing of the liquor then on his premises.

Extension of existing licenses where renewal disallowed.

CASES IN WHICH LICENSES CANNOT BE GRANTED RENEWED OR TRANSFERRED.

30. It shall not be competent for the Licensing Court to grant any certificate for a new license or for the renewal of an existing license when any of the following objections is proved to its satisfaction:—

Reasons for refusal of licenses.

- (1) That in the case of a new license the applicant is of bad fame or character or of drunken habits or has previously forfeited a license or has been convicted at any time previous to his application of selling liquor without a license.
- (2) That the premises in respect of which the application is made are out of repair or are not kept in a clean and wholesome state.
- (3) That in the case of a new license the number of premises already licensed is sufficient for the requirements of the neighbourhood.
- (4) That in the case of a new license the premises in respect of which the application is made are in the vicinity of a place of worship school native location or compound or that the quiet of the place in which such premises are situated will be disturbed if such license is granted.

- (5) That in the case of a renewal of a license the business is conducted in an improper manner and drunkenness permitted upon the licensed premises or that the conditions upon which the license was granted have not been satisfactorily fulfilled; or that a licensed place is no longer required in the neighbourhood.

31. It shall not be competent for the Licensing Court to grant a certificate for a new license or for the renewal of any existing one or for the transfer of a license to any person or to the wife of any person:—

- (1) Who here or elsewhere has had a sentence of imprisonment imposed on him for the commission of some crime or offence not of a political character without the option of a fine and has not received a full pardon therefor.
- (2) Not residing in this Colony.
- (3) Who is an unrehabilitated insolvent.
- (4) Who is under the age of twenty-one years.
- (5) Who is a coloured person.
- (6) Holding an office or appointment under Government.
- (7) Occupying premises of which any constable or member of a police force is the proprietor or landlord or in which such constable or member has any interest.
- (8) Who has at any time been convicted of selling liquor to a coloured person unless he has received a free pardon in respect of such conviction.

A license issued or transferred to any person disqualified under this section shall be null and void and the premises in respect of which it is issued or transferred shall be closed for the sale of liquor by order of the Resident Magistrate of the district in which they are situated.

License issued to disqualified person null and void.

Retail licenses.

32. (1) No Licensing Court shall grant a greater number of licenses for the sale of liquor by retail in any town village or municipality than shall average one for every two hundred and fifty of the white male inhabitants above the age of sixteen years resident in such town village or municipality.
- (2) Licenses for the sale of liquor by retail shall include restaurant or café malt bottle and general retail liquor licenses; provided that in any case in which the holder of a restaurant or café liquor license is also the holder of a malt bottle or general retail liquor license the licenses held by such holder shall

be reckoned for the purposes of this section as *one* license.

- (3) Within any town village or municipality in which less than four hundred white male persons above the age of sixteen reside no general retail liquor license shall be granted except to a person keeping an hotel.
33. (1) No license under this Ordinance shall be granted or renewed in any case in which a petition against the granting or renewal thereof has been lodged with the Secretary to the Licensing Court and if there be no Secretary then with the Resident Magistrate at least *seven* days prior to the sitting of the Court signed by a majority of the voters and if there be no voters then of the white male population above the age of twenty-one years resident in the village town municipality or ward of the municipality in which the premises are situated in respect of which the application for a license is made; provided always that it is proved to the satisfaction of the Licensing Court that notice of intention to present such petition was given to the person applying for the renewal of his license by some person signing the same at least fourteen days before the day fixed by law as the day upon or before which any application for the renewal of the license should be made.
- (2) For the purposes of this section the latest roll of voters framed by the local authority shall be conclusive evidence both of the number of voters and of the fact that any person whose name appears therein is a voter; provided always that if upon any petition in favour of the granting or renewal of a license and upon any petition objecting thereto the name of the same person shall appear then the said name shall be of no effect and shall be struck out of both petitions.
- (3) The provisions of this section shall not apply to hotel or railway station liquor licenses and shall in any municipality or ward take effect only when and as soon as the Lieutenant-Governor by Proclamation in the *Gazette* has so declared; provided that such Proclamation shall be published in the *Gazette* at least ten weeks before the sitting of the Licensing Court.

Petition against
granting or re-
newal of licenses

PLACES IN RESPECT OF WHICH LICENSES MAY NOT BE GRANTED.

No back or side entrances

34. (1) No certificate for a general retail liquor license or bottle liquor license shall be granted by the Licensing Court in respect of any premises situated in any town village stand-township or on any public digging otherwise than in premises having the bar entrance opening in or towards a public street or thoroughfare and with sufficient floor space for the accommodation of the public; and the holder of any general retail or bottle liquor license who allows any customers to enter or leave the apartment intended for the sale of liquors by a back or side door or by a door communicating with a shop or business shall be deemed to be guilty of selling liquor at a place where he is not authorised by his license to sell the same and shall be liable to the penalties provided in this Ordinance for the commission of that offence.

or screens.

(2) No licensed person shall use any screen or other arrangement whereby a full view of the bar is prevented from the bar entrance.

Conditions in respect of place.

35. No license under this Ordinance save a railway station liquor license shall be granted except in respect of premises situated in a recognised town, village stand-township or on proclaimed public diggings; provided that an hotel liquor license may be granted in respect of an hotel or inn situated on any public road (save and except the road known as the Main Reef Road on the Witwatersrand) distant at least twelve miles from the office of a Resident Magistrate or Assistant Resident Magistrate and at least twelve miles from any other licensed hotel on it being proved to the satisfaction of the Licensing Court that there exists on the place for which a license is applied for a suitable building for an hotel built of stone or brick or iron properly lined inside with brick with at least three bedrooms and one sitting room distinct from the bar all properly furnished and giving sufficient accommodation for at least six persons together with a suitable stable for at least eight horses and proper sanitary arrangements.

Size of buildings etc.

No license may be granted for premises on mynpachts, &c.

36. No license under this Ordinance shall be granted for the sale of liquor on any ground given out as a mynpacht claim storage site (*bewaarpplaats*) machinery stand or water-right nor on any stand situated on any of the places mentioned in or on any ground reserved under Article 53 of Law No. 15 of 1898.

No license for premises in native locations, &c.

37. No license under this Ordinance shall be granted in respect of any premises situated in a

native location nor in any area set aside for coloured persons to reside in nor in any area partially occupied by coloured persons and which may be proclaimed by the Lieutenant-Governor as an area within which intoxicating liquor shall not be sold; nor shall any intoxicating liquor be taken into such location or area as aforesaid without the consent of the Resident Magistrate of the District in which such location or area is situated.

TRANSFER AND REMOVAL OF LICENSES.

38. Any person being the holder of a license (other than a temporary or club license) who shall during the currency thereof sell or dispose of his business or the house or premises in respect of which such license was granted may make application to the Resident Magistrate for a temporary transfer of such license to the purchaser of such business or to the purchaser or lessee of such premises as the case may be; and the Magistrate and any two members of the Licensing Court may if they think fit and upon payment by the applicant of the sum of one pound to be denoted by Revenue Stamps affixed to the original license and cancelled by the Resident Magistrate grant temporary transfer of such license accordingly.

Transfer of license.

39. The holder of any license (except a temporary license) who may desire to remove his license from the licensed premises to any other premises in the same district distant not more than one mile therefrom may make application to the Resident Magistrate to authorise such removal; and such Magistrate and any two members of the Licensing Court if satisfied that to wait for the next meeting of the Licensing Court would subject such holder to serious loss or inconvenience and if they think fit after hearing any objections to such removal may upon the payment of the sum of one pound to be denoted by Revenue Stamps affixed to the original license authorise such removal after not less than thirty days' notice of such application shall have been given by advertisement in the *Gazette* and in a newspaper circulating in the district and shall have been affixed in a conspicuous place on the outside of the premises to which it is proposed to remove the licence.

Removal of licensed premises.

40. Any person to whom a license may be temporarily transferred and any person who may be authorised to remove his license to other premises shall at the next licensing meeting apply for a license in the same manner as if he were not a licensed person.

Fresh application to be made.

41. In case the temporary transfer of a license or the removal of a license as aforesaid shall not be ratified by the Licensing Court at its next meeting upon consideration of the application then made in respect thereof such license shall as to the person to whom the same was originally granted or in respect of the

Where transfer or removal not ratified

premises originally licensed be considered to be in the same position as if no such transfer or removal had taken place and an application for the renewal of the license by the transferee shall at the request of the transferrer be deemed and taken to be an application by him for such renewal.

Death of holder
of license.

42. In case of the death of the holder of any license the widow (if any) or the executor of the deceased person or failing the appointment of an executor any *curator bonis* lawfully appointed for taking charge of the estate of such deceased person or any person approved by the Resident Magistrate and in case of insolvency the trustee of the estate of such insolvent may carry on the business until the next meeting of the Licensing Court either personally or by an agent approved of by any writing under the hand of the Resident Magistrate without any formal transfer of the license.

Powers and duties
of representative
of deceased.

43. Any person to whom a license may be temporarily transferred or who may be carrying on or conducting the business of licensed premises as the widow or *curator bonis* or executor of the estate of any deceased person or as the trustee of any estate of any insolvent or as an approved agent of any such widow curator executor or trustee shall possess all the rights and be subject and liable to all duties obligations and penalties of the original holder of the license.

Marriage of female
licensee.

44. In the case of the marriage of any woman who shall have obtained any license such license shall confer on her husband the same privileges and shall impose upon him the same duties obligations and liabilities as if such license had been granted to him originally.

OFFENCES.

Sign-board.

45. Every licensed person except the holder of a temporary license or club liquor license shall cause to be painted and fixed in front of the premises in respect of which his license is granted in a conspicuous place and in letters two inches at least in length his name with the addition of the word "licensed" and of words sufficient to express the business for which the license has been granted. No person who is not licensed shall have any words or letters on his premises importing that he is licensed and no licensed person shall have any words or letters importing that he is licensed in any other way than that in which he is duly licensed. Any person guilty of a contravention of this section shall be liable to a penalty of fifty pounds and in default of payment to imprisonment for a term not exceeding three months with or without hard labour.

46. No person shall sell barter give or otherwise supply to any coloured person any intoxicating liquor: Provided always that liquor may be supplied to a coloured person for medicinal purposes or sacramental use and in such case the burden of proof shall be upon the person who supplied it to show that the liquor was required for such purpose.

Coloured persons not to be supplied.

Any person contravening the provisions of this section shall on conviction be liable—

Punishments for supplying coloured persons.

- (a) For a first offence to imprisonment with or without hard labour for a period not less than six months and not exceeding twelve months and at the discretion of the Court in addition to such imprisonment to a fine not exceeding two hundred and fifty pounds and in default of payment to imprisonment with or without hard labour for a further period not exceeding six months:
- (b) For a second offence to imprisonment with or without hard labour for a period not less than twelve months and not exceeding two years and in addition to such imprisonment at the discretion of the Court to a fine not exceeding five hundred pounds and in default of payment to imprisonment with or without hard labour for a further period not exceeding twelve months:
- (c) For a third or any subsequent offence to imprisonment with or without hard labour for a period not less than two years and not exceeding three years and in addition to such imprisonment at the discretion of the Court to a fine not exceeding one thousand pounds and in default of payment to imprisonment with or without hard labour for a further period not exceeding two years.

In any summons or indictment preferred before any Court charging any person with a contravention of the provision of this Section it shall not be necessary to set out the names of the coloured persons to whom intoxicating liquor is alleged to have been sold bartered given or otherwise supplied; but it shall be sufficient to allege that such sale barter gift or supply was effected to a coloured person; provided always that nothing in this sub-section contained shall render it unnecessary to set out accurately in such summons or indictment all other material particulars of the charge.

47. Any person being the holder of a license who shall be convicted of contravening the provisions of

Forfeiture of license

the last preceding section shall in addition to any other penalty forfeit his license and no license shall at any time thereafter be granted to such person unless and until he shall have received a free pardon for such conviction nor shall it be granted to any person in respect of the same premises for a period of five years from the date of such conviction.

Coloured persons
not to obtain liquor.

48. No coloured person shall obtain by purchase or barter or be in possession of any intoxicating liquor.

Penalties.

Any coloured person contravening the provisions of this section shall on conviction be liable to be imprisoned with or without hard labour for a period not exceeding three months.

Exceptions in
respect of use of
Kaffir beer.

49. (1) Notwithstanding anything in the previous sections contained to the contrary it shall be lawful for the Lieutenant-Governor to authorize by notice in the *Gazette* under the hand of the Attorney-General the brewing of Kaffir beer not containing more than *three* per cent. of alcohol on the premises of any person or company or corporation employing more than fifty coloured labourers and the supply gratis thereof for consumption on the premises only to *bond fide* employees being coloured persons of such person company or corporation on such conditions as the Lieutenant-Governor may from time to time determine.

(2) Nothing in the previous Sections contained shall prohibit the use gift or possession of Kaffir beer not containing more than three per centum of alcohol by coloured persons in any native location or village distant more than twelve miles from the nearest town municipality or public digging.

Persons prohibited
from serving liquor.

50. (1) No holder of any retail liquor license shall employ a female to serve at the bar in selling or supplying intoxicating liquors.

(2) No holder of any liquor license shall employ a person under the age of sixteen coloured person or person convicted of any offence under this Ordinance to sell or in any way dispose of intoxicating liquor.

Any person contravening either of the provisions of this section shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding three months.

Prohibition of pay-
ment of wages on
licensed premises.

51. Any master or other person employing workmen servants or labourers who pays or causes any payment to be made to any such workman servant or labourer in or at any premises licensed for the sale of liquor shall for every such offence be liable to a penalty

not exceeding ten pounds; but nothing herein contained shall extend to any holder of any liquor license who pays upon his own licensed premises the workmen servants or labourers employed by him in connection with his licensed premises.

52. No person shall with or without a license sell or knowingly permit to be sold or delivered or knowingly permit to be delivered or supplied to any person under the age of sixteen years any intoxicating liquor or permit any such person to drink such liquor on his premises.

Persons under 16 years of age not to be supplied.

Any person guilty of contravening this section shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a term not exceeding three months or both such fine and such imprisonment; and on a second conviction he shall in addition to such fine and imprisonment forfeit his license and no license shall be issued to such person or in respect of the same premises for a period of five years.

Penalties.

53. (1) The Resident Magistrate of any district may by an order in writing forbid the selling of liquor to any person who shall within the space of three months have been thrice convicted of drunkenness or who having been twice so convicted shall have been convicted of assault; or who by excessive drinking of liquor mis-spends wastes or lessens his estate or greatly impairs his health or endangers the peace of his family. Every such order shall be in force during such time as the Magistrate may determine not however exceeding twelve months in the district wherein the same was granted and in any other district into which such person may remove or be.

Resident Magistrate may restrict sale of liquor to individuals.

(2) Every licensed person who shall with a knowledge of such prohibition sell exchange give or in any other way dispose of intoxicating liquors to any such person and every other person who with such knowledge shall give to purchase or procure for such prohibited person any liquor shall on conviction be liable to a fine not exceeding ten pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one month or to both such fine and imprisonment and shall be further liable to compensate the person to whom he shall have sold or given such liquor as aforesaid for any injury which such person shall in

Penalties for selling where restricted

consequence thereof have suffered and further to pay compensation for all damage done or caused by such person acting under the influence of the liquor sold or supplied to him as aforesaid.

Penalty for refusing accommodation.

54. The holder of any hotel liquor license granted on condition that he will provide accommodation to visitors who shall fail or refuse except for some sufficient reason to the satisfaction of the Resident Magistrate to supply any visitor with lodging meals or accommodation shall for each offence on conviction be liable to a fine not exceeding ten pounds and in default of payment to imprisonment for a period not exceeding one month with or without hard labour.

Business of general retail or bottle liquor license holder limited

55. No holder of a general retail liquor license or bottle liquor license shall be permitted to carry on any other business in the same premises except the sale of non-intoxicating drinks light refreshments tobacco cigars and cigarettes by retail. Any person contravening this section shall be liable on conviction to a fine not exceeding twenty-five pounds or in default of payment to imprisonment for a period not exceeding two months with or without hard labour.

Offences by license holder.

56. The holder of any license who shall be guilty of any of the following acts or offences shall upon conviction be liable in respect of each act or offence to a penalty not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months; that is to say if he shall—

- (1) Permit drunkenness or any riotous or quarrelsome conduct to take place upon his premises.
- (2) Sell liquor to any person already in a state of intoxication or by any means encourage or incite any person to drink liquor.
- (3) Sell liquor to any constable or policeman while on duty or knowingly harbour or suffer to remain on his premises any constable or policeman during any time appointed for him to be upon duty unless for the purpose of keeping or restoring order or in the execution of his duty.
- (4) Suffer any unlawful game or gambling to be carried on on his premises
- (5) Permit his premises to be a brothel or the habitual resort or place of meeting of reputed prostitutes.
- (6) Keep his licensed premises open for the sale of liquor or sell or expose any liquor for sale during any time when he is not authorised by the license to sell; or allow

any liquors purchased before the hour of closing to be consumed on such premises after such closing.

And in case of a second or subsequent conviction every such holder shall be liable to a penalty not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

57. Any person who shall contrary to the provisions of this Ordinance sell deal in or dispose of intoxicating liquors without a license or sell or offer or expose for sale any such liquors at any place where he is not authorised by his license to sell shall upon conviction be liable to the penalties provided in Sections *forty-six* and *forty-seven* of this Ordinance.

Trading without a license.

58. Any holder of a club liquor license who shall sell or allow to be sold liquor to any person not being a member of such club shall be liable for each offence to a penalty not exceeding one hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

Club licenses—
abuse of.

59. The holder of any retail liquor license shall be liable to forfeit such license in addition to any other penalty by this Ordinance provided:—

Offences by retail license holder rendering license liable to forfeiture
Penalties.

- (1) If he shall permit any other person to manage superintend or conduct the business of the licensed premises during his absence for a longer period than one month without the consent in writing of the Resident Magistrate. Any person who shall at any time be lawfully managing superintending or conducting the business of the holder of any licence shall be subject and liable to the same duties obligations and penalties as such holder: Provided that nothing herein contained shall be taken to relieve such holder from any duties obligations or penalties to which he may by law be subject or liable;
- (2) If he shall whether present in such premises or not permit any unlicensed person to be in effect the owner or part owner of or interested in the business of the licensed premises unless with the consent of the Licensing Court;
- (3) If (being the keeper of any inn or hotel) he shall fail to provide and maintain the accommodation required according to the conditions prescribed by the Licensing Court granting such license;
- (4) If (except in the case of fire tempest or other cause beyond his control) he shall allow the licensed premises to become ruinous or dilapidated;

- (5) If he shall permit his premises to be used as a brothel or the habitual resort or place of meeting of reputed prostitutes.
- (6) If he shall be twice convicted of selling offering or keeping for sale any adulterated liquor;
- (7) If he shall suffer any unlawful game or gambling to be carried on in his licensed premises;
- (8) If he shall be convicted of any offence under this Ordinance and a previous conviction within the preceding six months of the same or any other offence under this Ordinance shall be proved;
- (9) If he shall be convicted of any crime and sentenced to imprisonment without the option of a fine.

Evidence of sale of liquor.

60. In any proceeding relative to any offence under this Ordinance it shall not be necessary to show that any money actually passed or that any liquor was actually consumed if the Court hearing the case be satisfied that a transaction in the nature of a sale actually took place or that any consumption of liquor was about to take place; and proof of consumption or intended consumption of liquor on licensed premises by some person other than the occupier or a servant in such premises shall be evidence that such liquor was sold to the person consuming or about to consume the same by or on behalf of the holder of such license.

If any vendor of non-intoxicating beverages not being duly licensed shall supply intoxicating liquor to mix or be taken with such beverage he shall be deemed to have sold such intoxicating liquor.

Onus of proof.

61. In any proceeding against any person for selling or allowing to be sold any liquor without a license such person shall be deemed to be unlicensed unless he shall produce his license or give other satisfactory proof of his being licensed. The fact of any person not holding a license having any signboard or notice importing that he is licensed upon or near his premises or having a house or premises fitted up with a bar or other place containing bottles casks or vessels so displayed as to induce a reasonable belief that liquor is sold or served therein or having liquor concealed or more liquor than is reasonably required for the persons residing on such premises shall be deemed *prima facie* evidence of the unlawful sale of liquor by such person.

Persons on premises of retail license holder during prohibited hours.

62. (1) If any person other than the licensed holder a member of his family his agent or servant or a person lodging in the licensed premises be found in any bar on

such premises during the hours in which the sale or disposal of liquor to the public is prohibited it shall be taken to be *prima facie* evidence of a sale of liquor during such hours. The license holder on whose premises any such person is found during such hours shall be liable to a penalty not exceeding five pounds; but nothing in this section contained shall apply in the case of persons passing through any bar in any licensed premises for the sole purpose of obtaining access to any other part of such premises.

- (2) If any coloured person is found at any time in any bar on the premises of the holder of a retail license such coloured person not being in the employ of such licensed holder it shall be taken to be *prima facie* evidence of a sale of liquor to such coloured person.

Coloured persons on premises.

63. Any person convicted of contravening any of the provisions of this Ordinance for or in respect of which no penalty is specially provided shall be liable to a penalty not exceeding twenty pounds and in default of payment to imprisonment with or without hard labour for any period not exceeding three months; and when a penalty has been provided for any offence without any period of imprisonment in default of payment thereof then the person convicted of such offence shall be liable—

Offences for which no penalty provided

To imprisonment with or without hard labour for a period not exceeding one month if the penalty do not exceed ten pounds; or

To imprisonment with or without hard labour for a period not exceeding three months if the penalty exceed ten pounds and do not exceed fifty pounds;

To imprisonment with or without hard labour for a period not exceeding six months if the penalty exceed fifty pounds—

unless such penalty be sooner paid.

64. All offences against this Ordinance may be summarily tried by the Resident Magistrate or Assistant Resident Magistrate within whose jurisdiction such offences shall have been committed and any such Resident Magistrate or Assistant Resident Magistrate may impose the penalties respectively by this Ordinance provided.

Jurisdiction of Resident Magistrate or Assistant Resident Magistrate.

POWERS AND DUTIES OF RESIDENT MAGISTRATES JUSTICES OF THE PEACE AND POLICE OFFICERS.

65. (1) It shall be the duty of the Chief Officer of Police of every district to report to the Licensing Court any licensed premises which

Report of Chief Officer of Police.

are out of repair or have not reasonable accommodation or proper or sufficient sanitary or drainage requirements; and any case in which the holder of a license shall be of drunken habits or shall keep a disorderly house.

Entry upon licensed premises by Police

(2) Any officer of police and any constable authorized in writing by an officer of police or by the Resident Magistrate may enter any licensed premises during the hours such premises are open and inspect and examine every room and part thereof for the purpose of the report in the last sub-section mentioned.

(3) Any officer of police or any constable on duty may enter any licensed premises at any time when he has reasonable grounds for believing that liquor is being sold in such premises contrary to the provisions of this Ordinance.

Penalty for obstructing Police.

(4) Any person resisting or obstructing an officer of police or constable in the execution of his duty as aforesaid shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Arrest of intoxicated persons.

66. Any person found by a Resident Magistrate Justice of the Peace or Police Constable drunk and incapable or drunk and noisy in or near a street road or other public thoroughfare or in a public house shop warehouse hotel or any other public place may be arrested without warrant and brought without any delay before the Court of Resident Magistrate. Every such person shall on conviction be liable to a fine not exceeding five pounds for the first offence and in default of payment to imprisonment with or without hard labour for a period not exceeding fourteen days; and for a second or subsequent conviction he shall be liable to a fine not exceeding fifteen pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

Penalties.

Inspection of unlicensed premises by Police.

67. It shall be lawful for any police constable having a special written authority from a Magistrate Justice of the Peace or police officer of or above the rank of Inspector at all reasonable hours to enter any unlicensed premises or any wagon cart or other vehicle in which it shall reasonably be suspected that any intoxicating liquor is sold or kept for sale and search such premises wagon cart or other vehicle. Any liquors found in the course of search may be seized and removed and may be declared forfeited by any Court on conviction before it of the owner or

Liquor may be confiscated.

person found in possession thereof. Provided always that when there is danger that the delay occasioned by obtaining such written authority will defeat the objects of this section any police constable may exercise the powers conferred hereby without any written authority but he shall as soon as possible report what he has done to the Commissioner of Police or senior officer in the district and if there be none then to the Resident Magistrate.

68. Any constable or member of the police may demand the name and address of any person found on premises in which he seizes or from which he removes any liquor under the provisions of this Ordinance; and if such person shall refuse to comply with such demand or shall give a name or address which the constable or member of the police demanding the same has reasonable grounds to believe is false he may apprehend such person without warrant and take him as soon as possible before a Resident Magistrate or Justice of the Peace. Any such person who refuses to give his name or address when so demanded as aforesaid or gives a false name or address shall on conviction be liable to a penalty not exceeding five pounds.

Police may demand names and addresses of persons on premises.

69. It shall be lawful for any Resident Magistrate Justice of the Peace or police officer to enter in or upon any premises where intoxicating liquors are being sold and to demand inspection of the license authorising such sale. Any holder of a license refusing to produce such license shall be liable to a fine not exceeding ten pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one month or to such imprisonment without the option of a fine.

Inspection of licenses.

70. Where any riot or tumult occurs or is expected to occur in any place the Resident Magistrate or any two Justices of the Peace may order any licensed premises under this Ordinance in or near such place to be closed during such time as such Magistrate or Justices of the Peace may see fit; and any person carrying out such order may use such force as may be necessary for closing such premises. Any person resisting or obstructing the execution of any such order and any licensed person selling liquor in contravention of such order shall on conviction be liable to a penalty not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Resident Magistrate or Justice of the Peace may order licensed premises to be closed.

