

COLONY OF THE CAPE OF GOOD HOPE.



ACTS OF PARLIAMENT.

SESSIONS OF 1908,

BEING THE

FIRST AND SECOND SESSIONS OF THE TWELFTH
PARLIAMENT.

EDITED BY
COLONIAL SECRETARY'S DEPARTMENT.

CAPE TOWN :
CAPE TIMES LIMITED, GOVERNMENT PRINTERS,
1908.

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(CHRONOLOGICAL.)

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No. 1—1907.]

[June 29, 1907.]

ACT

To Apply a further Sum not exceeding One Hundred and Sixty-nine Thousand Four Hundred and Seventy-four Pounds Sterling for the Service of the Year ending 30th June, 1907.

[Assented to 29th June, 1907.]

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending the 30th June, 1907, in addition to the sum provided by Acts No. 4 of 1906 and No. 22 of 1906 : Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof as follows :—

Preamble.

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending on the 30th June, 1907, with a further sum of One Hundred and Sixty-nine Thousand Four Hundred and Seventy-four Pounds Sterling, in addition to the sum provided for by Acts No. 4 of 1906, and No. 22 of 1906.

Public Revenue charged with £169,474.

2. The money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto and more particularly specified and set forth in the explanatory Schedule to this Act submitted to Parliament.

How to be applied.

3. This Act may be cited for all purposes as the "Additional Appropriation 1906-1907 Act, 1907."

Short Title.

SCHEDULE.

Schedule.

Additional Appropriation, 1906-1907.	Establishments.	Services exclusive of Establishments.	Total.	Votes to be taken.
	£	£	£	£
I. Prime Minister ...	743	7,866	8,609	8,609
II. Colonial Secretary...	1,575	50,220	51,795	51,795
III. Treasurer ...	2,013	42,156	44,169	44,169
IV. Attorney-General ...	3,922	426	4,348	4,348
V. Commissioner of Public Works ...	3,242	26,804	30,046	30,046
VI. Secretary for Agriculture ...	4,478	26,029	30,507	30,507
Grand Total ...	15,973	153,501	169,474	169,474

5224 STOCK AND PRODUCE THEFT REPRESSION AMENDMENT
ACT, 1907.

No. 2—1907.]

[July 3, 1907.]

ACT

To Apply a Sum not exceeding One Million Pounds Sterling towards the Service of the Year ending 30th June, 1908.

[Assented to 3rd July, 1907.]

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

Revenue charged £1,000,000 towards service of year ending 30th June, 1908.

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending 30th June, 1908, with a sum not exceeding One Million Pounds Sterling (£1,000,000), which sum shall be applied towards the service of the said year in conformity with the Estimates of the Expenditure for the year ended the 30th June, 1907, which have been presented to Parliament.

Short Title. 2. This Act may be cited for all purposes as “The Appropriation (part 1907–08) Act, 1907.”

No. 3—1907.]

[July 12, 1907.]

ACT

To Amend the Stock and Produce Theft Repression Amendment Act, No. 7 of 1905.

[Assented to 10th July, 1907.]

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

Section 4 of Act No. 7 of 1905 amended. 1. From and after the date of the promulgation of this Act, the Stock and Produce Theft Repression Amendment Act, No. 7 of 1905, shall be read and construed as if the words “with or without hard labour” were inserted after the word “imprisoned” in the fourth section of the said Act.

Short Title. 2. This Act may be cited as the “Stock and Produce Theft Repression Amendment Act, 1907.”

No. 4—1907.]

[July 30, 1907.

ACT

To Provide for the Better Protection of Infant Life.

[Assented to 26th July, 1907.]

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

Preamble.

1. Any person retaining or receiving an infant under the age of seven years for the purpose of nursing or maintaining such infant apart from his or her parent or parents for a period longer than three days shall, within forty-eight hours thereafter, give notice in writing to the Resident Magistrate, Assistant Resident Magistrate or Field-cornet of the district in which such infant is received or retained, of such fact.

Report to be made by any person receiving any child under 7 for maintenance.

2. Such notice shall state truly the Christian name, if bearing any, age and sex of such infant, the name of the person receiving the infant, and the dwelling within which such infant is being kept and the reward, if any, being received.

Particulars of notice.

3. If any such infant be removed from the care of the person who has received the infant for the purpose aforesaid, or if such person change his residence, such person shall forthwith give to the Magistrate, Assistant Magistrate or Field-cornet as aforesaid notice of the removal and in the case of transfer, of the name and address of the person to whose care the infant has been transferred.

Notice of removal of child to be given.

4. Any Field-cornet receiving any such notice as aforesaid shall immediately transmit such notice to the Resident Magistrate of his district.

Duty of Field-cornet receiving notice.

5. If any person who has retained or received any infant as aforesaid omits to give the said notices or any of them, or knowingly or wilfully makes, or causes or procures any other person to make, any false statement in any such notice, he shall be guilty of an offence against this Act.

Penalty for not giving notices.

6. All persons who, upon the date of the passing of this Act, have in their care, custody or control any infant under the age of seven years for the purpose of nursing or maintaining such infant apart from his or her parents for a period longer than three days shall, not later than a date to be fixed by the Resident Magistrate of the district, give notice thereof as aforesaid.

Care of children at present maintained.

7. Such notice shall truly state the Christian name, if bearing any, age and sex of such infant, the name of the person who has the care, custody or control of the said infant, and the dwelling within which such infant is being kept.

Particulars of notice.

8. If any such infant is after such notice removed from the care, custody or control of the person who gave such notice, such

Notice of removal.

No. 4—1907.

person shall immediately give notice of the removal to the Resident Magistrate, Assistant Resident Magistrate or Field-cornet of the district, and of the name and address of the person to whose care, custody or control the infant has been transferred.

Penalty for omitting to give notice.

9. If any person who has the care, custody or control of any infant as aforesaid omits to give the said notices or any of them, or knowingly or wilfully makes, or causes or procures any other person to make any false statement in such notice he shall be guilty of an offence against this Act.

Notice to be given if child dies.

10. Any person who shall have the care or custody of a child in terms of this Act shall, if any such child die, give immediate notice thereof to the Magistrate, Assistant Resident Magistrate or Field-cornet, as the case may be, and such notice shall state specially whether any other child to which this Act applies has, at any time previous to this death notice, died under the care or custody of such person.

Duty of Magistrate on receiving notices.

11. The Resident Magistrate or Assistant Resident Magistrate of a district receiving any notice as aforesaid in sections one, three, six and eight contained shall cause inquiry to be made into the circumstances of the case and shall have power, should he be satisfied that it is not in the best interests of the infant to remain with the person in whose care and custody such infant then is, to order the removal of the said infant to the care, custody and control of some other person or persons or institution willing to receive and maintain such infant as to the said Magistrate or Assistant Magistrate may seem meet unless the parent or parents of such child shall within three days make suitable provision for the custody of such child: provided that the inquiry so to be made shall not extend to or embrace any question as to the parentage of such child.

Power to appoint inspectors and visitors.

12. The Resident Magistrate or Assistant Resident Magistrate of the district shall have power and authority by writing under his hand to appoint voluntary inspectors and visitors to assist him in carrying out the provisions of this Act, and may arrange for any infant aforesaid to be visited or inspected by such inspectors or visitors.

Powers of inspectors and visitors.

13. Any inspector or visitor duly appointed and authorized as aforesaid may from time to time visit and inspect any infant to whom this Act refers and the premises in which such infant is retained or received in order to secure the proper maintenance and treatment of such infant.

Penalty for obstructing inspector or visitor.

14. If any person having the care, custody or control of an infant as aforesaid refuses to allow any such inspector or visitor to see or inspect such infant or premises, such person shall be deemed to be guilty of an offence against this Act.

Penalty for ill-treating child.

15. If any person having the care, custody or control of an infant as aforesaid ill-treats or grossly neglects such infant such person shall be deemed to be guilty of an offence against this Act, and shall, in addition to the penalties provided therefor, be

liable to forfeiture of any reward received or to be received in respect of such infant; and the said infant may, by order of the said Magistrate, be removed to the care, custody or control of some other person or persons or institution willing to receive and maintain such infant, as to the said Magistrate may seem meet, unless the parent or parents of such child shall within three days make suitable provision for the custody thereof.

16. It shall be unlawful to effect any insurance on the life of any infant to whom this Act applies, except as provided by section twenty-three of the Friendly Societies Act, No. 5 of 1892, and any person contravening the provisions of this section shall be deemed to have committed an offence against this Act. Provided that it shall not be lawful for the Registrar or Deputy-Registrar to issue more than one Certificate of Death in any one case.

No insurance may be effected.

17. It shall be the duty of the Resident Magistrate of the district to fix the number of infants as aforesaid who may be received or retained in any dwelling under the provisions of this Act, and any person receiving or retaining any infant in excess of the number so fixed shall be deemed to be guilty of an offence against this Act, and shall be liable, in addition, to the forfeiture of reward and removal of the child provided in section fifteen of this Act.

Magistrate to fix number of children who may be received in any dwelling.

18. Any person found guilty of a contravention of this Act shall be liable to a fine not exceeding £100, or in default of payment, to imprisonment, with or without hard labour, for a period not exceeding six months, or to both such fine and imprisonment.

Penalty for contravention of Act.

19. Nothing in this Act contained shall be deemed to limit any prosecution for an offence under any other law committed by any person having the care, custody or control of an infant to whom this Act refers, in respect of such infant.

Prosecutions under other laws not limited.

20. Nothing in sections eleven and fifteen of this Act shall deprive the parent or parents of any child so removed by order of a Magistrate of the right of thereafter claiming or making other suitable provision for the custody thereof.

Right of parents to custody of child.

21. The provisions of this Act shall not extend to the relations within the fourth degree or guardians of an infant by them retained or received as aforesaid, or to hospitals, convalescent homes or institutions established for the protection and care of infants and conducted in good faith for religious or charitable purposes, or to near friends acting without reward, or to persons who, during the temporary absence not exceeding one year of parents, have had children committed to their care or custody with or without reward.

Exemptions.

22. This Act may be cited as the "Infant Life Protection Act, 1907."

Short title.

No. 5—1907.]

[July 30, 1907.

ACT

To Amend the Law in regard to Post Office Savings Banks.

[Assented to 29th July, 1907.]

Preamble.

WHEREAS it is expedient to amend the law in regard to Post Office Savings Banks and to afford additional facilities for the transfer of deposits from the Post Office Savings Bank of the United Kingdom or any British Possession to the Post Office Savings Banks of the Cape of Good Hope and *vice versa*,

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

Particulars to be specified by depositor and declaration to be subscribed.

1. Sub-section (3) of section one of Act No. 5 of 1889, entitled "The Post Office Savings Banks Additional Facilities Act, 1889," is hereby repealed and the following Section substituted therefor :—

"Every depositor on making a first deposit and whenever thereafter he is required so to do shall specify his name in full, occupation and residence to the officer of the Postmaster-General appointed to receive deposits and make and subscribe with his name, or mark if unable to write, a declaration on the prescribed form to be witnessed by the officer of the Postmaster-General appointed to receive deposits or by some person known to him, or by some other officer of the Postmaster-General, or by some Minister of Religion in the district in which the depositor resides, or by a Justice of the Peace, or by any other person approved by the Postmaster-General in that behalf. If the depositor cannot write, the certificate at the back of the declaration form shall be filled up and witnessed by two persons both over the age of sixteen years."

Deposits by Friendly or Charitable Societies, or other Societies, Clubs or Funds.

2. Section thirteen of Act No. 6 of 1883, entitled "The Post Office Savings Banks Act, 1883," and sections one and two of Act No. 4 of 1886, entitled "The Post Office Savings Banks Act Amendment Act, 1886," are hereby repealed and the following section substituted therefor :—

"Deposits may be made by any Friendly or Charitable Society or any other Society, Club or Fund, approved by the Treasurer of the Colony, without restriction as to the maximum amount, provided that such deposits shall not be of less amount than one shilling, nor of any sum not a multiple thereof, and that a copy of the rules of the Society, Club or Fund, be forwarded to the Postmaster-General, or if there be no rules a statement

THE POST OFFICE SAVINGS BANKS ACTS AMENDMENT 5229
ACT, 1907.

No. 5—1907.

of the objects of such Society, Club or Fund, together with such other information as may be required under regulations framed under the authority of the Post Office Savings Banks Acts. One Trustee or other responsible officer of such Society, Club or Fund, shall sign on behalf of such Society, Club or Fund, such declaration as may from time to time be prescribed by regulation."

3. Sub-section (1) of section one of Act No. 5 of 1889 entitled "The Post Office Savings Banks Additional Facilities Act, 1889," is hereby repealed and the following substituted therefor :—

Deposits up to £600 Capital and Interest authorised.

"Deposits of one shilling or any number of shillings or of pounds and shillings will be received from any depositor at any Post Office Savings Bank provided the net deposits made by such depositor in any Savings Bank year ending on the 30th day of June do not exceed one hundred pounds, and provided the total amount standing in such depositor's name in the books of the Postmaster-General does not exceed six hundred pounds. When by the addition of any deposit or of any interest or by any other means the total sum standing in the name of any depositor in his ordinary account in the Post Office Savings Bank exceeds the sum of six hundred pounds no interest shall be payable on any sum in excess of such sum of six hundred pounds."

4. Warrants or other orders for the payment of money, receipts or other acknowledgments for the receipt of money, and other documents prescribed or provided for in the regulations framed under the Post Office Savings Banks Acts, in relation to the payment or receipt of money deposited in the Post Office Savings Banks shall be exempt from stamp duty.

Warrants for payments, receipts, etc., to be exempt from Stamp Duty.

5. The Postmaster-General may enter into an arrangement with the Post Office Savings Bank authority in the United Kingdom or in any British Possession for the transfer of sums standing to the credit of depositors in such Post Office Savings Bank to the Post Office Savings Bank of the Cape of Good Hope and *vice versa*, and wherever such an arrangement has been entered into the Postmaster-General may place any amount transferred in accordance therewith to the Post Office Savings Bank of the Colony to the credit of a depositor's account in that Bank, although the amount transferred may exceed the amount which a depositor may deposit in any one Savings Bank year, but no amount shall be so credited which shall make the total amount standing to the credit of the account exceed the maximum allowed by the Post Office Savings Banks Acts of the Cape of Good Hope in respect of sums deposited and interest accrued.

Transfer of sums from Post Office Savings Bank in United Kingdom to Post Office Savings Bank in Colony and *vice versa*.

5230 THE CAPE, PORT ELIZABETH, EAST LONDON AND HAY
DIVISIONAL COUNCILS INDEMNITY ACT, 1907.

No. 5—1907.

The words
"Treasurer of
the Colony"
to be read for
"Colonial
Secretary" in
certain Acts
of Parliament

Short Title
and taking
effect of Act.

6. Wherever in Acts No. 6 of 1883, No. 4 of 1886, or No. 5 of 1889, the words "Colonial Secretary" occur, the words "The Treasurer" shall be read in lieu thereof.

7. This Act shall have effect from and after the date of the promulgation thereof, and may be cited as "The Post Office Savings Banks Acts Amendment Act, 1907."

No. 6—1907.]

[August 16, 1907.]

ACT

To Amend the Law relating to the Registration of Divisional Council Voters, in the Divisions of the Cape, Port Elizabeth and East London, and to indemnify the Divisional Council of Hay.

[Assented to 14th August, 1907.]

Preamble.

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

Repeal of
repugnant
Laws.

1. So much of the "Divisional Councils Act, 1889," or any other Law as provides for making out Divisional Councils Voters Lists for the Divisions of the Cape, Port Elizabeth and East London, on or before the 1st day of July, 1907, and thereafter in every third year, is hereby repealed.

When Divi-
sional Council
Voters Lists
for the Cape,
Port Eliza-
beth and East
London Divi-
sions are to be
made out.

2. Divisional Council Voters Lists for the Divisions of the Cape, Port Elizabeth and East London shall be made out, in manner provided by the Divisional Councils Act, 1889, for making out such lists, on or before the first day of July, 1908, and thereafter on or before the first day of July in every third year, and all the provisions of the said Divisional Councils Act relating to Voters Lists thereunder shall apply *mutatis mutandis* to Voters Lists made out under this Act.

Municipal
Rolls to be
used mean-
while.

3. Until such time as the aforesaid Voters Lists shall have been made out under this Act, the existing Municipal Voters' Rolls shall, in respect to all Municipalities in the Cape Division, be substituted for the Divisional Council Voters' Roll for all purposes prescribed in section thirteen of Act No. 25 of 1891.

Divisional
Council of
Hay indemni-
fied.

4. The Divisional Council for the Division of Hay which was elected in the year 1904, instead of 1905, as required by section seven of the Administrations Indemnity Act, 1902, shall, from and after the passing of this Act, be deemed and taken to have been duly elected according to law; and Councillors for the said Division shall hereafter be elected at the time prescribed in and in accordance with the provisions of the said section, so

that the next election shall take place before the 1st day of November, 1908 ; and all things done and powers exercised by the said Council since 1904, under the provisions of the Divisional Councils Act, 1889, or any other law relating to Divisional Councils, shall be deemed to have been as duly and validly done and exercised as if the said Council had been lawfully constituted, any other law to the contrary notwithstanding.

5. This Act shall be read as one with the said "Divisional Councils Act, 1889," and may be cited as "The Cape, Port Elizabeth, East London and Hay Divisional Councils Indemnity Act, 1907."

Short Title.

No. 7—1907.]

[August 16, 1907.

ACT

To Provide for the Recognition in this Colony of Trustees and Liquidators appointed elsewhere in British South Africa.

Repealed by Act 32 of 1916 so far as relates to the recognition of any trustee appointed in Union.

[Assented to 14th August, 1907.]

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

Preamble.

1. The term "non-Cape" shall mean and include every British Colony in South Africa other than this Colony.

Meaning of terms.

"Non-Cape Trustee" shall include every person duly appointed in any British Colony in South Africa other than in the Cape Colony for the purpose of administering, liquidating and distributing any bankrupt or insolvent estate in such part.

"Non-Cape Liquidator" shall include every person duly appointed in any British Colony in South Africa other than in the Cape Colony for the purpose of winding up any Company in such part.

"Letter of Appointment" shall include every document issued and delivered, or a copy of such document duly certified, by any lawful and competent judicial authority in any British Colony in South Africa other than in the Cape Colony, under which document any person shall be appointed to perform in such part of South Africa in regard to any bankrupt or insolvent estates or to any company that is being wound up there duties similar to those which are performed in this Colony by trustees of insolvent estates or by liquidators under a winding up as the case might be.

No. 7—1907.

Taking effect of this Act.

2. The provisions of this Act shall come into force with regard to any letter of appointment issued in any British Colony in South Africa other than in the Cape Colony as and from the date of any Proclamation by the Governor published in the *Gazette*, declaring that such Colony has made proper reciprocal provision for the recognition of letters of appointment granted in this Colony, and such provisions shall remain in force unless or until a further Proclamation shall be similarly published declaring that such reciprocal provision no longer exists.

Order of Court for recognition of non-Cape trustee or liquidator.

3. Upon the production by any non-Cape trustee or liquidator of his letters of appointment it shall be lawful for the Supreme Court, Eastern Districts Court or High Court of Griqualand to make an order for the recognition of such non-Cape trustee or liquidator, as the case might be, within the jurisdiction of such Court, and such Court shall require such Trustee or Liquidator to fix a place within the jurisdiction of the Court at which any process under the provisions of this Act may be legally served upon him.

Effect of order of recognition.

4. The effect of such order of recognition shall be to empower the non-Cape trustee or liquidator to administer and realize for the purpose of the bankruptcy, insolvency, or winding-up as the case might be, and to effect valid delivery or transfer of all the assets in this Colony of the bankrupt, insolvent or company, whether movable or immovable, subject to the conditions herein-after set forth.

Security by non-Cape trustee or liquidator.

5. The non-Cape trustee or liquidator shall give security to the satisfaction of the Master of the Supreme Court or of the High Court of Griqualand for the due administration of the assets in this Colony, for due compliance with the provisions of this Act and for the payment of all fees and charges payable under the laws of this Colony.

Duties of non-Cape trustee and liquidator.

6. The non-Cape trustee or liquidator shall forthwith file with the Master an inventory, supported by affidavit, showing the assets of the estate or company in this Colony and their value and he shall, with all convenient speed, publish a notice in the *Gazette* and such other newspapers as the Master may desire, calling upon all persons in this Colony having claims against the estate or company to lodge them with the Master within a period stated in the notice and determined by the Master.

Laws of Colony to rule as to admission of claims, &c.

7. The admission or rejection of such claims as aforesaid, the liability of the estate or company for the same, to the extent of its assets, and all questions of mortgage or preference in respect of such assets, shall be regulated by the laws of this Colony as if the estate or company had been sequestrated or had been ordered to be wound up in this Colony.

Accounts of administration.

8. The non-Cape trustee or liquidator shall file with the Master an account of his administration of the assets in this Colony and a distribution account, showing

- (a) all claims entitled to be preferably ranked against the proceeds of the local assets and the proposed application of such assets in satisfaction thereof ;
- (b) the balance remaining for distribution among the general body of creditors ;
- (c) the names of all creditors who have proved their claims in this Colony to the satisfaction of the Master, together with the amounts of such claims ; and
- (d) the dividend payable to the local concurrent as well as preferent creditors.

9. Such account and plan of distribution as aforesaid shall be supported by the acquittances of those creditors whose claims have been proved in this Colony and who have received any dividend in respect thereof.

Accounts to be supported by acquittances.

10. The non-Cape trustee or liquidator shall pay any expenses lawfully incurred by the Master in giving effect to the provisions of this Act, and shall be accountable to the Supreme Court, Eastern Districts Court or High Court of Griqualand, within their respective jurisdictions in respect of any undue delay in the distribution of the assets or any improper dealing with the assets in this Colony : Provided that it shall be lawful for him to remit to the country in which the estate has been sequestrated or the company has been ordered to be wound up, the free local residue, after payment of local preferent creditors, for distribution among the general body of creditors, including the local concurrent creditors.

Master's expenses

11. Any person feeling aggrieved by any act or thing done under the provisions of this Act shall be entitled to apply for relief by motion to the Supreme Court, Eastern Districts Court or High Court of Griqualand, within the limits of their jurisdiction ; Provided that it shall be competent for such Court to direct that the question or questions raised by such motion shall be tried by action.

Applications to Superior Court by persons feeling aggrieved.

12. If no creditor shall prove any claim before the Master within the appointed time the Master shall have the power to release the non-Cape trustee or liquidator from the obligation of giving security upon payment of the Master's fees and expenses.

If no claims filed, trustees and liquidators released from obligation to give security

13. After the recognition of such non-Cape trustee or liquidator, as aforesaid, no action shall be commenced against the bankrupt or insolvent or company, as the case might be, except with the leave of the Court, and subject to such terms as the Court may impose.

After recognition of non-Cape trustee or liquidator, action not taken without leave of the Court.

14. All actions pending against any bankrupt, insolvent or company, whose estates shall be administered by any non-Cape trustee or liquidator, for any debt or demand shall, upon the recognition of such trustee or liquidator, be stayed, and the bankrupt or insolvent, if in prison under any arrest granted in security of any debt or demand in regard to which such action

Actions against insolvents.

shall have been instituted, may be discharged therefrom by a judge of the Supreme Court, and it shall be lawful for the plaintiff in such action to prove his debt, together with the taxed costs of suit then incurred against the estate: Provided that all actions pending against any bankrupt, insolvent or company as aforesaid for unliquidated damages, shall, upon the recognition of the trustee or liquidator be stayed and the plaintiff, after summoning the non-Cape trustee and liquidator to take up and defend the action may proceed to obtain the judgment of the Court thereon, and the said judgment shall be a debt provable against the estate.

Actions by insolvents.

15. All actions commenced by the bankrupt, insolvent or company as aforesaid, shall, upon the recognition of the non-Cape trustee of such bankrupt or insolvent or the non-Cape liquidator of such company, be stayed until such trustee or liquidator shall make election to prosecute or discontinue the same, and he shall be bound to make such election within four weeks after notice to that effect shall be served upon him by the defendant or otherwise shall be deemed to have abandoned the same.

Short Title.

16. This Act may be cited for all purposes as "The Non-Cape Trustees and Liquidators Recognition Act, 1907."

No. 8—1907.]

[August 20, 1907.

ACT

To Provide for the Sale without a Licence of certain Liquors made by persons engaged in Viticulture on their own Property.

[Assented to 19th August, 1907.]

Preamble.

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

Interpretation Clause.

1. For the purposes of this Act, "person" shall be taken to include any persons or association of persons who are themselves wine farmers.

Viticulturists to be allowed to sell and deliver certain liquors without taking out a licence.

2. Notwithstanding anything to the contrary contained in the Liquor Licensing Act, No. 28 of 1883, or any other Law, it shall be lawful for any person engaged in viticulture to sell and deliver pure natural wine as defined by the Wine, Brandy, Whisky and Spirits Act, No. 42 of 1906, being the product of grapes of his own growth, or in the case of Wine Farmers' Co-operative Associations, the growth or produce of the members of the same, without taking out a licence; provided that such liquor shall be made upon his own property or some central cellar belonging to such person; shall not be sold and delivered to any

native as defined in Act No. 28 of 1898, section five, who is not a Registered Voter; shall not be consumed on the premises of the seller; and shall be sold in quantities of not less than 4 gallons if in cask or other receptacle, or one unbroken case containing not less than 12 reputed quarts or 24 reputed pints to be delivered at one time, and provided further that such wine shall have been sold or ordered before being delivered from the owner's cellar.

3. Any person contravening any of the provisions of this Act shall be liable to the penalty provided by section seventy-five of Act No. 28 of 1883.

Penalty.

4. This Act may be cited as "The Sale of Pure Natural Wine Facilities Act, 1907."

Short Title.

No. 9—1907.]

[August 20, 1907.]

ACT

To Apply a Sum not exceeding One Million Pounds Sterling towards the Service of the Year ending 30th June, 1908.

[Assented to 19th August, 1907.]

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

Preamble.

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending 30th June, 1908, with a sum not exceeding One Million Pounds Sterling (£1,000,000), which sum shall be applied towards the service of the said year in conformity with the Estimates of the Expenditure for the year ended the 30th June, 1907, which have been approved of by Parliament.

Revenue charged with £1,000,000 towards services of year ending 30th June, 1908.

2. This Act may be cited for all purposes as "The Appropriation (part 1907-08) Act, 1907."

Short Title.

No. 10—1907.]

[August 20, 1907.]

ACT

To Prohibit the Export of Ostriches and Ostrich Eggs.

[Assented to 19th August, 1907.]

WHEREAS it is desirable to prohibit the exportation of Ostriches and Ostrich Eggs from this Colony: Be it therefore enacted by the Governor of the Cape of Good Hope, with the

Preamble.

No. 10—1907.

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

Act 24 of 1884 repealed.

1. Act No. 24 of 1884, intituled the “Ostrich Export Duty Act, 1884,” is hereby repealed.

Export of Ostriches and Ostrich Eggs prohibited.

2. It shall not be lawful to export any Ostrich or Ostrich Egg, except as hereinafter provided, to any place beyond the limits of this Colony or to any country separated therefrom by sea: provided, however, that this prohibition shall not apply to the export of any Ostrich or Ostrich Egg to any neighbouring Colony or State which shall, by its own Legislature, have similarly prohibited the exportation of Ostriches and Ostrich Eggs, subject to the aforesaid exemption to any neighbouring Colony or State, and under a penalty not less than that provided for by this Act.

Penalty for contravention.

3. Every person who shall contravene the provisions of this Act by exporting any Ostrich or Ostrich Egg (except as hereinbefore excepted), shall on conviction be liable to imprisonment with or without hard labour for any term not less than twelve months nor more than two years.

How penalty to be enforced.

4. All penalties under this Act may be enforced in the Court of the Resident Magistrate of the District in which the offence was committed.

Short Title.

5. This Act may be cited for all purposes as the “Ostrich Export Prohibition Act, 1907.”

No. 11—1907.]

[August 24, 1907.]

ACT

To Provide for transferring to the School Board of the School District of Port Elizabeth the Public Schools of Port Elizabeth upon the Grey Foundation.

[Assented to 23rd August, 1907.]

Preamble.

WHEREAS under Act No. 6 of 1856, certain public schools were established at Port Elizabeth for the education of youth without distinction of creed, class, or colour, which schools were called the Public Schools of Port Elizabeth upon the Grey Foundation.

And whereas by the said Act the management of the said schools was vested in a Board of Managers, which Board was by the said Act made a corporation by the name or style of “The Board of Managers of the Public Schools of Port Elizabeth upon the Grey Foundation.”

And whereas the said Act provided that the said Board of Managers should stand and be possessed of all lands which might

be granted to the said Board by Her Majesty the Queen or by any private person for the use and benefit of the public schools aforesaid, and of all lands and buildings which might be purchased, erected, or in any manner acquired by the said Board for the purposes of the said schools, and of all funds and moneys granted to the said Board from and out of the public revenue of this Colony, or given, subscribed, bequeathed, paid or in any manner coming to the said Board for the use and benefit of the said schools, and generally of all property movable or immovable belonging to the said schools.

And whereas the said Act was amended in certain respects by Act No. 14 of 1888.

And whereas the said Board of Managers has acquired land, buildings and other assets for the use and benefit of the said schools, and has incurred liabilities for the purposes of the said schools.

And whereas the said Board of Managers has, in accordance with the provisions of the said Acts, managed and controlled the said schools, and has been treated and recognised by the Department of Public Education as a committee managing public undenominational schools at Port Elizabeth.

And whereas a School Board has been constituted under the provisions of Act No. 35 of 1905 for the school district of Port Elizabeth as defined by Proclamation No. 380 of 1905.

And whereas by Act No. 35 of 1905 provision is made for the taking over by the School Board of a District from the existing Committees managing public undenominational schools within such district of the control of such Committees' schools and of the movable assets, debts and liabilities of such Committees: and further provision is made for the transferring to the trustees mentioned in Proclamation No. 388 of 1893 of immovable school property vested in such Committees.

And whereas on the 9th day of October, 1906, a notarial deed, set forth in the schedule hereunto annexed, was duly entered into between Charles George Harland Bell, Civil Commissioner of Port Elizabeth, Chairman, and Dugald Malcolm Whyte and Thomas Cunningham, members of the Board of Managers of the Public Schools of Port Elizabeth upon the Grey Foundation acting for and on behalf of the said Board of Managers, and John Chambers Kemsley, Chairman of and acting for and on behalf of the School Board of the School District of Port Elizabeth, whereby the Board of Managers handed over and the School Board accepted the full and entire management and control of the said schools and the Board of Managers ceded and delivered to the School Board all the movable assets and agreed to transfer to the Trustees under Proclamation No. 388 of 1893 all the immovable property vested in the Board of Managers save and except pieces of land being open spaces which the Board of Managers agree to transfer to the Town

Council of Port Elizabeth, subject to the School Board assuming and becoming responsible for all debts, liabilities, mortgages, encumbrances, trusts and other obligations imposed upon the Board of Managers and being vested with all rights and privileges enjoyed by the Board of Managers. And whereas it is expedient that the said Notarial Deed should be confirmed and its provisions given effect to by Act of Parliament, and that Acts Nos. 6 of 1856 and 14 of 1888 should be repealed; and that the said Board of Managers save for the purposes of carrying into effect the provisions of this Act should be dissolved.

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

Notarial
Deed confirm-
ed.

1. The Notarial Deed dated the 9th day of October, 1906, and set forth in the Schedule to this Act is hereby confirmed, and the said deed shall have the same force and effect as if it were fully set forth in the body of this Act.

Management
and control of
Schools, to-
gether with
movables,
vested in
School Board.

2. The management and control of the Public Schools of Port Elizabeth upon the Grey Foundation, which was by Act No. 6 of 1856, as amended by Act No. 14 of 1888, vested in "the Board of Managers of the Public Schools of Port Elizabeth," shall be and the same are hereby vested in the School Board of the School District of Port Elizabeth established under the provisions of Act No. 35 of 1905, together with all the quitrents and movable assets heretofore belonging to or vested in the said Board of Managers.

Certain open
squares to be
transferred to
Town Council

3. So soon as may be convenient after the passing of this Act the said Board of Managers shall transfer in due form of law to the Town Council of Port Elizabeth certain pieces of land, being certain open spaces reserved for the benefit of the public under the control of the said Town Council, namely:—

- (a) Certain open space adjoining the Presbyterian Church in Belmont Terrace;
- (b) Certain open space in Havelock Street known as Havelock Square;
- (c) Certain square between Trinity Church and St. John's Church in Havelock Street.

Immovable
property to
be transferred
to certain
Trustees.

4. So soon as may be convenient after the passing of this Act the said Board of Managers shall transfer in due form of law to the trustees mentioned in Proclamation No. 388 of 1893 all-immovable property vested in the said Board of Managers, save and except the property set forth in section 3 hereof: Provided that if at any time after such transfer has been made it shall appear that the Board of Managers had at the time of the passing of this Act acquired any just and lawful right to the ownership of any immovable property, but such property had not been registered in the name of the said Board of Managers, such right of ownership shall be deemed and taken to have passed to and become vested in the said trustees.

5. The said School Board shall take over and discharge and is hereby made liable for all the debts, liabilities, mortgages, encumbrances, trusts and obligations of the said Board of Managers, and the said Board of Managers is hereby freed and discharged from all such debts, liabilities, mortgages, encumbrances, trusts and obligations.

School Board to take over liabilities of Board of Managers and Board of Managers to be discharged therefrom.

6. The said School Board shall be and is hereby constituted the legal successor of the said Board of Managers, and as such is vested with all trust property, endowments, bequests and gifts accruing now or hereafter to the said Board of Managers, subject however as to the transfer of immovable property to the provisions of sections 3 and 4 hereof, and is rendered subject to all conditions and terms affecting such trust property, endowments, bequests and gifts.

School Board constituted the legal successor of Board of Managers.

7. Save for the purposes of carrying into effect the provisions of this Act the said Board of Managers is hereby dissolved.

Board of Managers dissolved.

8. Acts Nos. 6 of 1856 and 14 of 1888 are hereby repealed: Provided that such repeal shall not affect or prejudice any rights of presentation to scholarships acquired by any donors under section 22 of Act No. 6 of 1856, as amended by section 8 of Act No. 14 of 1888 prior to the taking effect of this Act.

Repeal of Acts 6 of 1856 and 14 of 1888.

9. This Act may be cited as "The Grey Foundation Schools Transfer Act, 1907."

Short title.

SCHEDULE.

Notarial Deed.

BE IT HEREBY MADE KNOWN that on this the 9th day of October, in the Year of Our Lord One Thousand Nine Hundred and Six, before me, Thomas William McWilliams, of Port Elizabeth, Cape of Good Hope, Notary Public, by lawful authority, duly sworn and admitted, and in the presence of the subscribed witnesses, personally came and appeared Charles George Harland Bell, Civil Commissioner, of Port Elizabeth, Chairman, Dugald Malcolm Whyte and Thomas Cunningham, Members, acting for and on behalf of the Board of Managers of the Public Schools of Port Elizabeth upon the Grey Foundation, duly authorised thereto by certain resolution of the said Board of Managers, dated the 1st day of October, 1906, of the one part, and John Chambers Kemsley, of Port Elizabeth, Chairman, and acting for and on behalf of the School Board of the Port Elizabeth District, duly authorised thereto by certain resolution of the said School Board, bearing date the 1st day of October, 1906, of the other part, copies whereof are duly attached to the minute of this deed.

Schedule.

AND these Apparers declared that whereas under and in terms of Act No. 6 of 1856 the said Board of Managers of the Public Schools of Port Elizabeth upon the Grey Foundation.

were constituted a body corporate, and were vested with and authorised to stand and be possessed of lands granted to or for the use and benefit of the said Schools and all lands and buildings purchased, erected, or in any manner acquired by the said Board for the purposes of the said Schools: And of all funds and moneys granted to the said Board for and out of the Public Revenues of this Colony, or given, subscribed, bequeathed, paid or in any manner coming to the said Board for the use and benefit of the said Schools: And generally of all property, movable and immovable, belonging to the said Schools:

And whereas the said corporate body, the said Board of Managers, have accordingly hitherto managed and controlled the said Public Schools upon the Grey Foundation, that is to say, in Port Elizabeth, and have been treated and recognised by the Education Department as a Committee managing public undenominational schools in Port Elizabeth:

And the Approvers also declared that in pursuance of the provisions of the School Board Act of 1905 a School Board has been elected, and now exists as a body corporate for the district of Port Elizabeth:

And whereas, according to the said School Board Act of 1905, all existing committees managing public undenominational schools are required within certain periods to hand over the control of their schools to the School Board of the district, and further provision is made that all movable assets, debts and liabilities of the said Committees shall be and become assets, debts and liabilities of the School Board: and further provision is made that all immovable property vested at the time of the passing of the said Act in such Committee of Undenominational Public Schools may at any time be transferred to the trustees mentioned in Proclamation No. 388 of 1893:

And whereas the School Board of the Port Elizabeth District has requested the said Board of Managers to hand over to the said School Board the management and control of certain schools hitherto managed and controlled by the said Board of Managers, and have also requested the said Board of Managers to hand over its movable assets, debts and liabilities, and also all funds and moneys under its control unto the said School Board, and to transfer all immovable property in the said Board of Managers vested into the name of the said trustees mentioned in the said Proclamation No. 388 of 1893:

And whereas the said request of the said School Board was put forth upon the assumption that the said Board of Managers of the Public Schools of Port Elizabeth was and is a "Committee managing Public Undenominational Schools," within the meaning of the School Board Act of 1905, within the District of Port Elizabeth, and accordingly liable to observe the provisions in the said School Board Act of 1905 in that behalf contained: And whereas certain doubts exist as to the correctness of such assumption:

And whereas the said Board of Managers, with a full desire to act in the best interests of education, but nevertheless according to law, and, acting under the advice of eminent Counsel, have, subject to the express conditions and stipulations hereinafter contained, consented to comply with the aforesaid requests of the said School Board :

And whereas it has been agreed by and between the said two Boards that, before handing over as aforesaid, the trusts and obligations which have hitherto rested upon the said Board of Managers shall be recorded and accepted by the said School Board :

Now, therefore, these Apparers, duly authorised as aforesaid, did declare and undertake on behalf of their respective principals as follows :—

1.

On this 9th day of October, 1906, the said Board of Managers shall immediately upon the execution of these presents hand over as, subject to the provisions hereof, and of the said School Board Act, they do hereby cede, assign, hand over and deliver unto the said School Board all the movable assets under its management and control, and all books of account and papers relating thereto, but subject always to all debts, liabilities, mortgages, encumbrances, trusts and other obligations up to this date resting or imposed upon the said Board of Managers of the Undenominational Public Schools upon the Grey Foundation.

2.

The said School Board hereby takes over and accepts the aforesaid cession, assignment, handing over and delivery of the aforesaid movable assets, subject to the provisions in these presents contained, and further accepts, takes over, and undertakes to discharge all the said debts, liabilities, mortgages, encumbrances, trusts and other obligations more fully set out in the schedule hereto annexed marked "A," and all and every other debt, liability, mortgage, encumbrance, trust and obligation hitherto lawfully incurred by or imposed upon the said Board of Managers.

3.

The said Board of Managers shall, in terms of section 35 of the said School Board Act of 1905, as soon as convenient after the execution of these presents, transfer all immovable property in the said Board of Managers vested to the said Trustees mentioned in Proclamation No. 388 of 1893 ; subject, however, to all trusts, mortgages and other charges which may exist thereon ; provided, however, that prior to the passing of such transfer of the said immovable property to the said Trustees the said Board of Managers shall transfer to the Town Council of Port Elizabeth certain pieces of land being certain open spaces reserved for the

benefit of the Public under the control of the said Town Council, viz. :

1. Certain open space adjoining the Presbyterian Church in Belmont Terrace.
2. Certain open spaces in Havelock Street, known as Havelock Square.
3. Certain square between Trinity Church and St. John's Church in Havelock Street.

4.

In order to record the same the schedule or list hereto annexed marked "A," [not annexed to this Act, but filed in the protocol of the Notary whose signature is affixed to this deed] contains as nearly as may be full record of all the aforesaid assets, movable and immovable, as well as the said debts, liabilities, mortgages, encumbrances, trusts and obligations, but should it at any time be found that any assets, movable or immovable, or any debt, liability, mortgage, encumbrance, trust or obligation, existed on the 9th day of October, 1906, as an asset or liability or charge upon the said Board of Managers in respect of the management of the said Schools, but has been omitted from the said schedule, then the Board of Managers shall hand over and the School Board shall accept and take over the same as if the schedule had contained them on this date.

5.

The Board of Managers do hereby, as, and from the date hereof, hand over unto the School Board the full and entire management and control of the Undenominational Public Schools of Port Elizabeth upon the Grey Foundation, the management and control of which the School Board hereby accepts and takes upon itself as if the said Board of Managers had been definitely and precisely named and referred to in the said School Board Act of 1905.

6.

All the trusts, responsibilities, rights and privileges previously imposed upon and enjoyed by the said Board of Managers shall, subject to the provisions hereof, attach to the said School Board.

7.

The said School Board shall at all times apply all Trust Property Funds and other moneys which shall have been received by them from the said Board of Managers, or in terms and by virtue of the powers herein or in the said School Board Act in their favour contained, in such manner entirely and subject to such terms and conditions as the said Board of Managers would have been obliged to observe and conform to in case they had retained the administration of the said Trust Property, Funds and other moneys, as set forth in the Schedule hereto annexed ; provided, however, that in so far as it is or may be legal and

practicable, all Trust Funds taken over by the School Board from the said Board of Managers shall be used for and devoted to the purposes of higher education.

8.

The said Board of Managers, and every member thereof individually, shall be and are hereby held harmless and indemnified by the School Board against any claim, responsibility, loss or damage of all and every kind soever, that can or may arise or be occasioned in consequence of any of the undertakings herein contained on the part of the said Board of Managers.

9.

Both the said Boards will endeavour to procure from Government the passing of an Act of Parliament during the next Session of Parliament, or as soon thereafter as may be, providing, *inter a ia*, for the confirmation, in so far as such confirmation may be necessary, of the undertakings herein contained, and otherwise making it clear that the said School Board are the lawful successors of the Board of Managers. And pending the passing of the said Act, and in so far as may be necessary, the said Board of Managers do hereby nominate and appoint the said School Board or the Chairman for the time being with power of substitution as the lawful Attorney and Agent of the said Board of Managers for the said Board of Managers, and in its own name as well as that of the Board of Managers, but for the account and benefit of the said School Board, to ask, demand, sue for and recover all sum or sums of money, school fees, quitrents, property, rights, and other things, and ejectments that may be due or otherwise payable now, or at any time hereafter, by virtue of these presents or the cessions herein contained by any person or persons, company, corporation, partnership or estate in any manner soever, and upon receipt thereof to give good and sufficient receipts and discharges therefor, and upon non-payment or non-delivery thereof, to take and institute in any competent Court or Courts of Law any proceedings that may be necessary for the recovery thereof, and to proceed to the final end and determination.

THUS DONE AND PASSED at Port Elizabeth aforesaid on the date aforementioned in the presence of the witnesses, Charles Saunders Hazell and Daniel McLaren Brown, who, together with the Apppearers and me, the said Notary, have duly subscribed the original hereof which now remains filed in my Protocol.

Quod Attestor.

(Signed) T. W. McWILLIAMS,
Notary Public.

THOMAS WILLIAM McWILLIAMS,
Notary Public,
Cape of Good Hope.

No. 12—1907.]

[August 24, 1907.]

ACT

To Amend the Law relating to the Election of
Municipal Councillors.

[Assented to 23rd August, 1907.]

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

Municipal election falling on an unsuitable day. 1. If the date appointed by any Act or Ordinance for the election of councillors of any municipality be found by a majority of the councillors of such municipality to be inconvenient or unsuitable, it shall be competent for such municipality by vote of a majority of its members to appoint some other suitable day as the date of such election. In any such case it shall be competent for the council of such municipality, by special resolution, of which notice shall have been given at least two days before the day of the meeting at which the same is proposed to be moved to appoint some other suitable day, within fourteen days of the day originally fixed for such election, as the date of such election. Provided that no such alteration shall be taken to have been made unless the same shall have been notified in one or more newspapers published or circulating locally at least fourteen days prior either to the day originally fixed for the election or to the new day fixed, whichever date shall earlier occur.

Hours of polling. 2. Notwithstanding anything contained in section fifty-four of Act No. 46, 1882, or any other Act, the poll for the election of councillors and or auditors may commence at eight o'clock in the forenoon and close at seven o'clock in the afternoon, if the council of any municipality by resolution shall so decide.

Short Title. 3. This Act may be cited as "The Election of Councillors Amendment Act, 1907."

No. 13—1907.]

[August 30, 1907.]

ACT

To Amend the Camp's Bay Tramways Act, 1899.

[Assented to 27th August, 1907.]

Preamble. WHEREAS it is provided by the Camp's Bay Tramways Act, 1899, that the Company thereby empowered to construct and work certain Tramways authorized by that Act should at all times after completion and opening for Public traffic of the said Tramways, or any of them, run carriages sufficient for passenger traffic over such Tramways at least twelve times a day each way; and whereas a limited liability company was

duly formed and registered to acquire and did *inter alia* acquire the rights and powers conferred by that Act and duly constructed and equipped certain Tramways and amongst others, Tramways Nos. 1, 5, 12 and 13, which form one continuous line of Tramway running from the Company's Power Station at Camp's Bay *via* the Kloof Nek, to the point at the foot of Kloof Road, in Cape Town, where a junction is effected between the Company's lines and the Tramway lines of the Metropolitan Tramways Company Limited, in Burnside Road; and whereas the Company did complete and open for public traffic the above section of its Tramways between Camp's Bay and Burnside Road, as well as other Tramways authorized by the said Act and has heretofore run carriages over such Tramways in compliance with the provisions of the said Act; and whereas there is not sufficient traffic over the said section of the Tramways, and especially over that portion of the said section between Camp's Bay and Wylie's Corner to warrant the working of the said section and the running of cars thereover as by the said Act provided, and the Company is consequently unable to continue to operate the said section at certain times otherwise than at a loss; and whereas it is impossible for the Company to continue its operations and to maintain the work of the undertaking unless the provisions of the said Act are modified as by this present Act provided; and whereas it is further provided by the said Act that nothing in the Metropolitan Tramways Company Act, 1895, or any other law contained, shall prevent the Metropolitan Tramways Company, Limited, from supplying the Company with electrical energy to enable it effectually to use certain running rights referred to in the said Act or temporarily to enable the Company to work its tramways or any of them; and whereas it is expedient that the said Camp's Bay Tramways Act, 1899, be amended so as to enable the Company on certain conditions and during certain periods and at certain times to suspend or modify the service on the said section of tramways between Camp's Bay and Wylie's Corner: and whereas it is expedient that the said Act be further amended by striking out the word "temporarily" from section fifty-one thereof, so as to make provision that the Company may shut down its power station at Camp's Bay at such times and during such periods as it may by arrangement with the Metropolitan Tramways Company Limited, or others, be supplied by that Company, or others, with electrical energy for the purpose of working its tramways; and whereas it is expedient that the Company should be empowered to make and effect all necessary alterations in and additions to its plant, machinery, wires, feeders, cables, poles and rails, and to carry out all work necessary to enable it fully to obtain and use electrical energy as aforesaid from the Metropolitan Tramways Company, Limited, or others; and whereas it is further provided by Schedule B

to the said Act that the maximum rate of charge for the conveyance of any passenger without change of cars between Camp's Bay and the Standard Bank, or some other central terminal point in Cape Town, *via* the Kloof Nek, shall be ninepence; and whereas the fare over the section of the Company's Tramways between the power station at Camp's Bay and the end of Tramway No. 13 at Burnside Road is also ninepence: and whereas the Company is bound to pay to the Metropolitan Tramways Company, Limited, and the City Tramways Company, Limited, for the running rights therein referred to, the amounts fixed in terms of Schedule C to the said Act; and whereas the Company in so carrying passengers without change of cars between the Standard Bank and the said Power Station has to exercise such running rights from Burnside Road to the Standard Bank and accordingly to pay certain amounts therefor; and whereas it is expedient further to amend the said Act and Schedule B thereto so as to alter certain fares as hereinafter provided;

And whereas it is expedient to repeal or modify the said Camp's Bay Tramways Act, 1899, as far as is necessary to give effect to the provisions hereof.