LIQUOR TRAFFIC INSPECTION.

71. The Commissioner of Police shall be empowered with the approval of the Lieutenant-Governor to appoint in and for any district one or more liquor traffic inspectors and so many sub-inspectors as he may think

Appointment of Inspectors.

fit. The said Commissioner shall be empowered with the approval of the Lieutenant-Governor to remove any inspector or sub-inspector so appointed.

Duties of
Inspectors.

72. It shall be the duty of such inspectors and sub-inspectors with the assistance of a special detective police force and the ordinary police authorities to see that the provisions of this Ordinance are properly carried out.

Lieutenant-
Governor may
make regulations.

73. It shall be lawful for the Lieutenant-Governor from time to time to make regulations for the proper carrying out of the duties of such inspectors and sub-inspectors as aforesaid.

Inspectors to report
on applications
for licenses.

74. It shall be the duty of every Liquor Traffic Inspector in whose district any premises are situated in respect of which previous notice of any application for any license or for the renewal of any license under this Ordinance is given to furnish to the Commissioner of Police a report containing the following particulars:—

License for New Premises.

- (1) A description of the house premises and furniture;
- (2) A statement whether the applicant is a fit and proper person to have the license applied for and is known to be of good character and repute;
- (3) A statement whether the applicant appears to be or not to be the true owner of the business or premises proposed to be licensed.

Renewal of Existing License.

- (4) If the application be for a renewal by a person who has held a license during the whole or any part of the preceding year a statement as to the manner in which the house has been conducted during such year or part thereof. If any convictions have been recorded against the licensee the particulars of the conviction shall be stated. The report shall also contain a statement as to the character of the persons frequenting the house.

The statement or report referred to in this section shall set forth in detail the facts upon which any conclusion or expression of opinion is based and if the inspector is unable to supply any of the foregoing particulars he shall specially state in his report the reason of his inability.

The Commissioner of Police shall forward to the Resident Magistrate seven clear days before the sitting of the Licensing Court the said report with such remarks as he may deem it necessary to make thereon and also his opinion as to whether the granting of the license sought for is required for the public convenience.

The Resident Magistrate shall lay the said report before the Licensing Court at every meeting called to consider the application therein referred to and such report shall be considered in law as a privileged statement.

Resident Magistrate to lay report before meeting of Courts.

75. It shall be the duty of an inspector to attend every meeting of the Licensing Court in the district for which he is appointed in order to afford information and assistance to the Court in matters connected with the working of this Ordinance and every inspector so attending may be cross-examined on oath as to matters contained in his report by any person or the agent of any person who is interested in the renewal of the license dealt with in the said report

Inspectors to attend meeting of Court.

76. Any Liquor Traffic Inspector or Sub-Inspector who directly or indirectly receives or agrees to receive from any person any fee advantage or reward whether pecuniary or of any other kind on account of anything done or to be done by him in connection with his office or employment or on account of omitting to perform his duties under this Ordinance shall be dismissed from his office and shall also be liable on conviction by a competent court to imprisonment with or without hard labour for a period not exceeding five years. And any person who directly or indirectly gives offers or promises to give any such fee advantage or reward shall for every such offence be liable to imprisonment with or without hard labour for a period not exceeding seven years and to a fine not exceeding six hundred pounds and in default of payment to a further term of imprisonment with or without hard labour for a period not exceeding two years.

Bribery of Inspectors.

77. Every Liquor Traffic Inspector or Sub-Inspector shall have power and authority to—

Powers of Inspectors.

- (1) Enter any licensed premises wherein he shall have reasonable grounds to suspect that any adulterated liquor is sold; and search for and demand to have delivered to him samples of any liquor sold or kept on such premises and on refusal or neglect to supply such samples he may seize and carry away a sufficient quantity for the purpose of investigation; and every person so refusing or resisting or declining entrance as aforesaid shall be liable on conviction to a penalty not exceeding twenty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months;
- (2) Apply to the person in charge of any licensed premises to purchase any liquor in the said premises and tender the price of the quantity he shall require for the purpose of analysis

not being more than shall be reasonably requisite and if the person in charge of such premises shall refuse to sell the same to him he shall be liable to a penalty not exceeding twenty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

The Inspector or Sub-Inspector purchasing or otherwise obtaining liquor with the intention of submitting the same to analysis shall notify his intention to the seller and shall leave with the seller a bottle thereof sealed or fastened up and shall take with him a bottle similarly sealed and fastened up for submission to analysis.

·LOCAL OPTION.

Prohibition of sale
of liquor by vote.

78. (1) The sale of liquor in any village town or ward of a municipality may be totally prohibited therein by a vote to that effect of the majority of the voters or if there be no voters of the white male persons above the age of twenty-one years residing or occupying premises in such village town or ward.
- (2) On such vote being taken it shall not be lawful for the Licensing Court to grant any certificate for a license for the sale of liquor in respect of any premises situated in such village town or ward as the case may be until or unless a majority of such voters or such white male persons as aforesaid by a vote taken in the same manner as such previous vote approve of the withdrawal of the prohibition of the sale of liquor as aforesaid; provided always that a vote of such voters or white male persons under this sub-section shall not be taken until the expiration of three years from the date of any previous vote.
- (3) It shall be lawful for the Lieutenant-Governor to make regulations providing for the manner in which such vote shall be taken and he shall order such vote to be taken on the receipt of a requisition to him to that effect signed by one-tenth of such voters or white male persons as the case may be.
- (4) For the purposes of this section the provisions of sub-section (2) of section *thirty-three* shall apply.
- (5) This section shall not apply to hotel or railway station liquor licenses and shall only take effect in any village town or ward

when and as soon as the Lieutenant-Governor by a Proclamation in the *Gazette* has so declared.

79. (1) The sale of liquor by retail, save as hereinafter excepted, in any village town or ward of a municipality may be placed under the sole and exclusive control of any local authority or of any company or association of persons, formed for the purpose of devoting any profits made from the sale of liquor or such portion thereof as the Lieutenant-Governor may approve of, to some public purpose by a vote to that effect of the majority of the voters or if there be none of the white male persons above the age of twenty-one years residing in such village town or ward.

Exclusive sale of liquor by local authority of company or association of persons approved of by the Lieutenant-Governor.

- (2) If after such vote has been taken and before it has been revoked as hereinafter provided such local authority company or association with the approval of the Lieutenant-Governor applies for certificates for the grant or renewal of licenses for the sale of liquor under this Ordinance at any meeting of the Licensing Court held after the taking of such vote it shall not be lawful for the said Court to grant any certificate for the issue or renewal of a license for the sale of liquor by retail to any person other than such local authority company or association, but it may grant to such local authority company or association certificates for the issue or renewal of any licenses to sell liquor under this Ordinance as such local authority company or association may apply for: provided always that the application for certificates for the issue of licenses shall be made by such local authority company or Association at the first or second meeting of the Licensing Court held after the taking of such vote as aforesaid; and provided further that such vote as aforesaid may be revoked by a vote of the majority of the voters or white male persons mentioned in sub-section (1) taken in the same manner as such previous vote after the expiration of three years from the date of the taking of such previous vote or before the expiration of three years if the Lieutenant-Governor on good cause shown shall direct a fresh vote to be taken.
- (3) Any such local authority company or association obtaining any license for the

sale of liquor shall be deemed and taken to be the holder of a license under this Ordinance and shall be subject to the same duties and obligations and liable to the same penalties to which the holder of a similar license under this Ordinance is subject and liable to save and except the penalty of imprisonment provided that such exception shall not apply to any servant of such local authority company or association contravening the provisions of this Ordinance.

- (4) The provisions of sub-sections (3) (4) and (5) of the last preceding Section shall *mutatis mutandis* apply to this Section.

MISCELLANEOUS.

80. Every license granted on a certificate from the Licensing Court may be issued for six or twelve months but shall expire on the thirty-first day of December of the year in which it was issued; in every case however in which application for the renewal of a license is made such license shall continue in force until the conclusion of the meeting of the Licensing Court at which such application is made.

81. Any licensed person being the keeper of any inn or hotel to whom any person shall be indebted for board or lodging or for the keep or expense of any horse or other animal left with or standing at livery in the stables of such licensed person shall be entitled to cause to be sold any property which may have been deposited with him or left in the house he keeps or on the premises belonging thereto subject to the following provisions and conditions:—

- (1) No such property shall be sold unless the same shall have been for the space of one month in the charge or possession of such licensed person without such debt being paid or satisfied.
- (2) If the address of the debtor shall be known to such licensed person notice in writing shall be given or sent by post prepaid informing him that unless within ten days from the date of such notice the debt be paid or satisfied the property in question shall be sold.
- (3) If the address of the debtor shall not be known notice shall be given by advertisement in some newspaper circulating in the district at least once a week during three weeks of the intended sale.
- 4) If after the expiration of the period stated in any such notices respectively the debt shall not be paid the person having custody

Licenses to expire on thirty-first day of December.

Recovery of debts.

of any such property may require the Messenger of the Court of the Resident Magistrate of the district to sell such property by auction.

- (5) The Messenger if so required shall make an inventory of such property and deal therewith precisely as if such property had been properly attached by legal process. Such Messenger shall lodge with the Clerk of the Court of the Resident Magistrate all documents and accounts which in the case of the execution of a writ he would be required to lodge or such as the Resident Magistrate may order or require.
- (6) The Messenger after payment out of the proceeds of any sale of the fees and charges due to him in respect of such sale according to the scale allowed in civil process and upon taxation thereof by the Clerk of the Court shall pay to the licensed person the amount due to him including the cost of postage on or of advertising any such notice as aforesaid and if there be any surplus such surplus shall be paid to the debtor.

82. No person shall recover any sum of money or maintain any suit at law on account of any liquor sold by him on credit to any person for consumption on the premises except in the case of liquor supplied in moderate quantities with meals to any person actually lodging with such first-mentioned person.

Purchase price of liquorsold on credit not recoverable by law.

83. (1) No person shall receive in payment or as a pledge or security for any liquor or entertainment supplied in and from his licensed premises anything except current money, cheques on bankers or orders for payment of money.

How payments for liquor or entertainment to be made.

- (2) The person to whom anything pledged in contravention of this section shall belong shall have the same remedy for recovering any such thing or the value thereof as if it had not been pledged.
- (3) No person shall receive payment in advance for any liquor to be supplied. Any payment so made in advance may be recovered notwithstanding that any liquor may have been supplied subsequently to such payment.

84. Any property which may have been left in charge of any such licensed person and not reclaimed within six months after notice such as is prescribed by section *eighty-one* has been given be sold by the Messenger in the manner directed by that section.

Property left and not reclaimed.

Any person may prosecute.

85. Any person may prosecute any offender for contravening the provisions of this Ordinance; and in any summons or information it shall be sufficient to set forth the offence charged in the words of this Ordinance or in similar words without inserting or negating any exception exemption or qualification but any such exception exemption or qualification may be proved by the defendant.

How penalties to be recovered.

86. For the purposes of recovering any penalty imposed under the provisions of this Ordinance execution may be levied upon all goods and chattels found on the premises upon or in respect of which the offence shall have been committed whether the said goods and chattels be or be not the absolute property of the person upon whom the penalty was imposed. The provisions of this section shall not apply to goods the *bona fide* property of lodgers and travellers or of persons who may leave or deposit such goods for safe custody or convenience or for the purpose of being worked by any handicraftsman.

Powers of Lieutenant Governor.

87. (1) If through any accident or omission anything required by this Ordinance to be done is omitted to be done or is not done within the time fixed the Lieutenant Governor may order all such steps to be taken as may be necessary to rectify any error or omission and may validate anything which may have been irregularly done in matter or form so that the intent and purpose of this Ordinance may have effect. The Lieutenant Governor may also authorize the holding of a special meeting of any Licensing Court in the event of any emergency requiring that a special meeting should be held, or for the purpose of hearing an application for an hotel liquor license in respect of premises which were not completed or ready for occupation prior to the last meeting of the Licensing Court and which are valued at an amount exceeding ten thousand pounds.

Licenses granted at special meetings.

(2) Any license granted at any special meeting of the Licensing Court shall continue in force only until the close of its next usual meeting; and the amount payable on such license shall be proportionate to the period for which it is in force.

Lieutenant-Governor may make regulations for proceedings of Licensing Courts.

88. The Lieutenant-Governor may from time to time make alter and revoke regulations not being contrary to the provisions of this Ordinance for regulating the proceedings and meetings of Licensing Courts and the remuneration if any of the members thereof prescribing the forms of licenses notices and other documents to be used and generally for the more efficient administration of this Ordinance.

89. It shall be lawful for the Lieutenant-Governor by Proclamation in the *Gazette* when requested by any local authority to define areas in the neighbourhood of mines manufactories or other centres of labour within which areas all premises in which liquor is sold under a general retail or bottle liquor license shall be closed at noon on Saturday or such other one day of the week as the Lieutenant-Governor may determine; and any holder of a general retail or bottle liquor license within any such area who shall sell or dispose of any liquor contrary to the terms of such notice after the hour of noon upon a day so determined shall upon conviction be liable to all the penalties provided for selling dealing in or disposing of intoxicating liquor without a license.

Lieutenant-Governor may order closing of licensed premises on certain days.

90. The cost incurred by members of any Licensing Court in connection with legal proceedings instituted against them in their official capacity shall unless the Court before which the proceedings are taken order the costs to be borne by the opposite party or by the said members *de bonis propriis* be paid to them out of the Colonial Treasury.

Costs of proceedings

91. All licenses and privileges granted by the Liquor Licensing Commission sitting at Johannesburg and by the Pretoria Licensing Board sitting at Pretoria shall continue in force until the close of the first meeting of the Licensing Court under this Ordinance and all applications for new licenses or the renewal of licenses to the said Commission or Board pending at the date of the taking effect of this Ordinance shall be deemed and taken to be applications for new licenses to the Licensing Court created by this Ordinance and all objections made to such applications shall be taken to be objections made under this Ordinance.

Licenses granted by Liquor Commission at Johannesburg and Licensing Board at Pretoria.

92. This Ordinance may be cited for all purposes as the "Liquor Licensing Ordinance 1902" and shall take effect from and after the fifteenth day of November, 1902.

Title.

Passed in Council the seventeenth day of October, One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 23rd October, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 27th October, 1902.

FIRST SCHEDULE.

Volksraad Resolution, 27th May, 1875, Article 148.
 Law No. 1 of 1892, Sections *three* and *four*.
 Law No. 19 of 1898. The whole.
 Proclamation Transvaal No. 36 of 1901. The whole.
 Proclamation No. 24 of 1900, Section *nineteen*.
 Proclamation No. 15 of 1901, Section *thirty-seven*.

SECOND SCHEDULE.

Sums payable for or in respect of liquor licenses granted renewed or transferred under the Liquor Licensing Ordinance 1902 :—

		For twelve months.	For six months.
1	Wholesale or Brewers' Liquor License	£50	£27 10 0
2	Hotel Liquor License	25	13 10 0
3	Hotel (Village or Roadside) Liquor License	15	9 0 0
4	Restaurant or Café Liquor License	25	13 10 0
5	Malt Liquor License. . . .	25	13 10 0
6	Bottle Liquor License	50	27 10 0
7	General Retail Liquor License	100	55 0 0
8	General Retail Liquor License (in village of not more than four hundred white male persons over the age of sixteen)	50	27 10 0
9	Club Liquor License. . . .	50	27 10 0
10	Railway Station Liquor License	40	22 0 0
11	Theatre Liquor License	50	27 10 0
12	Temporary Liquor License	£1 per day	

The holder of a general retail liquor license may hold an hotel liquor license or café liquor license for the same period without the payment of any sum in addition to the amount paid by him in respect of his general retail liquor license.

THIRD SCHEDULE.

Licenses.	Number of Bottle Stores.	Number of Retail Licenses.	Number of Retail Licenses outside of Towns and Villages.	Total Population per Retail and Bottle Store.
Existing before the holding of Court . .				
Renewed . .				
Transferred . .				
New Licenses . .				
Refused . .				

No. 33 of 1902.]

*Clerk to the Executive and
Legislative Councils*

ORDINANCE

For the Regulation of Volunteer Corps.

WHEREAS it is expedient that the "Volunteer Corps Ordinance 1902" should be amended and that provision be made for the discipline and maintenance of Volunteer Corps while on active or military service:

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Definition of terms.

1. In this Ordinance unless the context otherwise denotes the following expressions in inverted commas shall bear the meanings respectively set opposite them:—

"Active Service."—Any Volunteer Corps shall be deemed to be on active service—

(1) When it has been called out for active service by Proclamation under this Ordinance;

(2) When it is in military occupation of any place outside this Colony.

"Camp followers" means sutlers servants and all others who accompany the force or any portion of the force when in camp or on military service.

"Commanding Officer of a Corps" means the senior officer in command of any regiment battery battalion half-battalion contingent or corps or in his absence the officer next in seniority present.

"Contingent" means two or more squadrons or companies combined together for administrative purposes.

"Corps" means troops of a mounted squadron a company of infantry medical staff or ambulance volunteers; also any corps squadrons or companies when formed into contingents regiments or battalions.

"Efficient."—A volunteer who has completed the requirements for efficiency as

defined in the Regulations made under this Ordinance.

“Equipment” signifies the arms accoutrements and all articles except clothing worn or carried by a volunteer or his horse; and includes all ordnance machine guns harness stores tents and ammunition issued to volunteers individually or collectively.

“Military Service.”—Volunteers shall be considered to be on military service

- (1) when called out by the Lieutenant-Governor under this Ordinance to aid the Civil Power in the protection of life or property; or
- (2) When assembled in or during the time of any camp of training or instruction or when going to or returning from any such camp or while engaged in any military exercise or drill, or when called out for any escort duty or guard of honour or while in uniform on duty at any time or place.

“Non-Commissioned Officer” includes an acting non-commissioned officer.

“Officer.”—Any person holding a commission or whose appointment as an officer has been notified in the *Gazette*.

“Permanent Staff.”—All officers warrant officers non-commissioned officers drill instructors armourers and storekeepers or any other persons appointed under *Section eighteen* of Part I. of this Ordinance who shall while holding their appointments be deemed to be always on Military service.

“Regiment or Battalion.”—A combination of squadrons companies corps or contingents formed into a body not exceeding the establishment fixed by the Regulations made under this Ordinance for a regiment or battalion.

“Regulations” means Regulations made under the provisions of this Ordinance.

“Reserve Volunteers or Reserves” comprises all volunteers serving in a Reserve of any Volunteer Regiment under the provisions of this Ordinance.

“Volunteer” means any officer warrant officer non-commissioned officer or man belonging to a Volunteer Corps and enrolled under this Ordinance.

Lieutenant-Governor may accept services of Volunteer Corps.

2. The Lieutenant-Governor may accept the services of any persons desiring to be formed under this Ordinance into a Volunteer Corps for Military duties on such terms as he may think fit; and in such acceptance the proposed corps shall be deemed to be lawfully formed into a Volunteer Corps under this Ordinance.

Governor may discontinue service of any Volunteer Corps.

3. The Lieutenant-Governor may at any time discontinue the services of and cause to be disbanded any Volunteer Corps formed under the last preceding Section; and he may dispense with the services of or dismiss any member of any Volunteer Corps.

Volunteer Corps liable to service whenever required.

4. Every Volunteer Corps whose services are accepted after the taking effect of this Ordinance shall be liable to serve within this Colony subject to the provisions of this Ordinance for and during any period and wherever the interests of the Colony may require.

Lieutenant-Governor may call out Volunteer Corps for active or military service.

5. (1) It shall be lawful for the Lieutenant-Governor in case of danger to the Colony from without or of actual or apprehended invasion or rebellion by Proclamation in the *Gazette* to call out for active service the whole or any portion of any Volunteer Corps constituted by this Ordinance; and any member of such force not incapacitated by bodily infirmity who refuses or neglects to assemble or march as ordered shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding one year.

(2) It shall be lawful for the Lieutenant-Governor to call out the whole or any part or portion of a Volunteer Corps constituted by this Ordinance for the protection of life or property; any member of a Volunteer Corps so called out who not being prevented by bodily infirmity or any other reasonable cause refuses or neglects to obey such order shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

6. Any Volunteer Corps which has been called out on active or military service shall assemble at such place and time as may be notified and shall be liable to render the active or military service required of it; and every such corps so called out shall so long as their services may be lawfully required by the Lieutenant-Governor be subject to the provisions of Part II. of this Ordinance.

Effect of Volunteer Corps being called out on active or military service.

7. Whenever any Volunteer Corps is on active or military service or is undergoing inspection or is voluntarily doing any military duty the Lieutenant-Governor may place it under the command of such officer of the Imperial Forces as he may appoint; provided that the officer so appointed shall be senior in rank to every officer of the corps so placed under his command and that such corps shall be led by its own officers under such command as aforesaid.

Command when on active service

8. Every officer of a Volunteer Corps shall be appointed and commissioned by the Lieutenant-Governor.

Officers of Volunteer Corps.

9. All volunteers while on active service or on military service for the protection of life or property shall be entitled to pay at such rates according to their respective ranks as the Lieutenant-Governor may determine.

Payment when on active or military service.

10. The Lieutenant-Governor may from time to time make regulations for all or any of the matters or things following:—

Rules and regulations.

- (1) The mode of enrolment of volunteers and the disbandment of any Volunteer Corps.
- (2) The appointment promotion and rank of volunteer officers.
- (3) The appointment of non-commissioned officers.
- (4) The qualifications entitling a volunteer to be deemed efficient.
- (5) The constitution assembling and mode of procedure of courts of enquiry to receive and examine evidence relating to and report upon any matter connected with the government or discipline of any Volunteer Corps or on any charge brought against any officer or member of any such corps.
- (6) The power of arrest and maintenance of discipline among volunteers when not on active or military service.

- (7) The power of a commanding officer to dismiss any member of his corps.
- (8) The payment and recovery of subscriptions fines and penalties.
- (9) The general government and management of Volunteer Corps.

Liabilities of
volunteer
after dis-
missal.

11. Every volunteer who has been dismissed by the Lieutenant-Governor or by the commanding officer of his corps shall be bound to deliver up in good order fair wear and tear only excepted all arms clothing and appointments which are public property or the property of the corps and which have been issued to him and he shall be liable to pay all money due or becoming due by him under the rules of his corps either before or at the time of or by reason of his dismissal.

Penalty for
contraven-
tion of
regulations.

12. Every volunteer who shall be guilty of contravening any of the regulations made by the Lieutenant-Governor shall upon conviction be liable to a penalty not exceeding ten pounds which penalty may be recovered before any Court of Resident Magistrate having jurisdiction at the instance of any officer of the corps to which the offender belongs.

Misconduct
whilst on
duty or in
uniform.

13. If any volunteer while under arms or on march or duty or while engaged in any military exercise or drill with his corps or any portion of it or while wearing his uniform and going to or returning from any place of exercise or assembly of his corps disobeys any lawful order of any officer under whose command he then is or is guilty of misconduct the officer in command of his corps may order the offender if not an officer into custody of any member of his corps or of any volunteer non-commissioned officer; provided that such arrest or custody shall not continue any longer than the time during which the corps or portion of a corps to which the offender belongs remains under arms or on the march or duty or continues to be engaged in the military exercises or drill as aforesaid.

Conditions
on which
volunteer en-
rolled under
this Ordi-
nance may
quit corps.

14. (1) Every volunteer enrolled under the provisions of this Ordinance shall be enrolled for a minimum period of one year but he may obtain his discharge at an earlier date—

(a) If he shall produce proof to the satisfaction of the commanding

officer of his corps that he is about to remove from the Colony or that he is prevented by ill-health from continuing to serve ;
or

- (b) If he shall pay to the commanding officer for the benefit of the funds of the corps such sum of money by way of penalty as the Lieutenant-Governor may by regulation determine.
- (2) Every volunteer taking his discharge whether on or before the expiration of one year from the date of his enrolment shall—
- (a) Give to the commanding officer of his corps one month's notice in writing of his intention to quit the corps;
 - (b) Deliver up in good order and condition fair wear and tear only excepted all arms clothing and accoutrements being the property of the Government or of his corps issued to him or placed under his charge;
 - (c) Pay all money due or becoming due under any regulation of the corps either before or at the time of or by reason of his quitting the corps.
- (3) No volunteer shall be allowed to take his discharge after the issue of a Proclamation under Section *Five* of this Ordinance until the termination of the period of active service unless permitted by the Lieutenant-Governor in writing.

15. If any volunteer give notice of his desire to obtain his discharge under the provisions of the foregoing Section and the commanding officer refuses to strike him out of the muster roll and the volunteer considers himself aggrieved thereby the volunteer may appeal to the Resident Magistrate of the district in which the headquarters of the corps are situate who shall hear and determine the appeal and may for the purpose thereof administer oaths and summon and examine any person as a witness and if it appears to such Resident Magistrate that arms clothing and accoutrements issued to the volunteer being public

Appeal from
Commanding
Officer to
Resident
Magistrate.

property or property of his corps have been delivered up in good order (fair wear and tear only excepted) or that he has paid or is ready to pay sufficient compensation for any damage that such articles may have sustained and that all money due or becoming due by him under the rules of his corps either before or at the time of or by reason of his quitting it has been paid such Magistrate may order the commanding officer forthwith to strike the name of such volunteer out of the muster roll of his corps and his determination shall be binding on all persons.