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

1. Throughout this Act save where such meanings shall be inconsistent with the context, the following terms and expressions shall be taken to have the meanings hereunder given:

"The Company" shall mean the Camp's Bay Tramway Company Limited, and its lawful successors and assigns.

"Wyllie's Corner" shall mean the corner of the Kloof Road, in Cape Town, immediately below the house formerly the residence of Mr. Wyllie, and known as "Kloof Lodge."

2. Notwithstanding anything in section thirty-six of the Camp's Bay Tramways Act, 1899, or elsewhere in the said Act, or in the schedules thereto contained, the Company may suspend or modify from time to time the service for public traffic over that portion of its Tramways between the Power Station at Camp's Bay and Wyllie's Corner and forming part of the section comprising Tramways Nos. 1, 5, 12 and 13, which together form a line of Tramway running from the said Power Station at Camp's Bay *via* Kloof Nek to the point at the foot of Kloof Road, in Cape Town, where a junction is effected between the Company's lines and the Tramway Lines of the Metropolitan Tramways Company Limited, in Burnside Road.

3. The Company shall, however, not be entitled to suspend the service over the said section, or to modify same so as to fail to comply with the requirements of section thirty-six of the said Act, for a period or periods extending beyond the 30th day of September, 1912: provided that nothing herein contained

Interpretation Clause.

Section 36 of Act No. 34 of 1899 amended.

Period during which service may be suspended.

however, shall entitle the Company so to suspend the service over the said section during the months of October to April inclusive or on Public Holidays.

4. The Company shall, moreover, not suspend the traffic over that portion of the said section between the Power Station at Camp's Bay and Wyllie's Corner, unless it shall first have made due provision for carrying on and working for passenger traffic of the section between Wyllie's Corner and Burnside Road, as required by the said Act, by leasing the said section to the Metropolitan Tramways Company Limited, or others, in accordance with the provisions of section sixty-two of the Camp's Bay Tramways Act, 1899, or by entering into working arrangements with such other Company, or otherwise.

Portion of section to be regularly worked.

5. The Company, moreover, before suspending or modifying the service on any section, as herein authorized, shall give at least one month's notice, by advertisements in one or more newspapers published in Cape Town and by notices posted in its cars, of its intention so to do.

Notice to be given before suspending service.

6. Section fifty-one of the Camp's Bay Tramways Act, 1899, is hereby amended by striking out the word "temporarily" from the said section, and the Company is hereby empowered to shut down its Power Station at Camp's Bay whilst it is supplied by the Metropolitan Tramways Company Limited, or others, with electrical energy to work its Tramways.

Section 51 of Act 34 of 1899 amended.

7. The Company is hereby authorised and empowered to effect and make all necessary alterations in and additions to its plant, machinery, wires, feeders, cables, poles, and rails, and to carry out all work necessary to enable it fully to obtain and use electrical energy from the Metropolitan Tramways Company Limited, or others, to enable it to work its Tramways or any of them.

Alterations and additions authorised.

8. Schedule B to the Camp's Bay Tramways Act, 1899, is hereby amended so that the maximum rate of charge for the conveyance of any passenger without change of cars between Camp's Bay and the Standard Bank or some other central terminal point in Cape Town, *via* Kloof Nek, shall be one shilling: provided always that this section shall only be of force for five years from the date of the promulgation of this Act.

Schedule B to Camp's Bay Tramways Act, 1899, amended.

9. The Company shall issue and sell to all *bona fide* residents in the vicinity between Wyllie's Corner and Burnside Road books of tickets entitling the holder or holders of such tickets to travel over the said section, in books of 50 and 100 tickets at the rate of 1½ pence per ticket, each such ticket being available for a single journey over the said section and not being limited to the month of issue.

Company to issue books of tickets.

10. So much of the Camp's Bay Tramways Act, 1899, as is inconsistent or in conflict with the provisions of this Act is hereby repealed.

Inconsistent provisions repealed.

11. This Act may be cited for all purposes as the "Camp's Bay Tramways Act Amendment Act, 1907."

Short Title.

D

No. 14—1907.]

[September 10, 1907.]

ACT

To Make Provision for the Better Protection of the Customs Revenue.

[Assented to 6th September, 1907.]

Preamble.

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

Definition of "sealable stores."

1. For the purpose of this Act the term "sealable goods" shall be taken to mean tobacco, cigars and other preparations of tobacco, spirits and strong waters, and any other article or articles as may from time to time be declared to be such by regulations made by the Governor and published in the *Gazette*, and upon which the duty of Customs has not been paid.

Power of proper officers of Customs to board ships and seal up goods.

2. On and after the date of the promulgation of this Act it shall be lawful for the proper officers of Customs to board any ship arriving at any port in this Colony, and, subject to such regulations as may be made by the Governor, to seal up all sealable goods on board such ship—being either unconsumed stores of such ship or the personal property of or being in the possession of the Master or any member of the crew thereof, for the more effectual protection of the Customs Revenue, while such ship remains in any port of this Colony; and if any Master of any ship shall fail to make a full disclosure of any sealable goods being unconsumed stores of such ship, or if any Master or any member of the crew of any ship shall fail to disclose any sealable goods the property of, or in the possession of, such Master or such member of the crew when demanded by any officer of Customs, such Master or member as aforesaid shall on conviction before any Resident Magistrate be liable to a penalty not exceeding £50 and in default of payment to imprisonment with or without hard labour for any period not exceeding three months, unless such fine be sooner paid.

Penalty for failure to disclose sealable goods.

Section 19 of Act 10 of 1872, saved.

3. Nothing in the preceding section contained shall in any way affect the provisions of section nineteen of the Customs Act No. 10 of 1872.

Short Title.

4. This Act may be cited for all purposes as "The Customs Act, 1907."

No. 15—1907.]

[September 10, 1907.]

ACT

To Prevent a Monopoly of the Meat Trade.

[Assented to 9th September, 1907.]

Preamble.

WHEREAS, it appears that within recent years certain persons have formed combinations for regulating the meat trade in order

to secure larger profits, and whereas the effect of such combinations is prejudicial to the public interest, and whereas it is desirable to provide by law against such combinations.

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

1. In this Act the following words shall, unless the context otherwise requires, bear the meanings set opposite them : Definition Clause

“Butcher” shall mean any person who is required to take out a butcher’s licence under the provisions of section twenty of Act No. 3 of 1864, and section five of the amending Act No. 43 of 1898.

“Person” shall include any partnership or company.

“Superior Court” shall mean the Supreme Court, Eastern Districts Court, High Court or any Circuit Court within their respective jurisdictions.

2. Every licence to carry on the trade of a butcher, issued after the promulgation of this Act, shall bear endorsed thereon the address of the premises in which the trade is to be carried on, and any person who shall carry on the said trade in premises other than those in respect of which the licence has been issued shall be subject to the penalties to which any person is liable who carried on such trade without a licence, provided, however, that nothing in this section contained shall be deemed to affect the provisions of sections seven, eight and nine of Act No. 13 of 1870 : Provided further and notwithstanding anything to the contrary in Act No. 20 of 1884, the licence fee payable by a butcher to sell South African grown meat only, shall be Five Pounds per annum, and the licence fee payable by a butcher to sell also other than South African grown meat, or to sell other than South African grown meat only, shall be Ten Pounds per annum. Licences to be issued in respect of particular premises only.

3. Every act, contract, combination or conspiracy in unreasonable restraint of the trade of a butcher is hereby declared to be illegal, and every person who shall commit any such act or make any such contract or engage in such combination or conspiracy shall be guilty of a criminal offence, and subject on conviction to a penalty not exceeding £500, and in default of payment thereof to imprisonment with or without hard labour for a period not exceeding twelve months : Provided Penalties for unreasonable restraint in trade of butcher.

(1) That it shall not be illegal for any person carrying on the trade of a butcher to enter into a *bonâ fide* partnership with any other person carrying on the same trade ; or to enter into any *bonâ fide* arrangement with any other person or persons carrying on the same trade, with the object of effecting economies in the said trade or carrying on business more economically. Exception.

- (2) That the provisions of this section shall not apply to any contract which is the mere accompaniment of the sale of fixed property for the purpose of enhancing the price at which the vendor sells the said property.

Contracts and undertakings when illegal and void.

4. All contracts and undertakings in support of any combination the object of which is to secure the control of the sale of meat, so as to enable such combination to arbitrarily control or regulate the price thereof, shall be held to be illegal and void.

Penalty for intimidation.

5. Any person who is engaged in the trade of a butcher or acting on behalf of a butcher, who shall compel, or attempt to compel, by threats, or intimidation, verbally or in writing, any butcher to sell meat at a price or prices other than those at which he is or was selling at the time when such threats or intimidation were made, or would have sold but for such threats or intimidation, shall be guilty of a criminal offence and subject on conviction to a penalty not exceeding £100, and in default of payment thereof to imprisonment with or without hard labour for a period not exceeding six months.

Cancellation of licence on conviction under sections three or five.

6. The licence to carry on the trade of a butcher issued to any person who shall be convicted under sections three or five hereof shall be cancelled and no such licence shall be issued to him at any time within the period of two years from the date of such a conviction.

Jurisdiction of Courts.

7. Any contravention of the provisions of sections three and five of this Act shall be prosecuted in a superior court.

Local option.

8. The foregoing provisions of this Act or any of them, with the exception of that part of section two which applies to the licence fees payable by butchers, shall become operative only in those Divisions of this Colony in which it may be proclaimed to be in force by the Governor upon an application to that effect from the Divisional Council of the Division, under a resolution adopted by such Council at a meeting where at least three-fourths of the members are present, and at least a majority of those present voted for the resolution: provided that if the Divisional Councils of the Cape, Port Elizabeth, East London or Kimberley decline to make such application, any Municipal Council within any one of these Divisions may make application for the proclamation of the provisions of this Act within its own Municipal area.

Short Title.

9. This Act may be cited for all purposes as the "Meat Trade Act, 1907."

No. 16—1907.]

[September 10, 1907.

ACT

To Amend the Mineral Law.

[Assented to 9th September, 1907.]

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

Preamble.

PART I.

PRECIOUS MINERALS.

REEF DIGGINGS.

1. So much of Act No. 31 of 1898 entitled the "Precious Minerals Act, 1898," and more particularly of sections fourteen, forty-one, sixty-three, sixty-four and sixty-five thereof, and so much of any other Act as is inconsistent with or repugnant to the provisions of this Act is to the extent of such inconsistency or repugnancy hereby repealed: but nothing in this Act contained shall be taken to affect anything duly done or any right or privilege acquired, or any liability, penalty, or forfeiture incurred in respect of any such repealed portion of any such Act.

Repeal of repugnant Laws.

2. Any person at the time of the promulgation of this Act holding any claim or paying any claim licence in respect of any claim in a proclaimed reef digging, or being the holder of a lease granted under section sixty-four of Act No. 31 of 1898, who may desire to come under the provisions of this Act in respect of such claim or lease, may do so upon notice to the Inspector or Civil Commissioner of the district in which such claim or land is situated, and thereafter such claimholder or lessee shall be deemed to be a claimholder under this Act and subject to all its rights and duties.

Holder of any claim or any mining lease may come under the provisions of this Act.

3. From and after the promulgation of this Act no moneys shall be payable or stamps affixed in respect of any claims hereafter registered or selected in any reef digging duly proclaimed upon Crown Land or upon land the title to which contains a reservation to the Crown of precious minerals, save and except in respect of claims not worked in terms of section forty-eight of Act No. 31 of 1898 as hereinafter amended.

Stamps and payments in respect of claims registered or selected hereafter.

4. A royalty of One per centum upon the gross amount realised by the sale of precious minerals won from any and every claim in a reef digging shall be paid by every claimholder, whether holding discoverer's claims or owner's claims as by this Act provided for other claims.

Royalty.

5. Every discoverer shall be entitled to select and peg off fifty claims in not more than two blocks in any reef digging proclaimed

Discoverer's claims.

No. 16—1907.

after the promulgation of this Act upon land the title to which contains a reservation of precious minerals to the Crown, and section fourteen of Act No. 31 of 1898 and section one of Act No. 45 of 1905 shall be deemed to be amended accordingly.

Owner's
claims.

6. Every owner of land the title to which contains a reservation of precious minerals to the Crown shall after the declaration mentioned in section thirteen of Act No. 31 of 1898 be entitled, after the discoverer has selected and pegged off his claims, to select and peg off fifty claims upon the reef or elsewhere within the proclaimed area in lieu, if he so wishes, of the mining lease referred to in section sixty-four of Act No. 31 of 1898 and in such event shall be subject to the provisions of Act No. 31 of 1893, as amended by this Act, and no other person as in section thirty-three of Act No. 31 of 1898 provided shall be allowed to peg off any claim until such owner has selected and pegged off his said claims, if on or before the day of proclamation of the said reef digging such owner has signified his intention in writing to the Inspector or other official appointed to read the Proclamation that he intends to select such claims in lieu of obtaining the mining lease hereinbefore referred to.

Two-fifths
of royalty to
be paid to
owner in cer-
tain cases.

7. Two-fifths of the royalties recovered in terms of section four of this Act from claimholders in respect of claims in a reef digging situated on land the title to which contains a reservation of minerals to the Crown and in respect of which claims the owner of the land has provided the depositing sites required by section sixty-three of Act No. 31 of 1898, shall be paid to such owner.

Develop-
ment work to
be commen-
ced within
one year.

8. *Bonâ fide* development work to the satisfaction of the Inspector shall be commenced and continued upon the claims of each claimholder, in a reef-digging within one year from the date of proclamation of the said digging, unless, with the Governor's consent, a further limit of time not exceeding twelve months shall be allowed, and any discoverer, owner or claimholder failing so to develop any claim or claims held by him shall be liable to forfeiture of such claim or claims, which may thereafter be disposed of by public auction.

Meaning
of "licence
money" in
Section 48 of
Act 31 of 1898.

9. The words "licence money" mentioned in section forty-eight of Act No. 31 of 1898, shall be taken to mean twenty shillings per month on each claim therein referred to.

Registration
of precious
minerals won
from claims
in a reef dig-
ging.

10. All precious minerals won from any claim in a reef digging shall be registered at the office of the Inspector not later than the seventh day of the month following that in which such minerals may be won and any person who shall contravene this section shall be liable to a fine not exceeding £500 or, in default of payment, to forfeiture of the claims in respect of which the contravention has taken place.

Claimholders
to keep books
showing
amounts re-

11. Every claimholder shall keep proper books showing the amounts realized by him by the sale of the mineral or minerals won from his claim or claims and such books shall be open for

the inspection of the Inspector or other official appointed for the purpose at all reasonable times, and such claimholder shall pay over to the Inspector or other official appointed for the purpose the amount of royalty due under this Act upon the said amounts realized from the said claim or claims at least once a month, and any claimholder failing to keep such books after being warned by the Inspector or refusing inspection thereof or failing for two months to pay over any royalty due shall be liable to a fine not exceeding £500, or in default of payment to forfeiture of his said claims.

alised by sale of precious minerals.

12. The Inspector or other officials appointed in that behalf shall be bound to keep books showing the amount of all such moneys as are in the last preceding section mentioned and shall account for and pay over to the owner of land the title to which contains a reservation of minerals to the Crown and on which the claims in a reef digging are situated, in respect of which the said moneys are paid, the amount due to him under this Act, half-yearly, and shall afford to such owner at all reasonable times inspection of such books.

Inspectors and officials to keep books accounting for money received, &c.

13. The compensation for surface damage caused by the proclaiming of any Reef Digging upon any Native Reserve in British Bechuanaland, defined in the Schedule to Proclamation No. 220 B. B., 1895, shall notwithstanding anything to the contrary in section one hundred and thirteen of Act No. 31 of 1898 contained, be one-fifth of the royalties recovered in terms of section four of this Act from claimholders in such Reef Digging, and such compensation shall be dealt with in the manner provided in section one hundred and thirteen of the said Act No. 31 of 1898.

Compensation for surface damages.

14. No prospecting licence obtained under the provisions of Act No. 31 of 1898 shall authorize the holder to prospect on any Crown land on which prospecting shall be by the Governor, by Proclamation in the *Gazette*, prohibited.

Prospecting on Crown lands prohibited.

DREDGING FOR PRECIOUS MINERALS.

15. Notwithstanding any law to the contrary the Governor may, subject to the provisions of this Act, grant leases to any persons for the purpose of sluicing and dredging for precious minerals, in any public river, lake, lagoon or alluvial ground, not suited to ordinary mining either for minerals or precious stones or already mined, upon unoccupied Crown Land and to any owner of land the title to which contains a reservation of precious minerals to the Crown.

Dredging for precious minerals.

16. Any person desiring to obtain a dredging lease may take out a prospecting licence in the form prescribed in the first Schedule of this Act to prospect any public river, lake, lagoon or alluvial ground not suited to ordinary mining or already mined on unoccupied Crown Land in the Colony and shall pay the sum of Fifteen Pounds for such licence.

Prospecting licence.

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Provisional
dredging
claim.

17. The holder of such prospecting licence may, subject to the consent of the Governor, peg or beacon off a provisional dredging claim on any public river, lake, lagoon or alluvial ground not suited to ordinary mining or already mined, on unoccupied Crown Land, and such provisional claim shall, if upon a public river, not exceed four miles of its length measured along the middle line of the river, and if upon a lake, lagoon or alluvial ground as aforesaid shall not exceed an area of two hundred acres.

Registration
of provisional
dredging
claim.

18. Such provisional dredging claim shall be registered in the Office of the Civil Commissioner of the district in which the claim is situated and the prospector shall deposit a sketch plan in the said office showing the approximate boundaries of the claim.

No other
dredging
claim upon
the same area
to be granted
to any other
person for one
year.

19. No other dredging claim shall for the space of one year from the date of such registration be granted to any other person upon the said area.

Dredging
lease.

20. At the expiration of one year from the date of the said registration, or as soon as dredging operations can be commenced, the prospector shall have the right to obtain a dredging lease subject to the terms and conditions hereinafter specified.

Time within
which to ap-
ply for dredg-
ing lease.

21. If the prospector shall not within three months after the expiration of the said year or as soon as dredging operations are commenced apply for the said lease, the provisional claim shall be determined and the area may be given out in terms of this Act to any other prospector.

Condition
precedent to
obtaining
lease.

22. No lease shall be granted to any prospector as aforesaid unless he shall satisfy the Minister that he has obtained and is possessed of sufficient dredging machinery and capital to commence active operations forthwith or upon such date as the Minister shall fix, upon the area to be leased to him.

Terms and
conditions of
dredging
lease.

23. A dredging lease shall be subject to the following terms and conditions:—

- (1) It shall comprise two miles or less, if the lessee wishes, of the course of a public river or 100 acres or less, if the lessee wishes, of any lake, lagoon or alluvial ground as aforementioned, to be shown upon a diagram annexed to the lease.
- (2) The lease shall be for a term of three years renewable from time to time at the option of the lessee, but not to exceed a period in all of twenty-one years.
- (3) The lease shall be granted solely for the purpose of dredging for precious minerals and for no other purpose.
- (4) The lessee shall not obstruct the free navigation of a river or interfere with the right of, or deprive the public or any person entitled thereto of any of the water of the said river or place anything therein or thereon hurtful to such right.

- (5) The lessee shall be bound during the currency of the lease to carry on *bonâ fide* operations and to obey all regulations which may be prescribed by the Governor under this Act for the better carrying out of its provisions.
- (6) The lessee may sublet or assign the said lease subject to the consent of the Governor.
- (7) The lessee shall pay a monthly rental of sixpence per acre per mensem in advance and a royalty of One Pound per centum annually upon the gross amount realised by the sale of all precious minerals won by his dredging operations, provided that whenever the amount paid during any year as royalty shall exceed the amount paid as rent during the said year, the amount of such rent shall be deducted from any amount thereafter payable as royalty.
- (8) The lessee shall register not later than the seventh day of each month with the Civil Commissioner of the district the weight of precious minerals won by dredging during the preceding month and shall keep proper books showing the amounts realized by the sale of such minerals and such books shall be open to inspection of the Civil Commissioner or other official appointed for the purpose at all reasonable times.
- (9) The lessee shall be entitled to sufficient depositing ground on unoccupied Crown Land adjacent to his dredging area free of charge, to be fixed and determined by the Minister.
- (10) The lease shall be liable to cancellation if the lessee wilfully contravenes any of the provisions of the lease or if he fails for two months to pay over any royalty due by him within two weeks after due notice has been given of such intention to cancel the lease.

24. For the purposes of this Act a "public river" shall mean a stream whose bed within the limits of the dredging lease is not vested in any private person. Meaning of public river.

25. The Minister may at any time suspend or waive all or any of the lessee's covenants or conditions contained in any lease, in any case where he is satisfied that by reason of special circumstances it would be impossible for the lessee to comply with or would inflict great loss upon the lessee to enforce such covenants or conditions. Terms and conditions of lease may in certain cases be waived by Minister.

26. A return of all suspensions or waivers with the reasons therefor, shall be annually laid before Parliament within one month after the opening of any Session thereof. Return of all suspensions and waivers of conditions to be laid before Parliament.

27. The Governor may make regulations to be published in the *Gazette* for the more effectual carrying out of the provisions of this Act. Regulations.

No. 16—1907.

Holder of a dredging claim or lease may surrender his lease and become entitled to the rights of a holder of a prospecting licence under the Mining Acts.

28. Any lessee or holder of a provisional dredging claim who may during dredging or prospecting operations discover any precious or base minerals in such payable quantity as would, if he were a prospector under this or any other Act, entitle him to discoverer's claim, under such Act, or may find any mine or alluvial deposit of precious stones which if he were a prospector under the "Precious Stones Act, 1899," or any amending Act would entitle him to discoverer's claims under such Act, shall be entitled to surrender his dredging lease and to obtain the same rights and privileges in respect of the precious or base minerals or precious stones or alluvial diggings so discovered by him as if he were the holder of a prospector's licence under the Acts dealing with such minerals, mines or alluvial diggings.

Rights of owner of land to obtain a dredging lease.

29. The owner of land the title to which contains a reservation of precious minerals to the Crown may at any time obtain a dredging lease in respect of any portion of such land not suited for mining or already mined for the purpose of dredging or sluicing for precious minerals on such land.

Consent of owner prior to issue of lease.

30. No lease shall be issued under this Act without the consent of the owner or owners of the land on the banks of the river, included within the area to be covered by such lease.

Terms and conditions of such lease.

31. The said lease shall be subject to the following terms and conditions:—

- (1) It shall be for a period of three years renewable from time to time at the option of the holder of the lease.
- (2) The lease shall be granted solely for the purpose of dredging for precious minerals and for no other purpose.
- (3) The lessee may assign the said lease provided notice of the assignment and the name of the assignee is given to the Civil Commissioner of the district where the land is situated.
- (4) The lessee shall pay a royalty of ten shillings per centum annually upon the gross amount realized by the sale of all precious minerals won by his dredging operations.
- (5) The lessee shall register not later than the seventh day of each month with the Civil Commissioner of the district the weight of precious minerals won by dredging during the preceding month and shall keep proper books showing the amounts realized by the sale of such minerals and such books shall be open to inspection by the Civil Commissioner or other official appointed for the purpose at all reasonable times.
- (6) The lease shall be liable to cancellation if the lessee wilfully contravenes any of the provisions of the lease.

PART II.

BASE MINERALS.

32. The "Mining Leases Act," No. 12 of 1865, the "Mineral Lands Leasing Act," No. 9 of 1877, the "Mineral Lands Leasing Act Amendment Act," No. 15 of 1883, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act are, to the extent of such inconsistency or repugnancy, hereby repealed: but no such repeal shall affect anything duly done, or any right or privilege acquired or any liability, penalty or forfeiture incurred in respect of such laws.

Repeal of
repugnant
laws.

33. In the interpretation of this Part of this Act, unless repugnant to the context, the following words and expressions shall have the following meanings, viz. :—

Definitions.

The term "Base Minerals" shall be held to mean Asbestos, Building Stone, Cinnabar, Clay, Coal, Cobalt, Copper, Crocidolite, Gypsum, Iron, Lead, Manganese, Magnesite, Nickel, Natural Gas, Oil, Salt, Slate, Tin and such other minerals, not being Gold, Silver or Platinum, as may from time to time be declared to be base minerals by Proclamation by the Governor.

The word "prospector" shall mean the holder of a prospecting licence taken out under the thirty-fourth section of this Act.

The word "discoverer" shall mean a duly licensed prospector who has discovered base minerals and has made the declaration referred to in the forty-second section of this Act that he has found them in "workable" quantities.

The term "workable" shall mean the occurrence of minerals in such quantities as to indicate a probable profitable result in working.

The terms "peg off," "peg out" shall be used synonymously to denote performance of the acts prescribed by the thirty-sixth and forty-second sections of this Act as necessary to be done to define the boundaries of areas referred to in said sections.

"Inspector" shall mean the official appointed as Inspector for the purposes of this Act.

"Minister" shall mean the Minister of the Crown to whom the administration of this Act shall be assigned.

34. On and after the promulgation of this Act no person shall prospect on Crown Lands for base minerals except under and in accordance with the terms and conditions of a licence granted to him as hereafter provided and in accordance with the provisions of this Act: and any person contravening this section shall be liable to a penalty not exceeding £50, or, in default of payment, to imprisonment with or without hard labour for not exceeding six months.

Prospecting
on Crown
Lands for base
minerals.

35. Any person may take out at the office of a Civil Commissioner or Resident Magistrate in the Colony, a licence to prospect for base minerals on Crown Lands. Such licence shall

Licence for
prospecting.

bear a stamp of one shilling for each month covered by the licence, and shall be registered at the office of the Civil Commissioner or Resident Magistrate of the District in which prospecting operations are being carried on.

Rights given under licence.

Sec. 16, Act 39/1907

36. The prospecting licence shall be in the form set forth in the Second Schedule to this Act and shall give the holder, for the period therein mentioned, not exceeding twelve months, the right, save as in this Act otherwise provided, to prospect for base minerals on Crown Lands throughout the Colony, and the prospector shall have the exclusive right of prospecting within his prospecting area, for the time being, that is to say an area of any shape not exceeding 1,000 acres in extent, which shall be pegged off by pegs not less than three inches square and not less than two feet in height above the ground, or beacons not less than two feet in diameter at the base and not less than two feet in height above the ground, with a trench cut not less than three feet in length, and not less than twelve inches in width where practicable, so as to indicate the direction of the pegs or beacons, or an area, being a circular area of 2,482 yards in diameter, at the centre of which shall be erected a beacon with a sign-board affixed thereto bearing the words "Centre of Prospecting Area under Licence No....., issued by the Civil Commissioner or Resident Magistrate for the Division of....." and the name of the prospector; and the prospector shall, during the currency of his licence, be at liberty to move such pegs or such beacon, to any other area on Crown Lands lawfully open to him, provided such area does not interfere with the prospecting area of any other person being the holder of a licence granted hereunder or under any other Act relating to precious stones or precious minerals.

Penalty for removing or destroying pegs or prospecting on another's area

37. Any person who removes or destroys any prospector's pegs, or knowingly and wilfully prospects within a prospector's area without his consent shall be liable to a penalty not exceeding £50, or in default of payment to imprisonment with or without hard labour for not exceeding six months.

Licence may be cancelled on failure of bona-fide prospecting.

38. Every prospector shall prospect his area *bonâ fide* and to the satisfaction of the Minister, and if he fail so to do, the Minister may after one month's notice cancel his licence in so far as such area is concerned, and thereupon the prospector may not again prospect within such area for a period of six months, and the area shall thereupon be open to any other prospector to peg off.

Rights of grazing, &c.

39. Every prospector shall have the right on Crown Lands of grazing where available, for not more than 24 animals used in connection with prospecting or mining operations, and of taking wood and water that may be necessary for domestic purposes, but the written consent of the Minister shall be first obtained where the land is set aside for any Government purpose.

No. 16—1907.
 Limitations
 of prospec-
 tor's rights.

40. No prospector shall prospect on Crown Land held under lease unless he shall first have obtained the lessee's consent; nor shall he prospect within 200 yards of any house or building occupied or used by the owner or lessee thereof without the consent of the owner or lessee as the case may be, and a prospector shall not prospect upon any land which is under cultivation or which is either used or has been formally reserved in connection with any scheme of irrigation; or in any Government plantation, demarcated forest, forest reserve or native location without the consent of the Governor, or any area formally reserved for any purposes by Proclamation or prohibited by Proclamation to be prospected upon; or in any public squares, streets, roads, railways or cemeteries; or in any portion of a duly proclaimed area in actual use for mining purposes; or on any Crown Land held under a mineral lease.

41. No lessee of Crown Land under any lease including all mineral leases, shall be obliged to permit any person licensed under this Act to prospect upon his land, but he may permit any such prospector to prospect thereon or upon such portion thereof as he may point out for such lawful consideration and subject to such lawful terms and conditions as may be agreed upon.

42. A prospector who has proved to the satisfaction of the Civil Commissioner or Resident Magistrate that he has found base minerals in workable quantities, on signing the declaration set out in the Third Schedule hereto, shall be entitled to peg out an area not exceeding 1,000 acres in extent, and, only *by act of 19* furnishing the Surveyor-General with diagrams in triplicate framed by a sworn land surveyor, showing the position and extent of the land applied for, shall be further entitled to the grant of a lease thereof; and in any lease so granted the following terms and conditions shall, amongst others, be inserted, viz. :—

Rights of
 lessee of
 Crown Land.
 Prospector's
 lease. Terms
 and condi-
 tions thereof.

- (a) The lease shall be granted solely for the purpose of mining for base minerals.
- (b) The lease shall be for a term of one year, with a right of renewal from time to time, at the option of the lessee, for any further period, but not exceeding a total period of ninety-nine years.
- (c) The lease shall be subject to a rental not exceeding the rate of one shilling per acre per annum, to be decided upon by the Minister, and to a royalty of One Pound per centum on the gross amount realized by the sale of minerals won: Provided that whenever the amount paid during any year as royalty shall exceed the amount paid as rent during the said year, the amount of such rent shall be deducted from any amount thereafter payable as royalty.
- (d) In the case of coal the discoverer shall be entitled to peg out so much land not exceeding 1,000 acres, as

he may deem necessary, but he shall not pay any rental in respect of so much of the surface area of the land pegged out by him as is not occupied by or used by him in connection with his mining operations, and such unoccupied surface area shall be deemed to be unoccupied by him save for mining purposes.

- (e) No rent shall be charged in respect of the first twelve months, but payment shall be made on the first day of January, succeeding the date of lease, of the rent accruing in the current year and thereafter payments shall be made in advance on the first day of January in each year. Should the lessee show no *bonâ fide* development work to the satisfaction of the Minister, during the first twelve months of the lease, the rent will be recoverable from the date of the lease, provided, however, that should the lessee satisfy the Minister that circumstances beyond his control have prevented the carrying out of such development work, or that the delay is due to want of necessary capital, exemption may be granted from this condition.
- (f) The lease shall be liable to cancellation by the Governor and without any compensation for improvements at any time should the land not be *bonâ fide* worked within the succeeding twelve months, or should the rent or royalty due be in arrear for twelve months, provided that three months' notice shall be given to the lessee of the intention to cancel the lease. If the lessee within this period of notice shows to the satisfaction of the Inspector that the land comprised in the lease is being worked in a fair and *bonâ fide* manner, and likewise pays the rent in arrear, such cancellation shall not take place.
- (g) Where any area, in respect of which a lease has been granted under the provisions of this Act is situated more than 25 miles from any railway, and the lessee shall prove, to the satisfaction of the Minister that, owing to circumstances beyond his control, it is or has been impossible to work the mining area at a profit, the Minister may grant such lessee immunity from penalties for non-working, hereinbefore mentioned, until such time as he shall fix: provided that the rental upon such area shall not be less than One Shilling per acre per annum during the period of such immunity.
- (h) The lessee may sub-let or assign his lease, subject to the approval of the Governor; and any such sub-lease or assignment shall be registered in the office of the Civil Commissioner or Resident Magistrate of the district.

- (i) The lessee shall keep proper books, in which shall be entered the quantity of base minerals won from the land leased, and the amounts realized by the sale thereof, and all such books shall be open to the inspection of the Inspector or other official appointed for the purpose at all reasonable times.
- (j) Within fourteen days after the expiration of each year of the lease, the lessee shall make a solemn declaration in the form prescribed in the Fourth Schedule to this Act, before a Magistrate or a Justice of the Peace, and shall forward it immediately to the Civil Commissioner or Resident Magistrate of the division, setting forth the quantity of base minerals won during such year, and the amounts realized by the sale thereof under penalty of a fine not exceeding £500, or, in default of payment to imprisonment with or without hard labour for any period not exceeding six months. If the declaration is wilfully false the lessee shall be liable to imprisonment with or without hard labour for a period not exceeding one year, and shall be further liable to forfeiture of the lease.
- (k) The lessee shall be entitled only to such surface rights and over such extents as are hereafter specified: Provided that no lease shall be issued unless a notice shall first have been published by the Surveyor-General in the *Gazette* and a newspaper circulating in the division concerned, stating that it is the intention of the Government to lease the area applied for, and calling upon any person who may have pegged out a prospecting area therein under this Act or any Act relating to precious stones or minerals to file their claims to the land so pegged out with the Civil Commissioner or Resident Magistrate of the division within thirty days from the date of such notice, after which no claim shall be recognized by the Government.

43. Notwithstanding anything in the last preceding section contained, the Governor may grant a lease of a larger area than 1,000 acres in all cases where the nature of the base mineral found shall in his opinion render such a course desirable, and any lease for such larger area shall be subject to the terms and conditions provided in the last preceding section.

A lease of a larger area than 1,000 acres may in certain cases be granted.

44. Any person who shall make such declaration as aforesaid, while prospecting or otherwise, well knowing the minerals declared to have been found were by himself or some other person placed or deposited in or on the spot, or in the soil or stuff dug out or removed from the spot in which such declarant was prospecting, or where the discovery of such minerals is declared as aforesaid to have been made, and were not actually situate

False declaration of discovery.

No. 16—1907.

in or on the spot, or in the soil or stuff where they were declared to have been found or discovered, or well knowing that the said minerals were not found or discovered in or on the place where they were declared to have been found or discovered, shall be deemed to be guilty of the crime of perjury.

"Salting."

45. Any person who shall, previous to any spot or place being let out on lease, wilfully place or deposit, or be accessory to the wilfully placing or depositing of any base minerals in any such spot or place with intent to make or instruct, persuade or induce any other person to make such solemn declaration as aforesaid, or with intent to mislead the Minister or any other person as to the workable nature of a spot or place where such minerals have been declared to have been found, shall be guilty of the crime of fraud.

Burden of proof in proceedings for "Salting."

46. In any proceedings taken for the contravention of the last preceding section, if the accused person shall be proved to have placed or deposited, or to have been accessory to the placing or depositing of any such mineral in any place where the finding thereof would be likely to lead any person to make a declaration of the finding of the same, or would tend to mislead the Minister, or any other person, he shall be taken to have so placed or deposited such mineral in contravention of the last preceding section unless he shall produce satisfactory evidence to the contrary.

Regulations.

47. The Governor may from time to time by Proclamation make, repeal and amend rules and regulations in respect of the following matters :—

- (1) Sanitation, hours of labour, the employment of women and children;
- (2) Machinery and works and the inspection thereof;
- (3) Protection of life and limb;
- (4) Working and management generally;

and to prescribe the penalties for the breach thereof, such penalties not to exceed a fine of £50, or in default of payment to imprisonment with or without hard labour for not exceeding six months; and the Governor may appoint such officers as may be deemed requisite for the carrying out of this part of this Act and the regulations framed thereunder, who shall receive such salaries or allowances out of the public funds as may be deemed necessary, and whose duties and authorities shall be fixed and determined from time to time by the Minister.

Jurisdiction of Magistrates' Courts

48. All offences created by this Part of this Act, and all fines and penalties imposed under the provisions of this Part of this Act, or of any rules, regulations or bye-laws that be framed and proclaimed in manner hereinbefore provided, shall be recoverable in the Court of the Resident Magistrate for the district in which such area is situate.

49. All persons holding, or being entitled to, existing leases or rights of occupation of Crown Land for mining purposes, may, upon the taking effect of this Act, surrender such leases or rights, and thereupon obtain leases under this Part of this Act, to commence from the date of such leases, but without the privilege of one year free of rent conferred by sub-section (e) of section forty-two. Existing holders.

50. For the purposes of this part of this Act the Native Reserves in British Bechuanaland defined in the Schedule to Proclamation No. 220 B.B., 1895, shall be treated as Crown Lands; provided that as compensation for surface damage caused by the issue of any Base Mineral Lease under the provisions of this Act on any such Reserve, there shall be paid to the Civil Commissioner of the Division in which it is situated, one-fifth of the rent and royalty received by the Government from the lessee, and such moneys received by the Civil Commissioner shall be applied by him to the purposes mentioned in section seven of Proclamation No. 220 B.B., 1895. British Bechuanaland Native Reserves treated as Crown land. Compensation for surface damage.

PART III.

MINES DEPARTMENT.

51. The chief Government Analyst shall examine or analyse, and report upon, or cause to be examined or analysed and reported upon, all mineral samples submitted for examination, analysis or assay, upon payment in advance of such fees as the Government may from time to time prescribe by tariff under the regulations provided for in section twenty-seven, and the report shall be communicated to the discoverer of such minerals or to such other persons as may submit the same. Assays of mineral ore by Department.

52. Single samples of mineral ore of which an assay is required under the last preceding section shall be carried free of charge by any parcels post or upon the Government railways upon being addressed to the Government Analyst, and franked by the Resident or Assistant Resident Magistrate of the district in which the discoverer or owner resides. Provisions for forwarding single samples of ore.

53. Samples, if more than one, shall only be carried free as aforesaid upon the certificate of the Government Analyst aforesaid, produced to the said Magistrate or Assistant Magistrate, to the effect that such samples are required for assay by the said Analyst. Provision for forwarding samples.

54. This Act may be cited as "The Mineral Law Amendment Act, 1907." Short Title.

FIRST SCHEDULE.

DREDGING FOR PRECIOUS MINERALS.

PROSPECTING LICENCE UNDER ACT OF 1907.

Licence is hereby granted to..... to enter upon Crown Lands for the purpose of prospecting for Precious Minerals.

This licence shall be in force for.....calendar months from the date hereof, and shall be subject to the following conditions:—

1. The prospecting area, if upon a public river, shall not exceed four miles of its length measured along the middle line of the river, and if upon a lake, lagoon or alluvial ground not suited to ordinary mining, or already mined or unoccupied Crown Land, shall not exceed an area of two hundred acres.

2. This licence does not give the right to prospect on any area constituting the exclusive prospecting area of any other person under this Act or any Act relating to precious stones or precious minerals, or on private property, or upon any land under cultivation, or upon land which is either used or has been formally reserved in connection with any scheme of irrigation; or in any Government Plantation, Demarcated Forest, Forest Reserve or Native Location without the consent of the Governor, or any area formally reserved for any purposes by Proclamation or prohibited by Proclamation to be prospected upon; or within 200 yards of any house or building occupied or used by the owner or lessee thereof without his consent; or in any public squares, streets, roads, railways or cemeteries; or on Crown Land held under lease, unless the licence holder shall first have obtained the lessee's consent; or in any portion of a duly proclaimed area in actual use for mining purposes; or on any Crown Land held under a Mineral Lease.

.....
Civil Commissioner or Resident Magistrate.

Office of the Civil Commissioner,
.....

.....190

SECOND SCHEDULE.

BASE MINERALS.

PROSPECTING LICENCE UNDER ACT OF 1907.

Licence is hereby granted to..... to enter upon Crown Lands for the purpose of prospecting for base minerals.

This licence shall be in force for.....calendar months from the date hereof.

1. The prospecting area, if not circular, may be of any shape, but shall not exceed 1,000 acres in extent, and shall be properly pegged out by pegs not less than 3 inches square and not less than 2 feet in height above the ground or beacons not less than 2 feet in diameter at base, or less than 2 feet in height with trenches cut 3 feet in length and 12 inches wide where practicable indicating the direction of the pegs or beacons.

2. This licence does not give the right to prospect on any area constituting the exclusive prospecting area of any other person under this Act or any Act relating to precious stones or precious minerals, or on private property, or upon any land under cultivation, or upon land which is either used or has been formally reserved in connection with any scheme of irrigation; or in any Government Plantation, Demarcated Forest, Forest Reserve, or Native Location without the consent of the Governor, or any area formally reserved for any purposes by Proclamation or prohibited by Proclamation to be prospected upon; or within 200 yards of any house or building occupied or used by the owner or lessee thereof without his consent; or in any public squares, streets, roads, railways or cemeteries; or on Crown Land held under lease, unless the licence-holder shall first have obtained the lessee's consent; or in any portion of a duly proclaimed area in actual use for mining purposes; or on any Crown Land held under a Mineral Lease.

3. The prospector is liable for the repair of surface damage on vacant Crown Land, occasioned in the course of his operations.

4. ~~The prospector has no right to the removal of a larger quantity of mineral soil, ore or rock discovered, than is required for bulk-testing purposes, not to exceed 100 tons.~~

5. Not more than any one area shall be pegged out at any one time under this licence; but the prospector may move his pegs or beacon to any other area lawfully open to him. Before commencing work in any Native Location or Reserve, the prospector shall first apply to the Resident Magistrate of the District in order that such steps as may be deemed expedient shall be taken to explain to the Headman and people of such location or reserve the nature of the proposed operations.

.....
Civil Commissioner or Resident Magistrate.

Office of the Civil Commissioner,

.....

.....190...

No. 16—1907.
Third Schedule.

THIRD SCHEDULE.

Form of declaration of discovery of Base Minerals in workable quantities under section forty-two of Act No.....of 1907.
(¹) I,..... of (²)..... do solemnly and sincerely declare, in terms of section forty-two of Act No.....of 1907, that while prospecting under Prospecting Licence No.....dated..... issued by the Civil Commissioner of..... I have found Mineral, viz. :—(³)..... in workable quantities at (⁴).....

And I make this solemn declaration conscientiously believing the same to be true.

Declared this.....day of.....190.....at
.....

Signature.....

Justice of the Peace.

Signature of Witness :

.....

(¹) Name in Full. (²) Address. (³) Name of Mineral discovered.
(⁴) Description of place of Discovery, giving name of farm, Division, approximate distance from nearest town or village.



Fourth Schedule.

FOURTH SCHEDULE.

Form of declaration of Output under section forty-two of Act No.....of 190..... :—

I,.....do solemnly and sincerely declare that the quantity of marketable ore raised from the land situate at.....in the Division of..... leased by me under the Base Minerals Act No..... of 1907, during the year of my lease ended.....isTons of 2,352 lbs. weight, and that £..... has been realised by sales during the year, and I make this solemn declaration believing the same to be true.

Declared this.....day of.....190.....at
.....

Signature.....

Justice of the Peace.

Signature of Witness :

.....

No. 17—1907.]

[September 17, 1907.

ACT

To Confer upon Divisional Councils greater or additional powers for the eradication or extirpation of noxious weeds or plants, and in that respect to amend the Divisional Council Act, 1889.

[Assented to 16th September, 1907.]

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

1. From and after the taking effect of this Act it shall be lawful for the Divisional Council of any division in this Colony desiring to be vested with the additional powers conferred by this Act, to petition the Governor in manner hereinafter provided to extend the application thereof to such division. Divisional Council may petition the Governor to apply this Act.

2. Upon receipt of a petition from the Divisional Council of any division in this Colony signed by the Secretary of such Council, who shall have been duly authorized thereto by a resolution of the Council, praying that the operation of this Act may be extended to such division, the Governor shall by proclamation declare the provisions of this Act to apply to such division, and thereupon the operation of the Act No. 18 of 1898 entitled the Divisional Council Act Amendment Act, 1898, shall be suspended in such division, and the following provisions shall in place thereof be in force and effect in such division and shall be read as one with the sub-division six, Part 1, of the Divisional Council Act, 1889, namely :— Proclamation by the Governor and effect of such Proclamation.

(a) The Secretary of the Divisional Council of such division shall in respect of the weed called "Xanthium Spinosum" or any other weed or plant which the Governor may in terms of section two hundred and thirty-eight of the Divisional Council Act, 1889, have required or thereafter require, to be dealt with in manner similar to that provided by the said Act and any amendment thereof in the case of the said weed called "Xanthium Spinosum," cause to be published a public notice in the English and Dutch languages, warning all owners and occupiers of land within the division of the liability they will incur under this Act by neglecting to eradicate or destroy the noxious weed or plant named in such notice, which notice shall be published in some newspaper printed and published in such division, and if there be no such paper then such Divisional Council to publish notice warning persons to eradicate or destroy noxious weed or plant.

notice shall be posted at or near the Court House of every Resident Magistrate in such Division and at or near the residence of every Field-cornet, and shall further be published in some newspaper circulating in such division.