Expenditure of money for proper equipment of Volunteer Corps.

16. The Lieutenant-Governor may with the consent of the Executive Council make provision out of money voted for that purpose for the proper equipment maintenance and pay of any Volunteer Corps constituted by this Ordinance.

Muster roll for every Volunteer Corps.

17. There shall be a muster roll for every Volunteer Corps in which the name of every person who joins and also the date of his joining withdrawal discharge or dismissal from his Corps shall be inserted. And every officer on appointment and every man on joining shall take an oath or declaration as laid down by Regulation either before a Justice of the Peace or any officer of the corps if such officer has previously taken the oath or declaration before a Justice of the Peace.

Volunteer Corps Permanent Staff.

18. The Lieutenant-Governor may from time to time constitute for any volunteer corps a permanent staff consisting of such officers warrant officers and non-commissioned officers as he may deem fit. For these purposes all such officers shall be deemed officers of the respective corps and all such warrant and non-commissioned officers shall be deemed to belong to the respective corps on the permanent staff whereof they serve; and shall be deemed respectively officers and non-commissioned officers of the Volunteer Permanent Staff but nothing shall be taken to exempt any officer or non-commissioned officer of the permanent staff of a volunteer corps from being subject to the orders of the officers of the corps according to their rank and the laws and usages of the Volunteer Forces.

Formation and liabilities of reserves.

19. The Lieutenant-Governor may from time to time sanction the formation of a Reserve for any Volunteer Regiment and

may under such conditions as may be prescribed provide arms, accoutrements and ammunition for them.

The Lieutenant-Governor may from time to time frame regulations for the discipline and efficiency of such Reserves; such regulations may prescribe penalties for the breach of any regulations; such penalties shall not exceed in amount and shall be recoverable in the same manner as penalties imposed under any Volunteer Regulations framed under this Ordinance.

Officers and non-commissioned officers may be appointed by the Lieutenant-Governor to such Reserves and shall be subject to removal in the same manner as officers and non-commissioned officers of the Volunteer Force.

The whole or any portion of the Reserves may be called out for military or active service in the same way as if they were a portion of the Volunteer Force under this Ordinance: but the Reserves in any district shall not be called out for active service until the whole of the Volunteer Force in that district has been called out for active service.

PART II.

Discipline.

20. This part of the Ordinance shall apply to the following persons:

- (a) Volunteers when on active service or military service.
- (b) Reserves when on active or military service.
- (c) Persons who are followers of or who accompany any portion of the Volunteer Force of the Colony when employed on active or military service.

Application of this part of Ordinance.

Offences Tribunal and Punishment.

21. Every person subject to Part II. of this Ordinance who is guilty of any of the offences specified in the Schedule to this Ordinance shall be liable upon conviction in manner hereinafter set forth to be punished to the extent herein provided.

Liability to punishment for offences.

22. Every person subject to Part II. of this Ordinance may subject to the provisions

Tribunals.

hereinafter contained be tried and punished for the offences under this Ordinance.

(a) By a Military Tribunal as follows:

1. The commanding officer of the offender.
2. An ordinary Court of Officers constituted as hereinafter provided.
3. A special Court of Officers constituted as hereinafter provided.

(b) By a Civil Tribunal as follows:

4. The Magistrate of the District in which the offence has been committed.
5. Any Superior Court having jurisdiction at the place where the offence was committed.

Jurisdiction
of Tribunals.

23. The tribunals in the last Section mentioned shall have power to sentence and award punishment within the following limits:—

Commanding
Officer.

(1) A commanding officer whether the offender be on active service or on military service may—

(a) In the case of a private soldier:

1. Inflict a fine not exceeding ten pounds.
2. Sentence to imprisonment with or without hard labour for any period not exceeding seven days;
3. For the offence of drunkenness order the offender to pay a fine not exceeding one pound either in addition to or without imprisonment with or without hard labour;
4. In addition to or without any other punishment order the offender to suffer any deduction from his ordinary pay to an amount not exceeding five days' pay: Provided always that an offender ordered by his commanding officer to suffer imprisonment or pay a fine or to suffer any deduction from his ordinary pay shall if he so request have a right to be tried by an ordinary Court of Officers instead of submitting to such imprisonment fine or deduction.

(b) In the case of a non-commissioned officer sentence the offender to be reduced to any lower grade or to the ranks.

(c) In the case of a person subject to this Ordinance not in receipt of ordinary military pay the commanding officer may inflict a fine not exceeding two pounds or in default

of payment imprisonment with or without hard labour for a period not exceeding seven days.

- (2) An ordinary Court of Officers may whether the offender is on active service or on military service—

Ordinary
Court of Offi-
cers.

- (a) Inflict a fine not exceeding fifteen pounds with the alternative of imprisonment with or without hard labour for any period not exceeding three months if such fine be not paid; or
- (b) Sentence to imprisonment with or without hard labour for any period not exceeding six months;
- (c) In the case of a non-commissioned officer or private in addition to or instead of punishment under (a) and (b) sentence the offender to be dismissed the service or in the case of a non-commissioned officer to be reduced to any lower grade or to the ranks.

- (3) A special Court of Officers may in case of an offender who is on military service

Special Court
of Officers.

- (a) Inflict a fine not exceeding twenty-five pounds with the alternative of imprisonment with or without hard labour for any period not exceeding six months if such fine be not paid; or
- (b) Sentence to imprisonment with or without hard labour for any period not exceeding one year—
- (c) In the case of a non-commissioned officer or private in addition to or instead of punishment under (a) and (b) sentence the offender to be dismissed the service or in the case of a non-commissioned officer to be reduced to any lower grade or to the ranks;
- (d) In the case of an officer in addition to or instead of punishment under (a) and (b) sentence the offender to be dismissed the service or to forfeit his seniority in the Volunteer Forces or in his own corps or in both;

And in the case of an offender who is on active service may—

- (e) Sentence the offender to death; or
- (f) Sentence to imprisonment with

- or without hard labour for any period not exceeding fifteen years; and also
- (g) Award the punishments set forth in (a) (c) and (d) of this Sub-Section under the conditions therein provided.
- Resident Magistrate (4) A Resident Magistrate may upon conviction sentence the offender whether he be on active service or on military service—
- (a) To be imprisoned with or without hard labour for any period not exceeding one year; or
- (b) To pay a fine not exceeding twenty-five pounds or in default of payment to be imprisoned with or without hard labour for six months; or
- (c) To both such fine and such imprisonment.
- Superior Court. (5) A Superior Court may sentence the offender if on military service to such punishment by way of fine or imprisonment or both as to the said Court shall seem meet; and if on active service to death or to such punishment as aforesaid;
- Proviso. (6) Provided always that no Volunteer shall be sentenced to death by any military tribunal except for mutiny desertion to the enemy traitorously delivering up to the enemy any garrison fortress post or guard or for traitorous correspondence with the enemy.
- Effect of imprisonment of officer. (7) Every officer imprisoned in terms of this Section shall be deemed to have been dismissed and shall at once cease to be a member of the Volunteer Forces.
- Effect of imprisonment of non-commissioned officer. (8) Every non-commissioned officer imprisoned or dismissed the service under this Section shall be deemed to have been reduced to the ranks.

Arrest and Investigation.

Offender taken into military custody. 24. Every person subject to Part II. of this Ordinance may when charged with an offence under this Ordinance be taken into military custody.

Who may order into military custody. 25. An officer of the Volunteer Forces may order into military custody any officer of the said Forces of inferior rank or any

member who is not an officer and any non-commissioned officer may order into military custody any member who is junior to him. An officer of the said Forces may order into military custody any other such officer (though he be of higher rank) engaged in a quarrel fray or disorder. Any such order shall be obeyed notwithstanding that the person giving the order and the person in respect of whom the order is given do not belong to the same corps or the same branch of the Volunteer Forces.

26. The charge made against every person taken into military custody under this Ordinance shall without unnecessary delay be investigated by the proper authority; and as soon as possible either proceedings shall be taken for trying the accused and punishing the offence or such person shall be discharged from custody.

Investigation of charge.

27. When any person subject to Part II. of this Ordinance has been ordered into military custody as hereinbefore provided or has been charged with the commission of an offence under this Ordinance it shall be the duty of the commanding officer of such person to investigate with as little delay as possible the charge against him; and upon such investigation such commanding officer shall—

Duty of Commanding Officer in investigating charge.

- (a) Dismiss the charge; or
- (b) In case the accused is not an officer deal with the charge summarily under Section *twenty-three* of this Ordinance; or
- (c) Direct in writing that the charge be investigated and dealt with by an ordinary Court of Officers and take the prescribed steps to convene the said Court.
- (d) If the charge is in his opinion too serious to be dealt with under his summary jurisdiction or by an ordinary Court of Officers report the matter with a summary of the facts to superior authority such as the General or other Officer Commanding the Military District, in which the offence was committed.

28. Any such superior authority as aforesaid to whom such report is made shall having regard to the nature and gravity of the charge direct in writing—

Duty of superior authority upon reports of Commanding Officer.

- (a) That the accused be released and the charge dismissed; or
- (b) That the charge be remitted to be investigated and dealt with by an ordinary Court of Officers; or
- (c) That the accused be brought to trial before the Resident Magistrate of the district in which the offence is alleged to have been committed and take or cause to be taken the necessary steps according to law to bring the accused to trial; or
- (d) That the charge be investigated and dealt with by a special Court of Officers and take the prescribed steps to convene the said Court; or
- (e) If the charge in his opinion is too serious to be dealt with by a special Court of Officers or by a Resident Magistrate he shall report with a summary of the facts received by him and with his own remarks thereon to the General Officer Commanding or in the absence of such appointment the senior officer of the Forces.

Duty of General Officer Commanding upon report of superior authority.

29. The General Officer Commanding when any case has been submitted to him under Section *twenty-eight* of this Ordinance shall after perusing the summary of facts and report and considering the nature of the charge direct in writing

- (a) That the accused be released, and the charge be dismissed; or
- (b) That the charge be remitted to be investigated and dealt with by an ordinary or by a special Court of Officers or by the Magistrate of the district in which the offence is alleged to have been committed; or
- (c) That the accused be brought to trial before any superior Court having jurisdiction where the offence is alleged to have been committed and take the necessary steps to bring the accused to trial.

The time within which investigation must take place.

30. It shall be the duty of every commanding officer to see that no person under his command when charged with an offence under this Ordinance is detained in military custody for a longer period than forty-eight hours without the charge against such person being duly investigated unless such investigation is impracticable due regard being

had to the exigencies of the public service. Every case of detention beyond the said period and the reason for such longer detention shall be reported by the commanding officer to the officer commanding the district garrison or station as the case may be where the accused is serving.

31. Nothing in this Ordinance shall prejudice the power of a commanding officer to award such minor punishments as he may be authorised by the regulations to inflict.

Power of Commanding Officer to award minor punishments reserved.

COURTS.

32. An ordinary Court of officers may be convened by any commanding officer or by any officer authorised in pursuance of this Ordinance to convene a special Court and with regard to it the following provisions shall apply:—

Composition of ordinary Court.

- (1) It shall consist of not less than three officers.
- (2) The President of the Court shall be appointed by the convening officer and he shall not be under the rank of captain unless in the opinion of the convening officer (such opinion to be expressed in the order convening the Court and to be conclusive) a Captain is not available in which case an officer of any rank may be President.
- (3) An ordinary Court shall not try an officer.

33. A special Court of officers may be convened by the General Officer Commanding or by some officer authorised by warrant issued by the Lieutenant-Governor to convene a special Court and with regard to it the following provisions shall apply:—

Composition of Special Court.

- (1) It shall consist of not less than five officers unless the officer convening the Court is of the opinion that five officers are not available in which case the Court may consist of three officers.
- (2) The President shall be appointed by the convening officer and he shall not be under the rank of a field officer unless in the opinion of the convening officer to be expressed in the order convening the Court and to be conclusive a field officer is not available in which case an

officer not below the rank of captain may be President.

- (3) If the special Court be convened for the trial of an officer the members of the Court shall not be of a rank inferior to that officer unless in the opinion of the convening officer to be stated in the order convening the Court and to be conclusive officers of the required rank are not available but in no case shall an officer below the rank of captain be a member of a special Court for the trial of a field officer.

One member of Court to belong to Volunteers.

34. With regard to all Courts unless the convening officer states in the order convening the Court that in his opinion it is not, having due regard to the public service, practicable one member of the Court at least shall belong to the Volunteer Forces.

Disqualification as members of Court.

35. The following officers shall not except where otherwise provided form one of the Court for the trial of any prisoner:—

- (1) The convening officer except on active service;
- (2) The prosecutor;
- (3) A material witness for the prosecution;
- (4) An officer having a personal interest in the case.

Prisoner may object to members of Court for cause.

36. A prisoner about to be tried by any Court may object for any reasonable cause to any member of the Court including the President whether appointed to serve thereon originally or to fill a vacancy caused by the retirement of an officer objected to.

Mode of dealing with such objections.

37. With regard to objections under the last preceding Section, the following provisions apply:—

- (1) The names of the officers appointed to form the Court shall be read out in the hearing of the prisoner on their first assembling and he shall be asked whether he objects to any such officers; and a like question shall be repeated in respect of any officer appointed to serve in lieu of a retiring officer.
- (2) Every objection made by a prisoner to any officer shall be submitted to the other officers appointed to form the Court.
- (3) If an objection be allowed by one half or more of the votes of the

officers entitled to vote then the officer objected to shall retire and his vacancy shall be filled by another officer in the prescribed manner.

38. An oath shall be administered by the prescribed person and in the prescribed form to every member of the Court before the commencement of the trial and the proceedings at any trial by any Court shall be recorded in writing by the President or a member of the Court in such manner as may be prescribed.

Oath to be taken by members of Court.

39. A Court shall deliberate on its findings and sentence in closed Court and the opinion of each member of the Court shall be taken separately on each finding.

Court to deliberate in closed Court.

40. The decision of a majority of the members of a Court including the President shall be the decision of the Court. In the case of an equality of votes on the finding the prisoner shall be acquitted; but in the case of an equality of votes on the sentence or any question arising after the commencement of the trial except the finding the President shall have a second or casting vote.

Majority's decision to hold good.

41. If the finding on the whole of the charges against a prisoner is "not guilty" the President shall date and sign the proceeding and the finding shall be announced in open Court and the prisoner shall be released in respect of these charges and the proceedings shall be transmitted in like manner as is directed in the case where the findings and sentence require confirmation.

Finding of "not guilty."

42. If the finding on any charge is "guilty" then the Court may before deliberating on its sentence take and record evidence of the prisoner's character age service and rank previous convictions and the length of time he has been under arrest or in confinement.

Finding of "guilty."

43. Upon the Court awarding the sentence the President shall date and sign the sentence; and such signature shall authenticate the whole of the proceedings; and the proceedings shall at once be transmitted for confirmation to the confirming authority as hereinbefore defined.

Sentence.

44. Every witness before a Court shall be examined on oath which the President shall administer in the prescribed form.

Witnesses to be examined on oath.

Summons to
give evidence

45. Every person who may be required to give or produce evidence in any case pending before any ordinary or special Court may be summoned in writing by the convening officer or President of the Court and all witnesses so duly summoned who shall not attend or attending shall refuse to be sworn or being sworn shall refuse to give or to produce the documents under their control required to be produced or to answer all lawful questions shall be liable to be dealt with by such Court in like manner as if such witness had been duly summoned to appear before a Resident Magistrate in a criminal case pending in the Court of such Resident Magistrate.

CONFIRMATION OF PROCEEDINGS.

Finding of
acquittal not
subject to
review.

46. The finding of acquittal whether on all or some of the offences with which the prisoner is charged shall not require confirmation or be subject to be revised.

Otherwise
finding re-
quires confir-
mation.

47. Subject to the provisions of the last preceding Section the finding and sentence of a Court of Officers shall not be valid except in so far as they may be confirmed by an authority authorised to confirm the same.

Authorities
having power
to confirm
sentences.

48. The following authorities shall have power to confirm the findings and sentences of Courts that is to say:

- (1) In the case of an ordinary Court an officer authorised to convene the same or a special Court.
- (2) In the case of a special Court the General Officer Commanding or some officer authorised by warrant issued by the Lieutenant-Governor to convene such Courts.

President of
Court to
transmit pro-
ceedings to
confirming
authority.

49. As often as any ordinary or special Court shall sentence any offender under this Ordinance the President shall after signing the proceedings as hereinbefore provided transmit the original together with such remarks if any as he may desire to append to the confirming authority who shall have power to confirm the same or to send back the finding and sentence or either of them once but not more than once for revision.

Duty of
confirming
authority.

50. In confirming or refusing confirmation the confirming authority may add any remarks on the case which he may think fit; and such confirmation refusal and remarks

shall be entered in and form a part of the proceedings and such proceedings shall be promulgated in such manner as may be prescribed and after promulgation shall be forwarded to the General Officer Commanding.

51. When the finding or sentence of any Court has been sent back for revision it shall not be lawful for the Court to receive any additional evidence. Where the finding only is sent back for revision the Court shall have the power to revise the sentence also. But in no case shall the confirming authority recommend the increase of a sentence nor shall the Court in revisal have any power to increase the sentence.

Where finding or sentence sent back to Court for revision.

52. The confirming authority may while confirming the sentence of any Court mitigate or remit the punishment awarded or substitute for the punishment any less punishment or punishments which under this Ordinance the Court would have had power to award.

Confirming authority may mitigate or remit punishment.

53. After a sentence passed by a Court has been confirmed the Lieutenant-Governor shall have full power at any time to mitigate or remit the punishment thereby awarded.

Lieutenant-Governor may at any time mitigate or remit punishment.

IMPRISONMENT.

54. All offenders arrested for any offence under this Ordinance, or sentenced to imprisonment by any commanding officer or Court as aforesaid may be confined in any building tent or enclosure set apart by any commanding officer as a guard-room or prison; but if found desirable such sentenced person may be removed to the nearest convenient public gaol under warrant signed by his Commanding Officer there to undergo his sentence and when so removed he shall be in the same plight and condition as if the sentence had been a sentence of one of the ordinary Courts of Law of this Colony.

Imprisonment of offenders.

55. So long as any person shall be confined in any guard-room or prison in terms of this Ordinance such guard-room or prison shall so far as he is concerned be deemed to be a public prison and such person shall be deemed to be a prisoner confined therein within the meaning of any law regulating the management and condition of prisons and prisoners.

Effects of imprisonment.

56. Any commanding officer may by writing under his hand specially appoint

Visiting Officer.

any officer under his command to be visiting officer for any guard-room or prison set apart as such by himself under this Ordinance and every officer so appointed shall have the same jurisdiction and powers with regard to such guard-room or prison and the persons confined therein as a Visiting Magistrate would have in regard to any prisoner or prisoners within his jurisdiction with the exception of infliction of corporal punishment.

Reservations of liberty to prosecution otherwise than under this Ordinance.

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

Enforcement of orders, &c., in places beyond borders of Colony.

58. Whenever it shall be necessary to enforce enactments provisions and regulations in this Ordinance mentioned in any place situate beyond the borders of this Colony the sentences fines and penalties which shall be pronounced and inflicted for the purpose of such enforcement shall be as valid and effectual and shall be carried into effect in the same manner as if the same had been pronounced in this Colony.

Mode of procedure in regard to certain offences committed beyond borders of Colony.

59. If any member of the Volunteer Forces is charged with having committed an offence under this Ordinance at some place situate beyond the borders of this Colony which offence is in the opinion of the Officer Commanding the Volunteer Forces of too serious a nature to be dealt with either by an ordinary or special Court of Officers it shall be competent for the said officer to direct that the commanding officer of such member shall take evidence upon oath as to the said charge and shall transmit the said evidence to the Attorney-General. When such evidence has been so transmitted the said commanding officer may by warrant under his hand direct the removal of the person so charged to the nearest convenient

prison inside the borders of the Colony there to await the decision of the Attorney-General with regard to the said evidence. In every such case the Attorney-General may deal with the matter in every respect as if the offence had been committed within the Colony and as if the taking of the said evidence had all the legal effect of a preliminary examination. The Attorney-General may direct that the said member shall be either discharged or brought to trial before some superior Court which Court shall have in all respects the same authority to try the said case as if the said offence had been committed at some place within the area of jurisdiction of the said Court.

60. Any term of imprisonment awarded under this Ordinance shall begin on the day of award and a term of imprisonment similarly awarded for a certain number of hours shall begin at the hour when the prisoner is received at the prison to which he is committed.

Commence-
ment of term
of imprison-
ment.

PENSIONS AND GRATUITIES.

61. In case any member of the Volunteer Forces shall be temporarily or permanently disabled by reason of any wound or injury received by him when in the field and engaged with an enemy or in the actual execution of his duty or if any member of the said Force shall in the opinion of the Lieutenant-Governor have merited the same it shall be lawful for the Lieutenant-Governor to award such member whatever may be his age or time of service such gratuity or such yearly pension as to him may seem fit but such gratuity shall not exceed an amount equal to three years' pay of his rank at the date of such injury or wound and such pension shall not exceed one hundred pounds per annum; Provided that the reasons for giving any such gratuity or pension shall be set forth in the warrant or authority granting the same.

Pensions for
disabled
members of
Volunteer
Forces.

62. No pension payable under this Ordinance shall be assignable or transferable nor shall the same be attached arrested or levied upon for or in respect of any debt or claim due by the recipient thereof or his wife.

Pension not
transferable.

63. Nothing in this Ordinance contained shall be construed so as to entitle any member of the Volunteer Forces to claim

Pension not
matter of
right.

as a matter of right any gratuity or pension as aforesaid.

Compensation for injuries.

64. It shall be lawful for the Lieutenant-Governor to award to any of the men belonging to the said Force such sum of money as to him shall seem meet as a compensation for wounds or severe injuries received in the performance of their duty or as an allowance to such of them as shall be disabled by bodily injury received.

Widow or family of Volunteer, pension to.

65. It shall be lawful for the Lieutenant-Governor to assign to the widow or family of any volunteer who may be killed in action or in active service a pension or allowance not exceeding seventy pounds per annum.

PRIVILEGES.

Exemption from payment of poll tax and railway fares.

66. (1) No volunteer shall be required to pay poll tax.

(2) Every volunteer when in uniform and provided with a pass shall be entitled to travel at half fares on Government Railways within the Transvaal between the places mentioned in the said pass.

Exemption from payment of toll.

67. Every officer and member of the Volunteer Forces when in uniform whose duty it shall be in proceeding to or from any place to pass through any toll-bar or over any ferry at or in respect of which the payment of toll shall now be or may hereafter be lawfully demanded shall be exempted from payment of any toll in respect of himself and of any animal and vehicle that may be required for the performance of the duty on which he may be employed.

Detention at Ferries.

68. If any person duly authorised to collect tolls in respect of any ferry shall wilfully subject any officer or member of the said Forces to unreasonable delay or detention in respect to the passage over such ferry then such person shall be liable in conviction to a penalty not exceeding five pounds.

Penalty for impersonation.

69. If any person not being an officer or member of the said Forces shall wilfully personate such officer or member or if any such officer or member of the Force not then being on duty shall falsely represent himself to be

on duty with the intent to evade the payment of any toll legally payable by him he shall on conviction be liable to a penalty not exceeding five pounds sterling or in default of payment to imprisonment for a period not exceeding one month unless such fine be sooner paid.

70. If any person shall in consequence of the sale pledge or other disposition of any animal arms ammunition accoutrements or equipment made by any member of the Volunteer Forces in contravention of the regulations knowingly receive or have any such animal arms ammunition accoutrements or equipment above mentioned such person shall incur and be liable to a fine not exceeding twenty pounds in respect to each such animal article matter or thing and in default of payment thereof shall be liable to be imprisoned with or without hard labour for any period not exceeding three months unless such fine be sooner paid.

Penalty for receiving arms &c. from members of Force contrary to regulations.

71. No animal article matter or thing mentioned in the last preceding Section and forbidden by the regulations to be sold pledged or otherwise disposed of shall be capable of being seized or attached by or under any writ of execution which may be sued out against any member of the said Force nor, shall the same pass by or under any order made for the sequestration of the estate of any such member.

Freedom from attachment of such animal, arms, &c.

72. For the protection of persons acting in the execution of this Ordinance all actions and prosecutions to be commenced against any person for anything done in pursuance of this Ordinance shall be commenced within four months after the cause of action shall have arisen or the offence have been committed and not otherwise and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action and if a verdict shall be given for the defendant or the plaintiff be non-suited or discontinued any such action after issue joined or if upon exception or otherwise judgment shall be given against the plaintiff the defendant shall recover his full costs as between attorney and client.

Commencement of actions.

Lieutenant-Governor may make regulations for billeting of Volunteer Forces when on active service.

73. The Lieutenant-Governor may make regulations for the billeting and cantoning the Volunteer Forces when on active service; for the furnishing of railway cars engines carriages horses boats and other conveyances for their transport and use; and for the requisition from those who possess them of such buildings wagons horses oxen and gear together with such provisions forage and other necessaries as shall be needed for the service of such forces and for adequate compensation therefor; and may by such regulations impose fines not exceeding five pounds for breach thereof and imprisonment in cases of default of payment of such fines. And any person contravening any such regulations may be prosecuted before the Court of the Resident Magistrate in whose district such contravention has been committed.

MISCELLANEOUS.

Seizure of articles of Government or Corps property by order of Commanding Officer.

74. If any volunteer shall neglect or refuse when thereto required to give up to such person as his commanding officer shall appoint to receive them all or any articles being the property of the Government or corps issued to him as a member of the Volunteer Force it shall be lawful for the commanding officer to direct any person by order in writing to seize such articles wherever found and for that purpose to enter upon and search the dwelling of such member or any premises in which there is reasonable ground for suspecting that the articles may be found.

Rifles or other property wrongfully possessed may be seized.

75. It shall be lawful for the commanding officer of any corps to take possession of or cause to be taken possession of any rifle or other Government or corps property that he may find or ascertain to be in the possession of any person or persons other than the volunteer to whom it was issued.

Punishment for persons not Volunteers wearing uniform.

76. And if any person not serving in the Volunteer Force wears without permission the uniform of any corps or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform he shall be liable on a summary conviction before a Magistrate having jurisdiction to a fine not exceeding five pounds.

77. Any member of the Volunteer Force who shall injure lose or make away with or contrary to orders retain any Government property in use by any Corps or the property of any corps shall be liable to pay a sum of money equal to double the cost price of such property which may be recoverable from him with costs in the same manner as penalties imposed under this Ordinance and the regulations thereof are recoverable: Provided that should any damage to or loss of such property be caused by him without any carelessness or fault on his part the proof whereof shall be imposed on him the General Officer Commanding may upon being satisfied thereof exempt him from such payment, or impose the payment of the cost price only of such property.

Liability of Volunteer for loss, &c., of Government or Corps property.

78. If any person wilfully comits any damage to any butt or target belonging to or lawfully used by any Volunteer Corps or searches for bullets in or otherwise disturbs the soil forming such butt or target he shall for every such offence be liable on the prosecution of the commanding officer in addition to making good the damage done to a penalty not exceeding five pounds.

Punishments for damaging butts, &c.

79. Any person who shall wilfully obstruct or impede any corps or detachment of Volunteer Forces while on the march or upon parade shall upon conviction before a Magistrate be liable to a penalty not exceeding five pounds or in default to imprisonment for any period not exceeding one month, with or without hard labour.

Wilfully obstruction of Forces on march or parade.

80. All money subscribed by or for the use of the corps all arms stores ammunition, musical instruments and other property articles and things whatsoever belonging to or used by any such corps not being the property of any member thereof shall be vested in the commanding officer of such corps in trust for the corps.

Corps Funds.

81. Ordinance No. 5 of 1902 shall be and is hereby repealed.

82. This Ordinance may be cited for all purposes as the "Volunteer Corps Ordinance 1902."

Title

Passed in Council the twenty-third day of October,
One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 25th October, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 27th October, 1902.

[SCHEDULE.]

Offences under the Ordinance.

- Offences
under
Ordinance.
1. Misbehaving or inducing others to misbehave before the enemy.
 2. Treacherously holding correspondence with or giving intelligence to the enemy.
 3. Leaving his commanding officer to go in search of plunder.
 4. Without orders from his superior officer leaving his guard, piquet, patrol or post.
 5. Forcing a safe guard, guard, post or sentry.
 6. Doing violence to any person bringing provisions or supplies to the forces, or committing any offence against the property or person of an inhabitant of or resident in the country in which he is serving.
 7. Sleeping or being drunk on his post when acting as a sentinel.
 8. Causing or conspiring with any person to cause any mutiny in any of the Volunteer Forces.
 9. Striking, or using or offering violence to his superior officer.
 10. Wilfully disobeying the lawful command of his superior officer.
 11. Deserting or attempting to desert or persuading or assisting any other person subject to this Ordinance to desert from the Volunteer Force.
 12. Without due authority holding correspondence with, or giving intelligence to the enemy.
 13. Using threatening or insubordinate language to his superior officer.
 14. Without orders wilfully destroying or damaging any property.
 15. Stealing or receiving, knowing them to be stolen any money or goods the property of a comrade, or of an officer or of any regimental institution, or any public money or goods, or conniving at or being concerned in such crimes.
 16. Being guilty of any offence of a fraudulent nature or any disgraceful conduct of a cruel, indecent, or unnatural kind.

17. Being concerned in any quarrel or disorder, refusing to obey any officer (though of inferior rank) who orders him into arrest, or offering any violence to such officer.

18. Absenting himself without leave.

19. Being drunk whether on duty or not on duty.

20. Making away with, losing by neglect, or wilfully injuring his military equipment, or that of any other person subject to this Ordinance, or ill-treating a horse used in the public service.

21. Resisting or offering violence to any persons, whether subject to this Ordinance or not, in whose custody he is placed, or resisting an escort whose duty it is to apprehend him or have him in charge.

22. Escaping or attempting to escape from military custody.

23. Releasing or permitting to escape from military custody any person over whom it is his duty to keep a guard.

24. In any report or return which it is his duty to make, knowingly making or being privy to the making of any false or fraudulent statements, or of any omission with intent to defraud.

25. Being guilty of any act, conduct, disorder, or neglect to the prejudice of good order or discipline.

No. 34 of 1902.]

ORDINANCE

To provide for the duties imposed on the Chairman of the Municipality of Johannesburg being discharged by the Deputy Chairman thereof.

WHEREAS it is desirable to provide for the discharge of the duties imposed by law on the Chairman of the Municipality of Johannesburg until such Chairman be appointed or after such appointment on the death resignation illness incapacity or absence of the Chairman:

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:

Discharge of duties of Chairman of Municipality by Deputy Chairman. 1. All the duties and privileges conferred by law on the Chairman of the Municipality of Johannesburg shall except where other provision is made be discharged and enjoyed by the Deputy Chairman thereof

until such Chairman is appointed or after he is appointed on the death resignation illness incapacity or absence of the said Chairman.

2. It shall be lawful for the Council of the Municipality anything to the contrary in Section 9 (a) of the "Johannesburg Rating Proclamation 1902" notwithstanding to appoint the Deputy Chairman of the Municipality to be a member of the Committee or Valuation Court constituted under the said Section instead of the Chairman of the Municipality.

Deputy Chairman may be appointed instead of Chairman on Committee or Valuation Court constituted under Section 9 (a) of Johannesburg Rating Proclamation.

Title. 3. This Ordinance may be cited for all purposes as the "Johannesburg Municipality (Duties of Chairman) Ordinance 1902."

Passed in Council the twenty-third day of October One thousand Nine hundred and Two.

G. CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal :—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 25th October, 1902.

Assented to :—

MILNER, ·
Governor.

Johannesburg, 27th October, 1902.

No. 35 of 1902.]

ORDINANCE

To Prohibit the Sale of the Meat of certain Stock slaughtered in this Colony.

WHEREAS farm stock has become greatly reduced in numbers in this Colony by reason of the recent operations of war and:

Preamble.

Whereas it is of the utmost importance for the future welfare of this Colony and of its inhabitants that any further reduction in the numbers of the breeding stock at present in existence should as far as possible be prevented:

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. It shall not be lawful for any person during a period of two years from and after the taking effect of this Ordinance to slaughter for sale any cow heifer or calf or to sell or offer for sale the meat of any such cow heifer or calf which shall have been slaughtered in this Colony.

Prohibition of the slaughter of certain animals and the sale of the meat thereof.

2. Any person contravening the provisions of the last preceding section shall upon conviction be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for any period not exceeding six months or to both such fine and such imprisonment.

Penalty for contravening provisions of Section one.

3. Upon proof being furnished at the trial of any person charged with the contravention of any of the provisions of Section one of this Ordinance that such person has sold or offered or exposed for sale the fresh meat of any cow heifer or calf such animal shall be presumed to have been slaughtered in this Colony unless the accused shall prove to the contrary.

Presumption as to the slaughter of such animals.

Operation of
Ordinance
may be sus-
pended.

4. It shall be lawful for the Lieutenant-Governor at any time previous to the expiration of the period mentioned in Section *one* hereof by notice published in the *Gazette* to suspend the operation of this Ordinance throughout the whole Colony or any district thereof.

5. The provisions of any Law repugnant to or inconsistent with the provisions of this Ordinance shall be and are hereby repealed. Repeal of
Laws.

6. This Ordinance may be cited as "The Title.
Protection of Stock Ordinance 1902."

Passed in Council the fourth day of November One thousand Nine hundred and Two.

GERARD CRAIG SELLAR
Clerk of the Council.

Authenticated under my hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 12th November, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 13th November, 1902.

No. 36 of 1902.]

ORDINANCE

To provide for the appointment of a Governor and Deputy Governor of Pretoria Prison and to define their Jurisdiction and Powers.

WHEREAS it is expedient that provision should be made for the appointment of a Governor and Deputy Governor of the Prison at Pretoria and to define their jurisdiction and powers:

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:

1. It shall be lawful for the Lieutenant-Governor from time to time to appoint officers to be styled respectively the "Governor" and "Deputy Governor" of the Prison at Pretoria.

Lieutenant-Governor may appoint a Governor and Deputy Governor of Pretoria Prison.

2. All and singular the powers and jurisdiction conferred and the duties imposed on the Governor and Deputy Governor of the Prison at Johannesburg under and by virtue of Sections *three* and *four* of Proclamation Transvaal No. 30 of 1902 shall be conferred and imposed on any Governor and Deputy Governor respectively appointed under the powers of this Ordinance in respect of the Prison at Pretoria.

Powers duties and jurisdiction of such Governor and Deputy Governor.

3. All acts done and all sentences for prison offences at Pretoria Prison imposed by the officer appointed to act as Deputy Governor of Pretoria Prison under Government Notice No. 419 of 1902 shall be as valid and effectual to all intents and purposes as if such appointment had been made under the powers of this Ordinance.

Validation of acts and sentences of officer appointed under Government Notice No. 419 of 1902.

Title. 4. This Ordinance shall be cited for all purposes as the "Pretoria Prison (Appointment of Governor) Ordinance 1902."

Passed in Council the Fourth day of November One thousand Nine hundred and Two.

GERARD CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 12th November, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 13th November, 1902.

No. 37 of 1902.]

ORDINANCE

To make provision for the discharge of the duties of Officers during illness or absence.

BE IT ENACTED by His Excellency the Lieutenant-Governor with the advice and consent of the Legislative Council as follows:—

Lieutenant-Governor to appoint officers to act in the place of others in certain cases.

It shall be lawful for the Lieutenant-Governor when and so often as by reason of the absence or incapacity through sickness or other cause of any officer in the service of the Government of this Colony it shall appear to him necessary or expedient to do so to appoint some other fit and proper person to act as and in the place of such officer during the absence or the continuance of such incapacity and to notify such appointment in the *Gazette*; whereupon every right duty power and function conferred or imposed by law upon such officer shall and may be exercised and performed by such person as fully and effectually as the same may be exercised by such officer himself.

Passed in Council the Twelfth day of November One thousand Nine hundred and Two.

GERARD CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 12th November, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 13th November, 1902.

No. 38 of 1902.]

ORDINANCE.

WHEREAS it is desirable to withdraw Martial Law from this Colony and to indemnify acts matters and things in good faith advised commanded ordered directed or done while Martial Law was in force:

And whereas it is desirable in view of the withdrawal of Martial Law to make special provision for the maintenance of good order and government and the public safety of this Colony during such time as circumstances may require:

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Definition of terms.

1. The following expressions in inverted commas shall have the meaning placed opposite to them:—

“Constabulary” shall mean the South African Constabulary.

“Police Officer” shall mean any Officer of the Constabulary or Town Police not under the rank of Captain or Inspector respectively.

Withdrawal of Martial Law.

2. (1) From and after the date of the taking effect of this Ordinance Martial Law shall be and is hereby withdrawn from this Colony and all Proclamations and Regulations issued under the authority of Martial Law and all Proclamations signed by the Military Governor of Pretoria or Johannesburg shall become *ipso facto* of no force or effect.

Repeal of Laws.

(2) Sub-Sections (1) and (2) of the Proviso to Section *sixteen* of the “Administration of Justice Proclamation 1902” shall be and are hereby repealed.

Governor may withdraw any district from operation of Part ii of this Ordinance.

3. It shall be lawful for the Governor at any time by Proclamation in the *Gazette* to withdraw any district of this Colony or any portion of a district from the operation of Part II. of this Ordinance or any portion thereof; such Proclamation shall also be published in some newspaper circulating

in the district and printed copies thereof shall be affixed to the door of the Court House of the Resident Magistrate and of every Police Station in the district; provided always that the Governor may at any time thereafter proclaim that the whole or any portion of Part II. of this Ordinance shall be in force in any district or portion thereof from which it may have been withdrawn; notice of such Proclamation to be given in like manner as is provided in this Section in respect of a Proclamation for withdrawal.

PART I.

4. No action indictment or legal proceeding whatsoever shall be brought or instituted in any of the Courts of this Colony against His Excellency the Governor of the Transvaal or His Excellency the Lieutenant-Governor of the Transvaal or the Officer for the time being Commanding His Majesty's Forces in this Colony or against any person or persons acting under them or any of them respectively in any command or capacity civil or military for or on account or in respect of any acts matters and things whatsoever in good faith advised commanded ordered directed or done for the suppression of hostilities or for the maintenance of good order and Government or for the public safety of this Colony between the date of the commencement of a state of war between His Majesty's Government and the late Governments of the South African Republic and the Orange Free State and the date of the taking effect of this Ordinance; and any such action indictment or other proceeding which may have been commenced at the date of the taking effect of this Ordinance shall be discharged and become and be made void.

Indemnity
for certain
Acts.

5. Every such person aforesaid by whom any such act matter or thing shall have been advised commanded ordered directed or done for the purposes aforesaid shall be freed acquitted discharged released and indemnified against all and every person and persons whomsoever in respect thereof.

Certain persons
indemnified.

6. Every such act matter or thing referred to in the preceding Sections shall be presumed to have been advised commanded

Presumption
of good
faith.

ordered directed or done as the case may be in good faith until the contrary shall be proved by the party complaining.

Sentences pronounced by Military Courts confirmed.

7. The several sentences pronounced by Military Courts or by Courts established by proper Military authority and holden in this Colony during the existence of Martial Law upon persons tried by such Courts for offences against the law of this Colony as well as for contraventions of Martial Law Regulations are hereby confirmed; and all such persons confined in any prisons or other legal places of confinement in this Colony under or by virtue of such sentences shall continue liable to be confined there or elsewhere as the Lieutenant-Governor may direct until the expiration of the sentences respectively passed upon them or until their discharge by lawful authority; and such sentences shall be deemed to be sentences passed by duly and legally constituted Courts of this Colony and shall be carried out or otherwise dealt with in the same manner as the sentences of duly constituted Courts of Law of this Colony.

Persons arrested for High Treason under Martial Law to be deemed to have been lawfully arrested.

8. All persons who have been in good faith and under proper Military authority arrested for High Treason or other crime in this Colony during the existence of Martial Law and all persons who have been similarly committed to gaol and are there detained to await their trial for High Treason or other crime shall be deemed to have been lawfully arrested committed to and detained in gaol in the same manner and to the same extent as if they had been arrested and committed to gaol on warrants issued by persons authorised by Law to issue them.

Recognizances taken during existence of Martial Law to be of full force and effect.

9. Every recognizance taken during the existence of Martial Law upon which a person accused of High Treason or other crime has been admitted to bail shall be and is hereby declared to be of full force and effect.

PART II.

Special Provisions for Public Safety.

When person may be arrested without warrant.

10. It shall be lawful for any Magistrate Assistant Magistrate or Police Officer in any district to arrest or cause to be arrested without warrant any person in such district on

reasonable suspicion of his having committed treason or any of the offences mentioned in Section *eighteen* of this Ordinance and to lodge such person in any gaol in the said district.

11. Upon the written order of such Magistrate Assistant Magistrate or Police Officer as aforesaid the gaoler of the said district shall be bound to receive and detain in custody in the gaol thereof any such person arrested as aforesaid for such time as is specified in the said order or if no time is specified therein until the said gaoler receives an order from the Attorney-General or Official on whose order the said person is detained for such person's release notwithstanding that no charge is preferred against such person either at the time of his arrest or of his reception into gaol; provided that every such person shall be entitled to his discharge from gaol or custody unless within twenty-one days after such imprisonment criminal proceedings shall be commenced against him.

Gaoler bound to receive in custody persons arrested under Section *ten*.

12. As soon as a person is received into custody under the last preceding section the Magistrate shall forthwith submit to the Attorney-General a statement in writing containing the full name address and occupation of such person as far as can be ascertained and also a copy of the order on which such person was received into gaol together with all the information in his possession on which such order was issued.

Magistrate to send statement in writing to Attorney-General containing full name of person arrested and all particulars relating to arrest.

13. Any person liable to arrest under Section *ten* who shall have removed from any district in which that Section is in force may be arrested in any other district; and the Magistrate of such last-mentioned district or any Police Officer therein shall on the application of the Magistrate of the first mentioned district cause such person to be arrested without warrant and detained in the gaol of the district in which he was arrested or removed to the gaol of the district from which such application as aforesaid was made. Upon such arrest the provisions of Sections *eleven* and *twelve* shall *mutatis mutandis* apply.

Suspected person may be arrested in any other district to which he has removed.

14. Should any person arrested under Sections *ten* or *thirteen* apply to the Supreme Court Witwatersrand High Court or to any Judge of the Supreme Court for his discharge from custody before the expiration

Person arrested may apply to Supreme Court or High Court for his discharge.

of the twenty-one days mentioned in Section *eleven* it shall not be competent for any such Court or Judge to grant such discharge if satisfied that reasonable grounds exist for suspecting that the said person has committed treason or any of the offences mentioned in Section *eighteen* of this Ordinance.

Search of buildings in which treasonable documents are expected to be.

15. It shall be lawful for the Resident Magistrate or Assistant Resident Magistrate in any district or for any Police Officer serving therein on any information that there is reasonable cause to suspect that any person within such district is in the possession of any document written or printed of a seditious or treasonable character to search or cause to be searched any land building or premises of any kind whatever situated in such district or any wagon cart or other vehicle on or in which there are reasonable grounds for suspecting that such document may be found and to seize any such document as aforesaid without any warrant being issued or obtained for such search or seizure.

Penalty for obstructing Police constable engaged in searching.

16. Any person hindering or obstructing any Police Constable or other authorised person while engaged in any search under the provisions of this Ordinance shall be liable on conviction to be imprisoned with or without hard labour for a period not exceeding one year or to be fined a sum not exceeding one hundred pounds or to both such fine and imprisonment.

Stoppage of letters reasonably suspected of containing treasonable or seditious matter.

17. It shall be lawful for the official in charge of any Post Office to intercept any letter or other document or parcel sent through the post which he has reasonable grounds to suspect contains treasonable or seditious matter; such letter document or parcel shall be forthwith sent by him to the Resident Magistrate of the District together with a statement in writing of the grounds of suspicion and shall be opened by such Magistrate if satisfied that reasonable grounds of suspicion do exist as aforesaid; and in case such letter document or parcel be found on being opened to contain treasonable seditious or other criminal matter it shall be forwarded by the Resident Magistrate to the Attorney-General to take such action thereon as he may deem advisable; and in case such letter document or parcel

shall be found not to contain treasonable seditious or other criminal matter it shall after being endorsed by the said Magistrate be forwarded to its destination.

18. Any one who speaks seditious words or does seditious acts or publishes a seditious libel or is party to a seditious conspiracy shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding five years or if he has previously been convicted of any offence under this section to imprisonment with or without hard labour for a period not exceeding seven years.

Penalty for seditious acts writing and speeches.

Seditious words are words expressive of a seditious intention.

Seditious acts are acts done with a seditious intention.

A seditious libel is a libel expressive of a seditious intention.

A seditious conspiracy is an agreement between two or more persons to carry into execution a seditious intention.

A seditious intention is an intention—

- (1) To bring His Majesty or the Governor or Lieutenant-Governor of the Transvaal in person into hatred or contempt; or
- (2) To excite disaffection against His Majesty or the Governor or Lieutenant-Governor in person or the Government and Constitution of the United Kingdom or of the Transvaal as by law established or the administration of justice therein; or
- (3) To incite His Majesty's subjects to attempt to procure otherwise than by lawful means the alteration of any matter in the Transvaal by law established; or
- (4) To incite any person to commit any crime in disturbance of the public peace; or
- (5) To raise discontent and disaffection amongst His Majesty's subjects; or
- (6) To promote feelings of ill-will and hostility between different classes of His Majesty's subjects:

Provided that no one shall be deemed to have a seditious intention only because he intends in good faith;

- (a) To show that His Majesty or the Governor or Lieutenant-Governor has been misled or mistaken in his measures; or
- (b) To point out errors or defects in the Government or Constitution of the United Kingdom or the Transvaal as by law established or in the administration of justice therein with a view to the reformation of such alleged errors or defects; or to urge His Majesty's subjects to attempt to procure by lawful means the alteration of any matter in the Transvaal by law established.

Permits required to enter Transvaal.

19. After the date of this Ordinance no person shall enter this Colony without a permit granted under the terms of this Ordinance unless—

- (a) He was resident and within this Colony or the Orange River Colony on the 31st of May 1902 and has not since that date been expelled from or ordered to leave this Colony or the Orange River Colony.
- (b) He has since the 31st of May 1902 and before the date of this Ordinance received a permit or other formal authorisation to enter this Colony from some duly constituted authority.
- (c) He is a person coming within the provisions of Article 2 of the Terms of Surrender signed at Pretoria on the 31st of May 1902, and published in the *Gazette Extraordinary* dated 3rd June 1902.
- (d) He is a person employed in His Majesty's Naval or Military Service or in the Civil Service or in any Police Force of this Colony or the Orange River Colony.

By whom permits may be issued.

20. Permits to enter the Colony under this Ordinance shall be granted by such persons as may be authorised to do so by the Governor and shall be in such form as the Governor may direct.

No such permit shall be granted to any person who having been a burgher of the South African Republic or the Orange Free State has not taken the Oath of Allegiance to His Majesty or made some declaration of equivalent import in form approved

by the Governor. In all other cases it shall be in the discretion of the Governor to grant or refuse any permit.

21. It shall be lawful for the Colonial Secretary if he has reason to believe that any person is residing or sojourning in this Colony having entered it without proper authority to give notice thereof to any Resident Magistrate and such Magistrate shall thereupon summon such person to appear before him and if such person fails to satisfy the Magistrate that he has obtained a permit under this Ordinance or is exempt under the provisions of Section *nineteen* from obtaining such permit the Magistrate shall make a written order directing such person to leave the Colony within seven days unless before the expiration of that time he has received permission in writing from the Colonial Secretary to remain in the Colony; such permission shall have the same effect as a permit granted under this Ordinance.

Person found in Colony who has entered it without lawful authority may be ordered to leave.

22. (1) If any person in whose case such order has been made is found within the Colony after the expiration of seven days after service of such order without having obtained permission from the Colonial Secretary as aforesaid he may be arrested and brought before a Magistrate and shall upon conviction be sentenced to imprisonment with or without hard labour for a period of not less than one month and not more than six months and with or without a fine not exceeding five hundred pounds and in default of payment to a further term of imprisonment for a period not exceeding six months.

Penalty for disobedience to order to leave Colony.

(2) If any person imprisoned under the terms of the preceding Sub-Section shall remain in the Colony for a period of more than seven days after the expiration of his term of imprisonment or any subsequent term of imprisonment imposed under this Section without obtaining permission in writing from the Colonial Secretary to remain in the Colony he may be arrested and brought before a Magistrate and shall on conviction be sentenced to imprisonment with or without hard labour for a period of not less than six and

not more than twelve months and with or without a fine not exceeding five hundred pounds and in default of payment to a further term of imprisonment for a period not exceeding six months.

Penalty for obtaining permit by improper means.

23. Any person entering this Colony on a permit not issued to him by a proper authority or obtained by him by any fraudulent means shall be liable to imprisonment with or without hard labour for a period not exceeding two years or to a fine not exceeding five hundred pounds or to both such imprisonment and fine.

Dangerous persons may be ordered to leave Colony

24. It shall be lawful for the Lieutenant-Governor on its being shewn to his satisfaction that there are reasonable grounds for believing that any person within this Colony is dangerous to the peace and good Government of the country to issue an order under the hand of the Colonial Secretary to such person to leave the Colony within fourteen days after service of such order. If on the expiration of the said period such person shall be found within the Colony he shall be proceeded against in similar manner and be subject to the like penalties as are provided in Section *twenty-two* of this Ordinance.

Lieutenant-Governor may make regulations for better carrying out objects of Ordinance.

25. It shall be lawful for the Lieutenant-Governor to make regulations for all or any of the following purposes and to provide penalties for any breach thereof not exceeding a fine of fifty pounds or imprisonment with hard labour for a period not exceeding three months or both such fine and imprisonment.

- (a) For the more effectual carrying out of the provisions of this Ordinance.
- (b) For preventing the wilful or reckless spreading of false intelligence calculated to create panic or alarm.
- (c) For prohibiting the holding of meetings at which there is reasonable suspicion that seditious speeches will be made.
- (d) For prohibiting the introduction into this Colony or circulation therein of any printed matter of a treasonable or seditious character.

Any regulations made under this section may be for any one or more districts, but shall only be of force after publication in the *Gazette*.

26. Nothing in this Ordinance contained shall be deemed or taken to interfere with or to limit the power of the Governor to proclaim Martial Law throughout this Colony or in any district or districts thereof.

Nothing in Ordinance to prevent Proclamation of Martial Law when necessary.
Title.

27. This Ordinance may be cited for all purposes as the "Indemnity and Peace Preservation Ordinance 1902."

Passed in Council the Twelfth day of November,
One thousand Nine hundred and Two.

GERARD CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria. 14th November, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg. 15th November, 1902.

No 39 of 1902.]

ORDINANCE.

Preamble.