- (b) Upon publication of such notice it shall be the duty of every owner or occupier in such division upon whose land the noxious weed or plant referred to in such notice is found, to eradicate or destroy the same forthwith, and the Council receiving information that any owner or occupier is failing to do so shall by notice in writing call upon such owner or occupier to show cause why the said Council shall not at his expense take immediate measures for eradicating or destroying the said weed or plant, and unless such owner or occupier shall before a date to be fixed in such notice assign good and sufficient reason to the satisfaction of the Council for not complying with the notice in sub-section (a) mentioned then it shall be lawful for the Council and such Council is hereby required to employ all labourers necessary for eradicating or destroying the said weed or plant, and all the costs and charges thereby incurred shall be recoverable from such owner, or occupier, with costs, in the Court of the Resident Magistrate of the district; or, instead of proceeding to eradicate or destroy the said weed or plant, the said Council may, if it think fit, summon such owner or occupier before the Court of the Resident Magistrate of such district to answer for his neglect to eradicate or destroy such weed or plant, and upon proof of his neglect such owner or occupier shall be deemed to be guilty of an offence under this Act, and shall upon conviction be subject to a fine not exceeding twenty pounds and such owner or occupier shall be liable to the same penalty for every week or part of a week during which he shall fail, after his first conviction, to comply with the notice aforesaid.

Duty of owner or occupier in whose land noxious weeds found to eradicate or destroy same failing which Council may do so at cost of such person or summon him for neglect.

Penalty for neglect.

Weeds not to be placed in water courses.

3. In the eradication of noxious weeds it shall be an offence to place such weeds in any river or in any defined water course. Any person contravening this section shall upon conviction be liable to a penalty not exceeding twenty pounds.

Notice of intention to move resolution to be given.

4. It shall not be competent for any member of any Divisional Council to move the resolution in section two of this Act referred to, unless notice of his intention to do so shall have been given at a previous ordinary meeting of such Council.

Short Title.

5. This Act may be cited as the "Divisional Council Act Amendment Act, 1907."

No. 18—1907.]

[September 17, 1907.

ACT

To Provide for the return to the Liquidators of the "Lourens River Estates Limited" of the liquid security to the amount of One Thousand Pounds deposited with the Treasurer in terms of section thirty-seven of "The Somerset West Strand Tramways Act, 1903," with the accrued interest thereon.

[Assented to 16th September, 1907.]

WHEREAS "The Lourens River Estates Limited," did, in terms of section thirty-seven of "The Somerset West Strand Tramways Act, 1903," within one month after the promulgation of that Act, deposit with the Treasurer liquid security to his satisfaction to the amount of One Thousand Pounds, and whereas the undertaking referred to in the said Act was not completed in accordance with the provisions of that Act so as to entitle the Syndicate to withdraw the said liquid security together with the interest accrued thereon, and whereas it appears to be just and equitable that the amount so deposited with the Government as security should be refunded to the Liquidators of the said Syndicate with the accrued interest and that any provisions of Act No. 15 of 1903 or any other law conflicting with the provisions of that Act should be repealed.

Preamble.

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

1. So much of "The Somerset West Strand Tramways Act, 1903," or of any other law, as is in conflict with the provisions hereof, is hereby repealed.

Repeal of repugnant laws.

2. The liquidators of the "Lourens River Estates Limited," are hereby empowered to withdraw, together with the accrued interest thereon, the liquid security deposited with the Treasurer that Syndicate in compliance with the provisions of section thirty-seven of "The Somerset West Strand Tramways Act, 1903," and the Treasurer shall upon promulgation of this Act return and deliver to the said liquidators the liquid security in question together with the accrued interest.

Liquidators of Syndicate authorised to withdraw security for £1,000 with accrued interest and Treasurer directed to return same.

3. This Act may be cited for all purposes as "The Somerset West Strand Tramways Deposit Refund Act, 1907."

Short Title.

No. 19—1907.]

[September 17, 1907.]

ACT

To Make provision for the Assignment and Sub-division of Commonages for certain Immigrant Locations in the Divisions of East London and Komgha.

[Assented to 16th September, 1907.]

Preamble.

WHEREAS Immigrant Locations were established under the provisions of the "Agricultural Lands Act, 1870," the "Agricultural Immigrants Land Act, 1877," and the "Agricultural Immigrants Land Extension Act, 1879," at Kwelegha, Upper Gonubie, Brakfontein, Lily Fontein and Van der Kemp's, in the Division of East London, and at Kwelegha, in the Division of Komgha.

And whereas certain of the arable lots which were not taken up under the said Acts, or which were resumed by the Government, were disposed of under the provisions of Acts Nos. 14 of 1878, 37 of 1882 and 15 of 1887 respectively :

And whereas no Commonages were ever formally assigned to the said Locations, with the exception of Van der Kemp's, and there is no provision in law except in regard to the arable allotments held under Acts Nos. 33 of 1879 and 37 of 1882, under which Commonages could be assigned and subdivided for disposal to the several holders of the arable allotments.

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

Assignment of Commonages to holders of arable lots in certain Locations.

1. It shall be lawful for the Governor to assign lands not being arable lands as commonage for the holders of allotments in the Agricultural Immigrant Locations of Kwelegha, Upper Gonubie, Brakfontein, Lily Fontein and Van der Kemp, in the Division of East London, and of Kwelegha, in the Division of Komgha, irrespective of the Acts under which the several allotments are held: provided that before making any such assignment a report and inspection shall be made by some responsible officer, and all existing rights, if any, shall be provided for.

How Commonages may be sub-divided and sold.

2. The Governor may upon the petition of the registered owners of not less than three-fourths of the allotments in any one of the said locations subdivide the Commonage assigned to it, as in the first section of this Act provided, into sections equal in number to the arable allotments in the respective Location, and thereupon the holder of each arable allotment in such Location in such manner as shall be recommended by the Land Board appointed under the provisions of section five of

Act No. 37 of 1882, shall be entitled to purchase one section of such subdivided commonage at an annual quitrent to be fixed by the Land Board in terms of section five of Act No. 37 of 1882 and subject to the conditions set forth in sub-sections (a), (c), (d) and (e) of the fifth section of Act No. 15 of 1887, commonly called "The Crown Lands Disposal Act, 1887," and subject to the following further condition, namely :—

That if at any time any adjacent or neighbouring proprietor requires a right of way as a road of necessity to or from his land over the land hereby granted, the grantee shall be bound to allow him without compensation such way or road of necessity, and to point out the direction and width thereof; provided that in case of a dispute or difference regarding such road, or its sufficiency, the direction and width of the road shall be decided upon by the Land Board appointed under the provisions of section five of Act No. 37 of 1882.

Provided, however, that the expenses of the survey of such commonage sections and of the erection of beacons thereon shall be paid by the respective purchasers of such sections; and provided further that such annual quitrent may be redeemed in manner provided by section two of Act No. 40 of 1895; and provided moreover that in the event of any holder declining to purchase any such commonage section within a term to be fixed by the Governor, such section shall be open to selection under the terms laid down in the provisions of Act No. 37 of 1882.

3. This Act may be cited as the "East London and Komgha Commonages Act, 1907."

Short Title.

No. 20—1907.]

[September 17, 1907.]

ACT

To Regulate the Sale of Fertilisers, Farm Foods, Seeds and Pest Remedies.

[Assented to 16th September, 1907.]

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

Preamble.

1. This Act may be cited as "The Fertilisers, Farm Foods, Seeds and Pest Remedies Act, 1907," and shall come into operation on a day to be fixed by the Governor by Proclamation in the Gazette.

Short Title.

2. Section 21 of the Sale of Food and Drugs and Seeds Act, 1890, and so much of that and any other law as may be repugnant to the provisions of this Act, are hereby repealed.

Repeal of enactments.

5272 THE FERTILISERS, FARM FOODS, SEEDS AND PEST
REMEDIES ACT, 1907.

No. 20—1907.

Definitions.

3. For the purpose of this Act the following terms shall, unless the context otherwise requires, have the meanings herein assigned to them, namely :—

“Fertiliser” shall mean any substance containing, or purporting to contain, nitrogen, phosphoric oxide, potash or lime, manufactured, produced, or prepared in any manner, or imported into the Colony and sold or intended for sale or distribution for the purpose of fertilising the soil or supplying nutriment to plants, but shall not include farm yard or stable manure, kraal manure and kraal manure ash, town refuse or crude night soil; and all such fertilisers shall be considered to derive their entire value from the nitrogen, phosphoric oxide, potash or lime, as the case may be, which they contain.

“Farm Foods” shall mean all concentrated or artificially prepared feeding stuffs, whether mixtures or otherwise, intended for feeding domestic animals, sterilised bone meal, and all condimental stock foods claimed to possess nutritive as well as medicinal properties, but shall not include dog biscuits and dog food, hays and straws, the whole seeds nor the unmixed meals made directly from entire grains of wheat, rye, barley, oats, mealies, Kafir corn, buckwheat, dried brewers’ grains, wet brewers’ grains, malt sprouts; nor shall it include wheat, rye and buckwheat brans or middlings not mixed with other substances, but sold separately as distinct articles of commerce, or pure grains ground together.

“Seeds” shall include potatoes for planting.

“Pest Remedy” shall mean any substance manufactured, produced or prepared in any manner or imported into the Colony and sold or intended for sale or distribution, for the prevention or destruction of any noxious plant or any parasitic pest of any plant whether of insect, fungoid or similar nature.

“Sale” shall include exposing for sale and consigning or forwarding to an agent for the purpose of sale.

“Brand” shall mean the impression of any letter, number, geometrical figure, mark, sign, or character, or combination thereof, of sufficient size to be readily legible, upon any bag, barrel, package or parcel containing any particular make of fertiliser, farm food or pest remedy, and sufficient to identify the same, and to distinguish it from any other make of fertiliser, farm food, or pest remedy.

“Minister” shall mean the Secretary for Agriculture for the time being.

“Resident Magistrate” shall mean a Resident Magistrate having jurisdiction within the district in which any offence under this Act may have been committed.

“This Act” shall include any regulations made under the provisions hereinafter contained.

“Phosphoric Oxide” shall mean anhydrous phosphorus pent-oxide.

"Lime" shall mean anhydrous oxide of calcium.

"Potash" shall mean anhydrous oxide of potassium.

4. The Governor shall by notice in the *Gazette* appoint, from time to time as may be necessary, persons qualified by technical training and possessing competent knowledge, skill and experience, to be analysts of all fertilisers, farm foods, and pest remedies, and others similarly qualified to be testers of all seeds sold within the Colony, provided that no person shall be so appointed who is directly or indirectly engaged in any trade or business connected with the sale of fertilisers, farm foods, seeds, or pest remedies, within the Colony.

Appoint-
ment of An-
alysts.

5. It shall be lawful for the Governor by Proclamation in the *Gazette* to make regulations for the purposes and in respect of the matters following, that is to say:—

Regulations.

- (1) The marking, labelling or branding of sacks, barrels, cases or packets containing fertilisers, farm foods, or pest remedies intended for sale.
- (2) The registration of brands for fertilisers, farm foods, or pest remedies, the supply of certificates of registration; and for regulating and preventing the sale and delivery of unregistered fertilisers, farm foods, or pest remedies.
- (3) The furnishing by the seller, to the purchaser of any fertiliser, farm food, or pest remedy, of guarantees with regard to the composition thereof; and for preventing the sale of fertilisers, farm foods, or pest remedies, not of the composition guaranteed.
- (4) The furnishing by the seller, to the purchaser of any seed, of guarantees with regard to the purity and germination thereof; and for preventing the sale of seeds not of the quality guaranteed.
- (5) For prescribing and fixing the limits of deficiency in necessary ingredients; and defining the proportions of preservatives or antiseptics allowable in fertilisers, farm foods, or pest remedies.
- (6) For preventing the sale of fertilisers, farm foods, or pest remedies not of the nature or composition demanded.
- (7) For prohibiting and preventing the manipulation, adulteration and alteration of fertilisers, farm foods and pest remedies and the tampering with any packages containing them.
- (8) For regulating and prohibiting and preventing the importation or sale of any fertiliser, farm food, or pest remedy, which is liable to convey contagion.
- (9) For preventing the sale of killed or dyed seeds.
- (10) For providing for the regular analysis of fertilisers, farm foods, seeds and pest remedies intended for sale, the quantity to be analysed and the time, place and

manner of analysis; the steps to be taken by vendors, purchasers or others interested in order to have analyses made, the maximum fees to be charged therefor and the circumstances under which no fees shall be chargeable; for preventing the submission for analysis of samples which are not representative of the bulk; and the notifying of the results of analyses to persons interested.

- (11) For the examination and analysis of fertilisers, farm foods and pest remedies on import into the Colony, and prescribing the terms and conditions under which they may be imported, consistently with the spirit of this Act.
- (12) For searching premises for fertilisers, farm foods and pest remedies and for taking and removing samples thereof for purposes of analysis.
- (13) For the compulsory sale to duly authorised officers of samples of fertilisers, farm foods and pest remedies for the purpose of analysis.
- (14) For prescribing penalties for the contravention of any such regulation not exceeding ten pounds for the first offence, and not exceeding fifty pounds for any subsequent offence.

And every person who shall contravene any such regulation so made as aforesaid shall be liable to the penalty in that behalf prescribed.

Guarantee.

6. It shall not be incumbent on the seller of any seed to furnish to the purchaser thereof any guarantee of purity and germination, provided that the absence of such guarantee shall not exempt such seller from prosecution under this Act or Regulations framed thereunder in the event of the seed sold without such guarantee containing killed or dyed seeds.

Certificate
of analysis to
be evidence.

7. In the proceedings against any person under this Act, the production of the certificate of an analyst under this Act shall be sufficient evidence of the facts therein stated, unless the defendant requires at his expense that the analyst be called as a witness and that the parts of the sample retained respectively by the analyst and the purchaser be produced; provided that the defendant instead of requiring the attendance of the analyst as a witness, shall be entitled to put interrogatories, approved by the Resident Magistrate, to such analyst, and such interrogatories and the answers thereto shall be received in evidence in any such proceeding.

Quarterly
Report of An-
alyst.

8. Every analyst appointed under this Act shall report quarterly to the Minister the number of articles analysed by him under this Act during the foregoing quarter, and shall specify the result of each analysis; and a copy of such report shall be laid before Parliament.

PROCEEDINGS AGAINST OFFENDERS.

9. Proceedings against the person charged with violating the provisions of this Act shall be commenced within two calendar months, and in the case of a perishable article within not more than one calendar month from the time of purchase. Limitation of time to prosecute.

10. In any prosecution under this Act it shall not be necessary to prove intent to defraud; except in the case of a prosecution in respect of the sale of seeds other than dyed or killed seeds without a formal written guarantee granted by the seller to the purchaser. When intent to defraud particular person need not be alleged.

11. In any prosecution under this Act for selling or attempting to sell to the prejudice of the purchaser any fertiliser, farm food, seed or pest remedy, which is not of the nature, substance and quality of the article demanded by such purchaser, it shall be no defence to allege that the purchaser, having bought only for analysis or any proceeding at law, was not prejudiced by such sale. Neither shall it be a good defence to prove the fertiliser, farm food, seed, or pest remedy, in question, though defective in nature, or in substance, or in quality, was not defective in all three respects. No defence to allege purchase for analysis.

12. Where a fertiliser, farm food or pest remedy, sold under a certain brand, has been found to be below the guaranteed composition, it shall be open for the vendor, if charged with the offence, to prove that that particular sample is not in accord with an average of a number of samples of the special make sold under that brand and taken at the discretion of the officer administering this Act, or officer duly appointed by him in that behalf, and that there is reasonable ground to believe that the article was fraudulently placed in a branded bag, barrel, case or other package. Mis-application of brands.

13. In any prosecution under this Act when the fact of an article having been sold in a mixed state has been proved, if the defendant shall desire to rely upon any exception or provision contained in this Act, it shall be incumbent upon him to prove the same. Protection by exemption to be proved.

14. If the defendant in any prosecution under this Act prove to the satisfaction of the Court before whom he is charged that he purchased the article in question subsequent to its importation under a duly registered brand as the same in nature, substance and quality as that demanded of him by the purchaser, and with a written warranty to that effect, that he had no reason to believe at the time when he sold it that the article was otherwise, and that he sold it in the same state as when he purchased it, he shall be discharged, but shall be liable to pay the charges and costs incurred by the prosecutor unless he shall have given him due notice that he will rely on the above defence. Defendant to be discharged if exemption be proved.

15. (1) Every person who shall forge, or shall utter knowing it to be forged, for the purpose of this Act, any certificate or brand, or any writing or signature, shall Forging certificate or brand.

be guilty of the crime of forging or uttering a forged instrument, as the case may be, and shall be punishable accordingly.

- (2) Every person who shall wilfully apply to a fertiliser, to a farm food, to seed, or to a pest remedy, in any proceedings under this Act, a certificate or invoice or warranty given in relation to any other fertiliser, farm food, seed, or pest remedy, shall be guilty of an offence under this Act, and be liable to imprisonment, with or without hard labour, for a period not exceeding twelve months.
- (3) Every person who shall give a false warranty or invoice in writing to any purchaser of a fertiliser, farm food, seed, or pest remedy, sold by him as principal or agent, shall be guilty of an offence under this Act, and shall be liable to the penalties provided by the fifth section of this Act.
- (4) Every person who shall give an invoice or label with any article sold by him, as principal or agent, which shall falsely describe the article so sold, shall be guilty of an offence under this Act, and shall be liable to the penalties provided by the fifth section of this Act.

Costs.

16. In any prosecution under this Act, the following costs shall be recoverable from the defendant upon conviction, in addition to any penalty imposed, namely :—

- (a) The postage, railway carriage or other reasonable charge, if any, paid for transmission of the sample to the analyst or seed tester.
- (b) The fee, if any, charged under the prescribed tariff for analysis.

Imports for
other States
may be ex-
empted.

17. The Governor may, by Proclamation in the *Gazette*, at the request of the Government of any State or Territory beyond the boundaries of this Colony, exempt, under such regulations as to him may seem fit, any fertiliser or farm food or seed or pest remedy imported through the seaports of this Colony into such State or Territory directly; provided that fertilisers or farm foods, seeds or pest remedies so exempted shall, in case of re-importation into this Colony, become subject to the provisions of this Act.

No. 21—1907.]

[September 20, 1907.

ACT

To Vest in and confer upon the Council of the Municipality of Umtata certain rights, powers and privileges for the purpose of securing and providing a proper and adequate supply of

water for the use and benefit of the inhabitants of the said Municipality.

[Assented to 18th September, 1907.]

WHEREAS it is desirable and expedient that the inhabitants of the Municipality of Umtata should be supplied with an adequate and proper supply of good water.

Preamble.

And whereas surveys have been made and the Municipal Council of Umtata are advised that such supply can be obtained from the Ntembezi Stream at or near the unreserved Kambi Forest near its source and about two miles above its junction with the Umtata River in the District of Tsolo, East Griqualand.

And whereas it is expedient that the said Council should be authorised to construct and maintain such reservoirs, lines of pipes and other works and appliances as may be necessary for such purpose and for the purpose of conveying water to the Municipality and Town of Umtata for distribution.

And whereas it is expedient that necessary powers in connection with the supply of water, and the regulating of the same should be conferred upon the said Council.

And whereas it is expedient that the said Council be authorised to levy and assess special rates for the purposes of defraying the interest on all sums borrowed in connection with or for the purposes of this Act, and for providing a sinking fund for the redemption of the sums borrowed and for the upkeep and maintenance of the said works.

And whereas it is expedient that the said Council be authorised and empowered to borrow a sum or sums of money not exceeding £20,000, to be applied to carrying out the purposes of this Act.

And whereas it is desirable and expedient that the said Council be authorised to construct, maintain, work and equip telegraph and telephone lines in connection with the carrying out of the purposes of this Act.

And whereas it is expedient that, subject to the terms of the agreement, dated the 30th July, 1907, entered into between the Town Council of Umtata and Cameron Ngudle and others, and forming a Schedule of this Bill, marked "A," necessary powers and rights over or to or in respect of Crown and other lands in the vicinity of the waterworks and the sources of water supply, and in connection with the protection of the water supply from pollution be granted to the said Council.

And whereas it is expedient that no alienation of Crown Lands situate within the catchment area hereinafter defined should be made.

And whereas plans and sections of the proposed undertaking have been lodged with the Clerk of the House of Assembly and with the Surveyor-General and so much thereof as relate to the

district of Umtata with the Resident Magistrate of Umtata and so much thereof as relate to the district of Tsolo, East Griqualand, with the Resident Magistrate of Mount Currie at Kokstad.

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

Management of the works for the supply of water and all right and property in materials, stock, &c., vested in Council.

1. The management of all matters connected with or relating or incidental to the construction, maintenance and working of the waterworks constructed by the said Municipal Council of Umtata, under the provisions of this Act, and also the right to and property in all and singular the materials, stock and everything appertaining to the said waterworks, shall be vested in the said Council.

Powers of acquisition, diversion, &c., of water.

2. The said Council shall, in accordance with plans and specifications deposited with the Clerk of the House of Assembly and subject to the modifications of section six of this Act, be empowered to take, intercept, dam, impound, divert, appropriate and convey from the Ntembezi Stream at or near the unreserved Kambi Forest in Cameron Ngudle's location in the District of Tsolo, East Griqualand, at a point near its source and about two miles above its junction with the Umtata River, a supply of water and may from thence conduct and convey such water by a line of pipes or otherwise along the route or within the limits of deviation shown on the said deposited plans to the Municipality of Umtata for distribution.

Powers of Construction and Maintenance of water works.

3. The said Council is hereby empowered to construct and make or cause to be constructed or made beyond as well as within the limits of the Municipality of Umtata, all such works as may in the opinion of the said Council, be necessary and expedient for the purpose of impounding, storing, diverting, appropriating, taking, conveying or distributing the said water, whether by reservoirs, dams, weirs, watercourses or leadings, pipes, conduits, aqueducts, drains, ditches or other means, and to erect or construct embankments, reservoirs, dams, weirs, bridges, buildings, roads and all such other works as may be deemed requisite for the purposes of the said works for securing a proper and adequate supply of water for the purposes of this Act.

Route and position of waterworks defined.

4. The route of the said works commencing from the Service or Distributing Reservoir shall be as follows :—

The Service or Distributing Reservoir will be situated on the Commonage of Umtata to the west of the town above the New Hospital site within the Municipal limits. From thence the pipe line takes a northerly direction along the said Commonage entering the Military Reserve at the south end. Maintaining a direct course it passes through the said Military Reserve which it leaves at its Northern boundary between the Rifle Targets and the drift of the dry gully. From here the pipe line con-

tinues through another portion of the Commonage, including the portion reserved for a plantation, still in a northerly direction, but with a slight inclination to westwards until it crosses the boundary of the Municipality and enters the farm "Thornhill," owned by Charles Bowles, above the Umtata-Cala wagon road, and then passes through the said farm crossing the Umtata-Cala road on the stony ridge above the Thornhill homestead, and passing behind the said homestead continues through the said farm until it leaves same near its northerly beacon and enters and passes through the farm "Belmont," owned by Charles Bowles and James Berry, to the Cicira River which it crosses after which it enters the southern boundary of the farm "Roode Heuvel," owned by Theodorus Lewis Kriel, on which it crosses the wagon road from Umtata to Kambi, whence it enters the farm "Welvanpas," owned by the said Kriel, through which it passes. After leaving the farm "Welvanpas" the pipe line enters Crown Land, commonly called Native Territory, going from south to north of Headman Fodo's (Ncise) Location, crosses the Ncise River to the east of the Wagon Drift and from thence passes through from south to north of Headman Paul N'Kala's (Kambi) Location on which it again crosses the Umtata-Kambi road,—the whole of the aforesaid portion of the works being within the District of Umtata, of which the Umtata River is the boundary. Leaving Paul N'Kala's Location the pipe line crosses the Umtata River about 600 yards east of the Kambi Wagon Drift into Cameron Ngudle's Location, in the District of Tsolo, East Griqualand, passes through the said Location to the Intake or Impounding Reservoir at the Unreserved forest of Kambi, below the fall of the Ntembezi Stream, known as the Kambi Falls, the said Intake being situate in the said Cameron Ngudle's Location, in the District of Tsolo.

From the service or distributing reservoir, aforesaid, situated on the Commonage within the Municipality of Umtata, a distributing main or mains and other relative works will be laid across portion of the Commonage and through the town of Umtata for the purpose of distributing water to the consumers thereof within the said Municipality.

5. The Council may if necessary at any time raise and widen the reservoirs and dams and otherwise from time to time improve the waterworks for the purpose of impounding, diverting, carrying and distributing the water. Extension
of works au-
thorised.

No. 21--1907.

Provision for compensation water.

6. The Council shall, in accordance with plans and specifications as aforesaid, be entitled to appropriate, take or use any water out of the said Ntembezi Stream they may require subject to the following restriction :—They shall allow to pass and flow down the bed of the said Ntembezi Stream below and within one hundred feet of the proposed intake or weir in a regular uniform and continuous flow throughout the twenty-four hours of every day out of such intake or weir a quantity of water at the rate of at least twenty thousand gallons per day of twenty-four hours (hereinafter referred to as compensation water).

Gauges for measuring compensation water.

7. For the purposes of measuring the compensation water the Council shall construct either at the intake or weir or within one hundred feet thereof a suitable measuring gauge, over or through which the compensation water shall flow, and such gauge shall thenceforth be maintained in a proper state of repair by the Council, and the same shall at all reasonable times be open to the inspection and examination of any persons interested in such compensation water. If at any time any such gauge shall be out of repair or in an unfit condition for the purpose for which it is intended, the Council shall forthwith put the same in fit repair and condition, and, if they fail to do so within one month after notice in writing given to them in that behalf by or on behalf of any person interested, such person may cause the said gauge to be put in fit repair and condition and may recover the reasonable cost of so doing from the Council.

Settlement of disputes as to gauge.

8. In the event of any dispute at any time arising between the Council and any interested person as to the sufficiency or accuracy of any gauge or as to its state of repair or condition, such dispute shall be settled and determined by arbitration by an engineer to be appointed by the parties, or, failing agreement between them, to be appointed by the Secretary for Agriculture on the application of either of the parties.

Penalty clause.

9. If the Council should fail to allow the compensation water to flow as required by section six of this Act, the Council shall be liable to make compensation for any loss, damage or injury sustained by any owner or other person interested unless such loss, damage or injury shall be proved to have arisen by act of God or other unavoidable cause.

Catchment area defined.

10. The area above, around and near to the sources of the Ntembezi Stream shown on the deposited plans and bounded on the south partly by the Kambi reserved forest and partly by the remainder of Cameron Ngudle's Location, on the west by the Umhlahlani Valley, north by the spur of the Matiwani Mountains and east by the Mjeka Valley, together with the land to the South of the aforesaid southern boundary contained within two imaginary lines one hundred feet from either bank of the Ntembezi Stream to a line approximately one hundred feet below the proposed Intake, is hereby defined and declared to be the catchment area of the Ntembezi Stream.

11. Notwithstanding anything to the contrary in this Act contained the Council shall not be entitled to fence in or enclose the aforesaid catchment area or to prevent the cattle or stock of natives from grazing therein save with the consent of the Headmen affected.

Non-fencing of catchment area.

12. The Council shall allow and permit the erection within the said catchment area of shelters for native herds tending cattle or stock grazing therein at such spot or spots not nearer than a mile and a half from the stream or sources of water supply as may be agreed upon by the Headman of Cameron Ngudle's Location and a representative of the Council or failing agreement as may be fixed by the Resident Magistrate of Tsolo.

Council to permit the erection of Shelters.

13. From and after the passing of this Act it shall not be lawful to make any sales or alienation of any Crown Land situate within the aforesaid catchment area, and the Council shall reserve the whole of the catchment area against settlement.

Prohibition of alienation of Crown Lands within catchment area.

14. No person to whom any Crown Land shall be hereafter sold or leased shall thereby acquire any water or right of water for the interference with or lessening of which by the works hereby authorized he shall be entitled to claim any recompense or compensation.

Future purchaser or lessee of Crown Lands to have no right of compensation.

15. The Council is hereby empowered for the purposes of this Act to enter upon, occupy, enclose, expropriate, take and use any land belonging to His Majesty the King in His Colonial Government commonly called Crown Land, Commonage and other land, and lands held by private persons along or near to the route of the proposed works or within the limits of deviation shown on the deposited plans, which may be required by the said Council for the construction, maintenance or improvement of or in connection with the works aforesaid or any of them, including a piece of Crown Land in extent about one thousand square feet in or near the unreserved Kambi Forest in Ngudle's Location in the district of Tsolo, East Griqualand, for the purposes of the intake or impounding reservoir and relative works and a piece of Crown Land about one hundred feet square being part of the Town Commonage of the Municipality of Umtata and situated to the west of the town above the site of the new hospital for the purposes of a service or distributing reservoir and relative works, and also to take, carry away and use for the purposes of the said works, stone, clay, gravel and other materials from such lands as aforesaid or any of them, and to work and excavate or deposit earth, debris and materials thereon for the purposes of constructing, laying down, repairing, inspecting, maintaining or removing any of the works abovementioned, and may either compensate the owner or owners of such private lands or enter into any contract relative to obtaining such lands, or any water rights, or materials, or for the construction or laying down of any pipe or pipes or other works upon such terms and conditions as may be or have been mutually agreed upon, provided that in so far as any Crown

Powers of entry upon and taking of Crown Lands and private lands, powers of purchase, hire, agreement, etc., situation and extent of ground required for intake and service reservoir, etc., defined.

Land, Commonage and the farms situate in the district of Umtata called "Thornhill," "Belmont" and "Roode Heuvel" are concerned the Council may exercise all or any of the rights and powers aforesaid free of any cost or charge or liability to pay any compensation in respect thereof.

16. For the purpose of the exercise of the powers in the immediately preceding section conferred, the provisions of "The Lands and Arbitrations Clauses Act, 1882," shall apply in respect of any claim for payment of compensation under the said preceding section of this Act, save in so far as Natives are concerned in respect of whom the provisions of section nineteen shall apply.

17. The said Council is hereby further empowered beyond as well as within the limits of the Municipality of Umtata to lay down distributing and other pipes or construct conduits, aqueducts and other appliances for the supply and distribution of the said water, under, over, upon or along and to attach hydrants, upon, along and in Crown Lands, Town Commonage and any public road, street, thoroughfare, lane, square or open or public place or any ground set apart in the diagram or conditions of sale of any sale of land as a road, street, thoroughfare, lane, square or open or public place, without making or being liable to make any compensation.

18. The Council is hereby authorised and empowered, subject to the provisions of sections eleven and twelve of this Act, to acquire and take and to exercise all or any of the rights and powers mentioned in section fifteen of this Act over and in the catchment area or any part thereof: Provided that free access and right-of-way be allowed to and along the existing roads or paths across the catchment area, namely, the bridle-path between Zalingqele and the Village of Tsolo and the forest road between Umtata and the Gxogxoyi and other forests.

19. The powers relative to Crown Land where such Crown Land is in the occupation of or cultivated by Natives shall be exercised only with the previous sanction of the Governor who may impose such conditions and limitations as to the extent or otherwise and as to reasonable compensation in respect of any interference with rights, privileges or interests of such Natives as to him may seem necessary.

20. The Governor may, subject to the limitations imposed by this Act, give and grant to the Municipal Council of Umtata upon such conditions as to him may seem meet and either in whole or in part such Crown Lands as are situate at or in the vicinity of the site of the intake or impounding reservoir aforesaid or are situate within the catchment area aforesaid.

21. The said Council is hereby further authorised and empowered to construct, maintain, equip and work for the purposes of the said waterworks and for no other purposes, telegraph and telephone lines or either of them along or near the said line of

Provisions of "The Lands and Arbitrations Clauses Act 1882" to apply.

Powers to lay down pipes, etc., along public ways and Crown Lands.

Council authorised to exercise rights and powers mentioned in section fifteen over catchment area.

Restrictions on acquisition of Crown Lands where Natives concerned.

Governor authorised to grant title to Crown Land in catchment area.

Authority to construct lines of telegraph and telephone.

works, subject to the provisions of Act No. 20 of 1861, entitled "An Act for the Regulation of Electric Telegraphs" or any law amending or extending the same, and to any regulations from time to time made under the provisions of such Act.

22. It shall be lawful for the said Council at all times, by itself, its engineers, contractors workmen or officers, and with carts, wagons, carriages or otherwise to have free access and right of way to, over and along the line of works, and to and from all other property of the said Council acquired under the provisions of this Act, for the purpose of adding to, repairing, relaying or supervising the said works, or for any other purpose whatsoever that may be deemed expedient by the said Council in or about carrying out the purposes of this Act.

Rights of access.

23. The said Council shall have the power to enter into any contract or contracts with any joint stock company or co-partnership or individuals for the performance of the whole or any portion of the works authorised by this Act.

Power to contract.

24. Any person or persons who shall unlawfully or wilfully or maliciously injure, damage, obstruct or interrupt any portion of any of the waterworks or lines of telegraph or telephone contemplated by this Act or shall similarly obstruct, hinder or prevent the forming, construction, completion or maintenance thereof, or any of them, shall, upon conviction, be liable for each offence to a fine not exceeding one hundred pounds sterling, or to be imprisoned with or without hard labour for any period not exceeding six calendar months, or to both such fine and imprisonment; provided that nothing in this section contained shall be held or taken to exempt such person or persons from any civil or criminal liability for any of the aforesaid acts to which he would have been subject if this Act had not been passed, but no person shall be prosecuted criminally both under this Act and any other law for or in regard to one and the same offence.

Penalties for injuring Council's properties and works.

25. No person shall bathe or wash himself or herself, or wash any clothes, wool or hides or other thing whatsoever in any dam or reservoir belonging to the Council, or in any stream or water flowing into such dam or reservoir or shall wash, throw or cause to enter therein any dog or other animal, or shall place or throw, allow to run off or drain any rubbish, dirt or filth or other noisome thing whatsoever in or into any such dam, stream or water or establish any woolwashery, laundry, tannery, cattle or sheep dipping tank or manufactory of any description within the catchment area from which any refuse, liquid or otherwise, or any injurious contaminating matter of any kind whatever either by itself or in conjunction with other matter might corrupt, pollute, impair, contaminate or defile or tend to corrupt, pollute, or impair, contaminate or defile the waters above or in the intake or impounding reservoir. Any person or persons wilfully contravening this section shall for every offence be liable to a fine not exceeding twenty pounds sterling, and in default of payment

Penalties for defiling water.

No. 21—1907.

of such fine to imprisonment with or without hard labour for any period not exceeding thirty days.

Offences. 26. Any offender or offenders committing any of the offences
How prosecuted. defined in the two last preceding sections of this Act may be prosecuted in the Court of the Resident Magistrate of the District in which the offence or offences are committed.

Power to frame and enforce bye-laws. 27. For the purpose of enforcing the provisions and enacting the penalties laid down in sections twenty-four and twenty-five of this Act and duly policing the catchment area and otherwise safeguarding the sources of the said water supply and the said waterworks from injury or pollution the Council shall have power to frame bye-laws and regulations which shall be duly promulgated in the *Gazette*, and to enforce the same beyond as well as within the Municipality of Umtata, and in particular in the aforesaid catchment area of the Ntembezi Stream and all lands through or on which any portion of the said works contemplated in this Act are laid or constructed, and to generally exercise control over the said catchment area as if same formed part of the Municipal lands within the said Municipality of Umtata. All such bye-laws and regulations shall be submitted for the approval of the Governor in manner provided for in Act No. 45 of 1882, entitled the "Municipal Act, 1882."

Provision for Service Reservoir. 28. All water secured or obtained by the said Council under the provisions of this Act may be distributed or divided direct from the works at or near the aforesaid unreserved Kambi Forest in the district of Tsolo, or may first be conducted to flow into and be collected and stored in such service or distributing reservoir or reservoirs as the said Council may erect or construct on the aforesaid Commonage or elsewhere for the purpose of being thence distributed or divided, in pursuance of the provisions of this Act.

Council authorised to sell water. 29. The Council may sell or supply water either in bulk or otherwise to persons, companies or corporations within the Municipality of Umtata, upon such terms and at such rates, and subject to such regulations and conditions as to it shall seem proper.

Power to levy rate for payment of interest and principal of loan, and for maintenance of water works. 30. In order to pay the interest and instalments of capital hereinafter mentioned, and to provide for all claims arising by reason of any loan or loans raised or to be raised or money borrowed for the purposes of the said water works, or preliminary expenses or previous water schemes, and for the maintenance, upkeep and improvement of the said water works, the Council is empowered to impose, levy and collect a sufficient annual rate or assessment over and above what the Council is already empowered to impose and levy upon the immovable property within the limits of the Municipality; and every rate or assessment so made by the Council shall be of the same force and effect as if it had been a rate imposed under the provisions of the Municipal Act, 1882, so far as the same are applicable. And all rates so imposed

and assessed under the provisions of this Act shall be and be deemed to be a charge upon the property so assessed, and recoverable against the present or any future owner or occupier thereof: Provided that it shall also be lawful for the Council to apply for the payment of interest or principal, or of both interest and principal of the moneys aforesaid any funds or moneys coming to the said Council from any source whatever, and not specially appropriated or required for any other object.

31. The amounts for assessment entered on the assessment roll in force within the Municipality of Umtata for each and every year shall be the amounts on which the rate shall be levied for the purposes of this Act so far as the properties included in such assessment roll are concerned, and for all properties not liable to assessment under the provisions of the "Municipal Act, 1882," the value shall be made and determined once every two years by some competent person or persons to be appointed by the said Council: Provided that such valuation shall be open for public inspection at the office of the Municipality for the space of one month prior to the levying of the said annual rate and the said Council shall give notice in one or more newspapers circulating within the Municipality that the same is so open for inspection, and the provisions of sections one hundred and twenty-two, one hundred and twenty-three and one hundred and twenty-four of the said "Municipal Act, 1882," shall apply to the hearing and deciding upon objections to such valuations.

Amounts on which rates shall be levied

32. The provisions of sections one hundred and twenty-seven to one hundred and forty-three both inclusive, of the "Municipal Act, 1882," shall apply to such annual rate.

When rates shall become payable.

33. In addition to the powers already possessed by the said Council or conferred by the provisions of this Act, it shall be lawful for the said Council and the said Council is hereby empowered to cause a valuation to be made of all rateable immovable property within the Municipality and to levy a tax upon all such property payable by the tenants or occupiers of the said property, the said tax to be based upon the valuation of such property or according to such scale or classification of charges as may be provided by a tariff to be approved of and published by the said Council at least once a week and for a period of not less than one month in one or more newspapers circulating within the Municipality. The said tax shall be payable whether the said properties are or are not in receipt of water supplied by the said Council, and the proceeds thereof shall be applied towards payment of the interest and other charges and principal sum due arising from the moneys borrowed or to be borrowed for the purposes of the said waterworks: Provided further that in order to supply every house or building with water the owner of every such house or building shall within twenty-one days after receiving written notice to that effect lay on a private service pipe to the main branch or service as may

Power to impose compulsory rate or tax and to compel owners of house property to take and pay for a supply of water, etc.

be directed, and in all cases where the owner shall refuse or neglect so to do, he shall be liable to a penalty not exceeding forty shillings for each day's default thereafter and the Council is further hereby empowered to supply and lay on such private service pipe at his expense; and for such purpose, and in case of renewing or relaying such pipes as may already have been lawfully laid, or in the laying on, at the expense of owners, private service pipes or water-leading to houses or buildings the Council shall have power to enter on private property; and the Council shall have power to call upon the owner of each and every house or building within the limits of the Municipality to take from the Council at his own expense a water-leading and a supply of not less than one hundred and fifty gallons per diem and to pay the price thereof, and upon being so called upon every such owner shall be obliged so to do.

Provisions of sections 116 to 124 and 127 to 143 of Act 45 of 1882 to apply *mutatis mutandis*.

34. The provisions of sections one hundred and sixteen to one hundred and twenty-four both inclusive of the Act No. 45 of 1882 shall, *mutatis mutandis*, apply to the valuation to be made under the provisions of the preceding section of this Act; and the provisions of sections one hundred and twenty-seven to one hundred and forty-three, both inclusive of said Act No. 45 of 1882, shall *mutatis mutandis* apply to the recovery of taxes thereunder.

How tax recoverable.

35. In case of default made by the tenant or occupier in payment of the said tax, the amount thereof shall be recoverable from the landlord or owner of the said property; provided that in the event of any property being unoccupied at the date of the levy of any rate the owner of such property shall be and remain liable for such rate.

Act not to affect powers of Council to levy rates or taxes under any other law.

36. Nothing in this Act contained shall be taken to restrict or interfere with the powers of the said Council to levy any other rate or tax which is provided for by the said Act No. 45 of 1882, or by any other law, but the powers conferred by this Act shall be exercisable in addition thereto.

Tariff of charges.

37. The said Council is hereby empowered from time to time to frame and publish a tariff of charges by which the supply of water by private or other water leadings for domestic or other purposes shall be regulated within the limits of the Municipality, and the payment for such supply shall be in accordance with such tariff, and the said Council may specially agree with any person or body corporate for the supply to such person or body of water upon such special terms as may be deemed suitable and the Council may sue for the recovery of such charges in any competent Court should same remain unpaid for one month after due date.

Council to frame necessary regulations and bye-laws and to have right to

38. It shall be lawful for the said Council at any meeting to frame from time to time such regulations and bye-laws as they may deem requisite or necessary for the fixing, reading and regulating of meters, the taking out of water-leading and the connection

thereof with the distributing mains; for determining the nature, design and quality of all pipes, taps, fittings and appliances of every description used for the supply of water and all other matters and things connected with the supply of water to the consumer or for regulating the water supply to the town of Umtata or beneficial for the purposes of this Act with special power to stop or cut off the supply of water to any person or persons for any breach of any such regulations and bye-laws in addition to any remedy or remedies given under this or any other Acts, regulation or bye-law, and notwithstanding that payment shall have been made in advance for the supply of such water, and it shall be competent for the Council by any such regulation or bye-law as aforesaid to provide for punishing the contravention thereof by a fine not exceeding ten pounds sterling, and in default of payment to imprisonment for any period prescribed by such regulation not exceeding three months. All such regulations and bye-laws shall be submitted for the approval of the Governor in manner provided for in Act No. 45 of 1882, entitled the "Municipal Act, 1882."

39. The said Council may authorize any person for the purpose of inspection and repair to enter upon any premises supplied with water by the said Council between the hours of 6 a.m. and 6 p.m. and to cut off the supply to any such premises after twenty-four hours' notice in writing shall have been given of the intention to do so: Provided, however, that such supply shall not under this section be cut off for any period longer than may be actually required for the purpose of detecting waste or making necessary repairs.

40. If any person, shall for one month after lawful demand, fail to pay any sum due for water supplied, under the provisions of this Act, the said Council is hereby empowered to enter upon the premises to which the water not paid for has been supplied, and to cut off the supply until the sum due be paid.

41. The cost of the house connection with shut-off cocks and suitable house fittings and of all repairs shall be borne by the person to whom the water is supplied; but the materials for the same shall be purchased from or approved by the said Council and shall be laid down by the workmen or contractors of the said Council, or under the control of any person approved of by the said Council; provided always that where the water is supplied by meter the work up to and including the meter shall be done by the servants of the said Council, and the work and fittings on the consumer's side of the meter may be done by the consumer in such a way as he may seem fit, subject to any regulations and bye-laws from time to time framed by the said Council.

42. The Council is hereby authorised and empowered from time to time or at one time to raise or borrow upon loan by debentures, mortgage, special $\frac{\text{and}}{\text{or}}$ general or otherwise for the

cut off supply upon default of payment, etc.

Council to have right of entry for inspection and repairs and to cut off supply of water for repairs, etc.

Right to cut off supply upon default of payment for water, etc.

Cost of house connection and repairs borne by consumer.

Borrowing powers to the limit of £20,000, authorised; Pu-

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Public Bodies' Debt Act, 1867, to apply.

purposes of the said water works and preliminary expenses and previous water schemes a sum or sums not exceeding in all twenty thousand pounds sterling, which sum or sums when borrowed and every other pecuniary liability incurred by the said Council under the provisions of this Act shall be deemed to be a debt or debts within the meaning of the Public Bodies' Debt Act, 1867, and shall be subject to the terms thereof. Provided that nothing in this Act contained shall affect the borrowing powers of the said Council under the provisions of the one hundred and forty-fourth to one hundred and fifty-fifth sections of the Municipal Act, 1882.

Fund for payment of moneys borrowed, &c.

43. In order to provide for the payment of the interest upon any monies borrowed under the provisions of this Act, and a fund for the repayment of such monies for the gradual extinction of the debt incurred under the authority of this Act, there shall be set apart a sum annually for the payment of the interest on the amount of the debt remaining unpaid, and a further sum of not less than one pound sterling per centum on the total amount remaining unpaid of the principal or capital sum which shall be raised under authority of this Act, and such last-mentioned sum shall be annually invested as and by way of a sinking fund, or be applied towards the redemption of the said debt so long as any portion of the same or any interest thereon shall remain unpaid or unextinguished.

Accounts to be kept of revenue and expenditure.

44. The said Council shall keep, or cause to be kept, separate and distinct accounts of all moneys borrowed for the purposes of the said water works, and of all revenue received under this Act, and of all moneys expended or set apart in pursuance of the provisions of this Act, and such accounts shall until all sums borrowed as aforesaid shall have been repaid and the aforesaid debt or debts so incurred, extinguished, be annually prepared up to the 30th June or 31st December of each year, as shall be most convenient to the said Council, and shall be deposited and be at the Municipal Office for inspection at all reasonable times by any ratepayer of the Municipality. Any balance remaining to the credit of this separate account at the end of the Municipal year may, with the sanction of the Governor, be transferred to the general municipal revenue.

Costs, &c., of obtaining Act may be paid out of moneys borrowed.

45. The costs, charges and expenses of obtaining the passing of this Act may if the Council deem it expedient so to do, be paid by the Council out of the moneys borrowed for the purposes of this Act.

General powers.

46. The Council is hereby authorised to do all and each of the aforesaid acts and things and such other acts and things as may be necessary in order to construct, maintain or improve, the contemplated works within as well as without the Municipality of Umtata, and also to do all and each of the aforesaid acts and things and such other acts and things as may be necessary in order to maintain and improve the said proposed works so as to

secure an adequate and proper supply of water for all such purposes as the said Council may deem necessary or expedient within as well as without the said Municipality and generally to do all such acts and things as may be necessary or requisite to enable them to carry out the said undertaking and the purposes contemplated by this Act.

47. Nothing in this Act contained shall be construed as entitling the Council to exercise any of the powers of acquisition, expropriation or construction conferred therein upon, over or under any Crown Land except with the consent of the Governor first had and obtained, and under such reasonable conditions as may be imposed by him. All works carried on and things done in pursuance of this Act upon, over or under any such land shall be from time to time subject to inspection by an Officer to be appointed by the Government therefor and at the Council's expense.

Restrictions
in respect of
Crown Land.

48. The Council shall furnish to the Commissioner of Public Works for his approval plans, sections, details and specifications showing the position and method of laying of the said main pipe line wherever the same shall be laid under or along any public road, or wherever the same shall cross any bridge or river; and no portion of the said pipe line crossing any such road, bridge or river shall be laid down until the said approval shall have been given in respect of such portion.

Council to
furnish plans,
sections, &c.,
to Commis-
sioner of
Public Works.