WHEREAS IT IS NECESSARY to provide for the continuance of Concentration Camps and the removal of certain military structures on private lands:

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

PART I.

Concentration Camps.

Concentration Camps may be maintained for six months after taking effect of Ordinance.

1. It shall and may be lawful for the Lieutenant-Governor during such period as he may deem advisable not exceeding six months from the promulgation of this Ordinance to maintain Burgher and Native Concentration Camps and all tents buildings and structures of any kind whatsoever required therefor at such places on private or municipal land as are at the taking effect of this Ordinance occupied for the purposes of such Camps as aforesaid.

Right of access to such Camps to be by existing roads.

2. A right of access to such Camps by the existing roads or routes on any such private land shall be and is hereby granted during the period aforesaid to all persons who are duly authorized to reside in or visit the said Camps.

Compensation to be paid to owner of land for use thereof for Concentration Camps.

3. Compensation shall be paid by the Lieutenant-Governor to the owner or lessee of the land on which any such Camp is situated in respect of the said occupation during the period aforesaid; the amount of compensation shall be such sum as shall have been or may hereafter be agreed upon between the parties concerned and failing such agreement the amount shall be determined by arbitration in the manner hereinafter provided.

4. All tents buildings and structures placed or erected upon any such private or municipal land shall be removed within the said period of six months and the owner or lessee of the land shall be entitled to receive compensation in respect of occupation or damage resulting from failure to remove such tents buildings and structures within the period limited as aforesaid.

Camps to be removed on expiration of period mentioned in Section one.

PART II.

Military Structures.

5 All buildings and structures (whether of stone wood iron brick or earth) and all wires and obstacles erected or placed on private or municipal property by the military authorities during the existence of hostilities and for the purposes of defence or carrying on of military operations may be removed by the military authorities or any person duly authorized by them within a reasonable time not to exceed six months from the date of the passing of this Ordinance.

Removal of buildings erected by Military during war.

6. No compensation shall be payable by the General Officer Commanding His Majesty's Forces in the Colony in respect of the use and occupation of lands by buildings or structures during the period limited in the preceding Section of this Ordinance.

No compensation payable for occupation of land for buildings erected by Military Authorities for a certain period.

7. In the event of failure to remove such buildings and structures within the period limited as aforesaid the owners or occupiers of such private or municipal lands shall be entitled to remove such buildings and structures.

Owner of land entitled to remove buildings not removed within certain period.

8. For the purpose of removing such buildings structures wires and obstacles the Military Authorities or any purchasers from them of any such buildings structures or materials thereof or of any such wires or obstacles shall have the right to enter by the existing roads if any or if there are no roads by a route reasonably accessible to be pointed out by the owner or occupier upon the lands on which they are placed.

Right of entry on land for purpose of removing buildings.

Owner of land may remove any fencing erected by Military if fencing is an impediment to his farming operations.

9. The owner or occupier of a farm may at any time remove wire fencing or entanglements which constitute impediments in the way of his carrying on agricultural or domestic pursuits or in the way of free passage to and within his farm provided that in such removal reasonable care shall be exercised and adequate provision shall be made for the storing and custody of the materials removed; and that all removals shall be undertaken only under the supervision of a person or persons appointed without unreasonable delay to supervise any such removal by the Resident Magistrate of the District; and that reasonable notice of any intended removal is given either verbally or by letter to such Resident Magistrate at his office.

Procedure by arbitration.

10. In all matters which are directed by this Ordinance to be determined by arbitration one arbitrator shall be appointed by the Lieutenant-Governor and one by the owner or lessee of the land; the said arbitrators shall before proceeding to act appoint an umpire; the decision of the arbitrators or in case of their disagreement of the umpire shall be final and binding on all parties to the reference. The provisions of the "Expropriation of Lands and Arbitration Clauses Proclamation 1902" shall in all other respects apply to such arbitration.

Title.

11. This Ordinance may be cited as the "Concentration Camps and Military Structures Ordinance 1902."

Passed in Council the fourth day of November, One thousand Nine hundred and Two.

GERARD CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 14th November, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 15th November, 1902.

No. 40 of 1902.]

ORDINANCE.

BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

1. The Laws mentioned in the Schedule annexed hereto and so much of any other Law as is repugnant to or inconsistent with the provisions of this Ordinance are hereby repealed. Laws repealed.

2. In this Ordinance if not inconsistent with the context the following terms shall have the meanings assigned to them respectively: Interpretation.

“Alienate” means disposal by lease sale or otherwise.

“Commissioner” when used alone means the Commissioner of Lands appointed under this Ordinance.

“Crown Land” means and includes:—

(a) All unalienated Crown Land;

(b) All land the property of the Government however acquired.

“Land Board” or “Board” means when used alone the Board appointed by the Lieutenant-Governor to advise the Commissioner of Lands; “District Land Board” or “District Board” means the Board similarly appointed to advise the District Commissioner.

“District” for the purposes of this Ordinance shall be such area of land as the Lieutenant-Governor may by Regulation define.

3. It shall be lawful for the Lieutenant-Governor to establish a department to be known as the Land Department. Land Department and Commissioner of Lands.

The officer in charge of such Department shall be known as the Commissioner of Lands or by such other title as the Lieutenant-Governor may from time to time determine.

The Land Department shall be charged with the administration of this Ordinance and with such other duties as the Lieutenant-Governor may prescribe.

Officers of the
Department.

4. It shall be lawful for the Lieutenant-Governor to appoint the Commissioner of Lands District Commissioners District Inspectors and such other officers as he may deem necessary for carrying on the work of the Department and to prescribe their duties and functions.

Every officer so appointed shall hold office during such time and shall be paid such salary or other remuneration as the Lieutenant-Governor may from time to time determine.

Land Board
and District
Land Boards.

5. It shall be lawful for the Lieutenant-Governor to appoint—

(a) A Land Board to advise the Commissioner and perform such other duties as he may by Regulation prescribe.

(b) One or more District Boards to advise the District Commissioners. The functions of every such Board shall be prescribed by Regulation.

Such Board and District Boards shall consist of such number of members and continue in office for such period as the Lieutenant-Governor may by Regulation prescribe.

Mode of dis-
posal of
Crown Land.

6. From and after the taking effect of this Ordinance no Crown Land within this Colony shall except as hereinafter in this Ordinance or some other law provided be alienated otherwise than by public auction or public tender at a time and place fixed by the Commissioner of which notice shall be given in the *Gazette* and in some newspaper circulating in the district in which the land to be sold or let is situated once in each week for a period not less than two months before the day appointed for such auction or tender.

The land shall be sold or let upon such conditions as the Lieutenant-Governor shall by Regulation prescribe.

If the purchaser shall fail to carry out any of the obligations imposed on him by the Conditions of Sale or Lease the Commissioner may declare the sale or lease cancelled and any moneys paid by such purchaser or lessee may thereupon be forfeited to the Crown; and the Commissioner

may proceed according to law for the recovery of any moneys due and for damages for breach thereof.

7. The Lieutenant-Governor in Council may dispose of Crown Land for close settlement or for any other object connected with the agricultural or industrial development of the country by private sale or lease on such terms and conditions as he may deem expedient.

Disposal by private sale or lease.

8. Crown Land may be granted reserved or leased by the Lieutenant-Governor in Council for public religious or charitable purposes.

Grants or reserves for public purposes.

All land granted reserved or leased under this Section shall revert to the Crown when no longer used for the purpose for which it was granted reserved or leased.

+ 9. (1) All rights to minerals and mineral products on or under any Crown Land alienated under this Ordinance shall be reserved to the Crown unless other special provision is made in any grant or lease.

Reservation of minerals.

(2) Where the minerals are so reserved the Lieutenant-Governor shall have the right—

(a) To dispose of all minerals on or under the land so alienated as if the grant or lease had not been made: provided that any person who causes any damage to a grantee or lessee by the exercise of rights granted to him under any law relating to minerals shall be liable for such damage to the grantee or lessee: and provided further that no license granted under any law relating to minerals shall entitle the holder thereof to prospect or mine upon any cultivated land plantation or homestead or within two hundred yards of any building.

(b) To resume for mining purposes the whole or any portion of any land so alienated.

(3) The Lieutenant-Governor shall have the right to resume for public purposes the whole or any portion of any land alienated under this Ordinance.

(4) On the proclamation as a public digging of any land alienated under this Ordinance or on the resumption of such land for mining or public purposes under this Section such compensation shall be paid by the Government to the grantee or lessee as may be agreed upon or in default of agreement as may be determined by arbitration in manner provided by "The Expropriation of Lands and Arbitration Clauses Proclamation, 1902."

Regulations.

10. It shall be lawful for the Lieutenant-Governor from time to time to make regulations for all or any of the following purposes:—

1. For the conduct of the business of the Land Department and the duties of the Officers.
2. For prescribing the functions and duties of the Board and District Boards.
3. For prescribing the duties of valuers surveyors and inspectors employed under the Land Department.
4. For defining districts for the purposes of this Ordinance.
5. For any object or purpose that may be deemed necessary for the efficient administration of this Ordinance.

All such regulations shall be of force and effect on publication in the *Gazette*.

Short Title.

11. This Ordinance may be cited as "The Crown Land Disposal Ordinance 1902."

Passed in Council the seventeenth day of November, One thousand Nine hundred and Two.

GERARD CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 19th November, 1902.

Assented to:—

MILNER,
Governor

Johannesburg, 20th November, 1902.

Schedule.

List of Laws Repealed.

Law No. 8 of 1886.

Volksraad Resolution Art. 499 of 21st June, 1892.

” ” ” 508 of 22nd June, 1892.

” ” ” 539 of 5th July, 1893.

” ” ” 1370 of 1st October, 1897.

” ” ” 1700 of 11th November, 1897

No. 41 of 1902.]

ORDINANCE

**To amend in certain respects the laws relating to
the Municipality of Johannesburg.**

BE IT ENACTED by His Excellency the Lieutenant-Governor with the advice and consent of the Legislative Council as follows:—

Procedure in framing bye-laws affecting mining companies.

1. Section *twenty-three* of Proclamation No. 16 of 1901 is hereby amended by the addition of the following words *videlicet*:

Provided always that where any proposed bye-law directly affects any mining company in respect of the management of its mining operations or the control of the property on which such operations are carried on the following procedure shall be followed:—

- (a) The proposed bye-law as passed shall be forwarded by the Town Council to the Chamber of Mines or to any association representing for the time being the companies engaged in mining operations within the Municipal area.
- (b) If the Chamber of Mines or such association as aforesaid desires to object to such bye-law on the ground that the interests of any mining company would be unduly prejudiced thereby it shall transmit to the Council a statement of such objections to the proposed bye-law within a period of fourteen days from the date on which such bye-law was received by it from the Council.
- (c) On receipt of such statement within the time specified the Council shall in submitting such bye-law for the approval of the Lieutenant-Governor

forward a copy of such statement together with a statement of any observations which they may desire to make thereon for the consideration of the Lieutenant-Governor.

- (d) The Lieutenant-Governor shall refer the proposed bye-law together with the statements hereinbefore mentioned to the Commissioner of Mines for report before approving or rejecting such bye-law.
- (e) The foregoing procedure shall be followed in any case where in the course of the discussion upon any bye-law by the Council a motion shall be proposed and seconded that it be so dealt with.

2. Section *three* of Proclamation Transvaal No. 39 of 1902 is hereby amended by adding after the words "for enabling the Council to license native wash-boys and native labourers" the words "other than boys or labourers employed in industrial concerns or domestic service."

Power of Council to license native wash-boys and native labourers not to apply to natives in industrial concerns or domestic service.

Passed in Council the Twenty-first day of November One thousand Nine hundred and Two.

GERARD CRAIG SELLAR,
Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 22nd November, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 24th November, 1902

No. 42 of 1902 |

ORDINANCE.

BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Bonds to which this Ordinance applies.

1. This Ordinance shall apply to all mortgage bonds passed before the 25th October 1899 upon which the interest for any period between the date of the Proclamation of Martial Law and the 31st May 1902 is still due and to no others.

Interest is not deemed to be due within the meaning of this section where any arrangement or compromise has been entered into since the 25th October 1899 between the parties with regard to the payment thereof.

Actions on Bonds postponed.

2. No action shall be brought or maintained in any of the Courts of this Colony for the capital sum secured by any such mortgage bond or the interest mentioned in the next succeeding section before the 1st day of January 1904: Provided that nothing herein contained shall prevent an action being brought for the capital sum with all interest due on such bond where the interest for any period prior to the 11th October 1899 or subsequent to the 31st May 1902 has not been paid in terms of the bond.

Bondholder to have priority in respect of deferred interest.

3. The legal holder of any such bond shall have the same priority in respect of payment of the interest due on such bond from the 11th October 1899 to the 31st May 1902 as he has in respect of the capital sum secured by the bond.

Interest to be payable on deferred interest.

4. Interest at the rate and in the manner provided in the bond shall be payable on the interest mentioned in Section *three* from

the 1st June 1902 to the date of payment of such interest.

5. Nothing in this Ordinance shall affect the distribution of the assets of any mortgagor whose estate may be sequestrated. Ordinance not to apply in case of sequestration

6. This Ordinance may be cited as "The Mortgage Bonds Ordinance, 1902." Short Title.

Passed in Council the Twenty-sixth day of November, One thousand Nine hundred and Two.

CECIL E. HAWES,
Acting Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Johannesburg, 26th November, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 27th November, 1902.

No. 43 of 1902.]

ORDINANCE.

BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

- Application. 1. This Ordinance shall apply to:
- (a) The area within the local limits of the jurisdiction of every Town Council or Health Board.
 - (b) Every area within which the Lieutenant-Governor may by Proclamation published in the *Gazette* declare it to be in force.
- Definition of "Native." 2. In this Ordinance "Native" shall include every person belonging to any of the aboriginal races or tribes of Africa South of the Equator and every person one of whose parents belongs to any such race or tribe as aforesaid.
- Natives not to be out within certain hours without special passes. 3. (1) Any native found in any street public place or thoroughfare within any area to which this Ordinance applies between the hours of nine p.m. and four a.m. without a written pass or certificate from his employer or some person duly authorised by the Town Council or Health Board or in areas where there is no such Town Council or Health Board some person authorised by the Lieutenant-Governor shall be liable to a fine not exceeding ten pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.
- (2) Any person who not being the *bona fide* employer of any native or a person authorised under this section who may sign or issue any pass or certificate to such native shall be liable upon conviction to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for a period not exceeding twelve months.

4. This Ordinance shall not apply to any ^{Exception.} person relieved from the operation of the Pass Law by Proclamation Transvaal No. 35 of 1901 or Ordinance No. 28 of 1902.

5. Nothing in this Ordinance contained ^{Not to apply to Locations.} shall prevent the residents in any location from being in the 'streets public places or thoroughfares in such location between the hours aforesaid.

6. This Ordinance may be cited as "The ^{Short title.} Natives' Night Passes Ordinance 1902."

Passed in Council the twenty-sixth day of November One thousand Nine hundred and Two.

CECIL E. HAWES,
Acting Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 26th November, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 29th November, 1902.

No. 44, 1902.]

ORDINANCE

To amend Law No. 4 of 1885.

BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Amendment of Schedule to Law No. 4 of 1885. The Schedule to Law No. 4 of 1885 is hereby amended by adding after the words “crimes of the same nature” the words “contraventions of the Pass Laws and of any Regulations made thereunder.”

Passed in Council the Third day of December, One Thousand Nine Hundred and Two.

CECIL E. HAWES,
Acting Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 11th December, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 17th December, 1902.

No. 45 of 1902.]

ORDINANCE.

WHEREAS it is expedient that provision should be made to enable agriculturists and other persons to become occupiers of land in this Colony :

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

PRELIMINARY.

1. In this Ordinance if not inconsistent with the context:—

Interpreta-
tion.

“This Ordinance” includes any regulations as hereinafter defined.

“Regulation” means a regulation framed by the Lieutenant-Governor under this Ordinance.

“License” means the title under which the purchaser of a holding occupies such holding until he has acquired a Crown Grant.

“Forfeiture” or “Forfeited” means forfeiture or forfeited to the Crown.

“District” means a land district as defined by the Lieutenant-Governor under the provisions of the Crown Land Disposal Ordinance 1902.

“Commissioner” means the Commissioner of Lands appointed under the Crown Land Disposal Ordinance, 1902.

“Land Board” or “Board” when used alone means the Board appointed by the Lieutenant-Governor to advise the Commissioner of Lands.

“District Land Board” means the Board or any of the Boards appointed to advise the District Commissioner.

“Settler” means a person occupying land under this Ordinance.

“Residence” means a habitable house approved by the District Commissioner.

“Substantial improvements of a permanent character” means and includes reclamation from swamps clearing of bush or scrub cultivation planting with trees or live hedges fencing draining making roads sinking wells making dams or tanks constructing water furrows constructing dipping tanks making embankments or protecting works of any kind or in any way improving the character carrying capacity or fertility of the soil or the erection of any building or such other works as may be approved by the District Commissioner.

“Fence” means a substantial fence of any one or more of the classes of fencing prescribed by regulation for the district or holding on which such fence is situated.

Land for
Settlement.

2 (1.) The Lieutenant-Governor may by Proclamation set apart for the purpose of this Ordinance such portions of Crown Land as defined in The Crown Land Disposal Ordinance 1902 as he may deem suitable. He may also at any time before such land has been sold or leased or after it has reverted to the Government whether by forfeiture or otherwise withdraw any such land from the operation of this Ordinance and thereupon such land shall become subject to the Crown Land Disposal Ordinance 1902.

(2) The Lieutenant-Governor in Council may also acquire land for the purposes of this Ordinance either at public auction or by private contract.

(3) Such land shall before being offered for sale or lease as hereinafter provided be divided into holdings surveyed and valued. The value shall include any improvements there may be on the land at the time of the valuation together with the cost of such valuation survey and registration fees.

APPLICATION AND ALLOTMENT.

Commis-
sioner may
offer Crown
Land for
settlement.

3. The Commissioner may from time to time by notice in the *Gazette* offer for sale or lease in the manner and on the terms hereinafter set forth any holdings referred to in the last preceding Section.

Notice
shall set
out par-
ticulars.

4. Such notice shall set forth the situation extent boundaries and description of the holdings so offered and shall specify the price or rent at which such holdings shall be open for purchase or lease and

shall fix a day at least three months subsequent to the first publication of the notice as the last day for receiving applications for such holdings.

5. Every application for such holdings shall be made to the Commissioner in writing in the form prescribed by regulation and shall have attached thereto a declaration by the applicant in the form prescribed by regulation.

Mode of application.

6. In the event of any of the statements contained in the said declaration being false to the knowledge of the applicant in any material particular he shall in addition to any penalties to which he may be otherwise liable forfeit all right to the land applied for as well as all moneys paid in respect thereof and all improvements thereon: Provided that no forfeiture shall take place under this Section except within three years from the date on which the false declaration was made.

Forfeiture for false declaration.

7. Every applicant at the time of making application shall deposit with the Commissioner or with some other person appointed by him a sum equal to one per cent. of the price of such holding and in the event of his neglecting or refusing to take up on allotment the holding so applied for the said sum shall be forfeited: Provided that in the case of the holding applied for not being allotted to him the amount of his deposit shall be returned to him forthwith.

Deposit by applicant.

When the holding applied for has been allotted to the applicant the amount of his deposit shall be applied to the payment of the first half-year's rent or instalment of the purchase money as the case may be.

8. No application shall be entertained by the Commissioner unless the applicant—

Conditions of application.

- (a) Is at least 18 years of age;
- (b) Has a competent knowledge of farming;
- (c) Intends to occupy *bona fide* the land applied for;
- (d) Is of good character.

9. (1) No person shall by himself or through any other person for him be entitled to acquire obtain or hold either by original application or by transfer or otherwise in any manner whatsoever any land under this Ordinance unless it be exclusively for his own use and benefit.

All land applied for must be for applicant's exclusive use.

(2) No person who at the time of making his application has made any arrangement or agreement to permit any other person to acquire by purchase or otherwise the holding in respect of which his application is made or any part thereof or the applicant's interest therein shall become a licensee or lessee under this Ordinance.

(3) Any person who knowingly commits or incites instigates or employs any other person to commit any breach of the provisions of this Ordinance by obtaining lands not exclusively for his own use and benefit shall be liable to a penalty not exceeding five hundred pounds and in default of payment to imprisonment with or without hard labour for a term not exceeding one year.

No applicant to be allotted more than one holding.

10. No applicant shall be allotted more than one holding under this Ordinance.

Appearance of applicants before Land Board.

11. Before allotment the Commissioner may call on any applicant to appear before the Land Board and give evidence on oath or in any form allowed by law as to his compliance with the requirements of sections *eight* and *nine* and also as to his general ability to properly cultivate the land and fulfil the conditions of the license or lease.

Any District Commissioner or member of the Land Board or any District Land Board may for the purposes of this Ordinance or any regulations made thereunder administer an oath or take a declaration or affirmation.

Joint application and applications for adjoining holdings.

12. Holdings shall as a rule be allotted to individuals only but in special cases it shall be competent for not more than five persons qualified as in section *eight* provided to apply jointly for a holding and for the Commissioner to deal with such application in manner provided in the next succeeding section as if the applicants were one person. Any holding which they may receive shall be held by them jointly subject to such special conditions as the Commissioner may impose.

Any two persons may apply for and obtain two adjoining holdings to be allotted in manner prescribed by regulation.

Mode of allotment.

13 (1) The same applicant may make application for more holdings than one.

(2) When an applicant has made application for more than one holding one deposit

which shall be for the holding of the highest value shall cover all applications. If there be in the opinion of the Commissioner only one suitable applicant for any holding he shall receive that holding and thereupon any application which he may have made for any other holding shall be considered withdrawn.

(3) If any person be the only suitable applicant for more than one holding he may select any one of such holdings and thereupon any application which he may have made for any other holding shall be considered withdrawn.

(4) When there are more suitable applicants than one for the same holding the selection of the person to whom it is to be allotted shall subject to the provisions of the next succeeding sub-sections be determined by lot.

(5) When there are two or more applicants for the same holding of equal suitability preference shall be given to such of the applicants (if any) who shall have served as members of the South African Constabulary or in any of His Majesty's Forces for a period in either case of not less than twelve months.

(6) If a person is one of several suitable applicants for more than one holding he shall be entitled to the holding for which he is first selected and thereupon his applications shall be considered withdrawn as to all the other holdings.

(7) Notwithstanding anything herein contained the Commissioner has subject to the approval of the Lieutenant-Governor full discretion in selecting the applicant whom he may consider most suitable or in rejecting all applications.

(8) It shall be lawful for the Lieutenant-Governor to make special arrangement with settlers to whom temporary occupation or employment has been granted previous to the passing of this Ordinance with regard to the allotment of the holdings on which they have been engaged or of any other suitable holdings.

LICENSES AND LEASES.

14. Holdings shall be allotted either (a) under license or (b) under lease.

(a) The purchase money payable under

Holdings to
be allotted
by license
or lease.

license shall be payable by sixty half-yearly instalments at the rate set forth in the schedule annexed hereto, but it shall be competent for a licensee to pay any number of instalments in advance and at the expiration of ten years from the date of license to obtain a Crown Grant subject to the provisions of Section *forty-one*.

(b) Leases shall be for five years at such graduated rent as may be fixed by the Commissioner and published in the *Gazette* not exceeding an average of five per cent. per annum on the price of the holding as notified in the *Gazette*.

Every license or lease shall commence from the first day of January or the first day of July whichever may be next after the date of entry upon possession.

Lessee may obtain license.

45. A settler to whom a lease has been granted and who has fulfilled all the terms and conditions thereof to the satisfaction of the Commissioner shall be entitled to obtain a license for his holding at the price and on the terms and conditions originally notified in the *Gazette* and prescribed in this Ordinance by giving not less than twelve months' notice to the Commissioner to that effect expiring at or before the termination of his lease or of any extension thereof that may be granted under Section *sixteen* and he may either—

(a) Pay the instalments mentioned in the Schedule annexed hereto accruing due from the date of the lease less the amount paid as rent; in which case he shall be entitled to receive a license to occupy bearing the same date as his lease and he shall be in all respects in the same position as if he had originally been a licensee instead of a lessee; or

(b) Commence paying the instalments mentioned in the Schedule annexed hereto from the date on which the lease expires in which case his license shall be dated the next day succeeding that on which the lease expired.

16. (1) The Commissioner may on good cause shown and on receiving not less than twelve months' notice prior to the termination of a lease grant an extension thereof for a period not exceeding two years at a rent not exceeding five per cent. per annum on the price of the holding as notified in the *Gazette*. Extension of lease.

(2) The lessee who has applied for an extension of his lease must within one month after the decision of the Commissioner has been communicated to him notify to the said Commissioner whether or not he accepts the extension offered.

17. (1) Should the lessee be desirous of purchasing his holding but consider the price notified in the *Gazette* too high he may, not less than twelve months before the termination of his lease or of any extension thereof apply for and the Commissioner may grant a re-valuation thereof and may allot the holding to the applicant at such re-valuation. At the time of such application the lessee must lodge with the Commissioner the estimated cost of the re-valuation and must within one month after such re-valuation is communicated to him notify to the Commissioner whether or not he wishes to purchase the holding at such re-valuation. Re-valuation.

(2) The Commissioner shall not be bound to grant a re-valuation but may in case the lessee refuses to purchase at the price notified in the *Gazette* order that the holding be again offered for allotment in the ordinary way in which case the sum deposited by the settler to cover the cost of re-valuation shall be returned to him forthwith or set off against any sum due by him to the Government.