49. The Council shall after laying the said main pipe line under or along any public road without the Municipal limits, restore such road as soon as may be to its former condition to the reasonable satisfaction of the said Commissioner, and shall for a period of six months after laying any main pipe line make good any defect or subsidence in any such road caused by the laying of the said pipe line.

Council to
restore roads.

50. The word "Municipality" used in this Act shall mean the Municipality of Umtata, the terms "Commonage" or "Town Commonage" shall mean the Commonage of the Town or Municipality of Umtata, and the terms "the Council" and "the said Council" shall mean the Municipal Council of Umtata.

Interpreta-
tion Clause.

51. This Act may be cited as "The Umtata Municipality Water Supply Act, 1907."

Short Title.

SCHEDULE A.

MEMORANDUM OF AGREEMENT concluded between the Municipal Council of Umtata and Cameron Ngudle on behalf of himself and his Co-petitioners against the above Bill.

Schedule A.

1. Cameron Ngudle on behalf of himself and his Co-petitioners agrees to withdraw all opposition to the above Bill and to consent to the passing thereof in consideration of the Municipal Council agreeing as aftermentioned.

2. In consideration of the above the Municipal Council of Umtata agree as follows:—

- (a) Free access and right of way to be allowed to and along the existing roads or paths across the catchment area, viz: the bridle path between Zalingqele and the village of Tsolo and the Forest road between Umtata and the Gxogxoyi and other forests.
- (b) The provision in Clause 20 of the Bill providing for the prosecution of offences at Umtata to be changed to the usual one providing for the prosecution of offences in the Court of the Resident Magistrate of the District in which the offences are committed.
- (c) The Municipal Council on the construction of their works to allow a supply of at least 20,000 gallons per day of compensation water to flow down the Ntembezi Stream and to construct a gauge for measuring such compensation water either at their weir or within one hundred feet thereof and insert provisions similar to Clauses 9, 10 and 11 of the East London Act No. 26 of 1906 with regard to keeping the gauge in repair, inspection thereof, etc.
- (d) The Municipal Council to pay the sum of one hundred pounds (£100) sterling compensation for the diversion of water from the Ntembezi Stream, as representing the probable loss caused by the diversion of water capable of being used for irrigation purposes, said sum to be paid to the Colonial Government for payment to Cameron Ngudle and the people of his location according to the extent to which they are respectively affected by the scheme, the said payment not to deprive the Natives of the Location of their existing rights to or in any land which might be irrigated by the said stream.
- (e) The Municipal Council shall not fence in the catchment area or prevent cattle or stock from grazing there, save with the consent of the headmen effected.
- (f) The Municipal Council shall allow the erection of temporary shelters for Native herds in the catchment area at such spots not nearer than a mile and a half from the stream or sources of water supply as may be agreed upon by the headman of Cameron Ngudle's Location and a representative of the Municipal Council or failing agreement as may be fixed by the Resident Magistrate of Tsolo.
- (g) Clause 19 of the Bill to be amended by inserting the word "wilfully" in line 23 after the word "persons."
- (h) The Municipal Council to pay Cameron Ngudle's expenses, viz: his and his sub-headman Ntukani's expenses as witnesses to date hereof and the cost of their

return journey and the costs of their Parliamentary Agent, Mr. D. Tennant.

3. Clauses embodying all the above provisions with the exceptions of (d) and (h) are, subject to the consent of the Select Committee on the Bill, to be inserted in the Bill.

Dated at Cape Town, this 30th day of July, 1907.

(Sgd.) CAMERON NGUDLE.
 „ G. F. OWEN.
 Mayor and Chairman.

As Witnesses :

(Sgd.) LEWIS B. JACOBSON.
 „ D. TENNANT.
 „ F. MANGENA.

No. 22—1907.]

[September 21, 1907.]

ACT

To Provide for the protection of certain birds known as Homing Pigeons.

[Assented to 19th September, 1907.]

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

1. "Homing Pigeon" shall mean and include all pigeons used as bearers of messages or as racing pigeons and which have affixed or attached to either or each leg a rubber or metal ring. Definition Clause.

2. Any person who shall intentionally shoot, kill, disable, ensnare or otherwise injure any Homing Pigeon shall be guilty of an offence, and shall be liable on conviction to a penalty not exceeding three pounds sterling, provided that it shall be a sufficient defence for the person killing or ensnaring such pigeon to show that he had reasonable grounds for believing that it was not a Homing Pigeon within the meaning of this Act. Penalty for shooting, etc., homing pigeons.

3. Any person who shall intentionally kill, maim, or in any way injure or detain any Homing Pigeon whilst in course of transit by Railway, Coach, or otherwise from its home to the point from which it is intended to be dispatched as a bearer of a message, or whilst being trained, shall be guilty of an offence, and shall be liable, on conviction, to a penalty not exceeding three pounds. Penalty for shooting, &c., when in transit.

No. 22—1907.

Registration
of homing
birds.

4. No person shall be liable to a penalty under either of the last two preceding sections unless the owner of the pigeon or pigeons shall have been registered as owner thereof, in any recognized Homing Society.

Compensa-
tion for birds
killed or in-
jured.

5. Any person or persons who shall do any of the acts or deeds mentioned in sections two and three hereof shall, in addition to the penalty provided in such sections, be liable to pay to the owner or owners of the pigeon or pigeons killed, disabled, injured or detained, the value of the Pigeon or Pigeons, or the amount of such injury or the loss suffered by such detention, and any Magistrate, before whom any conviction shall be obtained under this Act may in addition to the penalty imposed, direct payment by the defendant to the owner or owners of the bird or birds in question of the amount of such damage or injury.

Effect of
registration.

6. The effect of registration under this Act shall be to place the Pigeon or Pigeons owned by the person so registered at the disposal of the Government and of every officer thereof in carrying messages when the exigencies of the public or military service may require the same.

Enforce-
ment of pen-
alties.

7. All penalties under this Act shall be recoverable in the Court of the Resident Magistrate of the District in which the offence was committed.

Short Title.

8. This Act may be cited as "The Homing Pigeons Protection Act, 1907."

No. 23—1907.]

[September 21, 1907.

ACT

To apply a Sum not exceeding Seventeen thousand eight hundred and fifty pounds five shillings and ninepence sterling, for the purpose of meeting and covering certain Unauthorized Expenditure.

[Assented to 19th September, 1907.]

Preamble.

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

Revenue
charged with
£17,850 5s. 9d.
unauthorized
expenditure
year ended
June, 1906.

1. The public revenue of this Colony is hereby charged with the sum not exceeding Seventeen thousand eight hundred and fifty pounds five shillings and ninepence sterling, to meet unauthorized expenditure beyond the amounts voted or appropriated for the service of the financial year ended 30th June, 1906, described on page 249 of the "Report of the Controller and Auditor-General, with Statements of the Revenue and Expenditure and Appropriation Accounts of the Colony of the Cape of Good Hope for the financial year 1905-1906." [G. 1—'07.]

Short Title.

2. This Act may be cited as the "Unauthorized Expenditure Act, 1907."

No. 24—1907.]

[September 21, 1907.

ACT

To apply a Sum not exceeding Three Million Pounds Sterling towards the Service of the Year ending 30th June, 1908.

[Assented to 19th September, 1907.]

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

Preamble.

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending 30th June, 1908, with a further sum not exceeding Three Million Pounds Sterling (£3,000,000), which sum shall be applied towards the service of the said year in conformity with the Estimates of the Expenditure for the year ended the 30th June, 1907, which have been approved of by Parliament.

Revenue charged with £3,000,000 towards services of year ending 30th June, 1908.

2. This Act may be cited for all purposes as "The Appropriation (Part 1907-'08) Act, 1907."

Short Title.

No. 25—1907.]

[September 21, 1907.

ACT

To Authorize the Establishment of a Bank for the purpose of assisting the Occupation, Cultivation and Improvement of Agricultural and Pastoral Lands.

[Assented to 19th September, 1907.]

PART I.—ESTABLISHMENT OF BANK.

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

Preamble.

1. The Governor may establish and maintain a Bank for promoting the occupation, cultivation and improvement of the Agricultural and Pastoral lands of the Colony subject to the provisions of this Act.

Governor may establish and maintain a Bank.

PART II.—CONTROL AND MANAGEMENT.

2. The Bank shall be controlled by a Board consisting of five Trustees appointed by the Governor not more than three of whom may be persons holding an office of profit under the Crown. The said Trustees under the style of "The Trustees of the Agricultural Credit Bank of the Cape Colony" shall be a body

Board.

corporate with perpetual succession and a common seal and shall be capable of suing and being sued, of holding and alienating land and other property, and generally of exercising such other powers as may be conferred upon them by this Act.

Term of Office. 3. Every Trustee shall hold office for three years and during that time shall not be removable therefrom unless an address praying for such removal be presented to the Governor from both Houses of the Legislature in one Session; provided that of the said Trustees first appointed one shall retire at the expiration of one year, two at the expiration of two years, and the remaining two at the close of three years: and provided further that the order of retirement shall be settled by lot and any retiring trustee shall be eligible for re-appointment.

Powers of suspension. 4. The Governor may suspend any Trustee from his office for incapacity or misbehaviour, but in every such case a full statement of the cause of such suspension shall be laid within seven days of such suspension before both Houses of Parliament if then sitting, or if they be not then sitting within seven days after the commencement of the next Session, and unless an address shall within one month afterwards during that Session be presented to the Governor by the Legislative Council and the House of Assembly praying for the retention of such trustee in his office the Governor may remove such Trustee.

Vacancies. 5. Upon the resignation, death or removal of any member of the Board the Governor shall appoint a Trustee to fill such vacancy and it shall be lawful for the Governor to re-appoint any Trustee upon the expiry of his term of office.

Absences. 6. Any Trustee who shall absent himself from three successive meetings of the Board without previously obtaining leave of absence from the Governor shall *ipso facto* cease to be a member of the Board and the Manager shall forthwith report such vacancy to the Governor. Provided that should the Governor be satisfied that such absence was due to temporary illness or other cause satisfactorily explained the Governor may re-appoint such Trustee.

Chairman and Quorum. 7. The Trustees shall elect annually one of their members to be chairman of the Board. The chairman shall preside at all meetings of the Board but in his absence the Trustees present shall elect a chairman for the meeting. The chairman shall have a deliberative vote and in the event of an equality of votes a casting vote. Three Trustees shall form a quorum.

Disqualification. 8. No person shall be competent for appointment as a Trustee or to the office of Manager under section ten of this Act, or, if appointed, shall be competent to hold or to continue in any such appointment, who is incapacitated from holding an office of profit under the Crown or has within twelve months previously been so incapacitated, or who is a director or member of the managing body or an official of any Bank or Company or other body carrying on business in this Colony one of whose objects is the

lending of money on the security of land in this Colony. Any Trustee or official or employee of the Bank who becomes a candidate for Parliament, or is adjudicated an insolvent, or compounds with his creditors, or otherwise takes advantage of any act for the relief of insolvent debtors; or who becomes insane; or who is convicted of any crime and sentenced to imprisonment without the option of a fine; or is imprisoned for debt; or is proved to the satisfaction of the Governor to be so addicted to intoxicating beverages as to be frequently unfit for the performance of his duties, shall, notwithstanding anything to the contrary in sections three and four of this Act, be deemed to have forfeited his office, and shall thereupon cease to perform his duties or receive his fee or salary. Pending any inquiry under this section into the case of any trustee, official or employee, the Governor may suspend any such trustee, official or employee from office upon such conditions as he may deem fit.

9. Every Trustee shall be paid out of the moneys of the Bank a fee not exceeding two guineas for each Board Meeting or adjournment thereof which he shall attend; but no Trustee shall during any one year of office receive more than two hundred and ten pounds in respect of such fees. In the event of the appointment of Government servants to the Board they shall receive such fees not exceeding the above as the Governor may approve. Remuneration.

10. The Trustees shall, subject to the approval of the Governor, appoint a Manager who shall be the chief executive officer of the Bank and such other officers as may be necessary for efficiently conducting the affairs of the Bank and at such salaries as may be approved by the Governor. The Manager shall be present at all Board Meetings where practicable. Manager and Officers.

11. It shall be lawful for Civil Commissioners and such public officials as may be under their control and for such officials of the Post and Telegraph Department as the Postmaster-General may approve to act as agents for the Bank. Government Servants to act as Agents.

12. All applications for loans or renewals or extensions thereof shall be referred to the Manager who shall report in writing to the Board upon such application. Duties of Manager.

13. The Board may employ such persons as it deems fit to inspect, report upon and value any property and all Civil Commissioners and other officers of the Government shall on the request of the Board report upon any cases submitted to them. The Board shall have access to the valuation rolls of all Divisional Councils, Municipalities and Village Management Boards whose officers further shall supply to the Board upon application particulars as to any valuation. Inspectors.

14. The accounts of the Bank shall be audited by the Controller and Auditor-General of the Colony who shall report to Parliament each year on the latest balance sheet and profit and loss account of the Bank and upon such other matters as he may deem fit. The Controller and Auditor-General shall have all the Auditors.

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powers with respect to the accounts of the Bank as are vested in him with respect to the public accounts of the Colony.

Accounts.

15. Within two months after the 31st day of December in every year the Board shall lay before the Governor and publish in the *Gazette* a statement of accounts showing (a) the Assets and Liabilities of the Bank as on the said 31st December, and (b) the profit and loss account for the preceding year, together with a statement under convenient headings of the receipts and payments of the Bank during the same period. Every such statement shall be signed as correct by the Trustees, the Manager, the Accountant of the Bank and the Controller and Auditor-General, and shall be laid before Parliament within seven days if Parliament be then sitting or within seven days after the commencement of the next ensuing Session of Parliament. The Board shall in addition keep, record and render to the Treasurer from time to time such other accounts, reports and statements as he may require.

Reserve Fund.

16. The Board shall establish a Reserve Fund into which shall be paid all profits arising from the transactions of the Bank. Such Reserve Fund shall be maintained and shall be invested from time to time either in making advances to farmers in accordance with the provisions of this Act or in Cape Government securities.

PART III.—HOW FUNDS SHALL BE RAISED.

Raising of Funds.

17. It shall be lawful for the Treasurer to lend to the Trustees and for the Trustees to borrow from the Treasurer out of the funds of the Post Office Savings Bank, the Civil Service Pension Funds and Guardians Fund, sums not exceeding one million pounds sterling at a rate of interest not exceeding 4% per annum for the purposes of this Act.

PART IV.—MAKING OF ADVANCES.

Advances — to whom and for what.

18. Advances may be made by the Board to farmers for all or any of the following purposes:—

- (a) To pay off existing liabilities in cases in which the Board approves of an advance for improvements.
- (b) To effect improvements including:—
 - (1) Water Storing and Irrigation.
 - (2) Fencing.
 - (3) Clearing land for cultivation.
 - (4) Planting of Orchards and Vineyards.
 - (5) Farm Buildings.
- (c) For purchase of Stock and Plant.

Security.

19. The Board shall make no advance save on the security of a first mortgage upon land.

20. The Board shall not lend money to any Company or Society in which any Trustee is directly or indirectly interested as director, manager, member or shareholder. But nothing in this section shall prevent the Board from depositing money with any Bank.

Board may not lend to any Company in which Trustee interested.

21. The amount advanced shall not exceed two-thirds of the value of the property as determined upon by the Board and for the purpose of arriving at such value the Board may in its discretion add the value of any improvements specified in numbers (1), (2), (4) and (5) of sub-section (b) of section eighteen of this Act sought to be effected, provided that the loan to be granted by the Board, without taking into consideration the value of the improvements, shall not exceed three-fourths of the Divisional Council valuation.

Limit of advance.

22. Where the advance is made upon the security of Crown Lands partially redeemed the unredeemed portion of the purchase price of such land shall be taken to be a first mortgage and the application for advance treated as in section twenty-one.

Crown Land partially redeemed.

23. No loan shall be granted by the Board to any one person for a less amount than £50 or for a larger amount than £3,000. Nor shall any person who is already indebted to the Bank in the sum of £3,000 be capable of receiving any further advance.

Limitation of amount.

24. All applications for advances under five hundred pounds shall have precedence over those for a larger amount.

Priority of applications.

25. No advance shall be made

Security to be complete before advance is made.

(a) Until the Board shall have been satisfied with the title of the applicant to the land offered as security, and there shall have been completed in proper form the mortgage bond required by section nineteen hereof.

(b) Until the Manager shall have certified in writing to the Board that all the requirements of this Act have been complied with, and that the applicant is entitled to the immediate receipt of the advance.

(c) Until the Manager shall have received from the applicant a deposit sufficient to cover the actual cost of the valuation and of any necessary inquiry in connection with the application.

26. Every mortgage bond shall be prepared, and at the discharge of the obligation which it secures cancelled by the Board free of cost, but all registration fees, stamp duties and other necessary charges shall be paid by the Mortgagor at such time or times and in such form as shall be prescribed by regulation, or, in the absence of such regulation, by the Board. No Registrar of Deeds shall be entitled to exact, in respect of any such mortgage bond, any registration fee or charge in excess of that chargeable upon a mortgage bond prepared by a duly qualified conveyancer.

Cost of Mortgage.

No. 25—1907.

Interest.

27. The rate of interest shall be as agreed upon by the Board and the borrower, and shall not exceed five pounds per cent. per annum.

Repayment.

28. Repayments shall be made to the Board in such half-yearly instalments as may be agreed upon by the Board.

Half yearly payments.

29. Interest and instalments shall be paid to the Board on the thirtieth day of June and thirty-first day of December respectively but any borrower shall be at liberty to repay the whole or any portion of the loan in addition to the stipulated instalment at any time and in such event due allowance shall be made for interest.

Persons to whom advances may not be made.

30. No advance shall be made to a Trustee nor to any person or official concerned in the management of the Bank, nor to any person employed by the Board, nor to any member of the Legislature.

Inspection of properties.

31. The Board shall have the right of inspecting at all times all properties or improvements upon which advances have been made and may appoint any person for the purpose of carrying out such inspection. Any person so appointed shall have the right at all reasonable times to enter upon any land in respect of which an advance has been made, and to enter any premises thereon for the purpose of making any necessary inspection.

Maintenance of Security.

32. All properties and improvements upon which advances have been made shall be maintained in good order by the borrower and the Board may insist upon such repairs being made as it deems necessary, such repairs being carried out by the borrower at his expense. Insurances shall be effected as may be prescribed by regulation or by the requirements of the Bond.

Power to cancel.

33. If in the opinion of the Board the borrower shall have failed to carry out all or any of the conditions of the advance or to comply with all or any of the regulations of the Bank, or any lawful direction made by the Trustees or Manager of the Bank by virtue of any authority vested in them under this Act or any regulations promulgated thereunder or have failed after having received three months' notice so to do to maintain in good repair the property or any portion of it for the improvement of which an advance has been made or shall have failed to comply with any of the requirements of his bond, then the Board may declare to be due and claimable without notice the whole debt together with interest and such other charges as may have been lawfully incurred by the Bank by virtue of any authority contained in this Act or in the regulations thereunder or in the bond.

PART V.—GENERAL.

Regulations.

34. The Board may issue regulations for the purpose of regulating:—

- (a) The meetings and proceedings of the Board.
- (b) The duties of officers and other persons employed by the Board and the efficient performance thereof.

- (c) The establishment of Agencies.
- (d) The management of the Bank and its agencies.
- (e) The forms to be used, and books, accounts and records to be kept.
- (f) The procedure in all cases where no procedure is otherwise provided.
- (g) The imposition and recovery of penalties for the breach of regulations.
- (h) All matters and things arising out of and consistent with this Act not herein expressly provided for and for otherwise fully and effectually carrying out and giving effect to the various objects and powers of this Act and for guarding against violations or evasions of it.

35. All such regulations shall be subject to the approval of both Houses of Parliament, and from and after the date of promulgation in the *Gazette*, shall have the force of law in so far as they shall not be repugnant to or inconsistent with any of the provisions of this Act or any law in force in this Colony.

Parliamentary approval

36. (a) Any Trustee or official employed by the Board who, directly or indirectly, receives any fee or reward from any person in respect of any application for a loan under this Act, or in respect of the performance of any of his functions or duties, shall be guilty of an offence, and shall be liable, on conviction, to a fine not exceeding £500 or to imprisonment, with or without hard labour, for a period not exceeding five years.

Penalties.

(b) Any person who corruptly influences, or attempts to corruptly influence any Trustee, official or employé of the Board, shall be guilty of an offence, and shall be liable, on conviction, to a fine not exceeding £500, or to imprisonment, with or without hard labour, for a period not exceeding five years.

(c) Any person who, being directly or indirectly interested in any application for a loan under this Act, sits and votes at any meeting of Trustees upon any such application, or who acts as valuator in connection with the security offered under any such application, shall be guilty of an offence, and shall be liable, on conviction, to a penalty not exceeding £500 or, in default of payment, to imprisonment with or without hard labour for a period not exceeding five years.

37. In all cases where officers in the Public Service of this Colony are transferred to the service of the Bank, sections sixty-nine, seventy, seventy-one, seventy-two, seventy-three and seventy-four of the Harbour Boards Act No. 36, 1896, shall apply as if such sections were embodied in this Act.

Transfer of Civil Servants to the Bank.

38. The Agricultural Credit Bank shall not be required to take out any licence under the provisions of section fifty-five of the Bank Act, No. 6, 1891, or of any other law.

No licence required for Credit Bank.

39. This Act may be cited as "The Agricultural Credit Bank Act, 1907."

Short Title.

No. 26—1907.]

[September 21, 1907.]

ACT

To Continue and Amend Part II. of the "Additional Taxation Act, 1904," and to impose a tax on the profits of certain Mining Companies.

[Assented to 19th September, 1907.]

Preamble.

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

Income Tax continued.

1. Subject to the provisions of the next succeeding section, the Income Tax provided and charged under and by virtue of Part II. of the "Additional Taxation Act, 1904," continued under and by virtue of the "Additional Taxation Act, 1905," and the "Income Tax Continuance Act, 1906," shall be and is hereby further continued, and shall be charged, levied, collected and paid from and after the 1st July, 1907, to the 30th day of June, 1908, and until the assessments made under this Act shall be completed, levied, collected and paid, for the service of the year ending the 30th June, 1908, upon and in respect of incomes arisen and accrued during the twelve months ended 30th June, 1907, taxable under the provisions of the said "Additional Taxation Act, 1904," as herein applied, and this Act, and all matters, duties, powers and liabilities, provided by the said Act in respect of Income Tax shall apply *mutatis mutandis* to the Income Tax charged, levied, collected and paid under this Act.

Additional Tax on incomes exceeding £10,000.

2. Notwithstanding anything contained in section fifty of the "Additional Taxation Act, 1904," and the last preceding section, the Income Tax charged, levied, collected and paid to the revenue of the Colony for the service of the financial year ending the 30th June, 1908, in respect of so much of taxable incomes as exceeds Ten thousand pounds arisen and accrued during the twelve months ended 30th June, 1907, shall be at the following rates, namely :—

- (1) Upon so much of such incomes as exceeds Ten thousand pounds and does not exceed Twenty thousand pounds, one shilling and three pence in the pound.
- (2) Upon so much of such incomes as exceeds Twenty thousand pounds, one shilling and six pence in the pound ; provided that no Income Tax shall be chargeable upon, or payable by Companies included in the next succeeding section, or by shareholders in such Companies in respect of dividends received from such Companies ; except as regards preference shares on which a defined dividend is secured by contract or otherwise which dividend shall be taken to be the income of the Company paying such dividend, and shall be chargeable under the provisions prescribed by this Act and other Acts relating

thereto with income tax at the rate of two shillings in the pound, and such company shall be entitled to deduct from the dividend paid to holders of such shares the amount of tax paid in respect thereof under this section ; and provided, further, that in respect of all Companies having their head offices in British South Africa, save and except Companies included in the next succeeding section, Income Tax on taxable incomes arisen and accrued during the year ended 30th June, 1907, shall be charged, levied, collected and paid at the rates provided in the "Additional Taxation Act, 1904."

3. Subject to the provisions of this Act, there shall be charged, levied, collected and paid for the service of the year ending 30th June, 1908, a tax on the profits of Diamond Mining Companies and Copper Mining Companies, owning mines in this Colony, which earned profits in excess of Fifty thousand pounds, during the year ended 30th June, 1907, at the rate of Ten pounds per centum of such profits. Tax on profits of Diamond and Copper Mining Companies.

4. The sum to be fixed in each case as the amount of profits taxable under the last preceding section shall be ascertained in the manner provided for ascertaining the amounts of incomes taxable under the "Additional Taxation Act, 1904," and all matters, duties, powers and liabilities provided by the said Act, in respect of Income Tax, shall apply *mutatis mutandis* to the tax on profits of Mining Companies charged, levied, collected and paid under this Act, provided that there shall be deducted from the taxable sum upon which any Mining Company shall be liable to pay such profit tax the amount, if any, which has been paid by such company in respect of preference shares by virtue of the provisions contained in section two hereof. Method of ascertaining profits of Diamond and Copper Mining Companies.

5. This Act may be cited as the "Income Tax Continuance and Mining Profits Tax Act, 1907." Short title.

No. 27—1907.]

[September 21, 1907.

ACT

To Amend the Precious Stones Act, 1899

[Assented to 19th September, 1907.]

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

PART I.

MINES.

1. So much of Act No. 11 of 1899, entitled "The Precious Stones Act, 1899," as is inconsistent with or repugnant to the Repeal of repugnant

No. 27—1907.

Discoverer to notify Minister whether he intends working the mine or not. 16. The discoverer shall, within nine months after the proclamation of the mine, notify to the Minister charged with the administration of this Act, in writing, whether he intends to work the mine as provided by this Act or not.

If discoverer unwilling owner may notify whether he intends working the mine. 17. If the discoverer notifies his unwillingness to work the said mine, the owner or owners, in case of a mine on land the title to which contains the aforementioned reservation, shall, within nine months after being requested by the Minister to notify his or their intention, state, in writing, whether he or they or one of them intend to work the mine as aforesaid.

Mineholder to render certain annual accounts to provide working capital. 18. The mineholder shall provide the working capital necessary for the effective working of the mine and shall, for the purpose of the division provided for in section twenty-one hereof, render yearly to the Minister and to any other joint holder of a share in the mine, an account in which shall be set off against the net profit of the mine for the year such working capital actually expended, together with interest thereon at the rate of ten per centum per annum calculated from the last day of the month in which such capital was expended. In each subsequent annual account such interest shall be reckoned on the balance of capital brought forward, together with any additional working capital expended during the year for which the account is rendered. No share in the produce of the mine shall accrue to the Crown until the aggregate net profits of the mine shall equal the working capital so expended from time to time: Provided, however, that if any net profits are paid out before such event to any person holding shares in the mine or in any company working it, the Crown shall be paid its *pro rata* share thereof as hereinafter provided.

Meaning of "working capital." 19. The term "working capital" shall be taken to mean the actual capital expended on the equipment and development of the mine after the date of proclamation, but shall not include the purchase price, if any, paid by the mineholder for the mine or any mining rights or any costs of prospecting previous to proclamation.

Meaning of "net profits." 20. The term "net profits" shall be taken to mean that profit left after paying all amounts not being capital outlay actually expended during the year in winning and disposing of precious stones, together with salaries, wages, director's fees, auditor's fees, taxes, insurance, printing, stationery, advertising, maintenance of plant and buildings, agencies, legal expenses, survey expenses, arbitration expenses and office expenses.

Audit of books and accounts of mineholder. 21. It shall be lawful for the Controller and Auditor-General of the Colony, or any other officer deputed thereto by the Governor, from time to time to examine the books and accounts of the mineholder with respect to the working of the mine and at all reasonable times to have reference to all books and documents which tend to prove the correctness or otherwise of the said accounts.

22. Subject to the provisions of the preceding sections the net profits obtained from the working of the mine shall be annually divided between the Crown, the mineholder and any other person having a joint share in the said mine, in proportion to their respective shares therein.

Distribution of net profits.

23. Every mineholder shall carry on mining operations to the satisfaction of the Inspector unless work is suspended with the consent of the Minister for any of the following reasons:—

Reasons for which mining operations may be suspended with consent of Minister.

- (1) That time is required for the erection or repair of machinery or shafts.
- (2) The influx or scarcity of water.
- (3) A fall of reef in the mine.
- (4) Scarcity of labour.
- (5) When the *bonâ fide* mining and working expenses of the mine cannot be met by the sale of the precious stones found therein when realised at their true and fair market value.
- (6) Any such other reason as to the Minister may seem just.

24. All differences which may arise between the mineholder and the Crown in respect of carrying out the provisions of this Act, or in respect of any matter affecting their respective interests in the mine or in the disposal of its products or the value of the same, shall be referred for final decision to a Board consisting of an equal number of representatives of the mineholder and the Crown and in addition thereto a Chairman who shall be appointed by the members of the said Board and who shall have a casting vote only. The persons representing the Crown on the Board shall be appointed by the Governor.

Board to settle differences between mineholder and Crown.

25. If the persons entitled under section fourteen to work the mine.

Penalty for certain omissions or failures on the part of the mineholder.

- (1) refuse to work the said mine or fail to notify the Minister within the time allowed whether they intend to work it or not, or,
- (2) if the mineholder fails to find the necessary capital for the working of the said mine within twelve months after its proclamation, or
- (3) fails to properly work the said mine under the provisions of section twenty-two, or
- (4) fails to carry out the decision of the Board mentioned in the last preceding section in respect of any difference referred to such Board,

any right which the said persons or the mineholder may have under this Act to work the mine may be determined and the Governor may call for public tenders for the working of the said mine under contract on such terms and conditions as may be agreed upon between the Governor and the persons holding shares in the said mine: Provided always that in case the Governor and the said persons cannot agree, such terms and

Tenders.

No. 27—1907.

conditions shall be decided by the Board mentioned in the last preceding section; and provided further that any profits accruing, divisible between the Crown and such persons under any such contract, shall be divided in proportion to their respective holdings.

If no satisfactory tender received.

26. It shall be lawful for the Governor, in case no satisfactory tender is obtainable for the working of the mine under the last preceding section, to lease the said mine to the discoverer or owner on such terms as may be agreed upon or, failing such agreement, to any other person, in which case during the continuance of the lease the provisions of sections seventeen to twenty-one inclusive shall not apply. The rent to be derived from any such lease to a person not being the discoverer or owner shall be divisible between the Crown and the other parties holding joint shares in the mine, in proportion to their respective shares in such mine.

Transfer or mortgage of interest in mine.

27. It shall not be lawful for a discoverer or any person holding a joint share in a proclaimed mine to transfer or mortgage his interest in such mine except with the consent of the Governor. Such transfer or mortgage shall, if allowed, be passed before the Civil Commissioner of the district, who shall each month send a copy of all mortgage bonds so passed to the Registrar of Deeds for filing.

Transfer duty.

28. A transfer duty of one per centum only shall be payable on any such transfer and all other provisions of law as to the payment of transfer dues on immovable property, as far as they apply, shall be taken to be inserted herein.

Proviso to section one hundred and twenty-four of Act No. 11 of 1899 repealed.

29. The proviso to section one hundred and twenty-four of Act No. 11 of 1899, shall be deemed to be repealed as to any mine dealt with under this part of this Act, and proclaimed upon any Native Reserve in British Bechuanaland, and the compensation for surface damage, in such case, shall be such amount as shall upon submission of the matter, as hereby required, to the Board, referred to in section twenty-three of this Act, be found by such Board to be a fair and just compensation for such surface damage to be paid in accordance with section one hundred and twenty-four of Act No. 11 of 1899, to the Civil Commissioner.

Compensation for surface damage.

PART II.

ALLUVIAL DIGGINGS.

Provision substituted for Section 85 of Act 11 of 1899.

30. Section eighty-five of Act No. 11 of 1899 is hereby repealed and the following substituted:—

“After the said Proclamation, the Discoverer and Owner shall be bound, under penalty of forfeiting their rights,

forthwith to peg off the claims to which they are entitled under this Act, and thereafter it shall be lawful for any Certificated Miner to peg off from one to six claims on the area proclaimed, if available: Provided, that for a period of seven days, reckoned from and including the day on which the Proclamation is read by the Inspector of Claims as provided in section eighty-four of the Act aforesaid, each Miner shall only be permitted to peg off one claim—the remaining claims out of the six to which he is entitled and which he may desire to take up to be pegged off at any time after the expiration of that period, if available.”

31. Section eighty-seven of Act No. 11 of 1899 is hereby repealed and the following substituted:—

Provision substituted for Section 87 of Act 11 of 1899.

“In pegging off claims as aforesaid a peg not less than two feet above the ground shall be erected at each corner of the claim, each of such pegs to bear the name of the claimholder and the claim to be kept marked by such pegs at the expense of the claimholder, to the satisfaction of the Inspector or other officer duly appointed: Provided that every claimholder not so marking out and not so keeping marked any claim held by him, shall be liable to a penalty not exceeding £10 for each offence or, in default of payment, to forfeiture of his claim; and provided further that, in the case of blocks of amalgamated claims, four corner pegs shall be sufficient for each block, but the names of the claimholders in the block shall be legibly marked on each peg with the date of amalgamation.”

32. Section ninety-one of Act No. 11 of 1899 is hereby repealed and the following substituted:—

Provision substituted for section 91 of Act 11 of 1899.

“In lieu of the certificate provided for by section two of the Griqualand West Proclamation 14 of 1872, or by section seven of the rules and regulations published under Griqualand West Proclamation No. 8 of 1880, no person shall be registered as a Certificated Miner unless and until he shall produce to the Registrar of Claims a Certificate of Character obtained at the Alluvial Diggings where he proposes to take out a claim or at any other diggings in accordance with the following provisions:—

- (a) He shall apply to the Diggers' Committee having jurisdiction in the digging or part of a digging in which he proposes to take out a claim, for a certificate that he is of good character and a fit and proper person to be registered as a claimholder. The decision of the Committee shall be by a majority of members present at a meeting called to consider the application.
- (b) If there is no Diggers' Committee having jurisdiction in such digging or part of a digging as aforesaid, then he shall apply for such Certificate to the Inspector of Claims. The Inspector shall thereupon summon two registered claimholders, or holders of certificates under

this section resident within the area of the said digging, to assist him in deciding upon the said applications; and the decision shall be by a majority of the Inspector and registered claimholders or certificate-holders aforesaid.

- (c) If the Diggers' Committee or the Inspector and residents, as the case may be, shall refuse any application for such certificate, then the person desirous of obtaining the same may apply to the Chief of the Detective Department at Kimberley for such certificate. The Chief of the Detective Department may, after inquiry into the case and after communicating with the Diggers' Committee or Inspector aforesaid, grant a certificate that the applicant is of good character and a fit and proper person to be registered as a claimholder.
- (d) No application for a certificate shall be considered until the name and description of the applicant shall have been posted for at least seven days in such conspicuous place and manner in such digging as the Committee or, if there be no Committee, the Inspector of Claims may determine.

“Upon the production of the Certificate of Character aforesaid, the Registrar of Claims shall issue a Miner's Certificate.

“A certificate obtained in terms of this section shall be produced to the registering officer by the person therein referred to when he seeks to be registered as a claimholder.”

Amendment
of Section 113
of Act 11 of
1899.

33. The words “on payment by him of the licence money thereon one month in advance” occurring in section one hundred and thirteen of Act No. 11 of 1899 are, save as to existing rights and obligations, hereby repealed and from and after the promulgation of this Act the following words shall be read as if inserted therein:—

“And no licence money shall be payable on such claims whilst they are held by such owner in his own right.”

PART III.

DREDGING FOR PRECIOUS STONES.

Leases for
dredging and
sluicing for
precious
stones.

34. Notwithstanding any law to the contrary the Governor may grant leases for the purpose of dredging and sluicing for precious stones in any public river, the bed of which, within the limits of the leased portion, is not vested in any private individual, upon such terms and conditions, subject to the provisions of this part of this Act as may be agreed upon.

35. The lease may be for any length, not exceeding four miles, of a river in which ordinary alluvial mining cannot be carried on and shall be registered in the office of the Civil Commissioner of the district with a sketch plan attached showing the approximate boundaries of the portion of the river so leased.

Extent of lease.

36. The lease shall be for a period of three years renewable from time to time at the option of the lessee, but not exceed a period in all of nine years and shall be solely for the purpose of such dredging.

Lease renewable.

37. The lessee shall not obstruct the free navigation of the river or deprive the public or any person entitled thereto of any of the water of the said river or place anything therein or thereon hurtful to such right or interfere with the right of any person to make and work breakwaters or conduct other operations in connection with alluvial digging in the said river.

Obligations of lessee.

38. The lessee shall be bound during the currency of the lease to carry on *bonâ fide* operations and to obey all regulations which may be prescribed by the Governor under this Act for the better carrying out of its provisions, failing which the lease shall be liable to forfeiture.

Lessee to carry on *bonâ fide* operations and to obey regulations.

39. The lessee shall pay a rental of £5 per mile per annum for the first year calculated from the date of commencement of dredging operations and a royalty of One Pound per centum on the amount realised by the sale of precious stones won by such dredging during the second and succeeding years of any such lease as aforesaid.

Rental.

40. The lessee shall require the permit provided for in section six of Act No. 48 of 1882, entitled "The Diamond Trade Act, 1882," for any diamonds found by the lessee in the course of his dredging operations, and all diamonds for which such permit is granted shall be registered in a book to be kept for that purpose by the said Magistrate: Provided that the declaration referred to in the said section shall only be required to be made once a month and not later than the seventh day of the month succeeding the month in respect of which the said declaration is made.

Permit under Section 6 of Act 48 of 1882 required for diamonds discovered.

41. The lessee shall keep proper books showing the number and weight of the precious stones won by him and the amounts from time to time realised by their sale and shall pay over to the Civil Commissioner of the district, or other officer appointed for the purpose, half-yearly the amount of royalty due thereon, and any lessee failing for six months to pay over any such royalty due shall be liable to forfeit his said lease.

Lessee to keep proper books.

42. All books and supporting documents kept by such lessee shall be open to Government inspection at all reasonable times.

Books open to Government inspection.

43. This Act may be cited as "The Precious Stones Act Amendment Act, 1907."

Short Title.

No. 28—1907.]

[September 21, 1907.]

ACT

To Provide for the Incorporation of the Huguenot College at Wellington.

[Assented to 19th September, 1907.]

Preamble.

WHEREAS there is at present in existence at Wellington, in this Colony, an educational establishment known as the Huguenot College drawing grants under the provisions of Act No. 24 of 1874, and which when originally instituted was intended as a College for women.

And whereas it is expedient to incorporate the said College under the name of "The Huguenot College" as a College for women and for men whose parents or guardians are domiciled within the limits of the School Districts of Wellington as at present constituted and to vest the general superintendence, management and control of its affairs, and all property and revenue belonging thereto, in a council to be called the Huguenot College Council, to provide for the number and constitution of the first members thereof; to define the terms "Trustees of the Huguenot Seminary," "Life Governor" and "Past Students," and who shall be qualified to sit upon the Council, the terms of office of members of the Council; legalise the constitution thereof so long as there is a quorum of five members, and to make provision for the first nomination of members, and the manner in which the nomination shall be conducted; to provide for the constitution of a Senate, and for the nomination and election of members of the Council other than the first, as well as for the election of a Chairman to the Council and appointment of officers.

And whereas it is also expedient to prescribe the duties of the President of the College; to provide for keeping a register of Life Governors and Past Students, and to compel the Council to keep records and accounts, with authority to frame rules and regulations not inconsistent with this Act; to fix fees payable by students and the salaries payable to any member or officer of the College staff; and to give the said Council power and authority to appoint or dismiss the President of the College, and to suspend, retire, or dismiss any member or officer, subject only, in the case of any person who may be drawing salary from a Government Grant, to the consent of the Department of Education.

And whereas the buildings, apparatus and requisites for the College will be provided, and it is necessary to vest the same in the said Council with power to administer the grants of public money in accordance with the regulations laid down by law, and to hold all property movable and immovable, including the

Library of the College, as well as all monies, in trust, with power to buy, sell or mortgage, subject only, in the case of sale or mortgage, to the consent of His Excellency the Governor.

And whereas it is necessary to provide for the annual election, powers and duties of a Vice-Chairman to the Senate of the College, and to vest the regulation, discipline and instruction of the College classes in the Senate and to give the said Senate power to make, alter and amend rules for regulating the proceedings at meetings, and the discharge of its duties, with the approval of the Council of the College; and to provide that the Senate should keep an accurate account of all its proceedings, and furnish a record for the approval of the Council.

And whereas it is further necessary to provide for a quorum of the Senate, in whose name actions at law for or against the Council shall be brought or defended, and to provide that if anything prescribed by this Act to be done is not done within certain specified time, it shall be lawful for the Governor to authorize the doing of the same.

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

1. The Educational Establishment at present existing at Wellington drawing grants under the Higher Education Act No. 24 of 1874, originally instituted as a College for women and known as the Huguenot College, is hereby incorporated as a College for women and for men whose parents or guardians are domiciled within the limits of the School District of Wellington as at present constituted, under the name of "The Huguenot College," hereinafter in this Act referred to as "The College": provided that from and after the 1st January, 1913, the College shall be devoted exclusively to the education of women.

Huguenot
College incor-
porated.

2. The general superintendence, management and direction of the affairs of the College and of all property and revenue belonging to, arising from, or received in connection therewith shall be discharged and exercised by and vested in a Council to be called "The Huguenot College Council."

General
management
and property
vested in
Council.

3. The said Council shall for the purpose of its first constitution consist of seven members, being:—

First Con-
stitution.

- (a) Three members nominated by the Governor.
- (b) The Chairman for the time being of the Board of Trustees of the Huguenot Seminary.
- (c) Two members nominated by the said Board of Trustees; and
- (d) One member nominated by the Municipal Council of Wellington;

To this number shall be added in manner hereinafter provided for—

- (e) The President for the time being of the College;

- (f) One member nominated by the University Council ;
- (g) One member nominated by the Senate of the College ;
and
- (h) Two members elected jointly by the Life Governors and Past Students of the College. After the election and nomination of members under (e), (f), (g) and (h) the Council shall consist of twelve members.

Provided that for the purpose of the first as well as every subsequent constitution of the Council, the nominations by the Governor shall be made before any other.

Definition
of Life Govern-
nor and Past
Students.

4. For the purposes of sub-section (b) of section three of this Act "The Board of Trustees of the Huguenot Seminary" shall be taken to mean the persons in whom all property belonging to the College has heretofore been vested ; and for the purposes of the last preceding section the term "Life Governor" shall signify any person who shall have contributed by way of donation or donations not less than £20 to the funds of the College ; and the term "Past Student" shall mean anyone

- (1) Who, being a matriculated student, received the diploma of the Huguenot Seminary in or before the year 1898 ;
- (2) Who has matriculated and has thereafter been a student of the College in any recognised course for two years ;
- (3) Who has passed the Intermediate, or Bachelor of Arts examination in connection with the Huguenot College, provided that no undergraduate, while a student at the College, shall be considered a past student for the purposes of this section.

Who is disqua-
lified to sit on
Council.

5. No person who is insolvent, or has assigned his estate, or is incapacitated for business, by reason of mental or bodily infirmity, and no professor, teacher or other salaried officer of the College, save and except the President of the College for the time being shall be eligible to be nominated or, if nominated, to retain his seat as a member of the Council, and the seat of every member who shall thus become disqualified or who shall absent himself from the meetings of the Council for six consecutive months, without the leave of the Council, shall become, *ipso facto*, vacant.

Terms of
office of mem-
bers of Coun-
cil.

6. The term of office of the members of the Council shall be as follows :—

- (a) Three years in the case of members nominated by the Governor and
- (b) Two years in the case of the first members nominated by the trustees of the Huguenot Seminary, the Municipal Council of Wellington and the University Council, and thereafter three years for all members so nominated, and

- (c) One year in the case of the first member elected by the Life Governors and Past Students, and one year for the first member nominated by the Senate, and thereafter three years for all members so elected or nominated; provided that the term for which any member is nominated or elected shall be deemed to expire on the 31st day of October of the year in which he is to vacate his office;

And provided further that in the case of failure to nominate or elect the full number of members such failure shall not affect the legal constitution or powers of the Council so long as the members nominated or elected shall not be less than a quorum which, for the purposes of this Act, shall consist of five members.

Failure to nominate not to affect legal constitution so long as there is a quorum of five.

7. For the purpose of the first nomination of members of the Council the following provisions shall apply:—

Provisions applying to first nomination of members of Council.

- (a) Not later than one month from the taking effect of this Act the Trustees of the Huguenot Seminary and the Municipal Council of Wellington shall nominate two members and one member respectively, and the University Council shall further nominate one member, and the names of the members so nominated shall be notified to the Governor by the nominating bodies, and the members so nominated shall, together with the members nominated by the Governor, and the Chairman for the time being of the said Board of Trustees, be notified by the Governor by Proclamation in the *Gazette*; and the Governor shall in such Proclamation fix the place and time of the first meeting of the said members of the Council; provided that if it shall happen that the member nominated by the Municipal Council shall also be nominated by the Board of Trustees, then the said Council shall nominate another member.

- (b) At the first meeting notified by Proclamation as aforesaid the said members of the Council shall appoint from amongst themselves a member of the Senate of the College, other than the President of the College for the time being, which Senate shall be composed of the member so appointed, the professors and lecturers in charge of departments, as defined by the Council, such assistant lecturers as may at the said meeting or thereafter be appointed members of the Senate by the Council, and the President of the College elected in manner hereinafter provided. The said members of the Council shall likewise at the said meeting prepare a list of persons, from amongst whom the Life Governors and Past Students shall elect two members of the Council, which list shall contain the names of all
- At first meeting members of Council shall appoint member of Senate—Constitution of Senate

persons nominated in writing in accordance with regulations framed under section thirteen of this Act by a Life Governor or past Student and seconded by another life Governor or past Student, provided also that the Trustees aforesaid, the Senate, and the Council, may each nominate one other person, and that the names of all such persons so nominated shall be included in the said list.

- (c) Immediately after the constitution of a Senate as above provided, the said Senate shall proceed to nominate a member of the Council, and the name of the person so nominated shall be notified to the Governor, who shall proclaim the same in the *Gazette*.
- (d) A list of persons nominated for election by the Life Governors, and Past Students shall, immediately after its preparation, be forwarded by the Secretary or other Executive Officer of the Council, to each Life Governor, and Past Student, in the Colony, who shall within three weeks of receiving the same, record his votes thereon and return the same to the said Secretary or other officer.
- (e) The President of the College, or until his election the Secretary, shall be the returning officer, and shall from the lists returned as aforesaid notify to the Governor the two persons receiving the highest number of votes: and the Governor shall thereupon proclaim the said persons as members of the Council.
- (f) At the first meeting of the Council, after the proclamation of members nominated and elected respectively by the Senate and by the Life Governors and Past Students respectively, the Council shall proceed to the election of the President of the College, and the name of the person so elected shall be notified to the Governor and shall, if approved by him, be proclaimed a member of the Council *ex officio*.

Provisions applying to nomination and election of members of Council other than first.

8. For the purpose of the nomination or election of members of the Council, other than the first, the following provisions shall apply :—

- (a) In the case of a vacancy occurring by effluxion of time or by death, resignation or otherwise, in respect of a nominated member, the Secretary shall notify the fact of such vacancy or vacancies to the person or body who shall have nominated the member whose seat has become vacant, and the said person or body shall proceed forthwith to nominate another member to fill such vacancy, and notify the result to the President of the College.

- (b) In the case of such vacancy in respect of a member elected by the Life Governors and Past Students, the Secretary shall prepare a list in the same manner as, and proceed in every way as provided for, in the case of a first election by Life Governors and Past Students; and the election of members shall be carried out in the same way as in the case of the first election save that the President of the College shall be the returning officer.
- (c) Every member of the Council nominated or elected to fill a casual vacancy shall hold office until the expiration of the term for which his predecessor was nominated or elected.
- (d) If at any time upon the occurrence of any vacancy in the Council there shall be a failure on the part of the person or body interested to nominate or elect a member within three months from the date of the notice of the vacancy, the remaining members of the Council may elect a member to fill such vacancy.

9. At the first meeting of the Council held under the provisions of this Act the said body shall proceed to elect from amongst themselves a Chairman, who shall hold office for one year, and shall be eligible for re-election, and shall have a casting vote in addition to his ordinary vote; and shall also appoint a Secretary and a Treasurer and such other officers as may be deemed necessary.

Election of
Chairman of
Council and
appointment
of officers.

10. The President of the College shall hold office during the pleasure of the Council, subject to the provisions of section fourteen of this Act and to such terms as may be arranged, shall act as the Executive of the council, shall preside at all meetings of the Senate at which he shall be present, and shall generally administer the work of the College.

Duties of
President of
College.

11. The Council shall cause a book to be kept by its Secretary, in which shall be registered alphabetically the names of all Life Governors, and Past Students, qualified to vote as aforesaid; and the said register shall be conclusive evidence of the right of such persons to vote for the purposes of this Act.

Council to
keep register
of Life Go-
vernors and
Past Students.

12. The Council shall cause true and correct records to be kept of all its proceedings, and true and correct accounts of all monies received, and paid, on behalf of, and on account of, the College, which accounts shall be duly audited yearly by auditors appointed by the Council, and shall in March of each year transmit to the Governor for the information of the Government and of Parliament a report of the proceedings and management thereof, together with a statement of the revenue and expenditure during the preceding year.

Council to
keep records
and accounts.

No. 28—1907.

Council may
frame rules
and regula-
tions.

13. The Council may from time to time make, alter, and amend, such rules and regulations, not inconsistent with the provisions of this Act as may be deemed expedient for their own guidance and for the better regulation of the affairs of the College.

Council's
right to fix
fees, appoint
or dismiss
President and
staff and fix
salaries.

14. The Council shall have the right and duty to regulate and fix the fees to be paid by students and the appropriation thereof, and to appoint, fix the salaries, and terms of appointment of and suspend, retire, or dismiss, the President, or any member, or officer of the College staff, but no such appointment, suspension, retirement, or dismissal, of any person drawing his salary or portion of his salary from a Government grant shall take effect without the consent first had and obtained of the Superintendent-General of Education, or the officer for the time being directing the Department of Education.

Council to
provide build-
ings and ap-
paratus and
administer
grants of
money.

15. The Council shall provide the necessary buildings, apparatus, and other requisites for the College, and shall administer the grants of money received from public revenue for educational purposes in accordance with the regulations laid down by law with regard to the appropriation of such grants.

All property
movable and
immovable
and all monies
vested in
Council in
trust with
powers to buy
or sell, sub-
ject in the
case of sale
of immovable
property to
the consent of
the Governor.

16. All property, movable or immovable, of every sort or description belonging to or appertaining to the College or to which the College shall become entitled, and all claims for monies payable thereto, including all monies which may already have been or which may hereafter be devised, given or bequeathed to the College, together with the library and the apparatus in connection with, and the furnishing appertaining to, the library science department shall be vested in and become the property of the Council of the Huguenot College for the time being, in trust, for the purposes of the said College; and the said Council shall for the said purposes have power to buy and sell and take and give transfer or delivery of property movable and immovable, and grant and take leases of property, and generally become owners and administrators in trust for the College, provided however, that no immovable property vested in the Council shall be sold or mortgaged without the consent of the Governor first had and obtained.

Senate to
elect Vice-
Chairman, his
duties and
powers.

17. The Senate of the College shall at its first meeting, and thereafter annually in the month of October, elect a Vice-Chairman for the following academic year, who shall preside at the meetings of the Senate, in the absence of the President of the College. The Chairman or Vice-Chairman presiding at any meeting of the Senate shall have a casting vote, in addition to his ordinary vote, and in the case of a vacancy during the term of office of a Vice-Chairman, the Senate shall elect some other member of its body to hold office for the remaining period of the academic year.

18. The superintendence and regulation of the discipline and instruction of the several departments and classes of the College shall be vested in the Senate, and shall be carried out in accordance with regulations which the said body are hereby authorised to make for that purpose. Superintendence and regulation of discipline vested in Senate.

19. The Senate may, furthermore, from time to time make, alter, or amend rules for regulating the holding and proceedings of its meetings, and for the due discharge of its duties, which rules shall come into force upon approval by the Council of the College. Senate may make, alter and amend rules.

20. The Senate shall keep a true and accurate account of its proceedings, and shall furnish such record for the approval of the Council at each of its meetings. Senate to keep record of proceedings.

21. At all meetings of the Senate not less than half of the total number of members shall be required to form a quorum. Quorum of Senate.

22. All actions and other proceedings at law instituted by or against the Council of the College shall be so instituted and proceeded on by or against the Secretary of the Council for the time being. Legal proceedings.

23. Nothing in this Act contained shall prevent men who at the passing of this Act are being educated at the College, from completing their course. Men at present in College to complete their course.

24. If anything prescribed by this Act to be done within any particular time shall not have been done within such time, it shall be lawful for the Governor to authorise the doing of the same at any time thereafter. Governor may authorize execution of any act omitted to be done within certain time.

25. This Act may be cited for all purposes as "The Huguenot College Act, 1907." Short Title.

No. 29—1907.]

[September 21, 1907.

ACT

To Amend Act No. 24 of 1898, and to enable the Municipal Councils of Claremont, Mowbray, Rondebosch and Woodstock to supplement the Water Supply of their Municipalities and of neighbouring Districts, and to take for that purpose Water from the Wemmer's River and tributary streams thereof.

[Assented to 19th September, 1907.]

WHEREAS it is desirable that the supply of good water to the Municipalities of Claremont, Mowbray, Rondebosch and Woodstock should be supplemented, and that provision should be made for the supply of water to the Colonial Government in accordance with an agreement attached as Schedule A to this Act and to Preamble.

other Local Authorities, public bodies, companies and persons in the Cape Division, and to such other districts as can be conveniently served from the water works hereinafter referred to; and whereas the Municipal Councils of Claremont, Mowbray, Rondebosch and Woodstock have caused surveys to be made and have ascertained that an additional supply of water can be obtained by constructing storage works in the Wemmershoek Valley, in the Paarl Division, and have caused plans, diagrams and estimates to be prepared and deposited with the Clerk of the House of Assembly showing how such works are proposed to be carried out, and the probable cost thereof; and whereas it is desirable that the said Councils should be empowered to construct storage works in the valley of the Wemmer's River for the purpose of damming up and conserving the water of the said river and the tributaries thereof running down the same; and whereas it is desirable that after allowing a sufficient quantity of water as hereinafter provided to flow down the said river for the benefit of lower riparian proprietors the said Councils shall be empowered to take, divert, appropriate and carry away by lines of pipes and other works all the water of the said Wemmer's River and its tributary streams flowing down or through the said valley, and for these purposes shall be entitled to enter on, take and acquire Crown lands and lands belonging to or controlled by private persons and public bodies, and to acquire rights and servitudes over the same, subject to compensation. And whereas an agreement has been entered into between the said Councils and the Council of the Municipality of Paarl, which agreement is attached to Schedule B to this Act.

And whereas it is expedient that the said Councils should be empowered to construct private lines of telegraphs or telephones, roads and railways or tramways for the purposes of the said works; and whereas it is desirable that power should be granted to the said Councils to admit other Municipalities to the benefits of the said water supply;

And whereas it is expedient to empower the said Councils, to borrow from time to time such sum or sums of money as may be necessary for the purposes of this Act not exceeding in the aggregate the sum of £700,000; and whereas it is desirable that the said Councils should be authorized to establish Sinking Funds and Special Water Funds and to levy rates for the payment of interest and Sinking Funds on loans and liabilities incurred and other claims arising under this Act, in addition to any such rate as they are at present empowered to levy;

And whereas it is expedient to amend, repeal or extend to this Act certain provisions of Act No. 24 of 1898 and to give power to the said Councils to delegate to the Committee of Management constituted under Act No. 24 of 1898 all or any of the powers conferred on the said Councils by this Act;

And whereas it is expedient to give power to make regulations for more effectually carrying out the purposes of this Act, and to impose penalties for breach of the same.

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

1. In the interpretation of this Act save when inconsistent with the context : Interpretation Clause.

“Four Councils” shall mean the Municipal Councils of Claremont, Mowbray, Rondebosch and Woodstock.

“Local Authority” shall include Divisional Council, Municipal Council and Board of Village Management.

“Committee” shall mean the Committee of Management constituted under Act No. 24 of 1898 as amended by this Act.

“Person” or “Persons” shall include any company or corporate body or partnership.

2. Subject to the provisions of this Act, the Four Councils may in the lines and situations, and upon the lands delineated upon the deposited plans, and according to the levels shown upon the deposited sections, make and maintain the following works, that is to say :—The several works shown on the said plans, together with all proper embankments, bridges, roads, approaches, ways, wells, tanks, basins, gauges, filter beds, stand pipes, dams, sluices, waste-weirs, outlets, outfalls, discharge pipes, adits, shafts, tunnels, aqueducts, culverts, cuts, channels, conduits, drains, mains, pipes, junctions, valves, telegraphs, telephones, and other means of electric communication, engines, constructions, apparatus, and conveniences connected with or auxiliary to the said works, or any of them, or necessary for inspecting, maintaining, cleansing, repairing, conducting, managing and using the same. The works shown on the deposited plans and sections comprise the following principal works : Description of works authorized.

An impounding reservoir and a dam across the Wemmer's River, on Cornelis Mostert's farm, portion of Winterhoek, thence a pipe or conduit to the measuring chamber ; thence a line, or lines, of pipes through the grazing farm “Zacharias Hoek,” belonging to Messrs. Roux, Malan and Zeeman, crossing the Wemmer's River by means of a bridge at Coma Drift ; thence across the farm, portion of “L'Arc d'Orleans,” belonging to Pieter Roux ; thence across the farm, portion of “L'Arc d'Orleans,” and of “La Parisa,” belonging to Martinus Adrianus Malan ; thence across the farm “La Parisa,” belonging to Johan Jacob Piton ; thence across Government ground, crossing the old course of Berg River by means of a bridge ; thence across the farms “Welge-gund” and “Joubert,” belonging to the Rhodes' Fruit Farms, Limited ; thence crossing Wolve Drift, Berg River, by means of a bridge ; thence along a public thoroughfare to the Paarl Divi-

sional Road (French Hoek to Paarl), joining such road at a point south of Simondium; thence along the French Hoek and Paarl Road through Simondium, and crossing under the Cape Government Railway at a level crossing south of Simondium Station; thence following the Klapmuts Road, crossing under the level crossing No. 18, and thence joining the road from Paarl to Cape Town; thence on such road to a break pressure tank situate on the farm of Messrs. Starke Brothers, known as "Mulder's Vlei"; thence following the road from Paarl to Cape Town, crossing under the level crossing (Cape Government Railways) at $19\frac{1}{2}$ miles, and Kruispad level crossing (Cape Government Railways) at 25 5-6 miles, through Kraaifontein, Bellville, Boston, Parow and Goodwood, to the point at the junction with the road to Mowbray; thence following the road through the Maitland Road Cemetery under the level crossing (Cape Government Railways); thence along the hard road through Uitvlugt Plantation, and passing near the Central Brick and Tile Works, Limited; thence under level crossing on the Cape Flats Railway; thence along Raapenberg Road over the Zwart River; thence following the road over Raapenberg Farm and over Glebe land, passing near the Rondebosch Cottage Hospital; thence along Camp Ground Road; thence along Rouwkoop Road; thence under level crossing near Rondebosch Station; thence continuing along Rouwkoop Road over the Liesbeek River to the Wynberg and Cape Town Main Road near St. Paul's Church, Rondebosch; thence along the Main Road towards Wynberg to the junction of Klipper Road near the Suburban Municipal Water Works; thence following Klipper Road to Newlands Avenue; thence to the junction of road on the lands of the Suburban Municipal Water Works, following such road to the Newlands Reservoir, passing through the Municipalities of Mowbray, Rondebosch and Claremont.

The catchment area, the reservoir, and the pipe line from reservoir to $16\frac{1}{4}$ miles are in the Division of the Paarl; the pipe line from $16\frac{1}{4}$ miles to 17 5-6 miles, and the break pressure tank at Mulder's Vlei, in the Division of Stellenbosch; the pipe line from 17 5-6 miles to 24 1-5 miles, in the Division of Paarl; the pipe line from 24 1-5 miles to 27 1-4 miles, in the Division of Stellenbosch; and from thence to Newlands Reservoir, in the Division of the Cape.

The work will also comprise a railway or tramway from the Wemmer's Hoek siding on the French Hoek Railway, passing over Government ground; thence along a thoroughfare 100 paces wide, thence over the farm "L'Arc d'Orleans" and crossing over the Wemmer's River; thence over the farm "Zacharias Hoek," belonging to Messrs. Roux, Malan and Zeeman; thence over the Wemmer's River, and continuing over the last-named farm to the reservoir on farm, Winter Hoek, belonging to Cornelis Mostert,

all in the Division of Paarl. The construction of the railway between Wemmer's Hoek Siding and the waterworks, shall not be commenced unless and until the said four Councils shall have submitted detailed plans of the work to the General Manager of Railways and obtained his approval thereof, and shall have entered into the usual siding agreement with the Railway Department in regard to the working of the siding, which the Department requires all owners of private sidings to sign. Further, all work within the Railway boundary necessary for the connection of the said railway with the lines of the Cape Government Railways shall be carried out by the Railway Department at the expense of the said Councils.

Wherever the said pipe line crosses the lines or property of the Cape Government Railways the Councils shall submit detailed plans of the proposed method of crossing to the General Manager of Railways for his approval, and all works carried out in this connection shall be done under the supervision of an officer appointed by him for the purpose, the cost of such supervision and any extra expense incurred by the Railway Department in protecting their lines or property during the execution of the work being defrayed by the said Councils. Further, in the event of future alterations to the track being necessary, whether such alterations are caused by the alteration of the railway line or otherwise, the cost of the alteration of the position of the pipe track shall be borne by the four Councils. The usual form of agreement relative to pipe tracks laid under the line of railway shall be entered into between the Councils and the Railway Department.

3. The Four Councils are hereby empowered in accordance with the plans deposited with the Clerk of the House of Assembly to construct and make all such works as may, in their opinion, be necessary and expedient for the purpose of impounding, storing, diverting, appropriating, filtering, preserving from pollution, taking or conveying the water hereinafter referred to, whether by weirs, intakes, reservoirs, dams, water-courses or leadings, pipes, conduits, drains, ditches, or other means, and to erect such buildings as may be deemed requisite for the purpose of the said works for securing an adequate supply of water for the said Municipalities, or for supplying any persons, public bodies, or companies as aforesaid, and for such other purposes as the said Four Councils may desire, and are further empowered in accordance with the plans deposited with the Clerk of the House of Assembly to raise and widen such dams and reservoirs, and widen such water courses, and to lay down additional pipes, and otherwise from time to time add to or improve the works, so as to increase their capacity for impounding, storing, diverting, appropriating, taking or conveying the said water.

Authority to
 construct
 necessary
 works.

No. 29--1907.

Four Councils to obtain permission from Divisional Councils to lay pipes on bridges.

4. Whenever it shall be necessary to place the line of pipes aforesaid over or under any bridge or culvert being the property of any Divisional Council, permission shall first be obtained from the said Divisional Council before the line of pipes is so placed; provided that such permission shall not be unreasonably withheld by such Divisional Council: and provided that the Four Councils shall pay to the Divisional Council concerned reasonable compensation if so required, and shall reasonably make good to the satisfaction of such Divisional Council all damage to such culvert or bridge caused by the laying of the said line of pipes. In case of any dispute arising under this section between the Four Councils and such Divisional Council the same shall be referred for decision to an engineer to be agreed on by the parties or failing agreement to be appointed by the Commissioner of Public Works, and such decision shall be final and binding between the parties concerned.

Notice to open up roads.

5. The Four Councils shall in all cases save in cases of emergency give 48 hours notice to the Divisional Council concerned before proceeding to open up for the purposes of this Act any Main or Divisional Road.

Four Councils to indemnify Divisional Council against damages.

6. In case of any accident directly caused by reason of any operation in connection with the laying of pipes aforesaid along any Main or Divisional Road or in connection with the subsequent execution on any such road or any works in connection with such pipes, the Four Councils shall indemnify the Divisional Council concerned against all losses, costs, charges, damages and expenses where such accident shall by any competent Court of Law be held to have been due to any default or negligence on the part of the Four Councils.

Deposit of waste material.

7. The Four Councils shall in respect of all waste or surplus material excavated from any Main or Divisional Road, be bound to deposit such material at such sites as the Divisional Council concerned shall direct, provided that the Four Councils shall not be required to transport such material for any distance greater than 200 yards.

Power to collect and use water of Wemmer's River.

8. Subject to the discharge of such quantity of water for the benefit of lower riparian proprietors as is in the next succeeding section set forth, the Four Councils may from time to time dam up, collect, impound, take, divert, appropriate, convey, and use all the water of the said Wemmer's River and its tributary streams flowing down the valley thereof or through the aforesaid Wemmer's Hoek.

Compensation water: five million gallons daily to be allowed to flow down.

9. As full and sole compensation to all persons for impounding, taking, diverting and appropriating as aforesaid all the said waters authorized to be taken by the Four Councils under this Act, the Four Councils shall from and after the date when they shall first impound, take, divert and appropriate the said waters or any part thereof cause to flow and be discharged from the said

reservoir into the said River, at a point within two hundred yards of the confluence of the Wemmer's River and the Berg River, not less than five million gallons of water per day of twenty-four hours. Provided that nothing in this or the last preceding section contained shall affect the rights in respect of the supply of water as hereinafter specially provided in favour of the Council of the Municipality of the Paarl. Provided that the quantity of water flowing daily into the said reservoir from the Wemmer's River and tributary streams, during the months of January, February, March and April in each and every year, shall daily be measured by suitable gauges, and records of such daily flow shall be kept; and if on any day of 24 hours (reckoned as from 8 o'clock in the morning to 8 o'clock in the next succeeding morning) during any of the said months, the amount of such flow received into and impounded in the said reservoir, shall be in excess of the quantity of water, which under this section and which otherwise under, or in accordance with, or for the purposes of this Act shall have been lawfully drawn, conveyed, supplied, used, or discharged from the said reservoir during such day (such quantity not to exceed the normal daily quantity for such purposes for which such provision shall have been made in the reservoir as existing for the time being) then, and in that event in case such excess occur on any day during the months of January, February or March, the four Councils shall upon the following day of 24 hours (similarly reckoned from and to the hours of 8 o'clock in the morning) cause to flow into the said Wemmer's River at any point below the dam wall, an amount of water equal to such excess up to an amount not exceeding 50 million gallons, which water shall not thereafter be available for the use of the four Councils under this Act: while should such excess occur during the month of April, the four Councils shall cause an amount of water equal to the half of such excess, but not exceeding 50 million gallons to flow down in similar manner: Provided, further, that the excess amounts to be discharged into the river under the last proviso, shall be in addition to the amount of five million gallons a day to be discharged into the river as aforesaid.

10. The Four Councils before commencing to use for their own purposes any of the waters of the said river shall erect and construct and thence forward maintain at a point within two hundred yards of the confluence of the Wemmer's River and the Berg River, and at the points of discharge from the said reservoir suitable gauges or other apparatus for measuring the quantity of water to be discharged from the reservoir as aforesaid, and shall also keep daily records of such gauges, and such gauges, weirs and other apparatus and records shall be open to inspection, examination and testing by any person or the duly authorized representative of any person who may for the time being be Gauges to be erected.

interested in the water so to be discharged or suffered to flow down; and the four Councils shall be liable to the penalties in this section provided should they wilfully or negligently

- (a) Fail to supply the compensation water of five million gallons a day and the excess amounts in the months of January, February, March and April as in the last preceding section provided: for which failure the four Councils shall be liable to a penalty not exceeding £100 for every day on which default shall occur.
- (b) Fail to maintain the gauges and records in this section provided: for which failure the four Councils shall be liable to a penalty not exceeding £10 for every day on which such default shall occur.

One-half of every penalty imposed under this section shall be payable to the person first lodging with the Resident Magistrate of the district information upon which the conviction is obtained: but any such penalty shall in no way interfere with the right of any person whatsoever to recover any sum by way of damages which he otherwise would be entitled to recover for any failure to send down the water in sub-section (a) in this section referred to.

Powers to expropriate Crown lands or private lands.

11. For the purposes of this Act, the Four Councils are hereby empowered to enter upon, occupy, take, use and expropriate any land, with or without the waters thereof, belonging to His Majesty the King, commonly called "Crown lands," or belonging to, or under the control of any Local Authority, or the private property of any person, which may be required or suitable for the purposes of this Act, or may agree as hereinafter provided for the purchase or hire of such private lands and water, and may take and use for the purposes of this Act any stone or other material for carrying out the said works, and may excavate or tunnel any land for the purpose of constructing and maintaining any reservoir or reservoirs, or for leading out water and laying down pipes, or other necessary works.

Power to protect sources.

12. It shall be lawful for the Four Councils to acquire and take possession in the manner hereinafter provided of any such land as aforesaid that may be required for the purpose of protecting the sources of the said River, or the sources of supply from whence, or the area over which the water may flow into the said reservoir.

Authority to construct works along roads.

13. The Four Councils are hereby further empowered to lay down pipes and construct culverts, manholes and valve pits under or along any public road, street, thoroughfare, lane, square, or open or public place, or under or along any ground set apart in the diagram or conditions of sale of any sale of land as a road, street, thoroughfare, lane, square, or open or public place, without making or being liable to make any compensation in respect thereof. All culverts or lines of pipes laid or constructed in or along any main road shall as far as is reasonably practicable be constructed and laid at the side thereof.

14. The Four Councils may utilise Government lands in the vicinity of the reservoir for the purpose of tipping thereon waste material, for the construction of temporary dwellings for officials and workmen, and of stores for materials and railways and for the erection of permanent houses for officials in charge of or engaged in connection with the reservoir works, and shall control such operations, buildings or erections, subject to the regulations framed pursuant to the provisions of this Act.

Power to tip material on Government Land.

15. Any person from whom any land, water, right of way or other rights or any stone, gravel or other material may be taken for the purposes of this Act shall be bound to deliver to the Secretary of the Committee, at his office, his claim for the purchase amount, hire or compensation in respect of such taking within twelve months after such taking, and for that purpose the necessary plans, specifications and reports shall lie at the office of the Committee during the period aforesaid for the inspection of any person interested therein; and the said Secretary on receiving any such claim shall without delay transmit the same to the Four Councils; and no claim sent in after the said period of twelve months shall be recognized, nor shall such claimant be entitled to recover the amount of his claim or any portion thereof from the Four Councils or the Committee by any means or proceedings whatever; provided further, that in case the Four Councils shall not consent or agree to pay the amount of any such claim, then the amount to be paid shall be determined by arbitration under the provisions of Act No. 6 of 1882; provided lastly, that nothing in this section contained shall be taken or deemed to affect or interfere with the provisions of section nine of this Act.

Claims for compensation, how and when to be lodged.

16. The Four Councils may in lieu of acquiring any land acquire and exercise such rights and servitudes over the same as they may require for the purpose of constructing, placing, laying, inspecting, maintaining, cleansing, repairing, conducting or managing the waterworks by this Act authorized, and any claim which may be made in connection therewith, shall be subject to the provisions of section fifteen of this Act.

Power to acquire rights over land.

17. The Four Councils are hereby further authorized and empowered to construct, maintain and work for the purposes of the said waterworks, and for no other purposes, a telegraph and telephone line, or either of them, along or near the said line of works, subject to the provisions of the Act No. 20 of 1861, entitled "The Electric Telegraph Act, 1861," and any law amending or extending the same, and to any Regulations from time to time made under the provisions of such Acts.

Private telegraph and telephone lines.

18. The management of all matters connected with or relating or incidental to the construction, maintenance, working and utilising of the waterworks and all other works whatsoever constructed by the Four Councils under the provisions of this Act,

Management of works vested in Council.

and also the right to and property in all and singular the materials, stock and everything appertaining to the said waterworks, shall be vested in the Four Councils, and the Four Councils are hereby empowered to work, conduct, manage and utilise for the purposes of this Act all the said works, materials, stock and appurtenances.

Contracts. 19. The Four Councils shall have power to enter into any contract or contracts with any person for the construction of the whole or any portion of the works authorized by this Act.

Access to works.

20. It shall be lawful for the Four Councils at all times by themselves, their engineers, contractors or workmen, and with carts, carriages or otherwise, to have free access and right of way to, over and along the line of works, and to and from all other property of the Four Councils acquired under the provisions of this Act, for the purpose of adding to, repairing, relaying or supervising the said works, or for any other purpose whatsoever that may be deemed expedient by the Four Councils in or about the carrying out the purposes of this Act.

Deviations.

21. Subject to the provisions of this Act, the Four Councils may in the construction of the new waterworks by this Act authorized, deviate laterally from the lines or positions thereof respectively as shown on the deposited plans relating thereto to any extent within the limits of deviation defined on the plans and beyond those limits with the consent of the person through whose land any such deviation is proposed to be made, and where the line of any work is shown upon the plans as passing along any road and no limits of lateral deviation are marked on the plans, the Four Councils may in making such work deviate laterally to any extent within the boundaries of such road, and the Four Councils may also deviate from the levels of the waterworks and roads by this Act authorized as delineated on the deposited sections to any extent not exceeding thirty feet.

Other Councils may come under Act.

22. Notwithstanding anything to the contrary contained in any other Act or law it shall be lawful for the Four Councils to enter into an agreement with any other Municipal Council, situate within the Cape Division, whereunder the said Municipal Council shall participate in such rights, powers and privileges, undertakings, properties, contracts, assets, obligations and liabilities conferred upon, acquired, imposed or incurred by the Four Councils by or under the provisions of this Act or of Act No. 24 of 1898, as may be agreed upon, and upon such conditions as may be agreed upon, and thereupon the provisions of this Act and of Act No. 24 of 1898 shall apply to such other Councils to such extent as may be provided by the said agreement.

Committee of Management reconstituted.

23. So soon as the Four Councils shall have passed a resolution to proceed with the works authorized by this Act and the necessary funds therefor shall have been raised then and thereafter, notwithstanding anything to the contrary contained in the

eighth, ninth, or thirteenth sections of Act No. 24 of 1898 the provisions of this section shall apply to the election of members of the Committee of Management constituted under Act No. 24 of 1898 ;

- (a) Each of the Four Councils shall elect one member and also one additional member for every complete million pounds of its rateable immovable property according to its municipal valuation in force for the time being ; provided always that the Claremont Council shall be entitled to elect not less than three members, the Mowbray Council not less than two members, the Rondebosch Council not less than two members, and the Woodstock Council not less than four members ; provided further that none of the Four Councils shall at any time be entitled to elect more than five members.
- (b) Each member elected shall hold office until the next annual election.
- (c) An election of members shall be held so soon as the Four Councils shall resolve to proceed with the works authorized by this Act and the necessary funds therefor shall have been raised and the members then elected shall hold office until the third Monday of August next succeeding and an election of members shall be held on such third Monday of August and thereafter on the third Monday of August in each and every year or on such other convenient date as may be fixed by the Four Councils acting jointly.
- (d) Section nine of Act No. 24 of 1898 is hereby amended by expunging the word "three" and substituting the word "four."

24. The Committee of Management as reconstituted under the provisions of the last preceding section shall be deemed and taken for all intents and purposes to represent and to succeed to all the rights, powers, duties, and obligations of the Committee of Management constituted under Act No. 24 of 1898, and all the provisions of sections eight, nine, ten and thirteen of Act No. 24 of 1898 and of any other section of the said Act applying to the Committee of Management thereunder constituted shall apply and extend, save where inconsistent with or amended by this Act, to the Committee of Management as reconstituted under the provisions of the last preceding section.

Reconstituted Committee succeeds to rights and obligations of old Committee.

25. The Four Councils acting jointly shall be empowered and authorized from time to time by public notice to delegate to the Committee, permanently or temporarily as they may deem expedient, all or any powers by this Act conferred on the Four Councils, and the Committee shall be empowered and authorized to exercise all or any powers so delegated in like manner as the Four Councils might have exercised the same ; and all the

Councils may delegate powers to Committee.

No. 29—1907.

provisions of this Act shall extend and apply to the said powers when exercised by the Committee, in like manner as if the same were exercised by the Four Councils.

Certain sections of Act 24 of 1898 to apply.

26. The provisions of sections six, seven, eighteen, nineteen and twenty-two of Act No. 24 of 1898, and of section four thereof, as amended by section twenty-seven of this Act, and of section twenty thereof as amended by section twenty-eight of this Act shall, save when inconsistent with the provisions of this Act, apply and extend, *mutatis mutandis* to the Four Councils and to the Committee and to the rates, loans and assets to be levied, raised or acquired respectively under this Act.

Section four of Act 24 of 1898 amended.

27. Section four of Act No. 24 of 1898 is hereby amended by adding at the end thereof the words "provided further that one uniform rate shall be imposed, levied and assessed throughout the whole area comprised within the municipal limits of the Four Councils."

Section twenty of Act 24 of 1898 amended.

28. Section twenty of Act 24 of 1898 is hereby amended by inserting after the word "for" in the second line the words "rates or for."

Special charge for water, and compelling water connection.

29. The Four Councils shall be entitled in addition to any rate they may levy, to charge the owner or occupier of any separate house, shop, store, warehouse, stable, or other building used as a dwelling house, or for purposes of business, with the price of water supplied, either at a fixed quantity per diem or by measure, at such rate as they may fix by tariff or agreement under this Act, and in default of payment by the occupier they may recover the same from the owner. The Four Councils shall be entitled to compel the occupier or owner of every separate dwelling house, or store, warehouse, or place of business, and of every stable not used as an adjunct to the same, to take a supply of not less than one hundred gallons per diem from the said waterworks, and the owner to connect at his own expense with a main or water leading within forty yards of his premises. Provided that such tariff shall impose in respect of the supply of water for domestic purposes a uniform rate of charge throughout the area of the four Councils, and of such other Councils as shall hereafter come under this Act by virtue of the provisions of section twenty-two hereof. And provided further that the price which shall be chargeable under such tariff for water so supplied for domestic purposes shall not exceed £2 10s. sterling per annum for a supply of one hundred gallons per diem.

Cost of connections to be borne by owner and works to be subject of approval of Councils.

30. The cost of all house connections effected under this Act with shut-off cocks and suitable house fittings, and of all repairs, shall be borne by the owner of the house to which the water is supplied, and paid to the Four Councils; but if, with the consent of the Four Councils, the connection is effected by the owner of any such house, the materials for the same shall be purchased from or approved by the Four Councils, and shall be

laid down by the workmen or contractors of the Four Councils, or under the control of any person approved of by the Four Councils: provided, always, that where the water is supplied by meter, the work up to and including the meter shall be done by the servants of the Four Councils, and the work and fittings on the consumers' side of the meter may be done by the owner in such way as he may deem fit, subject to any regulations and bye-laws framed by the Four Councils: provided, further, that upon completion of any of the said house-connections, the property of and in the same, including all pipes laid up to and including the stop-cocks, shall vest in the Four Councils.

31. The Four Councils in opening up any street, road, or other ground for the purpose of laying down any main or pipe, or in doing any other matter or thing shall be subject to all such reasonable rules and regulations in that behalf as may be made from time to time by the Local Authority concerned.

Opening of streets subject to bye-laws of Local Authority.

32. It shall be lawful for the Four Councils to supply water by agreement in bulk or otherwise for domestic or other purposes to any person, Local Authority or to the Government, and to lay and maintain waterpipes to and within the areas under the jurisdiction, control or ownership of such person, Local Authority or the Government, on such terms and conditions in all respects, and for such periods as the parties to such agreement may from time to time agree; provided always, that nothing in this section shall authorize the Four Councils to lay waterpipes or waterleadings or to deliver water at any point within the limits of any Municipality or Board of Village Management except with the consent of such Municipality or Board of Village Management; provided, further, that under no such agreement shall the Four Councils supply water so as to interfere with the proper supply for all purposes to persons within their own limits of supply; provided also, that any agreement made in pursuance of this section shall reserve to the Four Councils the right to determine the same on giving such notice as may be required under any such agreement; provided that the Four Councils shall be entitled to exercise in respect of water supplied under this section, all the powers conferred by sections nineteen and twenty of Act No. 24 of 1898 as amended by this Act. Provided that nothing in this section contained shall affect the rights in respect of the supply of water as in Schedule B to this Act is specially provided in favour of the Council of the Municipality of the Paarl.

Power to supply water.

33. It shall be lawful for the Four Councils from time to time jointly to borrow and take up at interest by debenture or otherwise such sum or sums of money, not exceeding in the whole £700,000, as may be required for the purposes of this Act, and to charge the Municipal rates of the Four Councils or the rates which the Four Councils are empowered to levy

Authority to borrow £700,000

under this Act as security for any such sum or sums borrowed ; provided that nothing in this Act contained shall be taken to affect or interfere with the borrowing powers conferred upon the Four Councils by the Municipal Act, 1882, or by Act No. 24 of 1898, or by any other law ; and provided that any sums which may thereafter be borrowed by the Four Councils under the powers conferred by Act No. 24 of 1898 may be lawfully applied to any purpose of this Act.

Provisions
for Sinking
or Redemp-
tion Funds.

34. The Four Councils shall by the creation of one or more Sinking or Redemption Funds, or otherwise, make provision for the liquidation of the debt incurred in respect of the reservoir, and any other such like permanent works and of the debt incurred in respect of the lines of pipes laid between the reservoir at Wemmer's Hoek and the termination of the works described in section two hereof. Provision should be made for the redemption of the whole of the loans raised by the Four Councils for water works, within a period of sixty years from the date of the first issue of stock, in connection with the new scheme, and must continue their existing Sinking Funds in connection with their present debt, so as to extinguish the old loans, within sixty years from the date of the first issue.

Creation of
special funds.

35. For the purposes of this Act, the Four Councils may at any time after the passing of this Act create a special Water Fund, and may carry to the credit of the fund so created the whole or any such proportion as they may see fit in any year of any balance of revenue of water undertaking of the Four Councils, and also the annual proceeds of such Special Water Fund.

Investment
of special
fund.

36. All funds carried to the credit of such special Water Fund shall be invested in any such securities as may be authorized by the Treasurer of the Colony.

Auditing
and publish-
ing of ac-
counts.

37. The accounts of receipt and expenditure of the Four Councils or Committee under this Act and under Act No. 24 of 1898, shall be examined, audited, and published in like manner as is provided with reference to the ordinary accounts of the Four Councils in Act No. 45 of 1882, provided always that the auditors shall be appointed by the Four Councils and shall be chartered or incorporated accountants.

Applica-
tion of special
fund.

38. The special Water Fund and the income thereof shall be applicable at any time and from time to time in or towards supplying any deficiency in any year of the revenue or in the expense of maintaining the water undertakings, and any securities forming part of the said fund, may be realised by the Four Councils for that purpose.

Discontin-
uation of Spe-
cial Fund.

39. The special Water Fund may be discontinued and wound up by the Four Councils whenever they are of opinion that it is no longer necessary or advisable to maintain the same.

Separate
Accounts to
be kept.

40. The Four Councils shall keep or cause to be kept a separate and distinct account of all moneys borrowed under Act

No. 24 of 1898, and under this Act, and of all revenues arising from all the waterworks constructed or taken over under Act No. 24 of 1898 or under this Act, and of the expenditure of all such moneys, and the Four Councils shall annually prepare and deposit in the office of each of the Four Councils and of the Committee an account showing the particulars aforesaid, and giving any other information which the Four Councils or the Committee may deem necessary or expedient to impart, provided that every such account shall be made up to the 31st December in each and every year, and shall, when deposited as aforesaid, be open to inspection at all reasonable times by any ratepayer.

41. Any person who shall wilfully injure, damage, disturb, obstruct or interrupt any building or line of telegraph or telephone, erection, conduit, reservoir, dam, watercourse, drain, ditch, pipe or pipes, or other work or works authorized by this Act, or by Act No. 24 of 1898, or shall obstruct, hinder or prevent the forming, constructing, completing, or maintaining the same, shall, upon conviction, forfeit for each offence, for the use of the Four Councils a sum not exceeding one hundred pounds sterling, or be imprisoned with or without hard labour for any period not exceeding six calendar months, or be liable to both forfeiture and imprisonment: Provided that nothing in this section contained shall be held or taken to exempt such person from any civil or other criminal liability for any of the aforesaid Acts to which he would have been subject if this Act had not been passed.

Penalties for injuring or interfering with works.

42. Any person who shall bathe or wash himself in any dam or reservoir belonging to the Four Councils or in any water flowing into such dam or reservoir, or shall wash, throw or cause to enter therein any dog or other animal, or who shall place or throw any rubbish, dirt, filth, or other noisome thing, into any such dam, reservoir or stream or in or upon any land within the catchment area of any such dam, reservoir, or stream, or wash or cleanse therein any wool, leather or skin of any animal, or any clothes or any other thing or in any other manner defile such dams, reservoirs, streams, or catchment areas, shall, for every offence on being convicted thereof, be liable to a penalty of a sum not exceeding five pounds, and on failure of the payment of such fine the party convicted shall be liable to be imprisoned with or without hard labour for any period not exceeding twenty-one days.

Penalties for defiling water.

43. The Four Councils may (subject to the approval of the Governor and promulgation in the *Gazette*) make, alter, revoke, or amend Rules and Regulations for the purposes of Act No. 24 of 1898 and of this Act and in respect of works constructed under either of the said Acts :

Power to make regulations.

- (a) For the control of the erection of all buildings at the village to be constructed for workmen at or immediately below the Reservoir works at Wemmer's Hoek.
- (b) To prevent squatting within the catchment area of the reservoir and on land belonging to the Four Councils abutting on the Wemmer's River.
- (c) To prohibit or subject to the provisions of the Licensing Laws to prescribe special regulations for the sale of intoxicating liquors in or about reservoir works and catchment areas and the conditions under which such liquors shall be brought or sold therein or upon the works; for regulating the sale of foodstuffs and merchandize and for fixing a tariff of charges to be made therefor; for licensing the opening of stores for the sale of merchandize, foodstuffs, &c., in the vicinity of the reservoir works and catchment areas and for preventing the opening of such stores without the sanction of the Four Councils, and to make reasonable charges for such services. Until completion of the reservoir works the catchment area of the Wemmer's River down to a point 1,000 yards below the site of the reservoir shall be exempt from the operation of Act No. 35 of 1906.
- (d) For the conduct of institutes and recreation rooms for employees; for the maintenance of order in the village and labour camps; for preventing the spread of contagious and infectious diseases and for preserving the health of the employees.
- (e) For the purpose of preventing the pollution or disturbance of water, access to any of the said works, injury or damage to same, interference with officers and servants engaged on or in connection with the said works and the working of the same.
- (f) For dealing with the procedure and working of the Committee and regulating the official administration and the duties of officers and servants thereof; for providing for the taking of polls or the holding of meetings for the purpose of ascertaining the wishes of ratepayers; for providing rules of conduct or order at meetings of the Committee.
- (g) To provide for the proper and efficient working of the said scheme; for the construction and laying down of all waterpipes, mains, hydrants, stop-cocks, meters, and other necessary works. For regulating the manner in which water may be supplied or shall be taken by consumers and for the manner in which the same shall be paid for, either by way of a rate or by the quantity supplied, and for compelling householders to take a supply of water from the said works.

- (h) Generally for the purpose of doing or of compelling the doing of all such things as may be necessary or convenient for the proper and efficient working of the aforesaid works and for the distribution of water therefrom ; for preventing and abating nuisances and for facilitating the administration of the said works.

44. Any rule or regulation made under this Act may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches thereof, but no penalty shall exceed twenty pounds ; and any such rule or regulation may provide that in addition to any such penalty any expense incurred by the Four Councils or Committees, as the case may be, in consequence of the breach of any such rule or regulation and in the execution of any work directed by any such rule or regulation to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work, and any such rule or regulation may provide that in addition to any such penalty or payment the Four Councils shall be entitled to enter upon the premises of the offender and to cut off the water supply of such premises during the continuance of such breach or during such period as may be provided in such regulation.

Penalties.

45. Any offence committed in contravention of this Act or of Act No. 24 of 1898, or of any rule or regulation framed thereunder, may lawfully be prosecuted in the Court of the Resident Magistrate for the district in which the same shall be committed, and if any person shall be convicted of any such offence and shall not pay or satisfy the amount of fine imposed on him, it shall be lawful, unless otherwise provided in this Act, for the said Resident Magistrate to sentence such offender to any period of imprisonment with or without hard labour not exceeding three months, unless such fine shall be sooner paid.

Where offences may be prosecuted.

46. Sections fourteen, fifteen, sixteen and seventeen of Act No. 24 of 1898 are hereby repealed.

Certain sections of Act 24 of 1898 repealed.

47. From and after the promulgation of this Act the Agreements set forth in Schedules A and B annexed to this Act shall have full force and effect and be valid and binding as between the four Councils and the respective other parties to the said Agreements : Provided that should the four Councils desire to acquire, and should the Council of the Municipality of Paarl be willing to sell the right to the supply of water to which the said Municipality is entitled under this Act, it shall thereafter, subject to what is in the next proviso herein set forth be lawful for the four Councils upon such terms and conditions as shall by mutual consent be determined to enter into, conclude and carry out an Agreement for the purchase from the Council of the said Municipality of all its right to water under this Act as aforesaid, and thereupon the water which would have been supplied to the said

Schedule to have effect after promulgation of Act.

Council shall be at the disposal of the four Councils for the purposes of this Act: Provided, further, that nothing in this section contained shall be taken to authorize the Council of the said Municipality of Paarl to make any such last-mentioned Agreement save in such manner and upon such terms and conditions as shall be in conformity with the law applicable to such Council and Municipality at the time of making such last-mentioned Agreement.

Four Councils to effect registration of all land taken.

48. The four Councils shall within five years from the promulgation of this Act effect proper registration in its favour by title, certificate of reservation, transfer or deed of servitude of all land taken for the purpose of this Act.

Acquisition of Crown Lands and all works to be subject to approval of Government.

49. Nothing in this Act contained shall be construed as entitling the four Councils to exercise any of the powers conferred therein upon, over or under any Crown land except with the consent of the Governor first had and obtained, and except under such reasonable conditions and terms as may be imposed by him. All works carried on and things done in pursuance of this Act upon, over or under any such land shall be carried on and done under the supervision of an Officer to be appointed by the Government therefor and at the four Councils' expense; and the four Councils shall in addition bear the cost of such supervision.

Certain provisions not to apply to railway property.

50. The provisions contained in section eleven as to expropriation of Crown Land, and in section twelve as to acquisition of land, and in sections thirteen, fourteen, sixteen, twenty-one, twenty-seven, twenty-nine and thirty-two as to the various powers conferred thereby shall not apply or extend, save in so far as the Commissioner of Public Works may consent to any lands, buildings, property or works vested in the Colonial Government and appropriated for railway purposes.

Governor may make grants or reserves of land in favour of Four Councils.

51. Notwithstanding anything to the contrary contained in any other law the Governor may make grants or reserves in favour of the Council of such land as may be required for the purposes of this Act whether Crown Land, properly so called, or lands falling within the description in section two of Act No. 26 of 1891 of lands exempted from the operation of the Crown Lands Disposal Act, 1887.

Approval by Commissioner of pipe line crossing roads, bridges or rivers.

52. The Four Councils shall furnish to the Commissioner of Public Works for his approval, details showing the position and method of laying of the said main pipe line wherever the same shall be laid under or along any main or divisional road or wherever the same shall cross any bridge or river; and no portion of the said main pipe line crossing any such road, bridge or river shall be laid down until the said approval shall have been given in respect of such portion.

Restoration of roads when disturbed.

53. The Four Councils shall after laying the said main pipe line under or along any main or divisional road, restore such road as soon as may be to its former condition to the reasonable satis-

faction of the said Commissioner or of the Divisional Council concerned, as the case may be, and shall for a period of six months after laying any main pipe line make good any defect or subsidence in any such road caused by the laying of the said pipe line.

54. For the purpose of enforcing payment of any debt or liability incurred under the provisions of this Act, the creditor shall be entitled to enforce the provisions of the Public Bodies Debts Act, 1867, provided that the Four Councils shall be regarded as one public body for the purposes of the said Act, and any rate as in the said Act provided shall be levied upon the landed property liable to be rated under the provisions of this Act.

55. All actions and proceedings in respect of any matter or thing wherein the Four Councils are jointly concerned, arising out of this Act or Act No. 24 of 1898, shall be brought by or against the Committee, and service of any legal process at the office of the Secretary of the Committee shall be sufficient.

56. All expenses incurred by the Four Councils or any of them in the purchase of land for purposes of water supply, and in connection with the investigation of sources of water supply, testing the same, and preparing plans and estimates for any scheme for procuring an additional supply, and all expenses whatsoever incurred by the Four Councils or any of them with reference to the Cape Peninsula Water Supply Bill, 1906, shall be duly audited, and the amount expended thereon shall be paid out of the moneys raised for the purposes of this Act.

57. The costs, charges and expenses incurred in respect of the passing of this Act and of all preliminary expenses incurred by the Four Councils in making surveys, plans and estimates, or otherwise for the purposes thereof, shall in the first instance be paid out of the funds of the Four Councils respectively in such proportions as they shall agree, and shall thereafter be refunded to the said Councils out of the moneys borrowed or raised under this Act.

58. The rights, powers, and privileges by this Act conferred on the Four Councils, or Committee shall be deemed and taken to be so conferred in supplement of and not in derogation from, any rights, powers or privileges conferred on the Four Councils or the Committee by Acts Nos. 45 of 1882, 24 of 1898, or by any other Act, Law, or Ordinance in force in this Colony, and so much of Acts Nos. 45 of 1882, 24 of 1898, and of any other Act, Law or Ordinance, as may be inconsistent with the provisions of this Act, is hereby repealed.