(3) Every re-valuation shall be settled after inquiry by the District Commissioner in open Court.

18. Every extension of lease and re-valuation with the amount of the rent and re-valuation shall after determination be notified in the *Gazette*. Notification of extension of lease or re-valuation.

19. Before entering upon possession of any holding the settler shall obtain from the Commissioner a license or lease of his holding as the case may be. License or lease to be obtained before entry.

Conditions
of licenses
and leases.

20. Every such license and lease shall be subject to the conditions in this Ordinance contained and may contain such special servitudes and such other conditions not inconsistent with the provisions of this Ordinance as the Lieutenant-Governor may approve.

Reservation
of roads, etc.

21. (1.) All roads thoroughfares and public outspans being or existing on the holding held under any license or lease shall remain free and uninterrupted unless the same be closed or altered by competent authority.

(2.) The Lieutenant-Governor shall at all times have the right to make roads railways dams watercourses and drains and to conduct telegraphs and telephones through and over the holdings for the benefit of the public and to take materials for these purposes, also to establish convenient outspans for the use of travellers on payment to the licensee or lessee of such sum of money as compensation for improvements as may be mutually agreed to between the parties concerned or failing such agreement as may be determined by arbitration in manner provided by the Expropriation of Lands and Arbitration Clauses Proclamation 1902: Provided that the arbitrators may set off against the loss or damage caused to the licensee or lessee the benefit instant or prospective which he shall or may derive in consequence of the construction of any of the said works.

Reservation
of minerals.

22. (1) All rights to minerals and mineral products on or under any Crown Land alienated under this Ordinance shall be reserved to the Crown unless other special provision is made in any license or lease.

(2) Where no special provision is made the Lieutenant-Governor shall have the right—

(a) To deal with all minerals on or under the land so alienated as if the license or lease had not been granted: provided that any person who causes any damage to a licensee or lessee by the exercise of rights granted to him under any law relating to minerals shall be liable for such damage to the licensee or lessee: and provided further that no license

granted under any law relating to minerals shall entitle the holder thereof to prospect or mine upon any cultivated land plantation or homestead or within two hundred yards of any building.

(b) To resume for mining purposes the whole or any portion of any land so alienated.

(3) The Lieutenant-Governor shall have the right to resume for public purposes the whole or any portion of any land alienated under this Ordinance.

(4) On the proclamation as a public digging of any land alienated under this Ordinance or on the resumption of such land for mining or public purposes under this Section such compensation shall be paid to the licensee or lessee as may be agreed upon or in default of agreement as may be determined by arbitration in manner provided by The Expropriation of Lands and Arbitration Clauses Proclamation, 1902.

(5) Notwithstanding anything contained in this Section the licensee or lessee of any holding shall be entitled to such minerals and mineral products other than precious metals and precious stones as may be required for his domestic use and for the efficient occupation of his holding.

23. The licensee or lessee shall pay in advance the half-yearly instalments of the purchase price or his rent as the case may be on the first day of January and first day of July in each year and on the same date he shall pay the interest and instalments of principal due in respect of any advances made to him under Sections *forty-two*.

Date of payment of rent or instalments.

24. (1) The licensee or lessee shall commence to reside on the holding described in his license or lease within six months after allotment and shall save as is provided in the next succeeding sub-sections continue to reside on his holding and make it his *bonâ fide* residence during the whole term of his license or lease.

Residence.

(2) Every settler shall reside on his holding for a period of not less than eight months in all in each year and shall give notice in writing to the District Commissioner of his intention to be absent from his holding for any period exceeding fourteen days.

(3) When pursuant to the provisions of this Ordinance or pursuant to the conditions of any license or lease thereunder it is necessary for the settler to reside on his holding for any period or periods then upon such settler proving to the satisfaction of the Commissioner that the home of the family of such settler is situate upon such holding the Commissioner may give his consent in writing that for the purpose of such license or lease and for the period to be specified in such consent (unless the Commissioner in writing at any time before the expiration of such period cancels such consent) residence by the wife or any specified child over eighteen years of age of the said settler or if the said settler has no wife or has no child over the said age residence by the father or mother of the said settler if dependent upon him for support shall be deemed and taken to be residence by the said settler within the meaning of this Ordinance or of any license or lease thereunder. This sub-section shall have no force or effect except as to determining the person by whom the condition of residence under any license or lease may be fulfilled.

(4) If a number of settlers embracing at least five families desire to settle together in or to establish a village adjacent to their holdings for religious educational industrial or similar purposes the Lieutenant-Governor may in his discretion vary or dispense with the requirements as to residence upon their holdings and substitute residence in such village subject to such conditions as he may prescribe.

(5) On the marriage of any unmarried woman or widow who is the licensee or lessee of a holding the Commissioner subject to such terms and conditions as to him shall seem fit may if such license or lease was issued at least one year prior to such marriage discharge or relieve such licensee or lessee from the necessity of complying with the condition contained in such license or lease requiring the licensee or lessee to occupy such holding for any term specified in such license or lease.

Good
Husbandry.

25. (1) The licensee or lessee shall during the term of his license or lease occupy and

cultivate his holding in a proper and husbandlike manner.

(2) The licensee or lessee shall within two years of the date of his license or lease erect on the holding described therein a suitable residence to the satisfaction of the Commissioner.

(3) The licensee or lessee shall if not sooner called upon by the Commissioner within two years from the date of the license or lease enclose the holding described in such license or lease with a fence and keep the same in repair: Provided however that when any settler proves to the satisfaction of the Commissioner that owing to physical conditions or the nature of the holding the enclosing thereof with a fence would be impracticable or when in the opinion of the Commissioner the fencing of the whole or any part of the holding is not required the Commissioner may in writing dispense with the necessity for compliance with the fencing conditions as to the whole or such part.

(4) The licensee or lessee shall within twelve months of the date of his license or lease commence and continue to destroy to the satisfaction of the Commissioner the noxious animals and weeds upon his holding and shall keep the same free from noxious animals and weeds to the satisfaction of the Commissioner during the currency of the license or lease.

(5) The licensee or lessee of any holding shall plant and keep planted with trees such area and for such term as may be fixed and stated in his license or lease. The kind and number of trees to be planted shall be prescribed by regulation and the position where such trees shall be planted shall be pointed out by the District Commissioner or some person authorised by him.

26. The licensee or lessee shall occupy his holding for the term of such license or lease exclusively for his own use and benefit.

Licensee or lessee to occupy exclusively for his own benefit.

27. (1) No settler shall mortgage or charge or otherwise encumber his license or lease or any portion of his interest in such license or lease and any such mortgage

Mortgage forbidden.

charge or other encumbrance shall be null and void.

(2) All debts owing to the Government by a settler shall be a first charge upon the holding of such settler and upon all movable property thereon.

28. Except with the consent of the Commissioner which shall only be given when sufficient cause is shown it shall not be lawful for any settler to transfer let sub-let or in any way part with his license or lease or any portion of his interest in such license or lease.

Transfer and sub-letting restricted.

29. (1) The Commissioner may upon sufficient cause being shown at any time accept the surrender of any license or lease and in such case the value of the unexhausted improvements made on the holding by the settler shall be added to the price of the holding on re-allotment. The amount of such improvements shall be paid to the outgoing settler within three months of the date on which he quits the holding.

Surrender of License or Lease.

(2) A settler who is permitted to surrender his holding on account of ill-health or because he is owing to adverse circumstances or other sufficient cause unable to make the occupation of it remunerative may if he obtains a certificate from the Commissioner that he has occupied the holding to the Commissioner's satisfaction receive another holding.

(3) Any person who surrenders his holding otherwise than as provided in the last preceding sub-section or who forfeits or assigns his holding shall be disqualified from receiving another.

30. Any settler who is not in arrear with his instalments and who has fulfilled the other conditions of his license may apply to the Commissioner for permission to surrender any portion of his holding in order that a new license of the surrendered part may be granted to the wife of such settler if qualified to become a settler or any child of such settler who is over eighteen years of age and who is qualified to become a settler. The Commissioner may if he thinks fit accept such surrender and may grant a license of the part so surrendered to the wife or any child as aforesaid who applies therefor and the instalments of license money due in respect

Surrender in favour of wife or child.

of such holding at the date of surrender shall be divided proportionately between the two licensees.

31. (1) Where a settler desires to transfer his interest in his holding he may apply to the Commissioner stating his intention and naming the person to whom he proposes to transfer the holding; whereupon the said Commissioner shall at the expense of the said settler give public notice at least twice in the *Gazette* of the proposed transfer of interest by the settler and no transfer shall be effected until after the expiration of thirty days from the date of the second or last publication as the case may be of such notice; after which time if the Commissioner sees fit to accept the person proposed as transferee and such person shall have made the declaration referred to in Section *five* the said Commissioner shall endorse the said transfer of the license or lease on the production of the same; and thereupon such person shall be deemed to have been from the date of the original license or lease the licensee or lessee of such holding.

Procedure in case of transfer.

(2) The transferee shall be liable for any moneys owing by the transferor to the Government in respect of the holding or for anything supplied by the Commissioner for use on the holding so transferred and the transferor shall be further discharged from all further liability in respect of such holding.

(3) Two settlers may subject to the consent of the Commissioner and to such conditions as he may impose exchange their holdings.

32. In case of the insolvency of any settler during the currency of his license or lease it shall be lawful for the trustee in insolvency to assign such license or lease to any person who is qualified to become a settler under this Ordinance and who is approved by the Commissioner and such person shall thereupon be with respect to such license or lease in the same position as though he had been the original licensee or lessee. In case the said trustee in insolvency fails within twelve months to assign the license or lease of the holding of such settler as herein provided the license or lease shall revert to the Crown who shall pay to the said trustee compensation for improvements if any.

Insolvency of settler.

Death or lunacy of settler.

33. If the holder of a license or lease dies or is declared a lunatic the conditions of such license or lease may be fulfilled by any member of his family or by any other person approved by the Commissioner. If no such person is forthcoming the license or lease shall revert to the Crown who shall pay to the representative of the settler compensation for improvements if any and in the case of a license shall repay such portion of the instalments paid as is hereinafter provided.

Conditions binding on transferee.

34. All the conditions of a license or lease under this Ordinance shall be binding upon the successive holders thereof; and any transferee shall take the license or lease subject to all unfulfilled obligations attaching thereto.

Extension of time for fulfilment of conditions.

35. The Commissioner on good cause shown may grant an extension of time not exceeding twelve months to a settler for the fulfilment of any condition or the performance of any act the fulfilment or performance of which is required by this Ordinance.

Forfeiture.

36. (1) A license or lease shall be liable to forfeiture for the breach of any of the conditions of such license or lease or for the violation of any of the provisions of this Ordinance.

(2) If a license or lease become liable to forfeiture under the provisions of this Ordinance such license or lease may be forfeited while held by the person by whom forfeiture was incurred or by any person claiming under him. No holding shall be liable to be forfeited after five years from the date when the liability to forfeiture was incurred.

Waiver of forfeiture.

37. (1) In any case in which a license or lease shall become liable to forfeiture by reason of the non-fulfilment of any condition attached to such license or lease or for the violation of any of the provisions of this Ordinance but in which the Commissioner shall be satisfied that such non-fulfilment has been caused by accident error inadvertence or other like cause and that such forfeiture ought therefore to be waived it shall be lawful for the Commissioner to declare that such forfeiture is waived either absolutely or upon such conditions as he may see fit to attach and the forfeiture shall thereupon be waived accordingly.

(2) The Commissioner may in lieu of forfeiting for non-payment of moneys accept payment of such moneys with an additional sum equal to five per cent. of the amount due within three months of the due date thereof or of ten per cent. of such amount within six months of such date; but no forfeiture shall operate to extinguish any debt due to the Crown in respect of such moneys.

38. When any holding is forfeited to or surrendered to the Crown the Commissioner shall cause the substantial improvements of a permanent character thereon to be valued and the amount of such valuation to be paid to the outgoing settler or his representative. The Commissioner shall be entitled to deduct from any sum due in respect of such valuation the expenses incidental to the forfeiture or surrender and the re-allotment of such holding and any moneys still due to the Government under this Ordinance.

Compensation on relinquishing a holding.

39. (1.) Compensation shall not be given on account of improvements unconnected with the ordinary use of the land or of extravagant improvements not adapted to increase the value of the holding but such improvements may be sold to an incoming settler or removed before the determination of the license or lease provided this can be done without substantial injury to the holding.

Method of compensation.

(2) All disputes in respect of compensation shall be heard by the District Commissioner in open Court according to the procedure to be defined by regulation and an appeal shall lie from his decision to the Land Board.

40. In the case of the forfeiture of a holding or in the case of the surrender of a holding owing to the death or lunacy of the licensee or any other cause the Commissioner shall cause to be repaid to the licensee or his representative so much of the total amount of the instalments paid by him as shall be apportionable to capital according to the table contained in the Schedule annexed hereto provided that no such repayment shall be made in case of forfeiture for any of the following causes:—

Repayment of capital.

- (1) Transferring mortgaging letting or sub-letting without the consent of the Commissioner;

- (2) Wilfully making a false declaration under Section *five*.
- (3) Wrongfully disposing of or mis-applying farming requisites stock or materials supplied under the Ordinance or money advanced to purchase such requisites stock or materials;

Issue of
Crown Grant

41. At the expiration of the license and on the fulfilment of the terms and conditions thereof or at such time not being less than ten years from the date of the license as the purchase price and all other moneys due to the Government shall have been paid the licensee shall obtain a Crown Grant subject to the conditions laid down in Sections *twenty-one* and *twenty-two* of this Ordinance.

ADVANCES.

Advances to
Settlers

42. (1) It shall be lawful for the Commissioner to purchase out of moneys provided by the Government for that purpose and to supply from time to time to any settler for use on or improvement of his holding.
- (A) Farming requisites (which term shall include draught animals carts wagons farming implements and machinery farm seeds and other supplies approved by the Commissioner).
 - (B) Stock for breeding purposes (which term shall include horses donkeys cattle sheep goats and pigs) upon the following terms and conditions:—
 - (a) No stock shall be supplied until the holding or that portion of it which is used for grazing purposes has been fenced with a sufficient fence.
 - (b) One-half the price of the stock shall be paid for by the settler in cash on delivery; or the Commissioner may in lieu thereof accept as security for payment of such one-half any other stock belonging to the settler. The stock so given by way of security may be left in charge of the settler and shall be maintained at his expense.
 - (c) The stock supplied shall not exceed one-third the carrying capacity of the holding at the date of the license or lease.
 - (d) Until the stock so supplied has been paid for the settler shall not without the consent of the Commissioner sell

or otherwise alienate the same or any stock given by way of security.

(C) Materials suitable for building fencing or for carrying out other substantial improvements of a permanent character. The total indebtedness of the settler on account of supplies under this head shall not at any time without the special sanction of the Lieutenant-Governor exceed either of the following limits:—

- (a) One half the cost (including the value of the labour) of the improvements.
- (b) One half the price of the holding as notified in the *Gazette*.

(2) The total advances to any settler under this Section shall not at any time exceed the amount which the settler shall up to that time have expended to the satisfaction of the Commissioner on the holding by way of capital outlay on improvements in connection with its occupation together with the amount if any which the settler may prove to the satisfaction of the Commissioner that he is prepared and in a position to expend within a reasonable time on improvements in connection with the occupation of his holding.

(3) So long as the settler has in his possession any stock supplied by the Commissioner and not wholly paid for he shall grow such quantity of fodder as the District Commissioner shall deem necessary for the stock on the farm and no part of such fodder shall be sold without the consent of the District Commissioner;

In any case in which it appears to the Commissioner expedient so to do he may instead of supplying the things in this Section mentioned in kind advance money to the settler to enable him to purchase the same.

43. Notwithstanding anything contained in the last preceding section it shall be lawful for the Commissioner in special cases with the approval of the Lieutenant-Governor to make advances to any settler in excess of the limits laid down in the said section.

Advances in excess of limit.

44. If the settler proves to the satisfaction of the Commissioner that owing to disease drought or other cause over which he has no control (but against which he has taken

Relief in exceptional cases.

all reasonable precautions) he has lost such a quantity of stock or farm produce that he is unable to occupy the farm profitably or pay the instalments of purchase money the Commissioner may remit subject to the provisions of the next succeeding section the payment of the instalments of purchase money or any part thereof for a period not exceeding two years.

Repayment
of advances.

45. (1) The price of anything supplied for permanent improvements under the provisions of Section *forty-two* and *forty-three* or cash advanced to purchase the same and the amount of any instalments remitted under the provisions of the last preceding section shall be repayable within such time and in such manner as may be agreed upon at the time the supply advance or remission as the case may be was made: Provided that the entire debt or debts with interest at the rate of four and a half per cent. per annum on the amount outstanding shall be paid before the expiration of the license or lease.

(2) The price of farming requisites and stock or cash advanced to purchase the same shall be repayable with interest at a rate not exceeding seven and a half per cent. per annum on the amount outstanding within such time and in such manner as may be agreed upon at the time the farming requisites or stock were supplied or cash was advanced not being more than ten years from the date of such supply or in the case of a lessee before the termination of the lease.

Goods ad-
vanced to
remain
property of
the Govern-
ment till paid
for.

46. All farming requisites stock or materials supplied to a settler under any of the provisions of this Ordinance shall remain the property of the Government until paid for or until authority to alienate shall have been given to such settler by the Commissioner but such stock as well as any stock given by way of security under Section *forty-two* of this Ordinance shall be at the risk of the settler.

POWERS OF DISTRICT COMMISSIONERS, DISTRICT BOARDS, AND DISTRICT INSPECTORS.

Right of
inspection.

47. (1) The Commissioner or District Commissioner may from time to time as he shall see fit authorise any District Inspector or other person to ascertain and report to him upon the following matters:—

a. Whether any holding is being cultivated in a proper and husbandlike manner;

b. Whether any money material stock or other things supplied by Government are being properly applied;

c. The value of any improvements on any holding;

d. Whether the conditions of any lease or license are being complied with; and

e. Generally on any matters incidental to carrying out the provisions of this Ordinance.

(2) For the purpose of making any such report any Inspector or any other authorised person shall at all reasonable times have free access to any holding in the occupation of any settler and to the buildings and stock thereon; and any settler obstructing such Inspector or other authorised person in the performance of his duty or refusing or wilfully neglecting to answer any reasonable questions put to him in writing by the said Inspector or other authorised person in connection with his duty or making to him any wilful misstatement shall be liable to a penalty not exceeding fifty pounds and in default of payment to imprisonment for a term not exceeding one month.

48. (1) The District Commissioner may at any time of his own motion or at the direction of the Commissioner inquire in open Court subject to appeal to the Land Board whether the settler has up to the date of the inquiry duly performed all conditions (other than the payment of instalments or rent) attached to his license or lease or imposed by this Ordinance and shall at the direction of the Commissioner inquire in open Court subject to appeal as aforesaid whether the settler is occupying or has occupied his holding for his own exclusive use and benefit.

Inquiry by
District
Commis-
sioner.

(2) If upon such inquiry the licensee or lessee satisfies the District Commissioner that he has up to the date of the inquiry duly fulfilled all such conditions the District Commissioner shall issue to him a certificate to that effect.

(3) If at any time the District Commissioner upon inquiry subject to the aforesaid right of appeal is satisfied that the settler has not performed all such conditions or has not held or is not holding the license or lease for his own exclusive use and benefit the Com-

missioner may by notification in the *Gazette* declare the interest of the settler or his assignee in the holding to be forfeited and thereupon the right of the settler or his assignee to continue in occupation shall wholly cease and determine.

Appeal.

49. (1) The settler may within such time as may be fixed by regulation after the decision of the District Commissioner appeal to the Land Board on all matters on which the said District Commissioner is by the terms of this Ordinance empowered to decide. The Land Board shall hear and determine the appeal or may in its discretion remit the case to be re-heard as to the whole or any part thereof by the District Commissioner with such directions as it may think fit. If no appeal is brought within the time to be prescribed by regulation the decision of the District Commissioner shall be final.

(2) The decision of the Land Board on appeal shall be final except that the Board shall at the request of the Commissioner or of the settler state a special case on a question of law for the decision of the Supreme Court.

MISCELLANEOUS.

Application for increase of holding.

50. (1) If at any time a settler shall satisfy the Commissioner that the area held by him is insufficient for his requirements the Commissioner may allow him to take up such additional adjoining area (if vacant) as the Commissioner may think fit.

(2) At any time on the application of a settler the Commissioner may adjust the boundaries of his holding.

Neighbours.

51. (1) Settlers whose holdings adjoin may apply for permission to reside together and the District Commissioner may if he think fit grant such permission which shall remain in force until revoked.

(2) For such time as such permission remains unrevoked the condition of residence for each settler in respect of his own holding shall be satisfied by residence on any of the holdings; and the stock of such settlers may be depastured over any of the holdings in common; and the erection of one residence within the required time on one of the holdings shall be taken to satisfy the con-

dition of house building in respect to such holdings; and any areas to be cultivated may be cultivated anywhere on the holdings.

(3) All other conditions must be performed as for each holding separately and each settler shall be individually responsible for his own holding and for all payments and advances in respect thereof.

(4) The Commissioner may at any time revoke such permission on giving three months' notice to the settlers of his intention to do so; and within two years after such permission shall have been revoked each settler shall erect a residence on his own holding.

52. When any fence forms the common boundary between two holdings it shall be obligatory on each settler to fence such half of the common boundary as may be agreed on or in default of such agreement may be directed by the District Commissioner. And it shall be lawful for a settler who has completed the fencing of the common boundary to recover half the cost thereof before any competent Court provided that he has given the adjoining settler not less than one month's notice of his intention so to fence.

Fencing
between
settlers'
holdings.

The side of a proclaimed road shall not be held to form or be a common boundary line within the meaning of this section.

53. Any minor being of the age of eighteen years who becomes a settler under this Ordinance shall be in the same position with regard to his liability under and enforcement by him of all contracts made with respect to his holding as though he were of the full age of twenty-one years.

Liability of
minors.

54. Any settler who wrongfully disposes of any farming requisites stock or materials advanced or supplied to him under this Ordinance or who wrongfully applies any such requisites stock or materials or any monies advanced to him to any purpose other than that for which they were supplied or advanced shall be guilty of the crime of fraud and shall be punishable accordingly and every such disposition shall be of no effect.

Any settler
disposing of
material ad-
vanced
guilty of
fraud.

55. All contracts agreements and securities which are made entered into or given with the intent or which (if the same were valid) would have the effect of violating all

Contracts
conflicting
with Ordi-
nance.

or any of the provisions of this Ordinance or any condition of a license or lease granted under this Ordinance shall and are hereby declared to be illegal and absolutely void.

Penalties.

56. In the case of any negotiations for the acquisition of land by the Lieutenant-Governor any person who having any pecuniary interest in such land or being the partner of or being related within the fourth degree to the vendor of such land acts as valuer or sits or votes at any meeting of any Board or District Board upon any resolution having reference to the purchase of such land shall be liable to a penalty not exceeding two hundred pounds and in default of payment to imprisonment with or without hard labour for a term not exceeding one year.

District Commissioner or member of Land Board not to adjudicate where his interest is involved.

57. Any District Commissioner or member of any Land Board who shall sit or adjudicate on any matter in which he has directly or indirectly any pecuniary interest shall be liable to a fine not exceeding two hundred pounds and in default of payment to imprisonment with or without hard labour for a term not exceeding one year.

Disabilities.

58. No person so long as he is an officer of the Land Department or member of the Land Board and for six months after ceasing to be such officer or member shall be eligible as an applicant for any land to be allotted under the provisions of this Ordinance; and any such person who having ceased to be an officer or member as aforesaid has thereafter been allotted lands under this Ordinance shall be ineligible to again become an officer or member so long as he remains in possession of such lands.

Regulations.

59. It shall be lawful for the Lieutenant-Governor from time to time to make regulations for all or any of the following purposes:—

(1.) For the principle and method to be adopted in valuing lands for the purposes of this Ordinance.

(2.) For fixing the scale of expenses and costs of valuation.

(3.) For prescribing the functions and duties of local Boards.

(4.) For defining the procedure on public enquiries by District Commissioners and appeals to the Land Board.

(5.) For prescribing the duties of valuers and inspectors.

(6.) For the prevention of veld fires.

(7.) For specifying the rules of good husbandry.

(8.) For any object or purpose that may be deemed necessary for the efficient administration of this Ordinance.

All such regulations so far as not inconsistent with this Ordinance shall be binding upon all persons as if contained in this Ordinance.

Title. 60. This Ordinance may be cited as "The Settlers' Ordinance 1902."

Passed in Council the Tenth day of December One thousand Nine hundred and Two.

CECIL E. HAWES,
Acting Clerk of the Council.

Authenticated under my Hand and Seal.

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 17th December, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 18th December, 1902.

Schedule.

Table showing instalments due every half-year to complete the purchase of land priced at £100 (vide Section 14).

	Column A.	Column B.	Column C.	Balance of Debt.
	Half-yearly Instalment.	Apportioned as follows: Interest.	Capital.	
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1	2 17 6	2 0 0	17 6	99 2 6
2	2 17 6	1 19 8	17 10	98 4 8
3	2 17 6	1 19 4	18 2	97 6 6
4	2 17 6	1 18 11	18 7	96 7 11
5	2 17 6	1 18 6	19 0	95 8 11
6	2 17 6	1 18 2	19 4	94 9 7
7	2 17 6	1 17 10	19 8	93 9 11
8	2 17 6	1 17 5	1 0 1	92 9 10
9	2 17 6	1 17 0	1 0 6	91 9 4
10	2 17 6	1 16 7	1 0 11	90 8 5
11	2 17 6	1 16 2	1 1 4	89 7 1
12	2 17 6	1 15 9	1 1 9	88 5 4
13	2 17 6	1 15 3	1 2 3	87 3 1

Schedule—continued.