59. This Act shall be read as one with Act No. 24 of 1898 and may be cited for all purposes as "The Southern Suburbs of Cape Town Water Supply Act, 1907,"

AGREEMENT BETWEEN THE COLONIAL GOVERNMENT AND THE MUNICIPAL COUNCILS OF WOODSTOCK, MOWBRAY, RONDEBOSCH AND CLAREMONT.

Agreement made and entered into by and between His Majesty's Government of the Colony of the Cape of Good Hope hereinafter styled the Government and herein represented by Thomas Smith McEwen in his capacity of General Manager of Railways of the one part and the Councils of the Municipalities of Woodstock, Mowbray, Rondebosch and Claremont, hereinafter styled the Councils and herein represented by the respective Mayors of the said four Municipalities of the other part.

Whereas the Councils duly authorised by the ratepayers of their several Municipalities have introduced into Parliament a Bill to supplement the supply of water to the said Municipalities and of neighbouring districts and to the Colonial Government by means of a scheme known as the Wenmer's Hoek scheme.

And whereas the Government has undertaken to purchase water from the Councils.

And whereas both the Government and the Councils are desirous that the terms of the said undertaking shall be reduced to writing.

Now therefore these Presents witness :—

1. The Councils shall use their best endeavours to secure the passing of a Private Bill (a copy whereof has been deposited with the Clerk of the House of Assembly) to authorise them to supplement the supply of water to the said four Municipalities and neighbouring districts and to the Government. If the said Bill shall not be passed this Agreement shall *ipso facto* be null and void and of no effect.
2. If the said Bill shall be passed the Councils shall so soon as conveniently may be proceed with the construction of the works thereby authorised.
3. When and so soon as the Councils shall be in a position to supply water from the said works they shall be bound and obliged to supply, and the Government shall be bound and obliged to take therefrom, a supply of water upon the following terms and conditions, to wit :—
 - (a) So long as the consumption of water from the said works, exclusive of such quantities of water as the Councils have undertaken to supply free of charge for the use and benefit of the Municipality of the Paarl and of the riparian owners, shall not exceed four millions of gallons per diem, the price of a daily supply of four hundred thousand gallons shall be one

shilling and three pence for each one thousand gallons ; for a daily supply exceeding four hundred thousand gallons, but not exceeding five hundred thousand gallons, the price shall be one shilling and two pence for each one thousand gallons ; and for a daily supply exceeding five hundred thousand gallons the price shall be one shilling for each one thousand gallons.

- (b) When and so long as the consumption of water from the said works, exclusive of the aforementioned supplies to the Municipality of the Paarl and the riparian owners, shall exceed four millions of gallons per diem, the price for a daily supply of four hundred thousand gallons shall be one shilling for each one thousand gallons ; for a daily supply exceeding four hundred thousand gallons, but not exceeding six hundred thousand gallons, eleven pence for each one thousand gallons ; and for a daily supply exceeding six hundred thousand gallons ten pence for each one thousand gallons.
4. So long as the Councils shall be able they shall be bound and obliged to supply to the Government four hundred thousand gallons per diem and the Government shall be bound and obliged to pay for that quantity even though it shall not actually have used or consumed the same.
 5. The Government shall not be entitled as of right to demand from the Councils a daily supply exceeding seven hundred and fifty thousand gallons.
 6. Water shall be supplied to the Government at such point or points within the area of the said four Municipalities as shall from time to time be required by the Government : Provided always that the Government shall defray and discharge the cost of the construction and maintenance of all works and of all pipes, fittings, connections and other materials which shall be necessary for the purpose of conveying the water from the Councils' mains to the point or points aforementioned.
 7. All water supplied to the Government under the provisions of this Agreement shall pass through a meter or meters to be supplied and maintained by the Councils at the cost of the Government.
 8. Payment for water supplied to the Government under the provisions of this Agreement shall be made quarterly and within thirty days after each quarterly account shall be rendered.
 9. The water so to be supplied by the four Councils as aforesaid shall be delivered at such pressure at a point within the said area as shall be sufficient to discharge the same into a tank placed at a height of two hundred feet above sea level at the point where the railway lines

5338 THE SOUTHERN SUBURBS OF CAPE TOWN WATER
SUPPLY ACT, 1907.

intersect the line dividing the Municipalities of Woodstock and Cape Town.

10. This Agreement shall be and remain in force and effect until the First day of January, One Thousand Nine Hundred and Sixty-seven, and thereafter shall be subject to five years' notice on either side.
11. When and so soon as this Agreement shall come into operation, the Agreement now presently subsisting between the Government and the Committee of Management of the Suburban Municipal Waterworks for the supply of water shall cease and determine.

In witness whereof the said parties have hereunto set their hands at Cape Town, this Eighteenth day of July, One Thousand Nine Hundred and Seven (1907).

T. S. McEWEN.

As Witnesses to the Signature
of Thomas Smith McEwen,
W. JANISCH.
GEORGE PROFIT.

A. CUNNINGHAM,
Mayor of Woodstock.

As Witnesses to the Signature
of the Mayor of Woodstock,
E. J. MOORE.
W. K. DOSE.

JAS. PARKER,
Mayor of Mowbray.

As Witnesses to the Signature
of the Mayor of Mowbray,
E. J. MOORE.
W. K. DOSE.

A. H. BULLEN,
Mayor of Rondebosch.

As Witnesses to the Signature
of the Mayor of Rondebosch,
W. C. DYMOTT.
J. TWYXCROSS.

C. S. NEAVE,
Mayor of Claremont.

As Witnesses to the Signature
of the Mayor of Claremont,
THOMAS STEWART.
E. S. SMITH.

(B.)

Schedule B.

AGREEMENT CONCLUDED BETWEEN THE FOLLOWING MUNICIPAL COUNCILS, NAMELY:— THE MUNICIPAL COUNCIL OF CLAREMONT, THE MUNICIPAL COUNCIL OF MOWBRAY, THE MUNICIPAL COUNCIL OF RONDEBOSCH AND THE MUNICIPAL COUNCIL OF WOODSTOCK, HEREINAFTER REFERRED TO AS THE FOUR COUNCILS, PARTIES OF THE ONE PART; AND THE COUNCIL OF THE MUNICIPALITY OF THE PAARL, PARTY OF THE OTHER PART.

Whereas the four Councils are promoting a Bill to amend Act No. 24 of 1898, and to enable the said bodies to supplement the water supply of their respective Municipalities and of neighbouring Districts, and to take for that purpose water from the Wemmer's River and tributary streams: Whereas the Council of the Municipality of the Paarl filed a Petition in opposition to the said Bill wherein it was *inter alia* set forth that unless clauses were inserted in the said Bill for the protection of the Paarl Municipality, the said Municipality might be greatly damaged by the passing thereof: Whereas as the result of negotiations conducted between the four Councils and the Council of the Municipality of the Paarl provisions for the protection of the said Municipality of the Paarl were agreed on: And whereas it is desired that the said provisions shall be embodied in a formal agreement to be attached to the said Bill in the form of a schedule: Now therefore these presents witness as follows, to wit:—

1. Of the water to be taken and conveyed away by the four Councils as in section eight of the said Bill set forth, there shall be delivered by the four Councils to the Council of the Municipality of the Paarl at the point where the present Divisional Council Road from Simondium to the Paarl intersects the present boundary of the said Municipality, a daily supply of 150,000 gallons,—to be supplied by the four Councils to the said Municipality in perpetuity and free of charge to the said Municipality, for use and consumption within the said Municipality as existing for the time being.

2. The four Councils shall further deliver to the Council of the Municipality of the Paarl at the point aforesaid, such further supply not exceeding 150,000 gallons per diem of the water taken and conveyed away as aforesaid as the said Council shall from time to time require for use and consumption within the said Municipality as existing for the time being, at a cost to the said Council of sixpence per 1,000 gallons delivered.

3. Should the water to be taken and conveyed away by the four Councils as in section eight of the said Bill mentioned,

at any time with the knowledge and intention of the four Councils exceed in amount three million gallons per diem exclusive of any water supply to the Council of the Municipality of the Paarl under these presents, then in addition to the 150,000 gallons per diem to be supplied free of charge as aforesaid there shall as from said time be delivered free of charge as aforesaid at the point aforesaid to the Council of the Municipality of the Paarl a further supply equal to 50,000 gallons per diem for each additional one million gallons or fraction thereof over and above said three million gallon taken and conveyed away by the four Councils; and it shall be obligatory upon the four Councils as from said time to deliver to the said Council of the Municipality of the Paarl at the point aforesaid such further supply, not exceeding 50,000 gallons per diem, for each such additional one million gallons of the said water or fraction thereof, as the said Council of the Municipality of the Paarl shall from time to time require, at a cost to the said Municipality of the Paarl of sixpence per thousand gallons delivered. Provided always, as respects the delivery in this and the two immediately preceding sections mentioned, and notwithstanding anything therein contained, that the four Councils shall be bound to deliver at such pressure at the point aforesaid as shall be sufficient to raise to any point within the Municipality of the Paarl not being a point more than 600 feet above sea level nor further distant than the point at which the Paarl Main Street intersects Lady Grey Street, the full amount of water to be delivered for the time being; provided that the municipal main shall not be of less internal diameter than the main of the four Councils with which it is to connect; and provided that, as respects any water to be supplied at sixpence per 1,000 gallons other than the first 150,000 gallons to be so supplied, the Council of the Municipality of the Paarl shall give to the four Councils twelve months' previous notice of its intention to require the same; that the total amount of water to be delivered free of charge to the said Council under these presents shall not in any event exceed an amount of 500,000 gallons per diem, and that the total amount of water to be delivered to the said Council at a cost thereto of sixpence per 1,000 gallons delivered shall not in any event exceed an amount of 500,000 gallons per diem.

4. The four Councils shall hold the Council of the Municipality of the Paarl indemnified against all claims at the instance of third parties possessing, or claiming to possess, rights in or to the waters of any of the rivers interfered with by the four Councils under the said Bill where such claims are based on the abstraction of, or interference with the waters thereof.

5. Nothing in these presents or in the said Bill contained shall be construed as bringing the Municipality of the Paarl under the operation of the said Bill or as imposing upon the

said Municipality any of the liabilities to be incurred thereunder, save as is herein expressly set forth.

6. The said contracting parties hereby agree that these presents shall form a Schedule to the said Bill.

In witness whereof the said parties have executed these presents on the 19th day of August, 1907.

A. CUNNINGHAM,
Mayor of Woodstock.

As Witnesses to Signature of the
Mayor of Woodstock,
E. J. MOORE.
F. S. SMITH.

THOMAS MOSSOP,
Mayor of Mowbray.

As Witnesses to Signature of the
Mayor of Mowbray,
E. J. MOORE.
E. S. SMITH.

ARTHUR SHOYER,
Mayor of Rondebosch.

As Witnesses to the Signature of the
Mayor of Rondebosch,
E. J. MOORE.
E. S. SMITH.

JOHN ST. LEGER,
Mayor of Claremont.

As Witnesses to the Signature of the
Mayor of Claremont,
E. J. MOORE.
E. S. SMITH.

S. P. H. DE VILLIERS,
Mayor of Paarl.

As Witnesses to the Signature of the
Mayor of Paarl,
G. MONTGOMERY WALKER.
J. D. RETIEF.

No. 1—1908.]

[April 28, 1908.

ACT

To Apply a further Sum not exceeding Two Hundred and Sixty-one Thousand Four Hundred and Eighteen Pounds Sterling for the Service of the Year ending 30th June, 1908.

[Assented to 27th April, 1908.]

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending the 30th June, 1908, in addition to the sum provided for or still to be provided for the service of the Financial Year 1907-1908: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof as follows:—

Preamble.

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending on the 30th June, 1908, with a further sum of Two Hundred and Sixty-one Thousand Four Hundred and Eighteen Pounds Sterling, in addition to the sum provided for or still to be provided for the service of the Financial Year 1907-1908.

Public Revenue charged with £261,418.

2. The money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto and more particularly specified and set forth in the explanatory Schedule to this Act submitted to Parliament.

How to be applied.

3. This Act may be cited for all purposes as the "Additional Appropriation 1907-1908 Act, 1908."

Short Title.

SCHEDULE.

Schedule.

Additional Appropriation, 1907-1908.	Establishments.	Services exclusive of Establishments.	Total.	Votes to be taken.
	£	£	£	£
I. Prime Minister	995	5,595	6,590	6,487
II. Colonial Secretary	30,699	71,801	102,500	102,500
III. Treasurer	8,841	52,108	60,949	27,949
IV. Attorney-General	592	2,720	3,312	3,312
V. Commissioner of Public Works	27,401	29,129	56,530	56,530
VI. Secretary for Agriculture ...	6,726	57,914	64,640	64,640
Grand Total	£75,254	219,267	294,521	261,418

No. 2—1908.]

[April 28, 1908.

ACT

To Apply a sum of Money for the Service of the Year ending 30th June, 1908.

[Assented to 27th April, 1908.]

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

Preamble.

B

No. 2—1908.

Public Revenue to be charged with £1,205,269.

1. The public revenue of the Colony is hereby charged towards the service of the year ending the 30th June, 1908, with a Sum of One Million Two Hundred and Five Thousand Two Hundred and Sixty-nine Pounds Sterling, in addition to the Sum of Five Million Pounds Sterling provided for by Acts No. 2 of 1907, No. 9 of 1907 and No. 24 of 1907.

How to be applied.

2. The Money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto, and more particularly specified and set forth in the Estimates and Supplementary Estimates of the Expenditure [G. 11—'07 Second Print, and G. 64—'07.] for the Year ending 30th June, 1908, with the notes to such Estimates, submitted to and approved by Parliament.

Not to be applied except as granted.

3. The said aids and supplies shall not be issued or applied to any use, intent or purpose other than the particular services to which the said amounts have been granted respectively by this Act, and the aforesaid Schedule, Estimates and Supplementary Estimates.

Short Title.

4. This Act may be cited for all purposes as the "1907-1908 Appropriation Act, 1908."

Schedule.

SCHEDULE.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishment.	Services exclusive of Establishments.	Total.	Required to be provided for.
I. Ministerial Department of Prime Minister	£ 115,883	£ 45,016	£ 160,899	£ 155,899
II. Ministerial Department of Colonial Secretary	524,250	390,539	914,789	909,921
III. Ministerial Department of Treasurer	616,298	1,046,867	1,663,165	1,037,026
IV. Ministerial Department of Attorney-General	420,260	73,439	493,699	474,699
V. Ministerial Department of Commissioner of Public Works	62,739	116,150	178,889	177,389
VI. Ministerial Department of Secretary for Agriculture ...	186,330	632,981	819,311	816,911
£ 1,925,760	2,304,992	4,230,752	3,571,845	
Railways, excluding charges for Relaying and Regrading and Strengthening of Bridges ...	345,533	3,416,791	3,762,324	2,558,424
Railways, Relaying and Regrading and Strengthening of Bridges ...	...	75,000	75,000	75,000
£ 2,271,293	5,796,783	8,068,076	6,205,269	
Less amount provided for by Acts No. 2 of 1907, No. 9 of 1907, and No. 24 of 1907 ...	...	...	...	5,000,000
Total required to be voted ...	...	...	£ 1,205,269	

No. 3—1908.]

[July 3, 1908.

ACT

To Apply a sum not exceeding One Million Pounds Sterling towards the service of the year ending 30th June, 1909.

[Assented to 1st July, 1908.]

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

Preamble.

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending 30th June, 1909, with a sum not exceeding One Million Pounds Sterling (£1,000,000), which sum shall be applied towards the service of the said year in conformity with the Estimates of the Expenditure for the year ended the 30th June, 1908, which have been approved of by Parliament.

Revenue charged with £1,000,000 towards services of year ending 30th June, 1909.

2. This Act may be cited for all purposes as "The Appropriation (Part 1908-09) Act, 1908."

Short Title.

No. 4—1908.]

[July 21, 1908.

ACT

To Control the Introduction into the Cape of Good Hope and to Regulate the Disposal of Exotic Animals.

[Assented to 16th July, 1908.]

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

Preamble.

1. For the purpose of this Act the word "animal" shall mean any animal other than those defined by the Animal Diseases Act, 1893, or proclaimed under the seventh section of the Animals Diseases Act Amendment Act, 1906, and shall include the eggs of any "bird," "reptile" or "insect."

Definition of "animal."

2. It shall be lawful for the Governor, from time to time by proclamation in the *Gazette*, to prohibit the introduction into this Colony or to make regulations regarding the introduction and safe custody, destruction or other disposal after introduction of any species of animal and in like manner to repeal, revoke or amend any such proclamation.

Governor may prohibit or make regulations for introduction of any species of animal.

3. Any animal which may be introduced into this Colony in contravention of this Act or the regulations which may be framed thereunder shall be confiscated, and destroyed or disposed of as the Secretary for Agriculture may direct.

Power to dispose of animals illegally introduced.

No 4.—1908.

Penalty.

4. Any person who may contravene any of the provisions of this Act or of the regulations which may be framed thereunder shall, on conviction, be liable to a fine not exceeding £100 sterling or in default of payment to imprisonment with or without hard labour for a term not exceeding six months or to both such fine and imprisonment, unless he shall prove to the satisfaction of the Court in which he is tried that the introduction was made by him unknowingly and without negligence on his part.

Offences cognisable in Resident Magistrates Courts.

5. All offences under this Act may be heard and determined and the penalties provided may be imposed in the court of the resident magistrate of the district in which such offence may be committed.

Short Title.

6. This Act may be cited as "The Exotic Animals Act, 1908."

No. 5—1908.]

[July 28, 1908.]

ACT

To Amend the University Incorporation Amendment Act, 1896.

[Assented to 27th July, 1908.]

Preamble.

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

Amendment of section five of Act 6 of 1896.

1. From and after the taking effect of this Act, "The University Incorporation Amendment Act, 1896," shall be read and construed as if the words "Bachelor of Divinity, Doctor of Divinity" were inserted before the words "Bachelor of Science" in the sixth line of the fifth section thereof.

Short Title and effect.

2. This Act shall be read as one with the said Act, and may be cited for all purposes as "The University Incorporation Amendment Act, 1908."

No. 6—1908.]

[July 30, 1908.]

ACT

To Amend the Law relating to Parliamentary Elections.

[Assented to 30th July, 1908.]

Preamble.

Certain provisions with regard to the transmission of requisitions and dispensing with

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

1. Anything to the contrary in the Constitution Ordinance or in any other law notwithstanding, the following provisions shall apply to Parliamentary Elections, viz. :—

- (1) In Legislative Council elections candidates shall not transmit their requisitions and acceptances to the Colonial Secretary as heretofore, but shall transmit the same to such returning officers as shall be appointed, one for each electoral province, by the Governor for the purposes of each election; and the said officers shall exercise the functions heretofore exercised by the scrutineers appointed in accordance with the provisions of the Constitution Ordinance who shall no longer be appointed. In each electoral province the returning officers for the several electoral divisions constituting the province shall make their returns to the returning officer appointed for the province as aforesaid, who shall forthwith declare to be elected the candidates to whom the majority of votes have been given, and return their names, with the number of votes received by each candidate, to the Colonial Secretary to be by him communicated to the Governor and published in the *Gazette*. scrutineers to apply to future Legislative Council Elections. Period prescribed for and in connection with the holding of Parliamentary elections, and special provisions regarding Grahamstown and Albany.
- (2) Whenever both Houses of Parliament shall be dissolved the Governor shall issue his proclamation prescribing the period within which the requisitions and acceptances are to be transmitted by candidates for the Legislative Council within thirty clear days next, but not earlier than twenty-one clear days, after the day of dissolution and the election of the members of Parliament shall be proceeded with in accordance with the Law as amended by this Act; and whenever the Legislative Council shall expire, and whenever the House of Assembly shall be dissolved or expire, the Governor shall proceed with the election of the new Legislative Council or House of Assembly within thirty days next, but not earlier than twenty-one clear days, after the date of expiry or dissolution, as the case may be.
- (3) In the event of both Houses of Parliament being dissolved at the same time, the elections of members of the House of Assembly shall not be postponed till the completion of the election of the members of the Legislative Council, but the Governor shall issue his proclamation commanding the returning officers to proceed with the election of the members of the House of Assembly within not less than ten and not more than fourteen clear days next after the promulgation of the Governor's proclamation prescribing the period within which requisitions accompanied by the acceptances must be transmitted to the returning officers appointed as aforesaid by candidates for the Legislative Council.

- (4) In any general election of members of the Legislative Council, the period to be prescribed by the Governor for the transmission by candidates of requisitions and their acceptances to the returning officers appointed as aforesaid shall be within not less than ten and not more than fourteen clear days next after the date of the promulgation of the proclamation prescribing such period, and the day to be fixed for the poll by the Governor shall be within not less than fourteen and not more than thirty clear days next after the last day of the period prescribed as aforesaid for the transmission of the requisitions and acceptances.
- (5) In any general election of members of the House of Assembly the proclamation commanding returning officers to proceed with the election shall fix the nomination day within not less than ten and not more than fourteen clear days next after the date of the promulgation of such proclamation, and the date of the poll shall be fixed by the Governor within not less than fourteen days and not more than thirty clear days next after the nomination day; provided however that the poll for the Assembly elections shall in no case be fixed earlier than ten clear days after the date fixed for the poll in the Legislative Council elections as aforesaid.
- (6) The polling for the electoral divisions of Cape Town and Grahamstown shall be the day fixed as aforesaid and the polling day for the other electoral divisions, and the returning officers for the electoral divisions of Grahams-town and Albany shall be the Registrar of the Eastern Districts Court and the Civil Commissioner of Albany respectively, and the courts for the nominations of persons proposed as members for the said divisions shall be held in the Court of the Resident Magistrate of Grahamstown.

Act applied to the filling of casual vacancies.

Candidate for Council may not be candidate for Assembly at same time, and vice versa.

Short Title.

2. The provisions of this Act shall apply, *mutatis mutandis*, to elections to fill such vacancies in either the Legislative Council or the House of Assembly, as are not caused by a dissolution.

3. It shall not be lawful for any person to be a candidate at the same time for the Legislative Council and the House of Assembly, and a member of either House shall not be qualified to be elected as a member of the other House.

4. This Act shall be cited as "The Parliamentary Elections Act, 1908."

No. 7—1908.]

[July 30, 1908.]

ACT

To Provide for the temporary reduction of the Salaries of the Officers in the Public Service and of the Ministers of the Crown and Officers in Parliament and for the reduction of the payments to Members of Parliament.

[Assented to 30th July, 1908.]

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

Preamble.

1. This Act may be cited as the "Special Retrenchment Act, 1908," and shall be deemed to have come into operation on the first day of July, One Thousand Nine Hundred and Eight.

Short title and commencement of Act.

2. For the purposes of this Act the term "salary" shall mean the salary, wages, fees and every other emolument other than travelling, forage and sustenance allowances, whether in one sum, or several sums, provided for by or paid out of any annual or special or permanent appropriation of the revenue, or from loans or any special fund made by any Act of Parliament as payment for personal services rendered by any person employed in the service of the Government of this Colony whether the rate of such payment is or is not specified in such Act, and whether such person is employed in or in connection with one department or several departments, or as payment to any Minister of the Crown or officer in Parliament, or member or officer of either House of Parliament: the said term shall not include a pension or retiring or superannuation allowance. The term "officer" shall mean a person to whom salary as herein above defined is payable and shall include a Minister of the Crown or an officer in Parliament or a member or officer of either House of Parliament.

Interpretation of "salary" and "officer."

3. Notwithstanding the provisions of any law to the contrary (during the period to which this Act applies), every officer, instead of being paid the salary which except for this Act he would have been entitled to receive shall, without further or other authority than this Act, be paid such salary less a reduction of five per centum.

Reductions of salaries.

4. This Act shall not apply to the following persons:—

Exemptions.

(1) His Excellency the Governor.

The Judges of the Supreme Court, as far as their judicial emoluments are concerned.

(2) To any officer holding an office or position to fill which he was engaged at or brought from any place outside this Colony under agreement to hold such office for a specified term and at a stated salary.

(3) To persons drawing grants in aid from the Department of Education.

No. 7—1908.

(4) To any officer in the public service whose salary shall have been reduced, except for purposes of discipline, by a sum exceeding five per cent. since the first day of January, One Thousand Nine Hundred and Seven, whether by reduction of his hours of work or otherwise.

Reduction not to alter seniority.

5. The reduction made pursuant to this Act shall not alter or affect any officer's relative position or seniority in the Public Service.

Rates of pension, &c., not affected by deduction.

6. The rate of pension or superannuation or retiring allowance or compensation or gratuity for loss of office or on death or under any other circumstance, to which any officer or his representatives shall at any time hereafter become entitled pursuant to any Act or regulation shall not be lessened or diminished in consequence of any reduction having been made pursuant to this Act or by the operation of any annual appropriation Act in the salary of the office or position held by such officer during the period to which this Act applies; but such pension, superannuation or retiring allowance, or compensation or gratuity shall be paid at the same rate at which the same would have been paid if no such reduction of salary had been made.

Duration of Act.

7. The provisions of this Act shall cease to have effect on the thirtieth day of June, One Thousand Nine Hundred and Nine, unless otherwise determined by Parliament.

No. 8—1908.]

[August 7, 1908.

ACT

To Provide for the disposal of certain Native Reserves in Bechuanaland and for the resumption of a portion of the First Railway Land Grant, situated in the Division of Kuruman.

[Assented to 4th August, 1908.]

Preamble.

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

Certain Native Reserves may be declared Crown Lands.

1. Notwithstanding anything to the contrary contained in Proclamation No. 220, B.B., 1895, the "British Bechuanaland Annexation Act, 1895," the "Bechuanaland Native Reserves Act, 1897," or any other Law, it shall be lawful for the Governor, by Proclamation, to declare the whole or any portion of the Tlaring Native Reserve and of those portions of the Langeberg Native Reserve, known as Oliphant's Hoek and Gappaping, situate in the Division of Kuruman, to be Crown Land, and thereupon the land so declared to be Crown Land may be dealt with in the manner provided by the Laws relating to the Leasing and Disposal of Crown Lands.

2. Notwithstanding anything to the contrary contained in the Memorandum of Agreement set forth in Schedule B to the "Northern Railway Land Disposal Act, 1893," it shall be lawful for the Government to resume and reserve as an extension of the Lower Kuruman Native Reserve, subject to the same conditions and restrictions in regard to disposal thereof by Government as the said reserve, an area, in extent about 15,000 morgen, forming portion of the land known as Block 5 of the First Railway Land Grant, situate in the Division of Kuruman, and abutting on the North-Western boundary of the said Lower Kuruman Native Reserve,—the Rhodesia Railways, Limited, as representing the British South Africa Company, having relinquished all its interests in the said area to the Colonial Government in consideration of the sum of £750 paid to it by the said Government.

Resumption of portion of Railway Land Grant in British Bechuana-land.

3. This Act may be cited for all purposes as "The Bechuana-land Native Reserves Disposal Act, 1908."

Short Title.

No. 9—1908.]

[August 14, 1908.

ACT

To Amend the Customs Amendment and Tariff Act, 1906, and to effect Certain Other Alterations in the Customs Laws.

[Assented to 4th August, 1908.]

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

Preamble.

1. So much of any law as may be repugnant to or inconsistent with the provisions of this Act shall be, and the same is hereby, repealed to the extent of such inconsistency or repugnancy, save as to rights vested or liabilities incurred before the taking effect of this Act.

Repeal of repugnant laws.

2. The Protocol to the Customs Union Convention of 1906 agreed to at Cape Town on the 29th day of May, 1908, as set forth in the schedule to this Act, is hereby ratified and confirmed, and wherever in the said schedule the Customs Tariff described and set forth in Classes I, II, III, IV, V and VI of the schedule B to Act No. 1 of 1906, entitled "The Customs Amendment and Tariff Act, 1906," is amended or altered by the provisions of the above referred to Protocol, such amendments or alterations shall be regarded as embodied in the several Classes to the Customs Tariff aforesaid and any increase of duty consequent thereon shall be raised, levied and collected and paid upon the goods, wares and merchandize imported or brought into this Colony on or after the date of the taking effect of this Act, and similarly any decrease of duty shall take effect from the said date.

Ratification of Protocol to Customs Union Convention.

No. 9—1908.

Amendment
of section 4 of
Act 1 of 1906.

3. Section four of Act No. 1 of 1906 shall be read and construed as if the words "blasting compounds and patent or proprietary medicines" were substituted for the words "or blasting compounds."

Amendment
of section 5 of
Act 1 of 1906.

4. Section five of Act No. 1 of 1906 shall be read and construed as if the words "ale or beer and spirits, except methylated spirits, and patent or proprietary medicines brewed, distilled or manufactured" were substituted for the words "ale or beer and spirits except methylated spirits, brewed or distilled" and as if the words "or manufactured" were added at the end of the said section.

Amendment
of section 13
of Act 1 of
1906.

5. Section thirteen of Act No. 1 of 1906 shall be read and construed as if the words "for home consumption" were inserted after the words "current value" where they appear for the second time.

Sub-section
substituted in
lieu of sub-
section (d) of
section 16 of
Act 1 of 1906.

6. Sub-section (d) of section sixteen of Act No. 1 of 1906 is hereby repealed and the following sub-section substituted in lieu thereof:—

"The granting of a rebate of the whole or part of the duty on methylated spirits or alcohol of Union manufacture intended solely for manufacturing or scientific purposes or for fuel within this Colony; on soap and other similar substances imported for and exclusively used in connection with the industry of wool-washing; and on any raw, semi-raw or manufactured material used in the manufacture of any article on exportation to any country beyond the limits of the Customs Union."

Amendment
of section 38
of Act 10 of
1872.

7. Section thirty-eight of Act No. 10 of 1872 shall be read and construed as if after the words "with two sufficient sureties" the words "or with one sufficient surety when such suretyship is undertaken by any Company or Association lawfully carrying on business in this Colony and duly authorized in its Memorandum of Association so to do" were inserted therein.

Short title
and taking
effect of Act.

8. This Act may be cited as "The Customs Tariff and Amendment Act, 1908," and shall come into operation upon a day to be fixed by proclamation, in which proclamation shall be set forth the name of each Colony or territory in the South African Customs Union and party to the Customs Union Convention.

Schedule.

SCHEDULE. PROTOCOL

To the Customs Union Convention entered into between the Governments of the Colonies of the Cape of Good Hope, Natal, the Transvaal, the Orange River Colony, and the Territory of Southern Rhodesia, which came into force in March, 1906.

Whereas in terms of Article XXIII of the South African Customs Union Convention, 1906, the Government of the Trans-

vaal gave notice of their intention to retire from the Customs Union on the 30th day of June, 1908 ;

And Whereas at a Conference held at Pretoria and Cape Town in the month of May, 1908, it was agreed between the parties to the said Customs Convention to continue the same subject to the conditions as set out hereafter ;

And Whereas in accordance with this decision the Government of the Transvaal have withdrawn their notice of intention to retire from the South African Customs Union on the 30th day of June, 1908 ;

His Excellency the Governor of the Colony of the Cape of Good Hope, His Excellency the Governor of Natal, His Excellency the Governor of the Transvaal, His Excellency the Governor of the Orange River Colony, and His Honour the Administrator of Southern Rhodesia mutually, on behalf of their respective Governments, do hereby signify their joint assent, in terms of Article XXVI of the said Convention to the following amendments therein, namely, that—

1. Article II. Words “within its jurisdiction” shall be deleted.

Class I.—Special Rates.

	Duty.	Rebate upon goods, the growth, produce, or manufacture of the United Kingdom and reciprocating Colonies.
Item 1 shall be deleted.		
Item 4 shall be deleted and the following shall be substituted :— “Item 4. Beads, per lb. ... (or 25 per cent. <i>ad valorem</i> , whichever shall be the greater).”	6½d.	½d. or 3 per cent., as the case may be.
Item 17B. (1) and (2) shall read as follows :— “B. (1) In the grain or raw, per 100 lbs. ... (2) Ground, malted or otherwise prepared, including Samp, per 100 lbs.”	2/- 2/9	2d. 3d.
Item 37b. Word “Glucose” shall be inserted after word “Saccharum.”		
Item 40 shall be deleted and the following shall be substituted :— “Item 40. Vinegar, Extracts or Essences of Vinegar, Acid, Acetic and Pyroligneous, per gallon ; of any strength not exceeding the strength of proof.” (a) In bottles or other vessels of a capacity of not more than one Imperial quart, per Imperial gallon ... (b) In larger vessels or in bulk, per Imperial gallon ... and in addition in either case for each degree of strength in excess of the strength of proof, per degree ...	1/1 7d. 4d.	1d. 1d. 1d.
NOTE.—Proof will be held to be equal to 6 per cent. of absolute acid and shall be determined in the manner prescribed by the Customs.		

Class III.

Item 52. Words "not including Riding Saddles" shall be deleted.

Item 56 shall be deleted, and the following shall be substituted:—
"Item 56. Shawls, Woollen."

Class IV.

Item 74. Word "Glucose" shall be deleted.

Item 105. Word "Chloride" shall be deleted.

Item 117. Words "in bulk" shall be deleted.

Item 121. Words "and Zinc Fume, Dust and Shavings" shall be added at end.

Item 126. Words "and Fruit Tree Netting" shall be added at end.

Class V.

Item 131. Words "Patent Medicines and Sulphuric Acid," shall be inserted after word "Beer."

Item 139. Words "Boracic Acid" shall be inserted after the word "Borax." Words "in bulk" shall be deleted.

Item 144. Word "copra" shall be inserted after the word "cotton."

Item 147 shall be deleted, and the following shall be substituted therefor:—

"Item 147. Cups, Medals and other Trophies imported for presentation as prizes at examinations, exhibitions, shows or other public competitions for skill or sport; for bravery, good conduct, humanity; for excellence in art, industry, invention, manufactures, learning, science, or for honourable or meritorious public services, or for rifle shooting by Imperial or Colonial Forces, or recognized Rifle Associations, not being for the purpose of advertisement; provided that such articles shall on importation or delivery free from the Customs bear engraved or otherwise indelibly marked on them the occasion or purpose for which they are presented."

Item 159 shall be deleted and the following shall be substituted therefor:—

"Item 159. Oils, palm, palm kernel, cotton seed and cocoanut, in bulk, for manufacturing purposes, and under such conditions and regulations as the Customs may prescribe."

Item 161. Words "and platinum wire" shall be added.

Item 172. Word "rennet" shall be inserted.

2. Article XIV shall be deleted.

3. Article XVI shall be deleted, and the following shall be substituted therefor:—

"Article XVI. (a) Any Colony or Territory belonging to the Union may at any time levy a Customs Duty upon Ale or Beer and Blasting Compounds and Patent

Medicines, and Sulphuric Acid manufactured from imported ingredients for other than the manufacture of explosives, the produce or manufacture of any other Colony or Territory in the Union not exceeding any duty of Excise which may be levied by the importing Colony or Territory on the produce or manufacture of articles of a like description produced or manufactured within its own borders, always provided that such articles from whatsoever part of the Union they may be imported shall be liable to uniform duties."

"(b) Where a duty of Excise is levied on any article in any Colony or Territory belonging to the Union such article may be removed under Bond under terms of Article X. to any other Colony or Territory in the Union."

"(c) Any Colony or Territory in the Union may levy a duty of Excise not exceeding 9s. per proof gallon with an allowance for underproof down to 7s. 6d. per gallon on Spirits manufactured from the produce of the vine within its jurisdiction, and may impose a duty of Customs not exceeding the amount of such duty of Excise on such Spirit the produce of the vine manufactured elsewhere in the Union when imported into its Territory, always provided that such Spirits from whatsoever part of the Union they may be imported shall be subject to a uniform rate of duty."

"(d) Each contracting party to the Convention may, in regard to Spirits, other than the produce of the vine, manufactured within the Union, prohibit their importation if the distillation of Spirits of a like kind is prohibited within its own jurisdiction, or levy a duty equal to that imposed on Spirits not the produce of the Union; if, however, the distillation of such Spirits is allowed in its own Territory a duty of Excise shall be imposed thereon which shall not be less than the highest rate of Excise imposed in any Colony or Territory in the Union on Spirits distilled from the produce of the vine, and the Colony imposing such Excise shall levy a Customs Duty equal to such Excise on such Spirits produced elsewhere in the Union on the importation into its Territory."

"(e) It shall be lawful for any of the parties to this Convention to charge by way of surtax an additional duty on non-Union Spirits and Patent Medicines for consumption in its own Territory."

"(f) The importation into any part of the Union of Spirits manufactured elsewhere within the Union shall be subject to such regulations as may be agreed on between the respective Governments."

No. 9—1908.

4. Article XVIII. Words “of Union manufacture” shall be inserted after word “alcohol,” and word “intended” shall be substituted for the word “imported.”

5. Article XX. Where words “current value” occur for the second time the words “for home consumption” shall be inserted thereafter.

6. Article XXII. The words “or of British Central Africa” shall be deleted.

7. Article XXIII shall be deleted, and the following Article shall be substituted therefor:—

“Article XXIII. The provisions of this Convention shall continue in force until the 30th June, 1909, and thereafter for periods of twelve months, provided that any party thereto may give not less than three months’ notice, either before or after 30th June, 1909, of its wish to amend the Convention, or its intention to retire therefrom, as from the 30th June following such notice.”

8. Article XXIV shall be deleted.

9. Article XXVII. Words “of tobacco or preparations of tobacco” and words “or flour, wheaten meal or pollard manufactured from other than South African wheat” shall be deleted.

10. The following Article shall be added:—

“Article XXVIII. Any Colony or territory in the Union may grant a rebate or refund of duty on any raw, semi-manufactured, or manufactured material used in the manufacture of any article within its jurisdiction on exportation to any country beyond the limits of the Union.”

11. Schedule “E” shall be deleted.

No. 10—1908.]

[July 31, 1908.]

ACT

To Further Amend the Scab Act, 1894.

[Assented to 31st July, 1908.]

Preamble.

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

Repeal
of section
eleven, Act
No. 20 of 1894.
Short title.

1. The eleventh section of “The Scab Act, 1894,” is hereby repealed.

2. This Act may be cited as “The Scab Act Amendment Act, 1908.”

No. 11—1908.]

[August 11, 1908.]

ACT

To Amend the Game Laws.

[Assented to 10th August, 1908.]

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

1. In this Act the following terms shall bear the following meanings : Interpretation Clause.

“Royal Game” shall mean the following animals, viz. :—elephant, rhinoceros, hippopotamus, giraffe or camelopard, buffalo, eland, koodoo, hartebeest, bontebok, blesbok, gemsbok, rietbok, klipspringer, zebra, quagga, Burchell zebra or any gnu or wildebeest of either variety.

“Game” shall include “Royal Game” as above defined and the other birds and animals included or which may be included in that term by or under sections two and eleven of the Game Law Amendment Act, 1886.

“Local Authority” shall include Divisional Council, Municipal Council, and Village Management Board.

2. No person, save as hereinafter provided, shall hunt any game in any part of this Colony without having previously obtained a game licence, in respect of which the fee for the time being prescribed by law has been duly paid, and no person shall hunt royal game without having previously obtained a special permit from the Governor, and, save as hereinafter provided, also a licence to be known as a royal game licence, in respect of which the sum of three pounds shall be payable by persons domiciled in, and twenty-five pounds by persons domiciled outside this Colony, or such other fee as may from time to time be prescribed by law, and for the issue of such permits and licences the Governor may make regulations to be published in the *Gazette*; provided that a landowner or his children shall not require either licence hereinbefore referred to for the purpose of shooting game on the land of such landowner. Any person contravening the provisions of this section shall, on conviction, be liable in regard to game other than royal game, to a fine not exceeding five pounds, or in default of payment thereof, to imprisonment with or without hard labour for a period not exceeding one month, and in the case of royal game, for the first offence, to a fine not exceeding twenty-five pounds or, in default of payment thereof, imprisonment with or without hard labour for a period not exceeding three months, and for a second or any subsequent offence, to a fine not exceeding fifty pounds, or, in default of payment thereof, to imprisonment with or without hard labour Game licence and royal game licence

No. 11—1908.

for a period not exceeding six months: Provided that any person domiciled outside this Colony, but owning land therein, shall be entitled to obtain a royal game licence in respect of which the sum of three pounds shall have been paid by him, to shoot royal game on his own land within this Colony.

Hunting¹ of
certain ani-
mals prohi-
bited.

3. (1) The hunting of elephants with tusks weighing less than eleven pounds apiece or of cow elephants and hippopotami is prohibited; and any person who shall contravene the provisions of this section shall be liable upon conviction to a fine not exceeding fifty pounds, or in default of payment thereof, to imprisonment with or without hard labour for a period not exceeding six months unless such fine be sooner paid.
- (2) Every elephant tusk weighing less than eleven pounds in the possession of any person shall within six months from the date of this Act be registered by the owner thereof with the nearest Civil Commissioner or Resident Magistrate or Assistant Resident Magistrate, and every such tusk or tusks not so registered shall be liable to confiscation.
- (3) Every Civil Commissioner, Resident Magistrate or Assistant Resident Magistrate shall keep a register of all elephant tusks weighing less than eleven pounds which may be presented to him for registration; and such register shall specify the number and weight of each tusk and the full name and residence of the owner, and the said official shall hand to the owner in respect of each such tusk a certificate of registration in the form set forth in the second schedule to this Act.

Export duty
on horns,
hides, or skins
of royal game.

4. The horns, hides or skins of royal game, and the tusks of elephants and hippopotami shall be subject upon export from the Colony to a duty of twenty per centum of their value at the port of export; and any person exporting or attempting to export any hides, skins, tusks or horns as aforesaid without payment of the said duty shall be liable on conviction to a fine not exceeding ten pounds sterling for every such article exported or attempted to be exported or in default of payment thereof to imprisonment, with or without hard labour for a period not exceeding three months unless such fine be sooner paid; provided that no elephant tusk weighing less than eleven pounds shall be exported, under penalty of confiscation of such tusk when discovered; and it shall be lawful for the Governor to make regulations for the purpose of this section.

Penalty for
being in un-
lawful posses-
sion of flesh,
hides or horns
of royal game.

5. Any person found in possession of the flesh, skins, hides or horns of any royal game shall, unless he can satisfactorily account to the Magistrate for such possession, be liable on conviction to a penalty of not exceeding fifty pounds, and in default to imprisonment with or without hard labour for a

period not exceeding six months. And it shall not be competent for any person found in possession of such flesh, skin, horns or hides, to plead that he has purchased or acquired the same by way of barter or otherwise.

6. It shall be lawful for the Governor to grant special permission to any person to shoot, kill or capture without taking out any licence and at any time any birds or animals whether royal game or not if he is satisfied that they are required for public museums or scientific institutions or for scientific purposes or for domestication or acclimatization. Special permits.

7. Every person to whom the Governor's permit required by law to shoot, kill or capture animals or to remove or take away eggs or the young of game has been issued shall give notice to the Resident Magistrate of the district for which such permit is issued of the date on which he proposes to make use of the permit, and shall return the said permit to the said Resident Magistrate, within fourteen days after the number of animals mentioned therein have been killed or captured, or the eggs mentioned therein have been removed. Notification of date of making use of permits.

8. From and after the taking effect of this Act, the seventh section of the Game Law Amendment Act No. 36 of 1886, shall be read and construed as if the following words were omitted therefrom, namely: "But no penalty under this section shall in any case be enforced unless notice and warning shall have been given personally, or by letter, or in the *Gazette*, or in a local newspaper, by the owner, that he is desirous to preserve the game thereon." Amendment of section 7, Act No. 36 of 1886.

9. No person shall after the taking effect of this Act wilfully kill, catch, capture or hunt in any part of the Colony or attempt to wilfully kill, catch, capture or hunt game of any description except by shooting, save and except under special permit to be issued by the Governor; and any person contravening this section shall be liable to a penalty not exceeding five pounds or in default of payment to imprisonment with or without hard labour, not exceeding one month unless the fine be sooner paid: provided that the foregoing shall not apply to beaters lawfully employed by landowners in hunting large game, or by coursing by landowners or recognized clubs: provided further that it shall be lawful for the owner or occupier of land or for any person authorized thereto by such owner or occupier to kill or capture at any time, in any way, game not being winged or feathered game found injuring crops or plants in cultivated lands, forest, plantation or gardens; and any game so killed or caught under the provisions of this section may be lawfully possessed by such owner, occupier or person, as the case may be, provided that in any prosecution under the game laws for killing, pursuing or shooting at game in the close season, the proof that such game was lawfully killed, pursued or shot at by virtue of the provisions of this section, shall be on the person accused. Provided further that it shall be Hunting of game illegal, except by shooting unless upon permit issued by Governor.
Penalty.
Game injuring crops may be destroyed.

No. 11—1908.

lawful for the Governor, acting on a resolution of two-thirds of the Divisional Council of any division, to extend, by proclamation, the power of killing or capturing game found injuring crops or plants in such division, so as to include the killing or capturing of winged or feathered game.

Hunting of
game by night
may be pro-
hibited.

10. It shall be lawful for the Governor, on the recommendation of any local authority, by proclamation in the *Gazette* and in a newspaper circulating in the area of the local authority concerned, to prohibit the hunting of game at night in such area between such hours as may be recommended by such local authority; and any person contravening such proclamation shall be liable to a fine not exceeding five pounds, or, in default of payment thereof, to imprisonment with or without hard labour for a period not exceeding one month.

Tax on grey-
hounds by lo-
cal authority.

11. (a) Every greyhound or bastard greyhound, save as hereinafter in subsection (b) excepted, shall be subject to an annual tax of five pounds sterling, to be paid by the owner or person in lawful possession to the local authority concerned, on or before a date and at a place to be fixed by such local authority, which tax shall be levied by the local authority concerned under regulations framed by it and approved of by the Governor, and the proceeds thereof shall go to the general funds of such local authority; and the owner or person in possession of any greyhound or bastard greyhound on which the aforesaid tax is payable, failing to pay the same on or before the date fixed by the local authority, and thereafter for one fortnight after written demand, shall be liable, in the discretion of any Court before which an action for the recovery of the tax is brought, to be condemned to pay double the amount of the tax as well as the costs of such action; and in addition, the greyhound or bastard greyhound, the tax on which has been adjudged to be paid as aforesaid, may be destroyed by order of such Court in case the tax so adjudged be not paid within such time as the Court directs; and such dog so ordered to be destroyed may be destroyed in such manner and by such constable or other officer as such Court may direct.

Penalty.

(b) The provisions of sub-section (a) above shall have force only within the area of jurisdiction of a local authority, on the majority resolution of which the Governor shall proclaim the same to be in force, and shall in no case apply to any greyhound the property of or under the control of a member of any duly recognized coursing club, and used for coursing purposes; nor to any greyhound or whippet registered in accordance with the rules and regulations of the South African Kennel Club in the register of such club; nor to any greyhound or bastard greyhound the property of an owner or a lessee

Exemptions
to members
of coursing
clubs, land-
owners, etc.

of land not falling within any municipal or village management board area, so long as it remains under the control and is ordinarily upon the land of such land-owner or lessee; nor to any greyhound or bastard greyhound the property of a resident in a Crown Native location or reserve who is a hut tax payer or holder of a quitrent title, so long as it remains under the control of such resident, and is ordinarily within the limits of such native location or reserve.

12. From and after the taking effect of this Act, the Game Law Amendment Act, No. 36 of 1886, shall be read and construed as if the words "with the exception of springbucks actually migrating, but," in the second section thereof, were omitted therefrom: Provided that the provisions of this clause shall not take effect in any division except upon proclamation by the Governor, issued in compliance with a petition to that effect from the Divisional Council of such division.

Amendment
of Act No. 36
of 1886.

13. Section two of Act No. 38 of 1891, shall be read as if the reference there to the "Game Law Amendment Act, 1886," were to the corresponding section of this Act.

Application
of section 2 of
Act 38 of 1891.

14. If three-fourths of the members of the Divisional Council of any division shall by resolution request the Government to prohibit the sale of game in such division except by land-owners or occupiers of farms in the division in respect of game killed upon the land owned or occupied by them, it shall be lawful for the Governor by proclamation in the *Gazette*, to declare that such prohibition shall be in force in the division named for a period not exceeding three years: provided, that no such resolution shall be valid unless notice of the intention to propose the same shall have been given at an ordinary meeting of the Council previously held and until formal notice thereof shall have been published at least once a week for six weeks in the newspaper in which the notices of the Council are usually published; and on and after the promulgation of the proclamation aforesaid anyone contravening the provisions thereof shall, upon conviction, be liable to a penalty not exceeding ten pounds, or in default of payment thereof to imprisonment with or without hard labour for a period not exceeding one month unless such fine be sooner paid.

Prohibition
of sale of
game.

The prohibition herein referred to shall not however apply to any person who at the time of issue of the proclamation was the holder of a licence to sell game, until the term of such licence shall have expired.

15. (1) Any person contravening any provision of this Act in respect of which no penalty is specially assigned shall be liable for the first offence 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 three months, and for a second or any

Penalty
clause.

No. 11-1908.

subsequent offence to a fine not exceeding fifty pounds, and in default of payment to similar imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine.

- (2) A moiety except where otherwise provided expressly or by implication of all fines recovered under this Act shall be paid to the informer not being an accessory.
- (3) All offences under this Act and all offences against any other law relating to game may be heard and determined, and the penalties provided by the statute may be imposed by the Resident Magistrate.

Repeal of laws.

16. The enactments set out in the First Schedule hereto are repealed.

Short Title and effect.

17. This Act shall be read as one with "The Game Law Amendment Act, 1886," "The Game Law Amendment Act, 1891," and the "Game Law Amendment Act, 1899," and may be cited as "The Game Law Amendment Act, 1908;" and the said Acts may, with this Act, be cited collectively as "The Game Laws, 1886-1908."

Schedule I.

FIRST SCHEDULE.

Provisions of other Acts repealed.

- Section four, Act No. 36 of 1886.
- Section ten, Act No. 36 of 1886.
- Section sixteen, Act No. 36 of 1886.
- Section one, Act No. 38 of 1891.
- Section two, Act No. 33 of 1899.
- Section three, Act No. 33 of 1899.
- Section six, Act No. 33 of 1899.

Schedule II.

SECOND SCHEDULE.

CERTIFICATE OF REGISTRATION.

Number.....

I hereby certify that.....
residing at.....
 has this day exhibited to me an Elephant tusk weighing
pounds, and that it has been duly registered
 by me as required by section three of Act No.....of
 1908, entitled "The Game Law Amendment Act, 1908."

.....
Civil Commissioner.

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

No. 12—1908

[August 7, 1908.]

ACT

To Repeal the "Transfer Duty Reduction Act, 1896."

[Assented to 6th August, 1908.]

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

Preamble.

1. The "Transfer Duty Reduction Act, 1896," is hereby repealed to the extent to which it may affect transactions entered into and successions accruing after the twenty-seventh day of July, 1908, and in respect of all such transactions and successions transfer duty shall be payable in accordance with the provisions of the "Transfer Duty Act, 1884," at the rate of ~~four~~ per cent.

Repeal of Act 10 of 1896

2. This Act may be cited for all purposes as "The Transfer Duty Amendment Act, 1908."

Short Title.

No. 13—1908]

[August 7, 1908.]

ACT

To Amend the Law in regard to the Sinking Funds.

[Assented to 6th August, 1908.]

WHEREAS it is expedient to amend the law in regard to the Sinking Funds and to suspend for the time being certain contributions thereto from the Public Revenue:

Preamble.

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

1. Notwithstanding anything to the contrary in the Sinking Fund Commissioners Act, 1897, Sinking Fund Extension Act, 1900, the Loans Act of 1905 or the Public Loans Act of 1906, all such moneys as are enumerated in the Schedule hereto annexed received during the financial year commencing on the 1st July, 1908, and closing on the 30th June, 1909, shall be regarded as due and be paid to the Public Revenue of the Colony; and if any claim against any of the said moneys shall be established to the satisfaction of the Governor at any time after such moneys have been paid to the Public Revenue of the Colony as aforesaid, it shall be lawful for the Governor to authorize a refund of the same out of sums provided by Parliament for the purpose.

Certain moneys to be regarded as due and to be paid to the Public Revenue.

2. The annual payments from Revenue to the Sinking Fund prescribed by section seven of the Loans Act, 1905, section six of the Public Loans Act, 1906, section two of the Harbour Boards Loan Act, 1905, and section two of the Harbour Boards Loan Act, 1906, respectively, shall be suspended and cease during

Annual payments prescribed by certain Acts to be paid to Sinking Fund to be suspended for one year.

No. 13—1908.

the financial year commencing on the 1st July, 1908, and closing on the 30th June, 1909.

Balances of Sinking Fund Accounts to be for one year made available for certain purposes.

3. Notwithstanding anything to the contrary in the Transvaal Railways Loan Act, 1892, the Crown Lands Disposal Act and Leasing Acts Amendment Act, 1895, the Sinking Fund Commissioners Act, 1897, and the Sinking Fund Extension Act, 1900, the balances, whether invested in Treasury Bills or lying in the Treasury at interest, of the Sinking Fund Accounts under these Acts, with interest thereon shall, during the financial year commencing on the 1st July, 1908, and closing on the 30th June, 1909, be made available towards meeting the annual drawings for debentures payable in London falling due on the 1st December, 1908, 15th April, 1909, and 1st June, 1909, and for the annual contributions to the Sinking Fund under Act No. 14 of 1881—to wit, one per cent. per annum on £3,000,000 Debentures issued under the said Act and four per cent. on such Debentures and Stock issued under that Act as may have been redeemed—and for the annual contribution of £14,861 7s. 2d. to the Special Sinking Fund in connection with the loan raised through the London and Westminster Bank under date 1st December, 1883.

Short Title.

4. This Act may be cited for all purposes as the "Sinking Funds Suspension Act, 1908."

Schedule.

SCHEDULE.

All moneys received during the financial year commencing on the 1st July, 1908, and closing on the 30th June, 1909, either by way of instalment or in full discharge of the capital sum for which any Crown Land shall have been or may be disposed of.

Unclaimed Interest on Public Debt.

Unclaimed drawn or expired Debenture Bonds or other Government Stock.

Proceeds of Unclaimed Property and Stock.

Unclaimed Deposits in Post Office Savings Bank.

Long Outstanding Treasury Drafts.

Surplus Interest on the Administration of Funds belonging to the Post Office Savings Bank.

Proceeds of Customs Rummage Sales.

Surplus Interest and Lapsed Funds from the Master of the Supreme Court.

Sums accruing from void money orders and unclaimed postal notes.

Any sum payable for the purpose of reducing the capital liability of any Government undertaking.

Unclaimed surplus cash in hands of Postmasters and Counter Clerks of the Post and Telegraph Offices.

No. 14—1908.]

[August 21, 1908.]

ACT

To Enable the Governor to enrol a force of Naval Volunteers.

[Assented to 19th August, 1908.]

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

Preamble.

1. It shall be lawful for the Governor to enrol within the Colony British subjects to constitute a force to form a Division of the Royal Naval Volunteer Reserve, established under the Statute 3 Edward 7 Chapter 6, and to serve in his Majesty's Royal Navy, within and beyond the territorial limits of the Colony, and either ashore or afloat, and to be liable when on actual service, or when being temporarily borne on the books of any of His Majesty's Ships and Vessels for instruction, training or exercise, afloat or ashore, to all and several the provisions of any Imperial Statutes relating to Naval Discipline for the time being in force, and to be subject to such regulations and conditions, as may from time to time be made and imposed by the Lord High Admiral or the Commissioners for exercising the office of Lord High Admiral, acting under the authority of the Imperial Legislature, or by the Governor under powers assigned to him by His Majesty in Council under the like authority, in respect of the matters following, viz :—

Establishment of a force of Cape Naval Volunteers.

- (a) The Title, constitution, establishment, and organization of the force, and its general administration ;
- (b) Enrolment, duration of service, disbandment, resignation and retirement of its members ;
- (c) Command, precedence, uniform and decorations ;
- (d) Discipline, offences and punishments in so far as they are not provided for by any Imperial Statute relating to Naval Discipline ;
- (e) Calling out for actual service ;
- (f) Pay, property, finance, and the appropriation of fines :

Provided that in the event of any Volunteer being sentenced under the Naval Discipline Act or any Regulation made under this Act to a term of penal servitude, or of imprisonment exceeding six months, to be served in any of His Majesty's Gaols outside the territorial limits of the South African Colonies he shall, if he so desires, be transferred, as soon as a proper opportunity offers, to one of the gaols or convict stations, as the case may be, in this Colony.

2. All and several the provisions of the law for the time being in force relating to pensions, allowances, gratuities and the like to ordinary Volunteers shall *mutatis mutandis* apply to Volunteers under this Act.

Application of the Law regarding pensions, &c.

5366 THE RAILWAYS ACQUISITION AND CONSTRUCTION ACT, 1908.

No. 14—1908.

Privileges, &c.

3. All and several the provisions of sections ninety-seven *et seq.* of the Colonial Forces Act, 1892, shall apply to Volunteers under this Act, their person, property and equipment, and to the public in respect of them respectively.

Active service.

4. It shall be lawful for the Governor at any time by Proclamation to call out on active service against an enemy or in aid of the civil power in the protection of life and property volunteers enrolled under this Act, and thereupon and for such period as may be agreed upon by the Governor and the Admiral Commander-in-Chief all Volunteers so called out shall be subject to all the duties and liabilities of Volunteers enrolled under the Colonial Forces Act aforesaid, and, as regards the public, shall be deemed to have been enrolled thereunder.

Expenditure to be defrayed from Naval Contribution to the Imperial Government.

5. All expenditure incidental to the carrying out of the provisions of this Act and arising therefrom shall in each year be defrayed out of the contribution of £50,000 towards the annual expenditure by the Imperial Government in connection with the Navy, provided for under Acts 20 of 1898 and 14 of 1902, and in so far as the payment of such expenditure is concerned, the said Acts shall be read and construed as part of this Act.

Short Title.

6. This Act may be cited as "The Naval Volunteers Act, 1908."

No. 15—1908.]

[August 21, 1908.]

ACT

To Amend the "Railways Acquisition and Construction Act, 1906," and to make provision for the Payment of Railway Rates on Certain Goods introduced into the Colony otherwise than by Rail.

[Assented to 19th August, 1908.]

Preamble.

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

Convention for construction and working of Hamilton-Kimberley Railway.

1. The agreement set forth in the Schedule to this Act is hereby substituted for the agreement set forth in Schedule F. of the "Railways Acquisition and Construction Act, 1906," and the ninth section and all other provisions of the aforesaid Act which authorize or in any way apply or refer to the line of railway mentioned in the said Schedule F. shall be read as if they authorised, applied and referred respectively to the line of railway mentioned in the Schedule to this Act and no other, and the Act aforesaid is hereby amended accordingly.

Prohibition of importation of certain goods

2. From and after the date of the completion of the line of railway mentioned in the Schedule hereto and the opening thereof to public traffic it shall not be lawful for any goods, articles or

things which shall have been imported by sea into any South African port and thereafter carried by rail to any place on the line of railway between Hamilton and the eastern boundary of this Colony between the Orange River and the Vaal River to be conveyed in any manner across the said boundary unless and until there be paid in respect of the said goods, articles or things the full railway rates legally payable for the time being upon the same or similar goods, articles or things when carried by rail entirely from the seaport of entry to Beaconsfield.

No. 15-1908.
until payment of railway rates legally payable.

3. (1) For the purpose of carrying out the provisions of Article XV. of the agreement set forth in the Schedule hereto it shall be lawful for the Governor by Proclamation in the *Government Gazette* to establish inland ports of entry at such places as may appear to him to be expedient at, near or along the eastern boundary of this Colony between the Orange River and the Vaal River.

Ports of Entry.

(2) Any person who by himself, his agent or servant, shall import or attempt to import across the said boundary otherwise than by railway any goods imported from oversea except by the ports appointed as aforesaid shall be liable to prosecution before the Resident Magistrate of the District for contravention of this section and on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months and the said goods together with the means of transit employed may be confiscated for the public benefit.

Penalty for importing except by Port of Entry.

4. It shall be lawful for the Governor to appoint officers for the purpose of carrying out and enforcing the provisions of the second section hereof and the said officers are hereby authorized and empowered to collect, either at the inland ports of entry aforesaid or elsewhere from the owner or owners or person in charge of any such goods, articles or things which shall be conveyed across the said boundary, the difference between the full railway rate mentioned in the said Section and the railway rates actually paid in respect of the transit of the said goods, articles and things from the seaport.

Appointment of officers.

5. It shall be lawful for the said officers respectively to detain any goods, articles or things conveyed or attempted to be conveyed across the boundary of this Colony and any vehicle conveying the same for the purpose of inquiry and examination into the country of origin of the said goods, articles or things, and the liability for the payment thereon of the railway rate mentioned in the Second Schedule hereof or any portion thereof and, in the event of any such liability being shown to exist, to detain the said goods, articles and things until the same be duly paid.

Detention of goods and vehicles.

6. Whenever any question shall arise as to the liability for payment of railway rates in accordance with the provisions of this Act upon any goods, articles or things conveyed across the

Proof of payment of rates.

No. 15—1908. boundary of this Colony the onus of proving the amount of such rates which shall have been paid shall be upon the owner or the person in charge of such goods.

Sale of goods
detained.

7. If, at the expiration of six months from the date at which any goods, articles or things shall have been detained in accordance with the fifth section hereof for non-payment of the railway rate or any portion thereof, the full amount payable upon the same shall not have been paid the said goods, articles and things may be sold by order of the Commissioner of Public Works, and the amount due retained by the Government out of the proceeds thereof.

Penalty for
obstructing
officers.

8. Any person resisting, obstructing or interfering with any officer appointed under the fourth section hereof while such officer is in the discharge of his duty and any person removing without lawful authority any goods, articles or things detained by such officer under the provisions of this Act shall be liable to prosecution before the Resident Magistrate of the District for contravention of this section and, upon conviction, to a penalty not exceeding one hundred pounds, and, in default thereof, to imprisonment with or without hard labour for a term of six months.

Barkly
Bridge-Alex-
andria rail-
way gauge.

9. Notwithstanding anything to the contrary provided in the tenth section of "The Railways Acquisition and Construction Act, 1906," it shall be lawful for the Governor to cause to be constructed on the standard Colonial gauge of 3 ft. 6 in. the section between Barkly Bridge and Alexandria of the railway line from Barkly Bridge *via* Alexandria to a point on the Kowie Railway between Round Hill and Port Alfred.

Short Title.

10. This Act may be cited as "The Railways Acquisition and Construction Act, 1906, Amendment Act, 1908."

Schedule.

SCHEDULE.

THIS CONVENTION made and entered into on this the twelfth day of February, 1908, by and between the Honourable HENRY CHARLES HULL, M.L.A., of Pretoria, in the Transvaal, in his capacity as Chairman of the Railway Committee of the Inter-Colonial Council of the Transvaal and Orange River Colonies, and as such acting for and on behalf of His Excellency the High Commissioner and on behalf of the Inter-Colonial Council in whom the Administration of the Central South African Railways is vested (hereinafter called the "Chairman") of the one part; the Honourable JACOBUS WILHELMUS SAUER of Cape Town, in the Colony of the Cape of Good Hope, in his capacity as the Commissioner of Public Works, and as such acting for and on behalf of the Government of the Cape of Good Hope (hereinafter called the "Commissioner"), of the second part; and

the Honourable CHARLES HITCHINS, M.L.A., of Pietermaritzburg, in the Colony of Natal, in his capacity as the Minister of Railways and Harbours, and as such acting for and on behalf of the Government of Natal (hereinafter called the "Minister"), of the third part :

WITNESSETH : THAT WHEREAS by a Memorandum of Agreement bearing date the tenth day of March, 1905, made between the then Acting Commissioner of the Central South African Railways, of the one part, and the Natal Government, of the other part, for the construction, maintenance, and working of a line of railway from Bethlehem to Kroonstad in the Orange River Colony and also for the working of a line of railway from Van Reenen to Bethlehem aforesaid (which agreement is hereinafter referred to as the Bethlehem-Kroonstad Agreement), certain rights and privileges were granted to the Natal Government, *inter alia*, as to rates and fares ;

AND WHEREAS by a Memorandum of Agreement bearing date the fifteenth day of June, 1906, made between the then Chairman of the said Railway Committee of the Inter-Colonial Council, of the one part, and the Commissioner of Public Works of the Colony of the Cape of Good Hope, of the other part, for the construction, maintenance, and working by the Central South African Railways of a line of railway from Bloemfontein to a point on the existing line of Cape Government Railways at or near Kimberley, such point having since been fixed at Beaconsfield (which agreement is hereinafter referred to as the Bloemfontein-Kimberley Agreement), whereby, *inter alia*, certain provisions were made in regard to rates and fares, and it was provided that the said agreement should not be of effect unless and until the Natal Government had consented in writing to waive all rights in respect of oversea traffic arising from the said Bethlehem-Kroonstad Agreement ;

AND WHEREAS by reason of the conditions of the Kimberley-Bloemfontein Agreement not having been fulfilled within the time therein specified the same has become null and void ;

AND WHEREAS it is desirable that an arrangement should be arrived at between the parties hereto, whereby the line from Bloemfontein should be connected with the Cape Railways and satisfactory facilities should be afforded to all the parties hereto for the working of traffic over the said line from Hamilton to Beaconsfield, in such manner, however, as not to divert over-sea traffic from existing Cape routes ;

AND WHEREAS, with that object in view, all the parties hereto met in Johannesburg on the tenth day of February, 1908, and agreed upon the terms and conditions hereinafter contained ;

AND WHEREAS the General Managers of the Railway Administrations concerned herein did, at the said meeting at Johannesburg, advise the parties hereto that regard being had to the relative distances from the existing and possible future

No. 15—1908.

coal mines in the Natal, Transvaal and Orange River Colonies to the coal-consuming Kimberley district (as hereinafter defined), it is necessary for the reasonable protection of railway revenue, and the avoidance of undue competition, that an agreement should be concluded between the several Administrations as to the basis upon which the coal rates within and between the areas concerned shall be calculated ;

AND WHEREAS in order to carry out the arrangements arrived at at the said meeting at Johannesburg it is necessary that a new agreement should be made between the parties hereto :

NOW, THEREFORE, THESE PRESENTS WITNESS :
THAT the said parties do hereby contract and agree in manner following, that is to say :—

ARTICLE I.

Definitions.

- (a) "THE CAPE GOVERNMENT" shall mean the Government of the Cape of Good Hope, administered by the Governor of the Cape of Good Hope.
- (b) "THE CHAIRMAN" shall mean the Chairman for the time being of the Railway Committee of the Inter-Colonial Council or the officer duly appointed to carry out the duties of the Chairman of the Railway Committee ; or any person hereafter administering the Railways of the Transvaal and Orange River Colony or either of such Railways.
- (c) "THE CAPE RAILWAYS" shall mean the entire system of Railways at any time owned and administered by the Cape Government.
- (d) "THE RAILWAY" shall mean the line of Railway from Hamilton to Beaconsfield unless otherwise specially stated.
- (e) "NATAL GOVERNMENT" shall mean the Government of the Colony of Natal and the lines of Railway at any time under its administration.
- (f) "THE EXTENSION" shall mean such portion of the Railway defined in sub-section (d) of this Article as lies between the border of the Orange River Colony and the point of junction with the Cape Railways at Beaconsfield, and shall include the permanent way and all buildings, machinery, plant, material, signalling apparatus, platelayers' cottages, residences for railway servants, sidings, junction works, and all other works connected therewith.
- (g) "KIMBERLEY DISTRICT" shall mean and comprise an area from Fourteen Streams to any point ten miles south of Kimberley Railway Station.
- (h) "LONG-DISTANCE TRAFFIC" shall mean traffic that is conveyed by rail continuously for any distance not being less than two hundred and forty miles.

- (i) "SHORT-DISTANCE TRAFFIC" shall mean traffic that is conveyed by rail continuously for any distance less than two hundred and forty miles. No. 15-1908.
- (j) "BETHLEHEM-KROONSTAD AGREEMENT" shall mean the agreement of the tenth day of March, 1905, as hereinbefore recited.
- (k) "BLOEMFONTEIN - KIMBERLEY AGREEMENT" shall mean the agreement of the fifteenth day of June, 1906, as hereinbefore recited.

ARTICLE II.

The lapsing of the Bloemfontein-Kimberley Agreement shall be without prejudice to any acts, matters, or things that may have been done and performed by the parties hereto or any of them under and by virtue of the said agreement. Cancellation of Bloemfontein-Kimberley Agreement.

ARTICLE III.

The Cape Government agrees to grant to the Chairman the exclusive right to construct, maintain, and work the Extension, subject to the Conditions and Articles hereinafter contained. Granting right to construct and work the Extension.

ARTICLE IV.

The Chairman undertakes to construct and equip, or to effect the construction and equipment of the Extension at his own risk and cost, without any guarantee of interest on the part of the Cape Government; such construction and equipment shall be in accordance with surveys, plans, sections, types, estimates and specifications previously approved by the Cape Government or the officer appointed by the Cape Government for that purpose; and the Chairman further undertakes to bear the cost of the necessary junction works and appliances at Beaconsfield, and of providing such buildings at Beaconsfield (or other exchange station mutually agreed upon) as may be necessary for the accommodation of the staff required to work the Railway. The cost of working such junction shall be borne by the Chairman and the Cape Government, and the proportion to be borne by each party shall be hereafter settled by mutual agreement. The Chairman to construct Extension.

ARTICLE V.

The Cape Government undertakes from time to time and whenever called upon to do so by the Chairman (and at the cost of the latter when compensation has to be paid) to do or cause to be done all things necessary in order to provide and vest in the Chairman, free from liability to be expropriated save as hereinafter provided, all land necessary for the construction, working and maintenance of the Extension (including land required for the raising and carrying of materials, sites for signal stations, platelayers' cottages, residences for railway servants, and watering places for railway purposes). Provision of land.

No. 15—1908.

ARTICLE VI.

Telegraphs and tele-
phones. The Chairman agrees and is hereby empowered to lay along the Extension a line of telegraphs, telephones, or other line of scientific communication to be used for the purpose of, and in connection with, the said Railway, but not otherwise except where specially required by the Cape Government, in which case the Cape Government shall make provision for the transmission of messages on terms to be mutually agreed upon from time to time.

ARTICLE VII.

Fencing. The Chairman shall be bound properly to fence the Extension.

ARTICLE VIII.

Connections with private sidings or other lines. The Chairman shall not permit any connections to be made with the said Extension either in the nature of private sidings or connections with other lines of railway without the approval of the Cape Government being first had and obtained; nor shall the Chairman permit any connections to be made between the Railway and any lines or sidings in the Cape Colony, save and except the Extension the subject of this agreement; the Chairman shall, however, be at full liberty to make or form any junctions he may think fit with that portion of the railway which lies between Bloemfontein and the Cape border, but upon the express condition that, should any such junction be established, the rate for overseas traffic shall be regulated by the terms of this Convention, which shall apply *mutatis mutandis* to the whole of such additional junction line between the point of junction with the Railway and the now existing main line in the Orange River Colony from Norvals Pont.

ARTICLE IX.

Expropriation of Extension. The Cape Government is hereby empowered during the continuance of this Convention to take over the Extension (rolling stock excepted) as a going concern after the expiration of not less than six months' written notice of its intention to exercise the power, such notice to be duly served upon the Chairman; provided, however, that nothing in this Article shall be construed as empowering the Cape Government to take over a portion only of the extension, buildings, and appurtenances or any of them.

ARTICLE X.

Payment of on expropriation. On taking over the Extension, as provided in the last preceding Article, the Cape Government shall pay to the Chairman in consideration therefor the actual cost of the said Extension, that is to say, the original actual cost of construction (exclusive of the cost of rolling stock), plus the actual cost to the Chairman of compensation for expropriation of land, supervision, and betterment/duly approved by the Cape Government. Such payment to be made in cash *pari passu* with the taking possession by the Cape Government by virtue of such expropriation.

ARTICLE XI.

No. 15-1908.

The following provisions as to rates and fares, other than for the conveyance of coal, shall be binding until such time as they are revised by mutual consent:—

Rates and fares for general traffic.

Oversea traffic to Beaconsfield, Kimberley, &c., via the Railway.

Oversea traffic, East London to Kimberley via Cookhouse and De Aar and via the Railway.

Differences —Port Elizabeth and East London to Kimberley.

Differences —Durban and East London to Beaconsfield, etc., via the Railway.

Rate for S. A. P. over the Railway.

- (a) The rates to be charged on the railway for all oversea traffic shall be fixed so that the sum of the port rate from any South African port to Hamilton or other station, plus the rate therefrom to Beaconsfield, Kimberley, or other station beyond the point of junction of the Railway with the existing Cape Railways shall not be lower than the rate for the time being from East London via Cookhouse and De Aar to Beaconsfield, Kimberley, or other station, as the case may be; provided always that in the case of such other station being south of the point of junction there shall be added to the rate to Beaconsfield via the new line a sum equal to the rate over the Cape Government Railways for the distance from Beaconsfield to such other station.
- (b) The rates for oversea traffic from East London to Kimberley via the Railway shall be the same as from East London to Kimberley via Cookhouse and De Aar.
- (c) The differences in rates between Port Elizabeth to Kimberley and East London to Kimberley by the throughout Cape route shall not exceed the amount of the differences at present existing.
- (d) Subject to the provisions of sub-section (a) hereof the differences in rates from Durban or any other South African Port to Beaconsfield or Kimberley via the Railway and from East London to Beaconsfield or Kimberley via the Railway shall be the amount from time to time obtaining as the difference of the rates from Durban or such other port and East London respectively to Hamilton.
- (e) There shall be an uniform rate (i.e., a rate which does not differentiate between the produce of the several territories of the parties to this Convention) for each class of South African produce over the Railway, and such shall not be less than the rate per ton per mile charged for similar produce grown in the Cape Colony over other lines of railway in the Orange River Colony; provided, however, that in case the Cape should charge a lower rate per ton per mile to Beaconsfield or Kimberley than is charged under the said uniform rate, then and in such case the Chairman shall have the right to reduce the said uniform rate per ton per mile over the Railway, but not necessarily over other lines in the Orange

No. 15—1908.

River Colony in the case of long-distance traffic to an amount not less than thirty-three and one-third per cent. in excess of such rates as are charged by the Cape Government, and in the case of short-distance traffic to the level of such rates.

Division of receipts with Cape before expropriation

(f) Before the Cape Government has taken over the Extension in terms of Article IX., the revenue derived from through goods traffic charged at through rates *via* the Railway into Beaconsfield or Kimberley or other stations and *vice versa* shall be divided by mileage after deduction of terminals of three shillings per ton at each end for classes rough and higher, and tenpence per ton for classes lower than rough, but in those cases where the sum of the local rates is charged, each administration shall be credited with the charges raised on its behalf.

Division of receipts with Cape after expropriation.

(g) After the Cape Government has taken over, in terms of Article IX., the Extension, the rates on Traffic over the Railway shall be divided by mileage according to the length owned by each Administration concerned, terminals as may be mutually agreed to being first deducted in respect of work performed at port, cartage or other stations.

Conveyance of certain traffic *via* Natal *via* Bethlehem-Kroonstad route.

(h) Save and except coal, all traffic, including traffic originating from oversea consigned from Natal stations to Bloemfontein and stations on the Railway, including Beaconsfield, and stations beyond in any direction, which is carried over the Central South African Railways in the Orange River Colony at a rate not exceeding one penny per ton per mile, plus terminal charges, may, if desired by the Natal Government, be conveyed over the Bethlehem-Kroonstad-Bloemfontein route at the through rate leviable by the Bethlehem-Modderpoort-Bloemfontein route.

Traffic from stations other than seaports

(i) No Administration shall, on traffic *via* the Railway originating from oversea, be entitled to charge from stations other than seaport stations to Beaconsfield or stations beyond, such rates as are less than the difference between the port rate to any such station and the same port rate to Beaconsfield or stations beyond, *via* the Railway.

Duty of Station Masters at such stations.

(j) In order that effect may be given to the provisions of Article XI. (a), it shall be the duty of the Station Masters at the stations referred to in the previous subsection to see that the goods forwarded are properly entered up at the amount of the difference between the through port rates *via* the Railway to Beaconsfield or stations beyond and the amount already earned as railway carriage from the seaport.

(k) The fares for through passenger traffic on the Railway shall be charged at the mileage rate in force from time to time on the Central South African Railways. No. 15-1908.
Through passenger fares.

ARTICLE XII.

The following provisions as to rates to be charged for the conveyance of coal to the Kimberley district shall be binding until such time as they are revised by mutual consent :— Rates for coal traffic.

(a) Each party hereto shall be free to charge such rates for the conveyance of coal as he may think fit, subject always to the condition that for the conveyance of coal from Natal, Transvaal, or Orange River Colony the rate for such conveyance shall not be less than decimal six of a penny (.6d.) per ton per mile; provided, however, that one party hereto shall not have the right, except by the mutual agreement of all the said parties, to charge on coal consigned from another party more than decimal six of a penny per ton per mile; provided, however, that in case it should be found that coal is being carried over the Cape or other lines at such low rates as to constitute undue competition the Central South African and Natal Administrations shall be free in consultation with each other to reduce the rates below .6d. per ton per mile over either or both of their respective Administrations. Coal rate.

(b) Such rates shall apply to the throughout mileage and shall be divided between the Administrations concerned according to the mileage over which such traffic is hauled; provided, however, that this method of division shall not apply to coal conveyed from Vierfontein under a special contract between the Chairman and the De Beers Consolidated Mines, Limited, dated the 16th day of November, 1907, in which case the Cape Government shall receive in division for the distance Fourteen Streams to Kimberley at the rate of decimal nine of a penny (.9d.) per ton per mile, but this shall in no way affect the total through rate. Division of receipts.

(c) The basis for calculation of such rates shall be according to mileage, and the parties hereto shall have the right to make an addition to this basis for short-distance traffic according to the tariff now operating on the lines of the Central South African Railways. Basis of calculation.

(d) It shall be free to the Natal Government when it so desires to convey coal (from its lines to the Kimberley district) via the Bethlehem-Kroonstad Line at the rate chargeable under this Article via the Bethlehem-Modderpoort route, subject, however, to the condition that in such case the Natal Government shall pay to the Chair- Option of Natal as to route to be conveyed.

No. 15—1908.

No terminal charges on coal traffic leviable by Cape. Conveyance of Cape loco. coal.

man out of its proportion of the through rate a sum of eight pence per ton on the coal so conveyed *via* the Bethlehem-Kroonstad route.

- (e) The Cape Government shall not be entitled to charge any terminal charges on coal traffic conveyed over the Railway to Beaconsfield or Kimberley.
- (f) The Chairman undertakes to place the Cape Government, so far as concerns the conveyance *via* the Railway of coal for the purpose of the Cape Railways, in a no worse position in regard to rates and other facilities than those obtaining from time to time over the existing Orange River Colony Trunk Line from Vereeniging to Norvals Pont and Bethulie.

ARTICLE XIII.

Rates on traffic not otherwise provided for herein.

The rate to be charged in respect of traffic conveyed over the Railway not otherwise provided for in this Agreement shall not be less than the through or local rate, as the case may be, in force from time to time on the Central South African Railways; provided that in the event of the Cape Government exercising in respect of the Extension the powers reserved to it in Article IX. the Cape Government shall have the right to charge over the Extension in respect of traffic dealt with in this sub-section such rates in through or local traffic, as the case may be, as are in force from time to time on the Cape Railways.

ARTICLE XIV.

Further provisions as to rates and division of receipts.

Division of certain receipts in O. R. C. between N.G.R. and C.S.A.R.

The following further provisions as to rates chargeable in respect of traffic consigned to or over the Railway and as to routes shall apply and be binding upon the parties hereto :—

- (a) The revenue earned by the Central South African Railways and the Natal Government within the Orange River Colony in respect of the classes of traffic referred to in Article XI. (h) when conveyed by the Bethlehem-Kroonstad route shall, after the deduction of three shillings per ton in respect of traffic of the rough and higher classes and tenpence per ton in respect of classes lower than rough for terminal services at terminal stations in the Orange River Colony, be divided by mileage between the Central South African Railways and the Natal Government on a mileage basis calculated on the distances the traffic is carried over each Administration's lines in the Orange River Colony. When traffic is carried through from border to border no terminal deduction shall be made on behalf of the lines in the Orange River Colony. The provisions of this clause apply only to stations on the Railway.

- (b) The Natal Government, subject to the conditions of Article XIII. hereof, shall, with regard to all traffic the rates in respect of which are not specially provided for herein, receive during the continuance of this Convention as favourable treatment as may be granted from time to time for other traffic of a similar description and consigned for similar distances travelling over the whole or any portion of the Railway. No. 15—1908.
Favourable treatment to Natal.
- (c) For the purpose of calculating rates on traffic the Railway shall be as hereinbefore defined, it being agreed that Kimberley shall be the terminal station in the case of traffic proceeding north and Beaconsfield shall be the terminal station in the case of traffic proceeding south; provided, however, that in regard to the portion of the line between Beaconsfield and Kimberley nothing in this sub-section shall be construed as a waiver of the rights of the Cape Government to its proportion of rates on its mileage and for terminal and other services, except in the case of coal for Beaconsfield or Kimberley as hereinbefore provided. Adoption of Beaconsfield and Kimberley as terminal stations for rates calculating purposes.
- (d) In case the traffic from East London and intermediate stations should increase in volume to such an extent that the Cape Government finds undue delays are occasioned in consequence of traffic being forwarded by an all-Cape route, then and in such case advantage shall be taken of the Orange River Colony route for the conveyance of the surplus traffic. Surplus traffic at East London.
- (e) No party hereto shall grant any rebate, preferential rate, or other benefit which shall in any way affect the true intent and meaning of this Convention. Granting of rebates, etc., forbidden.

ARTICLE XV.

With a view to preventing the conveyance of oversea traffic to Beaconsfield or other places in the Cape Colony partly by rail and partly by road, the following measures shall be adopted by the Orange River Colony and Cape Governments:— Measures to prevent evasion of agreement by wagon competition.

- (a) Inland ports of entry shall be established by the two Governments concerned at or near the point where the Railway crosses the border; and at such other place or places as may be agreed upon. Inland ports of entry.
- (b) If traffic originating oversea and carried to any point on the Railway is carried by road from any place in the Orange River Colony into the Cape Colony the Cape Government may, when such traffic crosses the border, collect the difference between the transport charges by rail already earned and the through port rate, and may apply the proceeds in such manner as it may think fit. Collection of balance of charges.

No. 15—1908.

Necessary legislation.

Prevention of smuggling at Border.

- (c) The Cape and Orange River Colony Governments shall, with as little delay as possible, carry through such legislation as may be necessary for carrying the provisions and intention of this Article into effect.
- (d) The Orange River Colony Government shall take such measures as may be necessary in co-operation with the Cape Government, either by way of policing or otherwise, to ensure the proper and effective enforcement of the provisions and intention of this Article; the cost of policing within the Orange River Colony only to be borne by the Orange River Colony Government, and they shall render such assistance to the Cape Government as they are able for the purpose of assisting the Cape Government in recovering any sums of money that may be due on road transport under this Article or for procuring convictions against those who may contravene the said law providing for inland ports of entry.

ARTICLE XVI.

Ton. A ton shall be held to mean 2,000 (two thousand) lbs.

ARTICLE XVII.

Working agreement to be framed.

The Chairman and the Cape Government undertake that the working of the traffic between their respective lines shall be regulated by the terms of a working agreement to be entered into between the General Managers of the Cape Government and the Central South African Railways, and agree that such working agreement may be modified by mutual arrangement. Further, it is understood that the character of the arrangements for the working and interchange of traffic shall correspond in their nature in so far as the respective conditions allow with those obtaining for the time being between the Cape Railways and Central South African Railways for the working and interchange of traffic at the border stations at Norvals Pont, Bethulie and Warrenton so long as they form the interchange stations between the Cape Railways and the Central South African Railways.

ARTICLE XVIII.

Rolling stock. Returning of trucks to parent line.

- (a) It is agreed that trucks and other rolling stock which may be sent with traffic from the lines of one Administration to those of the other shall be returned to the parent line by any of the direct routes then existing; provided that in the case of Cape trucks the Cape Railway shall have the right to call upon the Chairman to return the trucks by the route adopted on the forward journey until all the requirements of the Cape Railways in the way of coal supply from the Orange River Colony or Transvaal are met.

- (b) Similarly the Chairman shall be entitled to call upon the Cape Railways to return empty trucks belonging to the Central South African Railways or other Administrations by the route adopted on the forward journey. No. 15—1908.
Returning of trucks to parent line.
- (c) The Cape Government shall be allowed by the Central South African Railways or the Natal Government, as the case may be, forty-eight hours, exclusive of Sundays and Public Holidays, free of truck hire to haul, off-load, and return to the Central South African Railways trucks owned by the Natal Government Railways or the Central South African Railways used for conveying Transvaal, Orange River Colony, or Natal coal to Beaconsfield or Kimberley. Free period to be allowed to Cape.

ARTICLE XIX.

The Chairman undertakes to convey over the Extension all letters, newspapers, parcels, and other postal matter usually conveyed through the post at a rate not higher than that which is charged from time to time by the Cape Railways for similar services performed on similar lines in the Cape Colony. Rate for mails and other postal matters.

ARTICLE XX.

The Chairman shall keep all necessary books and accounts as customary, which shall show specifically the cost of construction and equipment of the Extension, and the said books and accounts shall be open at all times to inspection by any person appointed in writing by the Cape Government, and such person may take such extracts from such books and accounts as he may think proper. The Chairman shall also furnish to the Cape Government accounts showing the actual cost of the construction and equipment of the said Extension. Accounts showing cost of construction and equipment.

ARTICLE XXI.

The Chairman shall appoint an accredited agent in the Colony of the Cape of Good Hope to sue or to be sued in any of the Courts of the said Colony in connection with any matters concerning the said Extension; similarly the Cape Government shall appoint an agent in the Orange River Colony. Accredited agents to be appointed.

ARTICLE XXII.

All disputes or differences arising during the continuance of this Agreement between the parties hereto or any two of them shall be determined by arbitration. Arbitration.

ARTICLE XXIII.

The parties hereto undertake to obtain all such authorities and powers as may be necessary in order to enable them to carry out Ratification.

No. 15—1908. the provisions of this Convention as soon as may be, and failing the obtaining of such authorities and powers within a period of twelve months from the date of entering into these Presents, this Convention shall become null and void, unless the contracting parties shall mutually agree to allow further time for the obtaining of the same.

ARTICLE XXIV.

Duration. This Convention shall remain of force for a period of seven years from the date of the opening of the Railway to Beaconsfield Station, after which it shall be terminable by either party hereto on giving six months' written notice to the others of its intention to withdraw herefrom. If, on the termination of such notice, no new agreement has been arrived at between the parties, the expropriation of the Extension shall *ipso facto* operate in the same manner as though proper notice of expropriation had been given under Article IX. hereof.

ARTICLE XXV.

Ratification of Bethlehem-Kroonstad Agreement except as provided herein. The provisions of this Convention shall during the continuance thereof supersede the provisions of the said Bethlehem-Kroonstad Agreement so far as they are in conflict with the same, but in all other respects the said Bethlehem-Kroonstad Agreement shall remain of full force and effect.

As WITNESS the hands of the said parties the day, month and year first-above written in the presence of the subscribing witnesses.

AS WITNESSES :

R. H. BRAND.
FRANK FINDLAY.

(Sgd.) H. C. HULL,
Chairman.

AS WITNESSES :

W. H. S. BELL.
WALTER S. WEBBER.

(Sgd.) J. W. SAUER,
Commissioner.

AS WITNESSES :

W. H. S. BELL.
WALTER S. WEBBER.

(Sgd.) CHARLES HITCHINS,
Minister.

No. 16—1908.]

[August 21, 1908.

ACT

To Provide for the expropriation, for the purpose of Burial Grounds, of land in which persons who died in Burgher Concentration or Refugee Camps during the Anglo-Boer War of 1899-1902 have been buried.

[Assented to 19th August, 1908.]

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

Preamble.

1. The provisions of the Act No. 14 of 1900, commonly called the "Imperial, Colonial and Republican Forces Burial Grounds Act, 1900," shall apply to any land in which persons who died in burgher concentration or refugee camps during the continuance of the Anglo-Boer war of 1899-1902 have been buried.

Provisions of Act 14 of 1900 to apply to concentration or refugee camps burial grounds.

2. Notwithstanding anything to the contrary contained in Proclamation No. 220 B.B., 1895, the "British Bechuanaland Annexation Act, 1895," or any other law, it shall be lawful for the Governor without payment of compensation therefor to divert from the purposes of a location so much of any native reserve in Bechuanaland as has been used as a cemetery for the burial of such persons as are mentioned in the last preceding section.

Diversion of native locations in Bechuanaland.

3. This Act may be cited as the "Imperial, Colonial and Republican Forces Burial Grounds Extension Act, 1908."

Short title.

No. 17—1908.]

[August 28, 1908.

ACT

To Further Amend the Provisions of Acts Nos. 27 of 1893 and 16 of 1906, entitled the "Animal Diseases Act, 1893," and the "Animal Diseases Act Amendment Act, 1906."

[Assented to 26th August, 1908.]

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

Preamble.

PART I.—EPIZOOTIC DISEASES, INCLUDING EAST AFRICAN COAST FEVER.

1. The provisions of this part of the Act shall apply only to East African Coast Fever and to such other similarly dangerous epizootic, contagious or infectious diseases among animals which may be duly proclaimed as such.

What diseases this Act shall apply to.

No. 17—1908.

Fencing of
lands.

2. It shall be lawful for any person duly authorized thereto in writing by the Minister and for his agents and servants to enter at all reasonable times upon any land for the purpose of erecting or maintaining any fence necessary for checking the spread of any disease to which this part applies and to do thereon such acts, matters and things as are necessary or reasonably required to carry into effect the erection, repairing, maintenance or removal of such fence, or the placing or closing of gates therein: provided that no private fence shall be so removed without the consent of the owner, and provided further that when in the opinion of the Minister there shall be no further use for any fence so erected, the said Minister shall give the owner or owners of the land in which such fence has been erected, the option to take the same over at a price to be mutually agreed upon, and in the event of no such agreement being arrived at, such price to be determined by arbitration in terms of the "Arbitration Act, No. 29 of 1898."

Penalties
for damaging
fence and ob-
struction.

3. Any person convicted of breaking, damaging or in any way interfering with any fence erected under the terms of the last preceding section, and any person obstructing any duly authorized person in the lawful execution of his duty under this Act, or preventing such person, his agents or servants from entering upon his land for the purposes aforesaid, shall be liable to the penalties provided for by section fourteen of the "Animal Diseases Act, 1893."

Establish-
ment of cor-
don or belt
and removal
of cattle
therefrom.

4. It shall be lawful for the Governor, whenever the same may appear to him to be necessary for the purpose of checking the spread of any disease as aforesaid, to establish by proclamation a cordon or belt of country of such width and extent as may be defined in such proclamation, and thereupon it shall be lawful for the Minister to cause any animal to be moved out of such belt of country to any other ground occupied by the owner of such animal, or which may be provided for the purpose, and it shall not be lawful to bring or cause or allow any such animal to be introduced into such belt or cordon while it remains proclaimed as aforesaid.

Disposal of
cattle and
compensa-
tion.

5. It shall be lawful for the Governor, in addition to the powers conferred upon him in the last preceding section, to confiscate and destroy or otherwise dispose of all or any animals found within any such cordon or belt proclaimed as aforesaid: provided that the owner or occupier of any land within such belt shall be entitled to fair and reasonable compensation for any loss or damage sustained by him in consequence of the establishment of such belt as aforesaid, such compensation to be assessed by a Board or Boards constituted in manner similar to Boards convened under section nine of the "Animal Diseases Act, 1893"; provided further that, in fixing the amount of compensation under this section, the risk of loss from contagious or infectious disease to such owner or occupier if animals belonging

to him were allowed to remain within such belt, shall be taken into consideration. No. 17-1908.

6. In order to check the spread of any disease as aforesaid it shall be lawful for the Governor, by proclamation, to declare that any main or divisional or public road or thoroughfare in any district of the Colony, whether proclaimed as infected with such disease or not, shall be closed to all ox transport for such period as may in such proclamation be fixed. Closing of roads to ox transport.

PART II.—EAST AFRICAN COAST FEVER.

7. Notwithstanding anything to the contrary contained in section twelve of Act No. 27 of 1893, it shall be lawful for the Governor, whenever the disease known as East African Coast Fever shall be known or suspected to exist among animals in any district or districts, whether situated within or beyond the boundaries of this Colony, to declare the district or districts contiguous or adjacent thereto in this Colony or any area in this Colony embracing or forming part of such district or districts to be a suspected district or area, and to prohibit the removal from such suspected district or area or from any farm, commonage, location or other land within such suspected district or area of any horned cattle or animal produce or any article or thing, which, in the opinion of the Governor, would be liable to convey ticks or cause infection, whether the same are or are not affected with the disease aforesaid. Quarantine of district or area contiguous to infected district or area.

8. Notwithstanding anything to the contrary contained in the third section of Act No. 16 of 1906, whenever the disease known as East African Coast Fever shall be proved to the satisfaction of any Resident Magistrate or any Government Veterinary Surgeon to exist in any district, it shall be lawful for such Resident Magistrate or any Government Veterinary Surgeon or other officer authorized thereto in writing by the Minister to declare by notice inserted in the newspaper or newspapers chiefly circulating in such area the whole or any portion of such district an area affected with East African Coast Fever and by such notice to prohibit the removal by the occupier or occupiers from any farm, commonage, location or other land on which any cattle in such district are, of all horned cattle or animal produce or any article or thing which, in the opinion of such Resident Magistrate or Government Veterinary Surgeon would be liable to convey ticks or cause infection, whether the same are or are not affected with the disease aforesaid. Resident Magistrate or Government Veterinary Surgeon empowered to prohibit movement of horned cattle, etc. from place to place within areas infected with East African Coast Fever.