	COLUMN A.	COLUMN B.	COLUMN C.	Balance of	
	Half-yearly Instalment.	Apportioned as follows: Interest.	Capital.	Debt.	
	£ s. d.	£ s. d.	£ s. d.	£	s. d.
14	2 17 6	1 14 10	1 2 8	86	0 5
15	2 17 6	1 14 5	1 3 1	84	17 4
16	2 17 6	1 13 11	1 3 7	83	13 9
17	2 17 6	1 13 6	1 4 0	82	9 9
18	2 17 6	1 13 0	1 4 6	81	5 3
19	2 17 6	1 12 6	1 5 0	80	0 3
20	2 17 6	1 12 0	1 5 6	78	14 9
21	2 17 6	1 11 6	1 6 0	77	8 9
22	2 17 6	1 11 0	1 6 6	76	2 3
23	2 17 6	1 10 5	1 7 1	74	15 2
24	2 17 6	1 9 11	1 7 7	73	7 7
25	2 17 6	1 9 4	1 8 2	71	19 5
26	2 17 6	1 8 10	1 8 8	70	10 9
27	2 17 6	1 8 3	1 9 3	69	1 6
28	2 17 6	1 7 8	1 9 10	67	11 8
29	2 17 6	1 7 0	1 10 6	66	1 2
30	2 17 6	1 6 5	1 11 1	64	10 1
31	2 17 6	1 5 10	1 11 8	62	18 5
32	2 17 6	1 5 2	1 12 4	61	6 1
33	2 17 6	1 4 6	1 13 0	59	13 1
34	2 17 6	1 3 10	1 13 8	57	19 5
35	2 17 6	1 3 2	1 14 4	56	5 1
36	2 17 6	1 2 6	1 15 0	54	10 1
37	2 17 6	1 1 10	1 15 8	52	14 5
38	2 17 6	1 1 1	1 16 5	50	18 0
39	2 17 6	1 0 4	1 17 2	49	0 10
40	2 17 6	19 7	1 17 11	47	2 11
41	2 17 6	18 10	1 18 8	45	4 3
42	2 17 6	18 1	1 19 5	43	4 10
43	2 17 6	17 4	2 0 2	41	4 8
44	2 17 6	16 6	2 1 0	39	3 8
45	2 17 6	15 8	2 1 10	37	1 10
46	2 17 6	14 10	2 2 8	34	19 2
47	2 17 6	14 0	2 3 6	32	15 8
48	2 17 6	13 1	2 4 5	30	11 3
49	2 17 6	12 3	2 5 3	28	6 0
50	2 17 6	11 4	2 6 2	25	19 10
51	2 17 6	10 5	2 7 1	23	12 9
52	2 17 6	9 5	2 8 1	21	4 8
53	2 17 6	8 6	2 9 0	18	15 8
54	2 17 6	7 6	2 10 0	16	5 8
55	2 17 6	6 6	2 11 0	13	14 8
56	2 17 6	5 6	2 12 0	11	2 8
57	2 17 6	4 5	2 13 1	8	9 7
58	2 17 6	3 5	2 14 1	6	15 6
59	2 17 6	2 4	2 15 2	3	0 4
60	3 1 6	1 2	3 0 4		

£100 0 0

No. 46 of 1902.]

ORDINANCE

To provide for the Naturalisation of Aliens.

WHEREAS it is desirable to provide for the naturalisation within this Colony of aliens residing therein :

Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows :—

Preamble.

1. (1) An alien who has been in the service of the Crown or has resided in the Transvaal for a term of not less than five years within such limited time before making the application hereinafter mentioned as may be allowed by the Lieutenant-Governor either by general order or on any special occasion and who intends when naturalised to reside or to serve under the Crown in the Transvaal may apply for a certificate of naturalisation in the form prescribed in the first Schedule hereto.

Naturalisation of aliens

(2) The applicant shall produce in support of his application a certificate signed by some Resident Magistrate Assistant Resident Magistrate or Justice of the Peace to the effect that the applicant is known to the person so signing and that to the best of such person's belief and knowledge the applicant is a person of good repute; and shall give such further evidence of the completion by him of the said term of service or of residence and of his intention to reside or to serve under the Crown in the Transvaal as the Lieutenant-Governor may require; and shall furnish proof that notice of his intention to apply for a certificate of naturalisation has been published in two issues of the *Gazette*.

(3) The Lieutenant-Governor if satisfied with the evidence adduced shall take the applicant's case into consideration and may with or without assigning any reason grant or withhold a certificate as he thinks most conducive to the public good and no appeal shall lie from his decision.

(4) No such certificate shall have any effect until the applicant has made and subscribed to the declaration of allegiance in the form prescribed in the second Schedule hereto.

Certificate issued after declaration of allegiance.

2. If the Lieutenant-Governor thinks fit to grant such certificate of naturalisation he shall direct the applicant to make and subscribe the declaration of allegiance in the form prescribed in the second Schedule hereto before some Resident Magistrate or Justice of the Peace; and upon the certificate of such Resident Magistrate or Justice of the Peace that the applicant has made and subscribed before him the said declaration he shall cause to be issued to the applicant a certificate of naturalisation in the form prescribed by the Lieutenant-Governor.

Rights and duties conferred and imposed by naturalisation.

3. Every person to whom a certificate of naturalisation under this Ordinance is granted shall except as otherwise provided by law be entitled to all rights powers and privileges and be subject to all obligations to which a natural born British subject is entitled or subject in this Colony.

Nationality of married women and of minors.

4. (1) Every married woman shall in this Colony be deemed to be a subject of the State of which her husband is for the time being a subject.

(2) Where the father or the mother (being a widow) shall be or become naturalised under this Ordinance any child of such father or mother who while under age shall be or become resident with such father or mother in this Colony shall be deemed and taken to be naturalised under this Ordinance.

Half-yearly returns of persons naturalised to be published.

5. A return of all persons to whom certificates of naturalisation shall have been granted under this Ordinance during the preceding half-year shall be published in the *Gazette* in the months of January and July and such return shall show in respect of each person:—

- (1) Name in full.
- (2) Birthplace.
- (3) Nationality prior to grant of certificate.
- (4) Occupation.
- (5) Period of service under the Crown or of residence in the Transvaal.
- (6) Date of issue of certificate.

6. If any person shall knowingly make any false statement in any application made under this Ordinance for the purpose of obtaining a certificate of naturalisation he shall upon conviction incur the same penalties as are by law provided against persons convicted of perjury and in case a certificate of naturalisation shall have been granted such certificate may be revoked by notice in the *Gazette* and from the date of such notice shall be deemed to be void.

False statement on application for naturalisation equivalent to perjury.

7. Every person obtaining a certificate of naturalisation under this Ordinance shall pay for the same a fee of one pound to be denoted by revenue stamps to be affixed to such certificate and cancelled by the officer issuing it.

Fees payable on naturalisation.

8. The Colonial Secretary shall cause a register to be made and kept of all certificates of naturalisation granted under this Ordinance and shall upon the application in writing of any person and upon payment of a fee of five shillings to be denoted by revenue stamps affixed to the application and cancelled by the officer receiving it permit a search to be made for the name of any person upon or supposed to be upon the register.

Register of naturalised persons to be kept open to inspection.

9. A certificate under the hand of the Colonial Secretary attesting the fact of the issue of a certificate of naturalisation to any person whose name appears upon the said register shall be issued upon payment of a fee of five shillings to be denoted by revenue stamps affixed to the certificate and cancelled by the officer issuing it. Every such certificate shall be received as evidence of the facts therein stated.

Certificate of registration.

10. Every certificate granted under this Ordinance shall be admissible in evidence without proof of the signature or seal attesting the same and shall be *prima facie* evidence of the person named therein being duly naturalised, and of the signature or seal attesting the same and of the official character of the persons appearing to have signed the same.

Certificate admissible in evidence.

11. This Ordinance may be cited as the "Naturalisation of Aliens Ordinance, 1902."

Title.

Passed in Council this tenth day of December One thousand Nine hundred and Two.

CECIL E. HAWES,
Acting Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 17th December, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 18th December, 1902.

FIRST SCHEDULE.

Form of Application for Certificate of Naturalisation.

TO THE COLONIAL SECRETARY OF THE TRANSVAAL.

I, A.B., do hereby apply for a Certificate of Naturalisation in the Transvaal and I declare that the following statements are true and correct in every particular:

1. Name of applicant in full and whether single or married
 2. Names and ages of children
 3. Present nationality and whether acquired by birth or naturalisation
 4. Names and nationality of parents
 5. Birthplace (state fully the name of the place and the country in which the place is situated)
 6. Age next birthday
 7. Occupation
 8. Place of residence in the Transvaal
 9. Length of time during which applicant has been in the service of the Crown or has resided in the Transvaal
 10. Does the applicant intend if naturalised to reside in the Transvaal
- Declared at this day of 19

Before me, (Signature of applicant.)

.
(R.M. or J.P.)

SECOND SCHEDULE.

Declaration of Allegiance.

I, A.B., of do sincerely promise that I will be faithful and bear true allegiance to His Majesty, King Edward VII., His Heirs and Successors according to Law.

Declared at this day of 19

Before me,

.
(R.M. or J.P.)

.
(Signature of declarant.)

No. 47 of 1902.]

Clerk to the Executive and
Legislative Councils.**ORDINANCE****To amend the Magistrates Court Proclamation, 1902.**

BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:

Amendment
of Section 36
of Procla-
mation No.
21 of 1902.

1. Section *thirty-six* of the Magistrates Court Proclamation 1902 is hereby amended—

- (a) by substituting for the words “Any child male or female” in line *one* the words “Any male child”
- (b) by omitting the words “or she” in line *twenty* and “or her” in line *twenty-two*.

Title.

2. This Ordinance may be cited as the “Magistrates Court Proclamation Amendment Ordinance 1902.”

Passed in Council the Tenth day of December One thousand Nine hundred and Two.

CECIL E. HAWES,
Acting Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 15th December, 1902.

Assented to:

MILNER,
Governor.

Johannesburg, 19th December, 1902.

No. 48 of 1902.]

ORDINANCE.

WHEREAS it is expedient to protect in certain cases the rights of property in telegraphic messages:

Be it enacted by the Lieutenant-Governor of the Transvaal by and with the advice and consent of the Legislative Council thereof as follows:—

Protection of certain telegrams from publication within a certain period.

1. Whenever any message transmitted by telegraph from any place outside this Colony shall be received at any office of the Telegraph Department in this Colony for the purpose of publication in any newspaper or other printed paper no person shall without the consent in writing of the person to whom such message shall have been addressed print or publish in any newspaper or in any letter or circular or other printed or written communication or present for transmission by telegraph such telegraphic message or the substance thereof, or any extract therefrom until after the expiration of a period of seventy-two hours from the time of the first publication of such message by the person entitled to publish the same provided that the publication by any other person of any similar message lawfully received in like manner by such other person shall not be deemed or taken to be a publication of such first-mentioned message within the meaning of this Ordinance.

Penalties.

2. Any person contravening the provisions of the preceding section shall upon conviction be liable to a penalty not exceeding twenty pounds for the first offence and to a penalty not exceeding forty pounds for the second and every subsequent offence and in either case in default of payment he shall be liable to imprisonment for a period not exceeding three months.

3. The hour of publication of every newspaper containing any telegraphic message in respect of which the protection of this Ordinance is claimed shall unless otherwise stated therein be deemed to be six a.m. on the day of publication. Hour of publication defined.

4. In any prosecution under this Ordinance the production of any document which purports to be a telegraphic message duly and regularly issued by any telegraph office in this Colony on its customary form shall be *prima facie* evidence that the message contained therein was received in this Colony by telegraph from the place therein mentioned to the address of the person therein named and was duly delivered in this Colony to such person. Evidence.

5. This Ordinance shall be cited for all purposes as the "Telegraph Messages Protection Ordinance 1902." Short title.

Passed in Council the tenth day of December One thousand Nine hundred and Two.

CECIL E. HAWES,
Acting Clerk of the Council.

Authenticated under my Hand and Seal:—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 23rd December, 1902.

Assented to:—

MILNER,
Governor.

Johannesburg, 24th December, 1902.

No. 49, 1902.]

ORDINANCE**To Amend the Law relating to the Registration of Newspapers.**

BE IT ENACTED by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows:—

Newspapers to be registered in office of Colonial Secretary.

1. (1) From and after the taking effect of this Ordinance it shall not be lawful for any person to print or publish or cause to be printed or published in this Colony any newspaper until there shall have been registered at the office of the Colonial Secretary—

- (a) the full and correct title thereof;
- (b) the full and correct address at which the same is to be published;
- (c) the full and correct names and places of abode of the proprietor printer publisher manager and responsible editor of such newspaper.

(2) In some part of every newspaper published in this Colony after the taking effect of this Ordinance there shall be printed the full and correct address at which the same is published and the full and correct name of the proprietor.

(3) The responsible editor of every such newspaper must be a person resident within this Colony.

Further particulars to be registered when the publisher &c. is a company.

2. When any newspaper is the property of or is printed or published by a limited liability company or other joint stock company there shall be entered in the register prescribed by this Ordinance the full and correct name and place of abode of—

- (a) the manager or other chief officer of such company resident within this Colony;
- (b) every director of such company resident within this Colony.

Colonial Secretary to keep a Register.

3. (1) It shall be the duty of the Colonial Secretary to keep a register in the form prescribed in the schedule annexed hereto in which shall be entered the particulars in the two preceding sections mentioned.

(2) It shall be the duty of the Colonial Secretary to furnish an extract from the said register duly signed by him to any person on application being made therefor and on payment of a fee of two shillings and sixpence for every such extract to be denoted by revenue stamps affixed to the extract and cancelled by the officer issuing the same.

(3) The production of such extract as in the last preceding sub-section mentioned signed as aforesaid shall in any proceeding civil or criminal be sufficient proof of the facts therein stated.

4. The publisher of every newspaper published in this Colony at the date of the taking effect of this Ordinance shall within one month from such date transmit as regards such newspaper to the Colonial Secretary the particulars mentioned in sections *one* and *two* of this Ordinance provided that no fee shall be payable in respect of such registration.

Provision
as to registra-
tion of
existing
newspapers.

5. Whenever a change occurs in regard to any of the particulars entered in the register kept in pursuance of this Ordinance such change shall within seven days of the date thereof be notified by the publisher for the time being of the newspaper in respect of which such change occurs to the Colonial Secretary who shall cause the register to be corrected accordingly.

Changes to
be registered.

6. Any person who shall contravene any of the provisions of sections *one two four* or *five* of this Ordinance shall on conviction before the Resident Magistrate of the district in which the penalty is incurred be liable to a penalty not exceeding one hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

Penalties.

7. Whenever a libel is published in any newspaper printed or published in this Colony criminal proceedings may be taken against all or any of the persons mentioned in sections *one* and *two* of this Ordinance provided that it shall be a defence to such proceedings on behalf of any such person as aforesaid to prove that the libel complained of was published in such newspaper without his knowledge consent or connivance and without negligence on his part.

Person re-
sponsible for
libels.

8. There shall be paid for and in respect of the registration of any newspaper except as provided in section *four* hereof the sum of one pound to be denoted by revenue stamps affixed to the certificate and cancelled by the person issuing it and in respect of the registration of any change in pursuance of section *five* hereof the sum of two shillings and sixpence to be similarly denoted.

Registration
fee.

9. Law No. 26 of 1896 and Law No. 14 of 1898 are hereby repealed.

Repeal of
Laws.

10. This Ordinance may be cited for all purposes as the "Newspaper Registration Ordinance 1902."

Short title.

(5) So much of Article *six* of Law No. 17 of 1899 as imposes a yearly license of one hundred and fifty pounds in respect of each branch of a bank shall upon the taking effect of this Ordinance be repealed but all the other provisions of the said Law shall in so far as they are not inconsistent with the provisions of this Ordinance apply to the license imposed by this section.

3. Article *twenty-six* of Law No. 17 of 1899 shall be and is hereby repealed. Repeal.

4. This Ordinance shall be cited as "The Licensing Law Amendment Ordinance 1902" and shall take effect from and after the first day of January 1903. Title and date of taking effect.

Passed in Council the twenty-fourth day of December
One thousand Nine hundred and Two.

CECIL E. HAWES,
Acting Clerk of the Council.

Authenticated under my Hand and Seal :—

ARTHUR LAWLEY,
Lieutenant-Governor.

Pretoria, 24th December, 1902.

Assented to :—

MILNER,
Governor.

Johannesburg, 29th December, 1902.

INDEX.

	PAGE.
ADMINISTRATION OF JUSTICE.	
Use of Dutch Language in	3
ADMINISTRATION OF JUSTICE PROCLAMATION, 1902,	
To be read with Supreme Court and High Court Ordinance	2
ALLEGIANCE (Declaration of)	
Form of, on naturalization of Aliens	240
Necessary, on naturalization of Aliens	238
ALIENS.	
(See NATURALIZATION OF ALIENS)	237
ANIMALS.	
Diseases among --	
Declaration of infected areas	60
Duties of owner or occupier to report	60
Prevention of spread of	60
APPEALS.	
From Supreme Court to Privy Council in cases from High Court of the O.R.C.	35
APPOINTMENTS.	
Of Magistrates and other Officials made by Administrator	1
Of Native Commissioners and Sub-Commissioners by Governor	5
ARBITRATION.	
As to Military Structures	199
In case of Minerals on Crown Land	204
ARMS AND AMMUNITION. (See also BALL AMMUNITION ; DEALERS IN ARMS AND AMMUNITION ; GUNPOWDER ; IMPORTATION OF ARMS ; LICENSES).	
Arrest of unlicensed persons in possession of	40
Arrest without warrant for unlawful possession of	42
Confiscation of	42
Dealers in --	
Defined	46
False returns by	50
False entries in books of	50
To keep books, etc.	49
To obtain certificates from R.M.	45
To take out License from R. of Revenue	45
To render accounts to R.M.	49
Dealing in, without License, forbidden	45
Delivery of, to person who has deposited	40
Deposit of --	
At R.M.'s Office by Oct. 6th, 1902	37
Payment of value on, to unlicensed owners	43

ARMS AND AMMUNITION (<i>continued</i>)—	PAGE.
Detention of, when imported without permit -	43
Exemptions from provisions as to deposit -	37, 38, 39
Judicial sales of, by Sheriff, etc. -	51
License to deal in—	
Public notice of - -	47
Licenses to possess—	
By Commissioner of Native Affairs to Native Chief	51
Fee payable for : - -	38
Form of : - - -	52
Grant of by R.M. and others - -	38
Register of, to be kept - -	41
Making, mending, repairing or keeping for unlicensed persons prohibited - -	41
Offences as to—	
Jurisdiction of Courts of R.M. -	52
Penalties—	
For importation without permit - -	43
For possession of, without license - -	40
For unlicensed dealing in - -	46
Permit—	
For importation of - - -	43
For transportation of - - -	41
Forms of - - -	53
Possession of, by Native Chiefs -	51
Power to Governor—	
To order licensed dealers to store in magazine	48
To prohibit issue from magazine	50
Receipt for, when deposited - -	38
Register of licenses to be kept - -	41
Sale or delivery to unlicensed persons prohibited	41
Search for by R.M. : J.P. : or police - -	42
Transportation of, by dealers - -	41
Valuation of, when deposited - -	42
 ARREAR LICENSE MONEYS ON CLAIMS & STANDS	 30, 63
 ARRESTS.	
In case of removal of suspected person to another district	191
Of unlicensed persons in possession of arms, etc.,	40
Without warrant—	
Application to Court for discharge -	19
For unlawful possession of arms and ammunition	42
When authorized - -	190
 ARTICLES OF SURRENDER.	
Stock, etc., granted by Government rendered inalienable	64
 ASSISTANT RESIDENT MAGISTRATE.	
(See RESIDENT MAGISTRATE).	
 ATTORNEY-GENERAL.	
Jurisdiction of, in cases of offences by Volunteers	172
Returns to, of liquor licenses granted, etc. - -	125
Suits for recovery of Customs penalties to be commenced in name of - -	89
To perform duties of Legal Adviser to Transvaal Administration	1

ATTORNEYS.	PAGE.
Fees of,--	
Power of judges to frame rules as to	19
BALL AMMUNITION.	
Importation of, forbidden	44
Penalties—	
For unlawful importation	45
For delivery to unauthorized person	45
For possessing more than 200 rounds of	40
Storing of, in Government magazines	44
BANKING.	
License for carrying on business of	247
BENEFICIAL OCCUPATION.	
Of claims and stands during the war—what is, defined	31
BONDS.	
(See MORTGAGE BONDS.)	
BREWERS.	
Sale of Liquor by	122
BURGHERS OF LATE REPUBLIC.	
Alienations of Stock, etc. prohibited	64
BYE-LAWS.	
Amendment of powers etc.—	
Johannesburg Municipality	-206-207
Pretoria Municipality	-114-115
CHIEF JUSTICE OF THE TRANSVAAL.	
Substituted for Judge President of High Court	3
CIRCUIT COURTS.	
Fees of Officers and Attorneys in—	
Powers of judges to frame rules as to	19
CLAIMS.	
Arrears license moneys on, during the war	30
Right to refund of under Ordinance 11 of 1902, explained	63
Pegging out of, in certain districts	68
CLUBS.	
Sale of Liquor in	120
COLONIAL SECRETARY.	
Duties of—	
To keep register of naturalized persons	239
To keep register of newspapers	244
To perform duties of Secretary to Transvaal Administration	1
To register newspapers	244
Issue of certificate of registration of naturalization, by	239
Powers of—	
As to persons entering Colony without permits	195
To declare farms, etc., infected with cattle disease	60
To endorse certificate on license to deal in arms and ammunition	45
To fix price of rifles sold from magazines	44

COLONIAL SECRETARY (*continued*)—

PAGE.

To grant permits to import sporting rifles and ball ammunition	-	-	45
To grant permit for importation of arms, etc.	-	-	43
To grant permits to remain in Colony	-	-	195
Special permission of, required for shooting big game	-	-	105

COLONIAL TREASURER.

Payment of Native taxes to	-	-	6 ⁵
Refund of license monies on claims and stands during war, by	31	et seq.	6 ³
To perform duties of Controller of Treasury	-	-	1

COMMISSIONER OF LANDS.

Power of—			
To extend time to settlers for fulfilling conditions	-	-	226
To offer Crown land for settlement	-	-	214
To be advised by Land Board	-	-	202
To have charge of Land Department	-	-	201

COMMISSIONER FOR NATIVE AFFAIRS.

Powers of—			
To appoint places for payment of Native taxes	-	-	66
To grant licenses to Native Chiefs to possess arms	-	-	51

COMMISSIONER OF POLICE.

Powers of—			
Under Liquor Ordinance	-	-	143, 144
Duties of—			
Under Liquor Ordinance	-	-	127, 441

COMMISSIONS OF ENQUIRY.

Evidence before	-	-	111
Johannesburg Insanitary Area—			
Application of powers of Ordinance to other Commissions	-	-	112
Procedure before	-	-	111
Production of documents at	-	-	111

CONCENTRATION CAMPS.

Compensation to owner of land used for	-	-	198-9
Limit to period of maintenance of	-	-	198
Removal of	-	-	199
Right of access to	-	-	198

CRIMINAL APPEALS.

From High Court of O.R.C. to Supreme Court of Transvaal	-	-	35
---	---	---	----

CROWN GRANT.

(See SETTLERS.)

CROWN LAND.

Definition of			201
Disposal of—			
By private sale or lease	-	-	203
By public auction or tender	-	-	202
(Grants or reserves of, for public purposes	-	-	203
Minerals on	-	-	203
Setting apart of, for settlement purposes	-	-	214
Settlement on—			
Reservation of minerals	-	-	220
Reservation of roads	-	-	220

CUSTOMS DUTIES

PAGE.

Amendment of Tariff under Law 4 of 1894	69
Date of taking effect of alterations	72
Effect of alteration on purchase price of goods	75
Exemptions from -	69
Rebate, when allowed	82
Special duties—	
Alteration of Law 4 of 1894 -	71
Repeal of in certain cases -	71
To be charged according to Colonial weights and measures	78

CUSTOMS MANAGEMENT.

Bonded warehouses -	
Abandonment, etc., of goods in	85
Appointment and licensing of	82
Improper dealing with goods, etc., in	84
Record of goods, etc., in	84
Rules and Regulations for	83
Security for goods in	83
Storing of goods in	82
Disposal of seized and condemned goods	89
Documents, etc., to be produced to official	80
Doubt as to declared value, procedure in cases of	76
Falsification of document or false oath	87 & 91
Fines and punishments where no special provision made	92
Forfeiture of carriages and cattle used for improper removal of goods	88
Forfeiture of goods where no due entry	74
Form of declaration of value of goods	76
Importation of goods without due entry prohibited	74
Inspection by officials of business books, etc.,	80
Officials—	
Assault or obstruction of	81
Examination on oath by	87
Limitation of actions against	90
Powers of	80
Procedure of, in cases of doubt as to declared value	76
Regulations prescribing duties of	92
Origin of goods—	
Production of proof of	80
Parcels Post importation	78
Penalties and Forfeitures—	
Actions for recovery of	89
Disposal of	91
Mitigation of	91
Penalties—	
On Importers, for under-valuation	77
Sale of goods on non-payment of duties	78
Taking of bonds to cover proposed increases	75

CUSTOMS OFFICER.

Power to detain arms, etc., imported without permit	43
Power to grant permits to import arms, etc., for personal use	43

DANGEROUS PERSONS.

May be ordered to leave the Colony	196
------------------------------------	-----

DEALERS IN ARMS AND AMMUNITION.		PAGE.
License to retain arms	-	39, 40
Transportation of arms by, under permits	-	41
Public notice of license to	-	47
When exempted from provisions as to deposit	-	39
DEPUTY SHERIFF.		
Duties of—		
Notifying drawing of Jurors	-	25
Signing and preserving list of Jurors drawn for service	-	26
Penalty for receiving reward to excuse Jurors	-	27
DISEASES OF STOCK.		
Declaration of infected areas	-	60
Prevention of spread of	-	60
Regulations for prevention and spread of	-	60
Report to R.M. or A.R.M. of, by owner, &c., of farm	-	60
Report of existence of disease by R.M. to Colonial Secretary	-	60
DISTRICT BOARD.		
Definition of	-	201
Constitution of	-	202
Regulations for	-	204
DISTRICT COMMISSIONERS.		
Appeal against decision of	-	232
Inquiries by	-	231
Powers of—		
As to settlers	-	231
DUTCH REFORMED CHURCH.		
Transfer of land in Johannesburg to the Government, authorized		17
EXECUTIVE COUNCIL.		
Duties hitherto performed by certain members of Transval Administration to be performed by certain members of Executive Council	-	1
GAME.		
Big Game—		
Special permission to kill	-	105
Definition of	-	104
Destruction, etc., of, without permission, forbidden	-	106
Forfeiture of skins as penalties	-	107
Informers awarded $\frac{1}{2}$ penalties	-	107
Killing of, during close season forbidden	-	105
License to kill, etc.	-	105
License to sell, etc.	-	105
Notification of close seasons of	-	104
Ostriches' eggs, destruction, removal of, etc., forbidden	-	106
Penalties etc., for contravening law where not specially provided for	-	108
Protection of, for limited period	-	104
Reserves within which special permission required to kill	-	108
Sale of, during close season forbidden	-	105
Trapping of, prohibited	-	105
Trespass in pursuit of, forbidden	-	106

	PAGE.
GAOLER	
Duties of, as to persons arrested without warrant	191
GOLD LAW.	
Arrear license monies under, during the War	30, 34, 63
GOVERNMENT PROPERTY.	
Stock, etc., delivered to assist ex-burghers, to remain	64
GUNPOWDER.	
Definition of, under Arms and Ammunition Ordinance	48
Penalty for keeping unlawful quantity	48
Storage of, in magazine	48
HIGH COURT OF THE TRANSVAAL.	
Proceedings commenced in, to be continued in Supreme Court	3
HOTELS.	
Accommodation in	119
Sale of liquor in	119
Structure of	119, 132
Where licenses for, prohibited	132
IMPORTATION OF ARMS.	
License necessary within 7 days	44
IMPORTATION OF GOODS.	
By Parcels Post	78
Due entry of	74
Liability of importers for acts of agents	89
Payment and securing of customs duties	74
Ports of entry, etc., declaration of	79
Production of documents, etc., by importers	80
Prohibition of foreign goods with British mark	75
Regulations for, by Governor	92
Removal to King's warehouse when not duly entered	79
INCORPORATED LAW SOCIETY.	
Amendment of Constitution	7
Notice to members of, if advertised in <i>Gazette</i> sufficient	7
JOHANNESBURG MUNICIPALITY.	
Bye-laws affecting mining companies	206
Discharge of duties, etc., of Chairman of, by Deputy-Chairman	181
Insanitary Area Improvement Scheme—	
Powers of Commission	111
Liquidation of liabilities of late Stadsraad, by	99
JUDICIAL PROCEEDINGS.	
Use of Dutch Language in	3
JURORS.	
Affirmation by, instead of oath	26
Disqualification of	21
Drawing of names for service as	24
Exemptions from service as	21
Fines on, and remission of, by Court	27
Notice of drawing of names for service as	25

Penalties			
For claiming false exemption	-	-	26
For disobeying summons	-	-	26
For illegal excuse to Sheriff	-	-	27
Qualification of	-	-	20
Record of lists to be kept in books by Sheriff	-	-	24
Remuneration of	-	-	28
Return of services on, to Registrars of Courts	-	-	24
Summoning of, by Sheriff	-	-	24
Travelling allowance of	-	-	28

JURY DISTRICTS.

Definition of	-	-	-	21
Extension of	-	-	-	22
Reduction of	-	-	-	22

JURY LISTS.

Access to valuation and voters rolls for purposes of framing	-	-	-	23
Copy of, to be fixed to door of R.M. Court	-	-	-	23
Duties of R.M. on receiving	-	-	-	23
Framing of, mode of	-	-	-	22
Revision of by R.M.	-	-	-	23
Transmission of, to Sheriff after revision by R.M.	-	-	-	24
Use of list of preceding year	-	-	-	23
Valuation of property for purpose of	-	-	-	20

JUSTICES OF THE PEACE.

Certificate by, for naturalization of aliens	-	-	-	237
Declaration of allegiance before, by aliens	-	-	-	238
Jurisdiction in Liquor Law offences	-	-	-	143
Powers of—				
For inspection of unlicensed premises	-	-	-	142
of liquor licenses	-	-	-	143
To close licensed premises	-	-	-	142-3
To enter and search for arms, etc.	-	-	-	42
To arrest unlicensed persons in possession of arms etc.	-	-	-	40
Selection of, for constitution of Licensing Courts	-	-	-	123-4

LAND BOARD.

Appeal to, against decision of District Commissioner	-	-	-	232
Appearance of settlers before	-	-	-	216
Appointment of	-	-	-	202
Constitution of	-	-	-	202
Definition of	-	-	-	201
Pecuniary interest of members of	-	-	-	234
Regulations for	-	-	-	204

LAND DEPARTMENT.

Appointment of officers of	-	-	-	202
Duties of	-	-	-	202
Establishment of	-	-	-	201
Officers of—				
Duties of	-	-	-	202
Regulations for	-	-	-	204

LIBEL.

(See NEWSPAPERS)

LICENSES.	PAGE.
Abolition of, in certain professions	247
Issue of, to peg claims in certain districts	68
To carry on banking business	247
To deal in arms, etc.—	
Conditions of transfer of	46, 47
Expiry of	46
Fee for	46
Form of	54
To kill, etc., game	105
To possess arms, etc.—	
Fee payable for	38
Form of	52
Register to be kept	41
To sell game	106
To sell liquor (see LIQUOR).	

LICENSE MONEYS (Under Gold Law).

Non-payment of owners share not to prevent renewal of license, etc.	33
Recovery by owner of share of, during war	33
Refund of, not to include moneys paid to the Government of the S.A.R.	63

LICENSING COURTS.

(See LIQUOR)

LIEUTENANT-GOVERNOR.

Powers and jurisdiction of	94
----------------------------	----

LIQUOR.

Applications for licenses to sell—	
How and when to be made	126
Objections to	127-29
Publication of notice of	127
Stamps on	126-7
Coloured persons—	
Employment to sell liquor forbidden	136
Evidence of sale to	141
Exceptions as to supply of Kaffir beer to	136
Name of, to whom supply alleged, need not be inserted in summons	135
Penalties for supplying	135
Possession of liquor by, forbidden	136
Supply to, prohibited	135
Definitions of, for purposes of the law	117
Distillation of, prohibited	122
Exemptions from mischief of the law	116
Hours for sale of—	
Extension of	125
Ordinary	119-22
Inspectors of traffic in—	
Appointment of	143
Bribery of	145
Duties of	144
Powers of	145
Reports by	144

LIQUOR (<i>continued</i>)—	PAGE.
Licensed Premises—	
Limitation of business to be done on	138
Payments of wages on, prohibited	136
Removal of - - -	133
Structural requirements of - - -	119, 132
License Holder—	
Offences by	134-41
Licenses to sell—	
Applications for	126
At railway stations - - -	121
Bottled liquor - - -	120
By brewers - - -	122
Date of expiry of - - -	148
Disqualifications from grant of - - -	130
Fees for - - -	118
Grounds for refusing - - -	129, 130
In cafés - - -	119
In clubs - - -	120
In hotels - - -	119
In restaurants - - -	119
In theatres - - -	121
Issue of, by Receiver of Revenue - - -	118
Kinds of - - -	118
Limit of number to be granted - - -	130, 131
Malt liquors - - -	119
Petitions against, by inhabitants - - -	131
Places prohibited - - -	132
Provisions on death, marriage or insolvency of licensee - - -	134
Removal of - - -	133
Retail (or bar) - - -	120
Returns of, to Receiver of Revenue - - -	125
Returns of, to Attorney-General - - -	125
Structural requirements of premises - - -	119, 132
Temporary - - -	122
Transfer of - - -	133
Wholesale - - -	118
Licensing Courts—	
Appointment of members of	124
Constitution of - - -	123
Cost of proceedings in, by members of - - -	151
Disqualifications from membership of - - -	123
Powers of - - -	128-9
Procedure in - - -	126-9
Quorum of - - -	124
Sittings of - - -	124
Local Option—	
Exclusive sale by local authority or company by reason of vote of inhabitants - - -	147
Petitions against grants, etc., of licenses - - -	131
Prohibition of sale by vote of inhabitants - - -	149
Midnight Privileges, grant of - - -	125
Offences—	
By retail license holder - - -	139
Evidence of sale - - -	140-1
Onus of proof of sale - - -	140
Recovery of penalties - - -	150
Who may prosecute - - -	150
Payment for, how made - - -	149

LIQUOR (*continued*)—

PAGE.

Penalties—

For offences by license holder	-	138
For supply to coloured persons	-	135
For refusal of accommodation by hotel license holder	-	139
For trading without a license	-	135, 139
Where not otherwise specially provided	-	141

Recovery of debts—

For board, etc.	-	148
For retail sale of liquor	-	149

Repeal of laws	-	116
----------------	---	-----

Sale of—

Days of closing	-	120, 122
Employment of barmaids prohibited	-	136
children under 16 prohibited	-	136
coloured persons prohibited	-	136
Hours of closing	-	119, 120
Without license	-	57

Supply prohibited—

To children under 16	-	137
To coloured persons	-	135, 136
To persons restricted by Magistrate	-	137

LOCAL AUTHORITY.

Exclusive sale of liquor by	-	147
Objections by, to liquor licenses	-	128
Petitions by, against liquor licenses	-	131
Requests by, to Lieut.-Governor to close licensed premises on certain days	-	151

LOCAL OPTION.

(See LIQUOR).

MARRIAGES.

Legalization of certain marriages solemnized during the war	-	98
---	---	----

MARTIAL LAW.

Arrest for High Treason under, validated	-	190
Confirmation of sentences of Military Courts	-	190
Indemnity for acts done under	-	189
Power to Governor to proclaim, when necessary	-	197
Recognizances during existence of, validated	-	190
Withdrawal of	-	188

MILITARY STRUCTURES.

No compensation payable for use of land for,	-	199
Removal of	-	199
Right of entry on land to remove	-	199
Rights of owner of land in case of non-removal	-	199
To remove impediments to farming	-	200

MINERALS.

On Crown Land—

Compensation for	-	204
Powers of Lieutenant-Governor	-	203, 220
Rights of settler to, defined	-	221
Reservation of	-	203, 220

MINING RIGHTS.

Amendment of Pr. Tr. 35 of 1902	-	14
Diagrams accompanying transfer of	-	15
Pegging out of claims in certain districts	-	68

MORTGAGE BONDS.

Actions on, postponed	-	208
Interest on in certain cases	-	208
Priority of holder of, for deferred interest	-	208

NATIONAL BANK OF SOUTH AFRICA.

Incorporation of, confirmed	-	59
Power to amend Articles of Association—		
register amendment in Deeds Office		59
register modification of Concession		59

NATIVES.

Certificates of Registration for purposes of exemption from Pass Laws	-	101
Definition of	-	211
Employment of, to serve liquor, prohibited	-	136
Exemptions from—		
Pr. Tr. 37 of 1901 (Pass Law)	-	101
Night Passes Ordinance, 1902	-	211
Taxation	-	66
Licensing of, by Johannesburg Municipality	-	207
Night passes for	-	210
Pass Law exemptions	-	101
Penalties for non-payment of taxes	-	66
Prohibited from being out of doors after certain hours	-	210
Sale to, of arms and ammunition forbidden	-	51
Special pass to be out after hours	-	210
Supply of liquor to, prohibited	-	135
Taxation of	-	65

NATIVE COMMISSIONERS AND SUB-COMMISSIONERS.

Appointment of	-	5
Duties of—		
Under Law 4 of 1885 and Amending Laws	-	5
Jurisdiction of—		
In contraventions of Pass Laws and Regulations	-	212
On failure to pay native taxes	-	66
Under Game Preservation Ordinance	-	107
Under Law 4 of 1885 and amending Laws	-	5
Powers of—		
To award $\frac{1}{2}$ penalties to informers under Game Law	-	107
To exempt natives from taxation	-	66
Under Law 4 of 1885 and amending Laws	-	5
Review of sentences of	-	6
Sentences of lashes of, to be confirmed	-	6
To be native marriage officers	-	6
To be Resident Justices of the Peace within certain areas	-	5

NATURALIZATION OF ALIENS.

Certificates of—		
Form of application for	-	240
Issue of	-	238
Certificate of registration	-	239
Conditions of	-	237
Declaration of allegiance by applicants for	-	238
Duties imposed by	-	238
Fees payable on	-	239
Incidents of, as affecting married women and minors	-	238
Penalties for false statements on application for	-	239

NATURALIZATION OF ALIENS (<i>continued</i>)—		PAGE.
Powers of Lieutenant-Governor	-	237
Publication of returns	-	239
Register of	-	239
Rights conferred by	-	238
NEWSPAPERS.		
Penalties for non-registration of	-	244
Registration of—		
Fee for	-	245
Form of	-	246
Responsibility for libel in	-	245
NEWSPAPER TELEGRAMS.		
(See TELEGRAMS.)		
OFFICIAL DUTIES.		
Appointments to perform, during absence, etc.	-	187
Of Lieutenant-Governor	-	94
OSTRICH EGGS.		
(See GAME.)		
PERMITS.		
To enter the Colony—		
Issue of	-	194
Penalty for obtaining, by improper means	-	196
Persons without, may be ordered to leave	-	195
Restrictions on issue of	-	194
When required	-	194
To import arms, etc.—		
Issue by Colonial Secretary	-	43
Detention by Customs Officers till produced	-	43
To import sporting rifles and ball ammunition—		
may be granted by Colonial Secretary	-	45
To purchase ball ammunition—		
may be granted by R.M.	-	44
Register of, to be kept	-	44
To transport arms, etc.—		
Penalty for refusing to produce on demand	-	42
Issue of	-	41
POLICE CONSTABLE.		
Harbouring of, by license holders prohibited	-	138
Penalty for obstructing when engaged in search for seditious, etc., documents	-	192
Powers of—		
As to trespassers in pursuit of game	-	106
To object to grant or renewal of liquor licenses	-	127-8
Under Liquor Ordinance generally	-	127, 141-3
Sale of liquor to, when on duty prohibited	-	138
POLICE OFFICER.		
Duties of—		
Under Liquor Ordinance generally	-	127-141
Powers of—		
To arrest without warrant in certain cases	-	190
To enter and search for arms and ammunition	-	42
To inspect books of licensed dealers in arms	-	49
To search for treasonable documents	-	192
Under Liquor Ordinance generally	-	142

POST OFFICE.

Importation of goods through	-	-	78
May intercept treasonable or seditious matter			192

PRETORIA MUNICIPALITY.

Amendment of Proclamation	-	-	114
Contracts of, and saving as to tenders	-	-	115
Dog Law excluded in the town on publication of Bye-laws as to dogs	-	-	115
Extension of powers	-	-	114
Market Law excluded from, on publication of Market Bye-laws			115
Native passes, powers as to	-	-	114
Pound Law excluded from, on publication of Pound Regulations			115
Quorum of Council	-	-	114

PRISONS (PRETORIA).

Governor and Deputy-Governor of—			
Appointment of	-	-	185
Powers, duties, etc., of	-	-	185
Validation of acts	-	-	185

PRIVY COUNCIL.

Appeal to, from Supreme Court in cases from High Court of O.R.C.			35
--	--	--	----

PROCEDURE.

On appeal to Supreme Court from O.R.C.	-	-	36
--	---	---	----

PUBLIC SAFETY.

Special provisions for	-	-	190-7
------------------------	---	---	-------

RAILWAYS.

Bye-laws and Regulations for management and working of	-		95
Sale of liquor on premises of	-	-	121

RECEIVER OF REVENUE.

Duty to deface adhesive stamps on documents stamped after execution	-	-	55
Issue of licenses by, to deal in arms and ammunition	-	-	45
Issue of liquor licenses by	-	-	118

REFUND.

Of license monies on claims and stands during the war			31, 33
---	--	--	--------

REGULATIONS (POWER TO MAKE).

For billeting of Volunteers when on active service	-		176
For Customs Management	-		86-7 & 92
Under Crown Land Disposal Ordinance	-	-	204
Under Diseases of Stock Ordinance	-	-	61
Under Native Tax Ordinance	-	-	66
Under Peace Preservation Ordinance	-	-	196
Under Settlers Ordinance	-	-	235
Under Volunteer Corps Ordinance	-	-	157-8

RESIDENT JUSTICES OF THE PEACE.

Amendment of Law 7 of 1894 as to punishments	-		57
Native Commissioners and Sub-Commissioners to be, within certain areas	-	-	5

RESIDENT MAGISTRATE	PAGE.
Appeal to, from C.O. of Volunteers	159
Certificates by—	
For grant of license to deal in arms, etc.	45
For naturalization of aliens	237
For transfer of license to deal in arms, etc.	47
Declaration of allegiance before, by aliens	238
Duties of—	
In arrests without warrant	191
In cases of persons residing in Colony without proper authority	195
In case of treasonable letters forwarded to him by Post Office	192
To appoint persons to supervise removals of military obstructions	200
To appoint valuers of deposited arms, &c.	43
To keep register of permits to purchase ball ammunition	44
To order return of persons liable for jury service	22
To preside over Licensing Court	125
To publish list of persons liable for jury service	23
To revise jury list	23
To report existence of disease amongst stock to Colonial Secretary	60
To sign jury list when names drawn	26
To transmit copies of returns as to sale of rifles and ball ammunition	45
Under Liquor Ordinance	145
Under Peace Preservation Ordinance	195
Jurisdiction of—	
Over natives failing to pay taxes	66
To try offences by Volunteers	162, 164
Under Game Preservation Ordinance	107
Under Liquor Ordinance generally	122, 125, 143
Under Peace Preservation Ordinance	195
Powers of—	
As to trespassers in pursuit of game	106
To arrest without warrant for certain offences	190
To award half penalties to informers under the Game Preservation Ordinance	107
To enter and search for arms and ammunition	42
To exempt natives from payment of taxes for certain reasons	66
To grant licenses to possess arms	38
To issue permits for purchase of ball ammunition from magazines	44
To issue permits for transportation of arms and ammunition	41
To search for treasonable documents	192

RHODESIAN REDWATER.

(See DISEASES OF STOCK.)	60
--------------------------	----

RIFLES.

Definition of	37
Importation of, forbidden, except by Government	44
License to possess—	
Conditions of	39
Fee for	38
Return of	45
Revocation by Governor of	41
License holder for, may keep limited amount of ball ammunition	38

RIFLES (<i>continued</i>)—	PAGE.
Penalties—	
For unlawful importation of -	45
For delivery of, to unauthorized person	45
For possession of, without license -	40
Permit for possession of -	45
Purchase of, from magazine -	44
Stamping of—	
On issue of licenses to possess	39
On issue from Government magazines	44
Storing of, in Government magazines -	44

SEDITION.

Definitions -	193
Penalties for -	193

SETTLERS.

Acquisition of land for -	214
Advances to -	228
Allotment to applicants -	216-7
Applications by—	
Conditions of -	215
For adjoining holdings -	216
For holdings -	215
For increased holdings -	232
Compensation to, on relinquishing holdings -	227
Contracts by, in conflict with Ordinance, void -	233
Cultivation of land by -	223
Death of -	226
Definition of -	213
Deposit by, on application for holdings -	215
Encumbrances by, forbidden -	223
Forfeiture of license or lease by -	226
Fraud by -	233
Insolvency of -	225
Issue of Crown Grant to -	228
Joint applications by -	216
Leases for holdings by -	217-8
License for holdings by -	217-8
Lunacy of -	226
Obligations of, as to fencing between holdings -	233
Payment of rent, etc., by -	221
Regulations for working of Ordinance -	235
Repayment by—	
Of advances to -	230
Of capital on forfeiture -	227
Residence by, on settled lands -	221
Resumption of land settled -	221
Sub-letting by -	224
Surrender of license or lease by -	224
Transfer by -	224-5
Waiver of forfeiture of license or lease by -	226
Wrongful disposal of stock, etc., by -	233

SHERIFF.

Exempted from necessity of holding licenses for purpose of judicial sales—	
Under Arms and Ammunition Ordinance -	51
Under Liquor Ordinance -	116

SHERIFE (<i>continued</i>)—	PAGE.
Duties of—	
To record jury list on jurors book	24
To summon jurors	24
STAMP DUTIES.	
Adhesive stamps, when defaceable by Receiver of Revenue	55
Amendment of Proclamation Transvaal 12 of 1902	55
STOCK.	
Definition of, for purposes of disease prevention	61
Diseases of, prevention	61
Penalties for slaughtering of, in the Colony	183
Power to Governor to prohibit importation of	61
to make regulations as to	61
Protection of—	
Power to suspend operation of Ordinance	184
Slaughter of, in Colony—	
Presumption as to	183
Prohibited	183
SUPREME COURT.	
Constitution of—	
As a Court of the Colony	2
In appeals from the Courts of the O.R.C.	36
Establishment of	2
Expression in laws substituted for "High Court"	3
Judges of, to have the powers of members of High Court of	
Transvaal	3
Jurisdiction of—	
As Court of Appeal from High Court of the O.R.C.	35
For discharge of persons arrested without warrant	191
In trials of volunteers on military service	162, 164
On special case stated under the Settlers Ordinance	232
Powers of—	
To frame rules as to fees of attorneys, and officers of Circuit	
Courts	19
On appeal in criminal cases from the O.R.C.	35
Procedure on appeals to, from O.R.C.	36
Use of Dutch language in, when allowed	3
TELEGRAMS (Press)	
Protection of, from publication	242
Republication of, within certain time—	
Penalties for	242
Protection from	242
THEATRES.	
Sale of liquor in	121
VOLUNTEER CORPS.	
Active service of—	
Command on	157
Definition of	154
Effects of	157
Payment when on	157
Arrest of offenders on active and military service	164
Billeting etc., when on active service	176
Calling out of, for active or military service	156

VOLUNTEER CORPS (*continued*)—

PAGE.

Commanding officer of—		
Duties of investigating charges	-	165
Funds and property vested in	-	177
Jurisdiction as to trial, etc., of offences	-	162
Power to award minor punishments	-	167
Power to seize Government and Corps property	-	176
Reports by, to G.O.C.	-	166
Compensation for wounds and injuries	-	174
Courts of Officers—		
Composition of	-	167
Confirmation of proceedings of	-	170
Decision of	-	169
Disqualification of members of	-	168
Oath by members of	-	169
Objections to members of, by prisoners	-	168
Procedure in	-	168-70
Remission of punishments of	-	171
Revision of proceedings of	-	171
Sentences by	-	169
Definition of terms in Ordinance	-	154-55
Discharge from, conditions of	-	158-9
Discipline of	-	161
Discontinuance of	-	156
Enforcement of orders, etc., outside Colony	-	172
Formation of	-	156
Funds of, vested in C.O.	-	177
General officers commanding, duties of	-	166-170
Impersonation of members of	-	174
Imprisonment of offenders	-	171
Investigation of charges against persons in military custody	-	165
Liability of members of, after dismissal	-	158
For loss of Government and Corps property	-	177
To active or military service within the Colony	-	156
Limitation of actions against members of	-	175
Military custody—		
Limit to period of	-	165-66
Of persons charged with offences	-	164-5
Military service of		
Command on	-	157
Definition of	-	155
Effects of	-	157
Payment when on	-	157
Misconduct of volunteer on duty	-	158
Muster roll of	-	160
Obstruction of, on march or parade	-	177
Offences by members of—		
Committed outside the Colony	-	172
Under the Ordinance	-	179
Officers of—		
Appointment of	-	157
Courts of	-	167 et seq.
Ordinary Courts of	-	167
Special Courts of	-	167-8
Pensions and gratuities	-	173-4
Permanent staff of	-	160
Privileges of members of	-	174
Receiving of arms, etc., contrary to regulations	-	175
Repeal of previous Ordinance	-	177

VOLUNTEER CORPS (<i>continued</i>)	PAGE.
Reserves of---	
Formation and liabilities of	160
Rules and regulations for	157
Tribunals for trial of offences	161 4
Unlawful wearing of uniform	176
WARRANTS FOR ARREST—	
When unnecessary	190
WITWATERSRAND HIGH COURT—	
Constitution of	2
Continuation of proceedings from District Court	3
Establishment of	2
Expression in laws substituted for Witwatersrand District Court	3
Jurisdiction of	
As to discharge of persons arrested without warrant	191
Use of Dutch language in, when allowed	3