9. Whenever East African Coast Fever is known to exist among cattle in any district or districts and the Governor shall by proclamation under the provisions of the twelfth section of Act No. 27 of 1893 declare such district or districts or any area embracing or forming part of such district or districts to be an infected district or area, it shall be lawful for the Governor at the same time to prohibit or to issue regulations for control- Governor may prohibit or regulate movement of horned cattle, etc. from place to place within areas proclaimed as infected with East African Coast Fever.

No. 17—1908.

ling the removal from any farm, commonage, location or other land within such district or area of any horned cattle or animal produce or any article or thing which, in the opinion of the Governor, would be liable to convey ticks or cause infection, whether the same are or are not affected with the disease aforesaid.

Removal of non-infected cattle from proclaimed suspected district.

10. Notwithstanding anything to the contrary contained in the seventh section, it shall be lawful for the Governor to permit the removal of any animals not infected with disease which are within a proclaimed suspected district or area, to any district or area not proclaimed as suspected or infected: provided that no such removal shall take place before the animals have been disinfected under the supervision of an officer appointed by the Government by dipping in or spraying with a cattle dip approved by the Minister; and provided further that the temperatures be taken of all such animals before removal.

Animals found affected with East African Coast Fever.

11. It shall be lawful for the Minister, whenever under the provisions of section nine of Act No. 27 of 1893, any animal has been found affected with the disease known as East African Coast Fever, to cause the immediate destruction both of such animal and of all other animals which have been in contact with the same and are liable to be infected; compensation being payable to the owner of cattle so destroyed of an amount to be assessed by the Board convened under the said section in accordance with the tariff set forth in the schedule to this Act: provided, that in assessing the amount of such compensation the said Board shall, in the case of in-contact cattle, take into consideration the value of the carcasses.

PART III.—GENERAL.

Destruction of animals illegally introduced.

12. Whenever a proclamation in terms of the fifth section of Act No. 27 of 1893 shall have been issued, any animal or animals which may be landed or otherwise introduced into this Colony contrary to the prohibition in such proclamation contained or in contravention of any regulations which may be issued in terms of the sixth and seventh sections of the said Act may be immediately destroyed or otherwise disposed of at the discretion of the Minister, or any officer thereto duly authorized by him in writing, without payment of compensation.

Compensation: when not payable.

13. Notwithstanding anything to the contrary contained in the second section of Act No. 16 of 1906, no claims for compensation in respect of any animal or animals destroyed in terms of the said section shall exist if the owner of such cattle shall be convicted of a contravention of the eighth section of Act No. 27 of 1893 in respect of the said animal or animals.

Rules and regulations.

14. It shall be lawful for the Governor, by proclamation, to make rules and regulations for all or any of the following purposes, that is to say:—

- (a) For the quarantine, isolation, care, safe-keeping or other treatment of any horned cattle or any other animals in any district or area within the Colony proclaimed as provided by section seven of this Act.
- (b) For the dipping, spraying or disinfection and branding of all cattle in proclaimed suspected districts and areas, and for the burial or burning of the carcasses and hides of all cattle destroyed under section eleven of this Act.
- (c) For the burning of the grass on any farm or land within any proclaimed infected or suspected district or area after the destruction or removal of any cattle thereon or therefrom in terms of this Act.
- (d) For the purpose of exempting from the operation of the provisions of this Act cattle kept for the purpose of giving milk for domestic consumption on condition that such cattle are kept in a stable or other building or structure approved by a Government Veterinary Surgeon.
- (e) Generally for the purpose of carrying out all or any of the provisions of this Act.

15. From and after the date of promulgation of this Act, it shall not be lawful for any person, other than a duly qualified Veterinary Surgeon in the employ of the Colonial Government or persons specially authorized thereto by the Minister in writing, to test any animal with mallein or tuberculin for any purpose whatsoever.

Use of mallein and tuberculin.

16. Whenever any animal shall be destroyed under the provisions of Act No. 27 of 1893, Act No. 16 of 1906, or this Act, as being affected with glanders or tuberculosis and the owner of such animal shall not be satisfied that the same was affected with such disease, the Minister shall cause such portions of the destroyed animal as are believed to be affected to be removed to the nearest Government Veterinary laboratory, there to be treated for the purpose of ascertaining whether the said portions are actually affected with the disease in question, provided that in each case a copy of the report shall be sent to the owner of the animal or animals destroyed.

Report on animals destroyed.

17. The term "Resident Magistrate" shall, for the purpose of Acts Nos. 27 of 1893 and 16 of 1906 and this Act, be taken and deemed to embrace detached Assistant Resident Magistrates.

Assistant Resident Magistrates to have jurisdiction.

18. Any person contravening any of the provisions of this Act or of any proclamation duly issued or regulation duly made under the provisions thereof shall be liable, on conviction, to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment with or without hard labour for any period not exceeding three months, unless such fine be sooner paid.

Penalty.

19. This Act may be cited for all purposes as the "Animal Diseases Act Amendment Act, 1908," and shall be read as one with the "Animal Diseases Act, 1893," and the "Animal Diseases Act Amendment Act, 1906."

Short Title.

No. 17—1908.

SCHEDULE.

Schedule.

TARIFF OF COMPENSATION UNDER THE PROVISIONS OF SECTION TWELVE.

For in-contact cattle :—

Bull	not exceeding	£15
Cow, including three year old heifers...	not exceeding	£10
Oxen, including three year olds ...	not exceeding	£6
Two year old cattle	not exceeding	£3
One year old cattle	not exceeding	£1 10s.
Calves	not exceeding	£1

For infected cattle :—

One-fourth the value which would have been assessed if the cattle had been in-contact and not infected.

No. 18—1908.]

[August 21, 1908.

ACT

To Add to and amend the law regulating the Borough Council and Government of Kimberley.

[Assented to 19th August, 1908.]

Preamble.

WHEREAS it is expedient to add to and amend the existing laws regulating the Borough Council and Government of the Borough of Kimberley, and with that object to confer upon the Borough Council of Kimberley increased rights, powers and privileges with regard to grants to public institutions, contributions to public functions, grants of pensions and gratuities, building regulations and overdue rates.

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

Grants to public institutions, etc.

1. The Council may contribute annually out of the Borough revenues, such sums of money as to the Council may from time to time seem fit and proper towards the relief of the poor and in aid of museums, gardens, parks, baths, places of recreation, or other institutions intended for the use of the inhabitants of Kimberley or any section thereof; but no Council shall have power to bind any succeeding Council by any promise of a future contribution.

Council may contribute to public functions, etc.

2. The Council may from time to time out of the Borough revenues other than rates, pay such sums as it may deem fit, not exceeding the sum of one thousand pounds sterling per annum without the consent of the ratepayers, towards receptions of distinguished persons, public functions, public demonstrations or Congresses, and to defray the expenses of the representation of the Council as such on any such occasion.

Council may grant pensions and gratuities.

3. The Council may pay to such officers and servants of the Borough as shall be superannuated or become unfit for duty,

such pensions or retiring allowances and may pay such allowances and gratuities to the wives and families of deceased officers or servants as they may deem proper and expedient: provided that no such pension, allowance or gratuity shall in any case be paid until a resolution approving of the granting thereof shall have been adopted by a majority of ratepayers present at a meeting called for that purpose by the Council, of which the date, place, and object shall have been duly notified at least fourteen days previously by advertisement in one or more newspapers circulating in the town of Kimberley.

No. 18—1908.

4. The Council may from time to time make, alter, revoke or amend rules and regulations for enabling the Council to prevent the alteration, erection or use of buildings, the class or character of which, either in themselves or from the circumstances or nature of the locality in which they are or are intended to be placed, may be considered by the Council a disfigurement to the town, or an annoyance to the inhabitants, or not a suitable structure for the locality. After any such regulation has been passed by the Council a copy of the same shall be posted in the Town Hall and a notice published in one or more local newspapers calling attention thereto, and three months after such notice shall have been advertised it shall be submitted for the approval of the Government, and if approved shall be published in the *Gazette* and thereupon shall have the force of law in the Municipality.

Matters upon which regulations may be made.

5. If any rates made or levied under the provisions of the Kimberley Borough Act No. 11 of 1883 as amended by the Kimberley Borough Amendment Act No. 30 of 1884, shall remain unpaid after three months from the date fixed by the Council for the payment thereof, interest upon such rates may be charged and recovered by the Council at the rate of six per centum per annum, reckoned from the date upon which such period of three months shall expire.

Interest chargeable on overdue rates.

6. This Act should be read as one with the Kimberley Borough Act No. 11 of 1883.

Acts to be read together.

7. This Act may be cited for all purposes as "The Kimberley Borough Act, 1908."

Short title.

No. 19—1908.]

[August 21, 1908.]

ACT

To Amend "The Wine, Brandy, Whisky and Spirits Act, 1906," and to Regulate the Sale of Beer and Vinegar.

[Assented to 19th August, 1908.]

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

Preamble.

No. 19—1908.

1. This Act may be cited for all purposes as "The Wine, Spirits, Beer and Vinegar Act, 1908."

I. INTRODUCTORY.

Administering Officer.

2. The Officer appointed by the Governor to administer "The Wine, Brandy, Whisky and Spirits Act, 1906," shall also administer this Act.

Appointment of analysts.

3. Any analyst who has been or may be appointed by the Governor under the provisions of the third section of "The Wine, Brandy, Whisky and Spirits Act, 1906," shall also be an analyst for the purposes of the provisions of this Act, provided that he shall not be engaged, directly or indirectly, in any trade or business connected with the sale of beer or vinegar.

Act to override contrary legislation.

4. Notwithstanding anything to the contrary contained in "The Sale of Food and Drugs, and Seeds Act, 1890," or in any other Act, the provisions of this Act shall prevail.

II. WINE.

Addition of certain foreign substances to wine prohibited.

5. No person shall sell, advertise, offer, keep, expose, or deliver for sale, whether wholesale or retail, or exchange, or authorize, direct or allow the sale of wine, dry wine, sweet wine or sparkling wine, to which before, during or after the making of the same there shall have been added water or any foreign substance as defined in sub-section (a) of section seven of "The Wine, Brandy, Whisky, and Spirits Act, 1906," provided that the flavouring of any such wine and the addition of sulphurous oxide as provided for in sub-section (b) of the said section seven as amended by section six of this Act, and of pure caramel for the purpose of colouring and of cane sugar in the case of sparkling wine shall not be deemed unlawful: provided further that the sale or exchange up to and including the 31st March, 1909, of any wine imported at the date of promulgation of this Act shall not be considered to be a contravention of this section.

Amendment of sub-section (b) (4) of section 7 of Act No. 42 of 1906.

6. The proviso to sub-section (b) (4) of section seven of "The Wine, Brandy, Whisky, and Spirits Act, 1906," shall be expunged and the following substituted therefor, namely: "and that the total amount of sulphurous oxide does not exceed in the case of dry wine, fourteen grains of free and combined sulphurous oxide, or one-and-a-half grains of free sulphurous oxide per gallon, and in the case of other wines, twenty-five grains of free and combined sulphurous oxide, or two-and-a-quarter grains of free sulphurous oxide per gallon"; and the said sub-section shall be read and construed as hereby amended.

Any product of the grape vine may be used for sweetening purposes.

7. In sub-section (b) (6) of section seven of "The Wine, Brandy, Whisky and Spirits Act, 1906," the word "the" shall be inserted before the word "grape-vine," and the words "leaves or flowers" shall be expunged; and the said sub-section shall be read and construed as hereby amended.

8. Sections eight, nine and thirteen of "The Wine, Brandy, Whisky and Spirits Act, 1906," are hereby repealed, provided that, notwithstanding the repeal of the said section eight, it shall be lawful for a period of eighteen months from the date of promulgation of this Act, to sell, advertise, offer, expose or deliver for sale any wine to which has been added cane sugar or salicylic acid in quantities permitted by the said section.

No. 19—1908.
 Repeal of sections 8, 9 and 13 of Act No. 42 of 1906.
 Time limit for disposal of wine containing sugar and (or) salicylic acid.

III. BRANDY AND WHISKY.

9. The words "by pot-still distillation" shall be inserted at the end of the definition of "malt whisky" in the fourteenth section of "The Wine, Brandy, Whisky and Spirits Act, 1906"; and the said definition shall, from and after the first day of January, 1909, be read and construed as hereby amended.

Definition of malt whisky.

10. In section eighteen of "The Wine, Brandy, Whisky and Spirits Act, 1906," there shall be inserted the words "of any product of the grape vine or" before the words "of pure cane sugar" and the word "cane" before the words "sugar so added" and the said section shall be read and construed as hereby amended.

Any product of the grape vine permitted for sweetening purposes.

IV. BEER.

11. In this Act "beer" means the alcoholic liquid obtained by the fermentation of a mash of malt, with or without cereals, flavoured with hops, and includes ale, porter, spruce beer, black beer, and any other liquor made or sold as a description of beer, provided that such liquor contain more than two per centum of proof spirit.

Definition of beer.

12. No person shall import for sale or sell, advertise, offer, keep, expose or deliver for sale, whether wholesale or retail, or exchange, or authorize, direct the sale of, or allow to be sold, under the name of "beer" or as a substitute for beer, any beverage which does not conform with the definition of beer in the preceding section.

Sale of beer.

13. It shall not be lawful to add before, during or after the making of beer any substance or thing except

Certain substances may be added to beer.

- (1) As priming substance a sugar solution not exceeding 1150 specific gravity, and in quantity not more than three gallons per hundred gallons of the liquor to which such priming substance is added; and fining substances such as isinglass, gelatine, eggs or albumen for the purpose of clarification.
- (2) Sulphurous oxide or sulphites of sodium, potassium or calcium, provided that the total amount of sulphuric oxide calculated as potassium sulphate does not exceed two grammes per litre or one hundred and forty grains per gallon.
- (3) Common salt.

No. 19—1908.

- (4) Water (which may be treated with gypsum or other mineral compounds to render it suitable for brewing beer).
- (5) Pure caramel for the purpose of colouring.
- (6) Yeast and yeast-foods which do not contain saccharine matter.

Penalty.

14. Any brewer of beer or licensed dealer in whose possession may be found any beer or substitute for beer, which upon examination is found to be in contravention of the provisions of this Act, shall be liable to forfeit the same, and shall further be liable, upon conviction, to the penalties hereinafter provided, but notwithstanding the provisions of this section the sale or exchange of any beer imported at the date of promulgation of this Act shall be lawful up to and including the 31st March, 1909, and the possession, sale or exchange of any beer manufactured in this Colony, which may contravene the provisions of this Act, shall be lawful up to and including the 31st December, 1909; provided that in the manufacture of such beer subsequent to the promulgation of this Act not more than 25 per centum of sugar shall be added to the mash.

Act shall not apply to certain drink or beverage.

15. The provisions of this Act shall not apply to any non-intoxicating drink or beverage containing less than two per cent. of proof spirit.

V.—VINEGAR.

Definitions.

16. In this Act, unless the context otherwise requires:

“Vinegar” means the product made by the alcoholic and subsequent acetous fermentation, without distillation, of a vegetable juice, infusion, or decoction.

“Wine vinegar” means the product made by the alcoholic and subsequent acetous fermentation, without distillation, of the juice of the grapes, or by the acetous fermentation, without distillation, of pure natural wine.

“Malt vinegar” means the product made by the alcoholic and subsequent acetous fermentation without distillation, of an infusion solely of cereal grain, whose starch has been converted into fermentable sugar by the direct agency of malt.

“Cider vinegar” or “Apple vinegar” means the product made by the alcoholic and subsequent acetous fermentation without distillation, of the juice of apples.

“Sugar vinegar” means the product made by the alcoholic and subsequent acetous fermentation without distillation, of solutions of sugar or molasses with or without addition of an infusion of cereal grain.

“Glucose vinegar” means the product made by the alcoholic and subsequent acetous fermentation of solutions of starch sugar, glucose, or glucose syrup.

“Spirit vinegar” or “distilled vinegar” means the colourless product made by the acetous fermentation of dilute distilled

alcohol, or by the distillation of one of the forms of vinegar hereinbefore defined. No. 19—1908.

17. All vinegar made either wholly or in part from distilled liquor, or which may contain any spirit vinegar or distilled vinegar shall, for the purposes of this Act, be considered as consisting wholly of spirit vinegar or distilled vinegar. Spirit vinegar or distilled vinegar.

18. No person shall manufacture or have in his possession for the purpose of sale, or sell, advertise, offer, keep, expose, or deliver for sale, whether wholesale or retail, or authorize, direct or allow the sale of any description of vinegar to which has been added any preparation of lead, copper sulphuric acid or other mineral acid, or other ingredient injurious to health. Manufacture and sale of vinegar.

19. No person shall manufacture or have in his possession for the purpose of sale, or sell, advertise, offer, keep, expose, or deliver for sale, whether wholesale or retail, or authorize, direct or allow the sale of any description of vinegar which does not possess an acidity equivalent to the presence therein of at least three-and-a-half per cent. of absolute acetic acid. Quantity of acetic acid to be contained in vinegar.

20. No person shall sell, advertise, offer, keep, expose, or deliver for sale, under the name of spirit vinegar or distilled vinegar, any spirit vinegar or distilled vinegar to which has been added any colouring matter, before, during, or after distillation, and which is not entirely free from all colour other than that imparted to it by the actual process of distillation. Colouring matter may not be added to spirit vinegar or distilled vinegar.

21. No person shall sell, advertise, offer, keep, deliver or expose for sale, under the name of vinegar or wine vinegar, any article other than wine vinegar, and every cask, keg, bottle, or other receptacle in which any vinegar other than wine vinegar is delivered or exposed for sale, shall be legibly branded, labelled, stamped or otherwise durably marked with the word "malt" or "sugar" or "distilled" or other term that describes the precise nature of the vinegar and such descriptive term shall always appear in conjunction with and shall immediately precede the word "vinegar," and shall be in letters of the same size and type as those of the word "vinegar" wherever that word occurs upon the label or brand or other description; nor shall the word "vinegar" be used in any such case, without being so preceded by a descriptive term, save and except solely when the receptacle requiring to be labelled or branded contains only wine vinegar, and then it shall be competent to employ the word "vinegar" without its being preceded by the word "wine." Labelling of vinegar.

VI.—GENERAL.

22. All the words after "address of the bottler" in section twenty-three of "The Wine, Brandy, Whisky and Spirits Act, 1906," are hereby expunged. Amendment of section 23 of Act No. 42 of 1906.

23. All stocks of wine, brandy, whisky and liqueur which were held by licensed dealers at the time of promulgation or taking effect of "The Wine, Brandy, Whisky and Spirits Act, 1906," and in contravention thereof, and for the disposal of which a Sale of "existing stocks" under Act No. 42 of 1906 not permitted after 1st January, 1909.

No. 19—1908.

sufficient time was allowed by section twenty-five of the said Act, shall be deemed to have been disposed of by wholesale dealers on and after the 1st day of January, 1909, and by retail dealers on and after the 1st day of April, 1909; and it shall not be lawful to sell, advertise, offer, expose or deliver for sale, whether wholesale or retail, or exchange, or authorize, direct or allow the sale of any such wine, brandy, whisky or liqueur from and after the said dates respectively.

Amendment
of section 38
of Act No. 42
of 1906.

24. Section thirty-eight of "The Wine, Brandy, Whisky and Spirits Act, 1906," shall be read and construed as if the words "or subsequent" were expunged where they occur after the word "second" and inserted after the word "third" in the said section.

Provisions
of sections 26
to 40 of Act
No. 42 of 1906,
applicable.

25. The provisions of sections twenty-six to forty of "The Wine, Brandy, Whisky and Spirits Act, 1906," subject to the amendment in the twenty-fourth section of this Act shall apply equally to beer and vinegar and shall be deemed to be incorporated in this Act for the purpose of giving effect to Parts IV., V. and VI. hereof.

No. 20—1908.]

[August 21, 1908.

ACT

To Amend Act No. 28 of 1888, commonly called
"The Forest Act, 1888."

[Assented to 19th August, 1908.]

Preamble.

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

Amendment
of Act 28 of
1888, section
13.

1. From and after the date of the passing of this Act the provisions of the thirteenth section of Act No. 28 of 1888 and any rules or regulations issued in pursuance thereof shall not apply to trees planted within the limits of any Municipality upon property belonging to or under the control of such Municipality or to trees planted upon property belonging to or under the control of any Divisional Council whether any sum of money shall have been contributed from the public revenue towards the planting of such trees or not: provided, however, that this Act shall not apply to any Municipality or Divisional Council, or other public body, situated within the Cape Division, and provided, further, that the Governor shall have the power to exempt by proclamation, any particular roadside trees or plantations, whether vested in any public body or not, from the operations of this Act.

Provisions
when to ap-
ply.

2. This Act shall not apply to any municipality or district until the operation thereof shall have been extended to such municipality or district by the Governor by Proclamation to be issued upon the petition of the Council thereof upon a resolution

adopted by a majority of not less than three-fourths of the members of such Council, and the operation of this Act may be deproclaimed by the Governor in such municipality or district upon petition of a like majority of the Council thereof.

No. 20—1908.
Act may be deproclaimed by Governor upon petition.
Short Title.

3. This Act may be cited for all purposes as "The Forest Act, 1888 Amendment Act, 1908."

No. 21—1908.]

[August 25, 1908.

ACT

To Provide for the Taxation of Incomes.

[Assented to 21st August, 1908.]

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

Preamble.

1. All and several the provisions of Part II. of the Additional Taxation Act, 1904 (hereinafter referred to as the principal Act), as amended by this Act, together with the regulations promulgated thereunder in so far as they are not repugnant to or inconsistent with the provisions of the principal Act as amended by this Act, shall apply to the charging, levy, collection and payment of the tax hereby imposed and the principal Act as so amended and this Act shall be read together as one.

Application of Part II. of the Additional Taxation Act, 1904.

2. From and after the 1st July, 1908, there shall be charged, levied, collected and paid to the revenue of the Colony for the service of the financial year ending the 30th June, 1909, an income tax in respect of all incomes arisen or accrued during the twelve months ended the 30th June, 1908, to any person whether residing within or without the Colony, at the rates following, that is to say:—

Income Tax levied.

A. By every person not being a Company, included in subsections B or C hereof:

- (1) If the amount of income taxable exceeds fifty pounds and does not exceed one hundred pounds, or if any person not otherwise liable to taxation under this Act, shall have occupied for the twelve months ended 30th June, 1908, any house, being either separately or jointly with any land occupied therewith, of the value of seventy-five pounds } The fixed sum of ten shillings.
- (2) If the amount of income taxable exceeds one hundred pounds and does not exceed three hundred pounds } The fixed sum of one pound.
- (3) If the amount of income taxable exceeds three hundred pounds and does not exceed one thousand pounds.
- (a) For the first three hundred pounds of such income } The fixed sum of one pound.

No. 21—1908.

- (b) For every pound over and above the first three hundred pounds of such income } One shilling.
- (4) If the amount of income taxable exceeds one thousand pounds and does not exceed one thousand and five hundred pounds :
- (a) For the first one hundred pounds of such income } The fixed sum of one pound.
- (b) For every pound over and above the first one hundred pounds of such income } One shilling.
- (5) If the income taxable exceeds one thousand and five hundred pounds and does not exceed three thousand pounds, for every pound of such income } One shilling.
- (6) If the income taxable exceeds three thousand pounds :
- (a) For every pound of such income and in addition thereto } One shilling.
- (b) On so much of such income as exceeds three thousand pounds and does not exceed ten thousand pounds, for every pound } Threepence.
- (c) On so much of such income as exceeds ten thousand pounds, for every pound } Sixpence.
- B. By every company registered with limited liability not being a company included under sub-section C hereof, provided that the least amount of tax payable by any such company liable to tax shall be ten shillings :—
- (a) For every pound of the amount of income taxable and in addition thereto } One shilling.
- (b) On so much of such income as exceeds three thousand pounds and does not exceed ten thousand pounds, for every pound } Threepence.
- (c) On so much of such income as exceeds ten thousand pounds, for every pound } Sixpence.
- C. By every diamond mining company and copper mining company, the amount of whose income taxable exceeds fifty thousand pounds
For every pound of the income of such company } Two shillings.

Special provision for the assessment of incomes derived from the ownership, use or occupation of land.

3. (a) The income derived by the owner of land (together with the houses and buildings thereon) situate outside the limits of any Municipality or Village Management Board area, from the ownership thereof shall be taken to be the sum of six pounds for every hundred

pounds or part thereof of the value of such land, houses and buildings as valued by the Divisional Council of the Division within which the same is situate at the date of this Act, provided that from such value shall be deducted for the purpose of estimating the taxable value the amount of any registered mortgage on such land, houses and buildings.

- (b) The income derived by the owner or occupier, as the case may be, of any such land from the use or occupation thereof for the purpose of agricultural, pastoral or any other farming, shall be taken to be a sum equal to three-fourths of six per cent. upon the full value of the land so occupied or used (together with the houses and buildings thereon) as valued by the Divisional Council as aforesaid. Provided that such owner or occupier may elect in such manner and within such period as may be prescribed to have the income in this sub-section referred to assessed in the ordinary way. And provided further that in the event of such owner or occupier so electing to have such income assessed in the ordinary way and his return showing a loss in respect of his occupation as a farmer as aforesaid, such loss shall not be admissible under the provisions of sub-section (4) of section sixty-three of the principal Act as a deduction from the income taxable under sub-section (a) of this section.
- (c) If in any case such land, houses or buildings or any part thereof or any of them is or are not at the date of this Act valued by any Divisional Council then, and in such case, the value shall for the purposes hereof be assessed by the Commissioner subject to an appeal under the provisions of section seventy-three of the principal Act, provided that such value shall be the full value of the land less one-third of such value, and in the event of any land valued only as a whole being occupied by more than one person, the Commissioner shall apportion the value amongst such occupiers subject to the right of appeal as aforesaid.
4. (a) No female of whatever age and whether married or unmarried shall be personally subject to taxation under this Act unless her taxable income exceeds three hundred pounds.
- (b) If the Commissioner is satisfied that any person whose taxable income is under one hundred pounds is by reason of age, infirmity, loss or other cause so situated that the exaction of the full amount of the assessed income tax would entail hardship of such nature as to

Clauses affording further relief.

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render it just and equitable that relief from such tax should be given, he may release such person wholly or in part from liability to pay such tax.

- (c) Any person whose net personal income does not exceed one thousand pounds shall be entitled to deduct therefrom a sum equal to the actual amount paid by him as annual premium on any life or accident insurance upon his own life, but in no case shall such deduction exceed the sum of twenty-five pounds; and every person shall be entitled to deduct from his net personal income a sum equal to the actual amount paid by him in respect of any annual fees, dues, or other disbursements to any friendly or benefit society of which such person shall be a member, but in no case shall such deduction exceed ten pounds. Every person shall also be entitled to deduct from his net personal income a sum equal to the actual amount paid to him in the course of the year as sick-benefit by any friendly or benefit society of which such person shall be a member.

Circumstances under which income shall be regarded as having arisen or accrued in the Colony.

5. Income shall be deemed to have accrued to any person though it has not been actually paid over to such person but has been credited in account or re-invested, or accumulated, or capitalized, or otherwise dealt with in the name and on behalf of such person; and income arisen or accrued by virtue of any contract for the sale of goods in the Colony, whether such goods have been delivered or are to be delivered in or out of the Colony, and income arisen or accrued from any service rendered or work or labour done in the carrying on in the Colony of any trade, profession or occupation, whether the payment for such services or work or labour is made, or is to be made, by a person resident in or out of the Colony, and wherever such payment is made, or is to be made, shall be deemed to be income arisen or accrued from sources within the Colony.

Place, time and manner of payment of income tax.

6. The tax shall be paid on such days and at such places as may be prescribed, and may be paid in one sum or by instalments of equal or varying amounts as may be determined by the Commissioner having regard to the circumstances of the case.

Onus of proof of exemption, etc.

7. The onus of proof that any income is exempt from or not liable to the payment of income tax or is subject or entitled to any deduction shall be on the person claiming such exemption, non-liability or deduction.

Income defined.

8. The following definition of "income" is hereby substituted for the definition appearing in section forty-two of the principal Act; Income shall mean

- (a) The profits and gains derived from the ownership of land, houses and buildings and other immovables within the Colony.
- (b) The profits and gains derived from the use and occupation of land, houses and buildings within the Colony.

- (c) All profits arisen from interest, annuities, dividends payable to any person out of the public Colonial revenue.
- (d) The profits or gains arisen or accrued to any person from any kind of property whatsoever situate within the Colony; and the profits or gains arisen or accrued to any person from any profession, trade, employment or vocation carried on within the Colony.
- (e) All interest of money, annuities and other annual profits and gains derived from any source whatsoever within the Colony.
- (f) All wages, salaries and emoluments of every public office or employment of profit, and every annuity, pension or stipend payable out of the public revenue, or by any public body, person or company.
- (g) All profits and gains arisen from any other source whatsoever within the Colony.
9. The principal Act is hereby further amended as follows:—
- (a) The following definitions shall be deemed to be inserted in section forty-two: Further amendments of the principal Act.
- The expression "Agent" shall include any company acting as agent.
- The expressions "diamond mining company" and "copper mining company" shall mean respectively any company whose income, in the Colony is derived mainly from mining operations carried on by such company for the obtaining of diamonds or copper in this Colony.
- (b) The words "liable to income tax" in section forty-six are hereby deleted.
- (c) Sections fifty, fifty-one, and seventy-one are hereby deleted.
- (d) Sub-section (3) of section fifty-two, is hereby amended, by adding thereto the following words "as are not friendly or benefit societies."
- (e) Sub-section (6) of section fifty-two is hereby amended to read as follows, viz.:—
- "The incomes of the Governor of the Colony and his personal staff in so far only as such incomes consist of their respective salaries and emoluments."
- (f) Sub-section (7) of section fifty-two is hereby amended to read as follows:—
- "The incomes of all officers of His Majesty's Navy and Army stationed within the Colony, and of all persons in the service of the Imperial Government stationed in the Colony, in so far as such incomes consist of the pay and emoluments attached to their respective offices."
- (g) The following sub-sections are hereby added to section fifty-two.

- “(9) The incomes of the consuls of foreign countries and the members of their staffs, such persons not being British subjects or permanently resident in the Colony, in so far as such incomes consist of the pay and emoluments attached to their respective offices.”
- “(10) Income derived as dividends from any company which has paid income tax in respect of income for the year for which such dividends have been paid.”
- (h) In section fifty-six the words “at the rate of one shilling in respect of every pound of the interest paid thereon,” are hereby substituted for the words “in respect of the interest thereon.”
- (i) In section sixty, sub-section (4) the words “and the income derived from such investments shall, subject to any deductions allowed under this Act, be deemed to be the amount of income on which income tax shall be payable under this Act,” are hereby substituted for all the words appearing therein after the words “residents in the Colony.”
- (j) The following section is hereby substituted for section sixty-one, viz. :—
 “Notwithstanding the personal exemption hereinbefore conferred on women the income of a woman married with or without community of property and living with or not legally separated from her husband, shall for the purposes of this Act be deemed to be income accrued to her husband and shall be included by him in his returns of income required to be rendered by him under this Act.”
- (k) In section sixty-three sub-section (1) the word “taxable” is hereby inserted between the words “his” and “income.”
- (l) For the purposes of sub-section (4) of section sixty-four “income tax” shall include “mining profits tax” charged under Act No. 26 of 1907.
- (m) Sub-section (2) of section seventy-three is hereby repealed, and the following is substituted therefor :—
 (2) Notice of the time and place of the sitting of the Court to hear appeals shall be given in English and Dutch in the *Gazette* and in a newspaper or newspapers published or circulating in the District in which such place is situated, at least ten clear days before the date appointed.
 In addition to such notice there shall be given to every person who has appealed notice in writing of the time and place appointed for the hearing.
- (n) The words “or debenture” are hereby inserted after the word “share” in section eighty.

10. In any case where any taxpayer employed by any person, local authority, corporation, board, commission, or other body or association of persons, has failed to pay the income tax payable by him, the Commissioner may declare such employer to be the agent of such taxpayer in so far as respects his income by way of salary, wages, allowances, earnings, pension paid or allowed to him, and may give notice to such agent requiring such agent to pay the same on behalf of such taxpayer out of such funds as are available in the hands of the employer for the purpose of paying the said tax: and thereupon he shall deduct and retain from time to time out of the earnings, of such taxpayer so much as is sufficient to pay such income tax, or such instalments as the Commissioner may prescribe, and he shall pay the same under a penalty not exceeding five pounds: Provided that upon such notice and to the extent of the deduction and retention aforesaid, the said taxpayer shall be released from all liability in respect of such income tax.

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In default of payment of tax by employee employer made liable.

11. Any person or public officer of a company required by the Commissioner under the provisions of section sixty-six of the principal Act to produce any such deeds, instruments, books, accounts, trade lists, stock lists, or documents, or writings, or to attend for the purpose of being so examined, who fails to produce the same or to attend at the time and place appointed, shall be liable on conviction before any competent Court to a penalty not exceeding ten pounds, or in default of payment thereof imprisonment with or without hard labour for any period not exceeding three months.

Failure to comply with requirements under section sixty-six of the principal Act penalised.

12. Whenever any question of law shall arise with regard to any matter under this Act, instead of appealing under section seventy-three of the principal Act, the Commissioner may, within thirty days after the date of the assessment, altered, amended, corrected or additional assessment in connection with which such question shall have arisen, of his own motion or at the request of the party concerned in the matter state a case for determination by a Judge of the Supreme Court in Chambers.

Commissioner empowered to state case for determination of Judge in Chambers.

13. Proceedings in any superior or inferior court for the recovery of income tax charged under this Act shall be deemed to be proceedings for the recovery of a liquid debt.

Income Tax to be regarded as a liquid debt.

In any action or proceeding for the recovery of income tax it shall not be competent for the defendant to question the correctness of the assessment book or any certified extract therefrom.

Assessment evidence.

14. Any person, whether liable or not liable to tax under this Act or the principal Act who fails to furnish within the prescribed time any prescribed return or within a reasonable time specified by the Commissioner any new or fuller return required by the Commissioner, shall be liable to a penalty not exceeding ten pounds or in default of payment thereof imprisonment with or without hard labour for any period not exceeding three months.

Failure to furnish returns, etc., penalised.

15. This Act may be cited as "The Income Tax Act, 1908."

Short Title.

No. 22—1908.]

[September 1, 1908.]

ACT

To Amend the Wild Flowers Protection Act, 1905.

[Assented to 28th August, 1908.]

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

Governor may make regulations prohibiting sale of wild flowers and sale and export of bulbs. 1. Notwithstanding anything contained in "The Wild Flowers Protection Act, 1905," it shall be lawful for the Governor by proclamation in the *Gazette* to make regulations prohibiting sale of such flowers and ferns and the sale or export of such bulbs and roots as shall on account of their scarcity and the danger of their extermination be from time to time specified in such proclamation, and such sale or export as the case might be shall be prohibited indefinitely or for a period or periods therein specified.

Penalties for breach of regulations. 2. Every regulation so made may impose a penalty not exceeding Three Pounds for the contravention of the same, and any person contravening any such regulation shall be liable to the penalty specially imposed, or, if no such special penalty be imposed, then to a penalty not exceeding a fine of Twenty Shillings, or, in default of payment of any money penalty hereunder imposed, to imprisonment with or without hard labour for a period not exceeding seven days, unless the fine be sooner paid.

Flowers at exhibitions. 3. Nothing herein contained shall be deemed to interfere with the exhibition of wild flowers and ferns at agricultural, horticultural, and other shows or exhibitions, or the collecting of flowers, roots or tubers for scientific (botanical) purposes, provided, that for this purpose a permit be first obtained from the officer administering the Act.

Section 3, Act No. 16, 1905, amended. 4. Section three of Act No. 16 of 1905, is hereby amended by omitting the words "three pounds," and substituting therefor "ten shillings."

Short title. 5. This Act may be cited for all purposes as "The Wild Flowers Protection Act Amendment Act, 1908," and shall be read as one with "The Wild Flowers Protection Act, 1905."

No. 23—1908.]

[August 28, 1908.]

ACT

To Regulate the Rate of Interest charged upon Loans of Money.

[Assented to 26th August, 1908.]

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

1. The provisions of this Act shall apply to every transaction which, whatever its form may be, is substantially one of money-lending, but they shall not apply to

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Application
of provisions
of Act.

- (a) Any pawnbroker in respect of business carried on by him in accordance with the provisions of the laws for the time being in force in relation to pawnbrokers;
- (b) *Bona-fide* bottomry or respondentia bonds;
- (c) Mercantile transactions between commercial men.

2. In this Act the following words shall bear the interpretation herein stated :

Interpreta-
tion of terms.

The word "person" shall include a Firm or other association of individuals and a corporate body.

The word "interest" shall include any charges for discount, commission, expenses, inquiries, fines, foregift, bonus, renewals and any other charges not being taxable conveyancing charges or revenue charges. It shall also include any valuable consideration for a loan of money, whether such consideration be in cash, in goods, in kind or in any other form whatsoever.

3. In every negotiable instrument, and in every contract, agreement or other transaction in writing for the loan of money executed or entered into after the taking effect of this Act, there shall be separately and distinctly set forth upon the document the capital sum actually lent or advanced, the rate of interest promised or paid in respect of such loan and the period of the loan. Where, by way of interest, consideration other than cash is given in any such transaction as aforesaid, the nature and value of such consideration shall be clearly expressed on the document. The provisions of this section shall apply to renewals of any loan, but they shall not apply to the instruments commonly known as covering bonds nor to the legitimate operations of any registered Friendly Society or *bona fide* Building Society.

Particulars
to be set forth
in negotiable
instruments,
written con-
tracts, etc.

4. Where a claim is made in any Court of Law, upon a written document executed after the taking effect of this Act, for the recovery of a loan or for interest on a loan, the Court may in the exercise of its discretion refuse judgment upon such document if it do not contain the particulars specified in the last preceding section hereof.

Judgment
may be re-
fused if writ-
ten document
does not con-
tain required
particulars.

5. Notwithstanding any law to the contrary, no person shall, after the taking effect of this Act, stipulate for, allow or exact in any negotiable instrument, or in any contract or agreement whether oral or in writing concerning a loan of money a rate of interest greater than

Maximum
rate of in-
terest.

- (a) 20 per cent. per annum where the total amount of money lent by one person to another within any period of three months does not in the aggregate exceed £10 ;
- (b) 15 per cent. per annum where the total amount lent as aforesaid does not exceed £20 ;
- (c) 12 per cent. per annum on any loan exceeding £20 ;

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and every person who contravenes the provisions of this section shall be liable, upon conviction, to a fine not exceeding £100 or, in default of payment, to imprisonment with or without hard labour for a term not exceeding one year, or to both such fine and imprisonment.

Limit on rate for endorsing a promissory note

6. No person shall after the taking effect of this Act stipulate for, allow or exact as a charge or reward for endorsing a promissory note or other negotiable document or for giving any guarantee in respect of such document, a rate which, taken together with the interest and other charges involved in discounting such document, will make up in all more than fifteen per cent. per annum upon the amount of principal stated in such document, and every person contravening the provisions of this section shall be liable, upon conviction, to the penalties prescribed in section five of this Act.

Penalty for inducing borrowing by means of false representation.

7. If any person by any false, misleading or deceptive statement, representation or promise, or by any dishonest concealment of material facts, induces or attempts to induce any person to borrow money or to agree to the terms on which money is borrowed or is to be borrowed, he shall be liable, upon conviction, to the penalties prescribed in section five hereof.

Jurisdiction.

8. The Resident Magistrate of the district within which any offence against the provisions of this Act may be committed shall have jurisdiction to impose the penalty provided in respect of such offence.

What Court may do if it appears that rate of interest exceeds that allowed by Act.

9. In any suit, action or other proceeding concerning a loan of money made after the taking effect of this Act, wherein it is alleged, or wherein it shall appear, that the amount of interest promised, paid or claimed exceeds the rate allowed by this Act, the Court shall reopen the transaction and take an account between the parties and may, notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation, reopen any account already taken between the parties, and shall relieve the person under obligation to pay from payment of any sum in excess of the said rate of interest; and, if any such excess has been paid, or allowed in account by the debtor, may order the creditor to repay it and may set aside, either wholly or in part, or revise, or alter any security given in respect of the transaction: provided that no final payment or settlement shall, by reason of excessive interest being charged, be disturbed or reopened after a period of two years from the date of such final payment or settlement.

And if action is brought for recovery of money lent.

10. Any Court in which proceedings might be taken for the recovery of money lent shall have and may, at the instance of the borrower or surety, or other person liable, exercise the like powers as may be exercised under the last preceding section hereof, and the Court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any appli-

ation under this Act by the borrower or surety or other person liable, notwithstanding that the time for repayment of the loan, or any instalment thereof, may not have arrived.

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11. On any application relating to the admission or amount of a proof of debt in any insolvency proceedings, the Master of the Supreme Court or the Resident Magistrate may exercise the like powers as may be exercised under section nine of this Act when proceedings are taken for the recovery of money.

And in insolvency proceedings.

12. The *bona fide* holder for value, before maturity, of any negotiable instrument discounted by a preceding holder at a rate of interest exceeding that authorized by this Act may nevertheless recover the amount thereof, but the party from whom it is recovered may reclaim from such preceding holder any amount paid thereon for interest in excess of the amount allowed by this Act.

Position of *bona fide* holder for value.

13. The principal of any sum of money lent, due and payable before the date of the taking effect of this Act, in virtue of any negotiable instrument or of any contract, or agreement entered into in respect of money lent, shall not, from and after the said date, bear a rate of interest greater than fifteen per cent. per annum on loans exceeding ten pounds and twenty per cent. per annum on loans below ten pounds for a period of one year after the taking effect of this Act, after which date the interest specified in section five shall apply and any person contravening this section shall be liable upon conviction to the penalties prescribed in section five of this Act.

Interest payable on money lent before the taking effect of this Act.

14. In the case of any such negotiable instrument made before the taking effect of this Act and maturing after the said date and, in the case of any such contract or agreement made before the taking effect of this Act and to be performed after the said date, the foregoing provisions of this Act including those as to the rate of interest in the preceding section contained shall apply only from the date of the maturity or performance as the case may be.

Above provision to apply only from date of maturity or performance of instrument or contract.

15. The provisions of this Act shall apply to every negotiable instrument and every contract, agreement or other transaction, whether oral or written in which interest is stipulated for, allowed or exacted, upon the purchase price of goods sold or the purchase price in any contract of sale or the balance thereof which may at any time be outstanding.

Further application of provisions.

16. If any person purchases goods or stock at a certain price, on condition that the seller is entitled at some future time to re-purchase such goods or stock, at a higher price, the transaction shall be regarded as a loan of the amount of the lower price, and the excess of the higher price over the lower shall be treated as interest on the lower price, and shall be subject to the provisions of this Act.

Interest on balance of value of goods re-purchased.

17. Nothing in this Act shall operate to increase the rate of interest that may be recovered in any case where by law the rate is fixed at less than the rate allowed by this Act, or to

Rate of interest fixed by law at less than rate allowed by Act not to be affected.

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derogate from any power or jurisdiction which any Court of Law may at present possess, or to prevent such Court from reducing the rate of interest claimed in any suit before it even when such rate is twelve per cent. per annum or less than twelve per cent. per annum if the Court is satisfied that under the circumstances such rate is unreasonable.

Taking effect of Act.

18. This Act shall take effect upon and after the first of January, 1909.

Short Title.

19. This Act may be cited as "The Usury Act, 1908."

No. 24—1908.]

[September 1, 1908.]

ACT

To Provide for the alteration of the System of Election of Councillors in the City of Cape Town and of the Constitution of the Valuation Court thereof, and to make further provision for the Government of the said City.

[Assented to 31st August, 1908.]

Preamble.

WHEREAS it is desirable to alter the manner in which members of the Town Council of the City of Cape Town are elected and to provide for election by the system known as the Ward System, and for that purpose to divide the City of Cape Town into eight wards.

And whereas it is expedient to increase the number of Councillors for the said City to twenty-four.

And whereas it is expedient to amend section ninety-one of Act No. 26 of 1893, and to make other provisions for the constitution of the Valuation Court to hear objections to the Valuation Roll in the City of Cape Town.

And whereas it is necessary to repeal or amend so much of Act No. 26 of 1893, of Act No. 28 of 1902, and of such other Acts or Laws as may be required to be repealed or amended for the purposes aforesaid.

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

Section of existing Act repealed.

Division of City into wards.

1. Section three of Act No. 26 of 1893 is hereby repealed.

2. The Municipality of Cape Town shall be divided into eight separate wards. The Governor shall immediately after the promulgation of this Act appoint a Commission of three members, the Chairman of whom shall be either a Judge of the Supreme Court of this Colony or a Resident Magistrate, for the

purpose of drawing up a scheme for dividing the Municipality into eight wards, adjusted upon the basis of the number of voters and of the rateable value of property. Each ward shall have a distinguishing number or name and the said wards shall be shown upon plans to be framed by such Commission.

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3. When the said scheme and plans have been finally passed and approved by the Governor, he shall by Proclamation published in the *Gazette*, proclaim the new wards as shown on such scheme and plans.

Proclamation of wards.

4. Thereafter from time to time the Council may apply to the Governor to alter the boundaries of the wards, and thereupon the like proceedings shall be taken as are hereinbefore set forth, provided that no application to alter such boundaries be made unless one month's previous notice shall have been given at an ordinary meeting of the Council of the intention of any Councillor to propose a resolution to such effect, and in the event of the adoption of such resolution the Council shall publish the same during three successive weeks in one or more newspapers published in Cape Town before making application to the Governor.

Alteration to wards.

5. Section five of Act No. 26 of 1893 is hereby amended by striking out the word "eighteen" and substituting the word "twenty-four" and by striking out the words "voting as one constituency" and substituting the words "each ward returning three Councillors, save as is hereinafter provided."

There shall be three Councillors for each ward.

6. Sections thirteen and fifteen of Act No. 26 of 1893 are amended by inserting after the words "property in" in each of such sections the words "any ward of" and by striking out the words "Voters Roll for the Municipality" where they occur in the said section thirteen and substituting therefor the words "Voters Roll for such Ward."

Amendment of sections 13 and 15 of Act No. 26 of 1893.

7. Section sixteen of Act No. 26 of 1893 is hereby repealed, and section seventeen of Act No. 26 of 1893 is amended by adding at the end of sub-section (3) thereof the words "for the ward in respect of which they desire to vote."

Repeal of section 16 and amendment of section 17 of Act No. 26 of 1893.

8. Section eighteen of Act No. 26 of 1893, as amended by section two of Act No. 28 of 1902 is amended by striking out the word "six" and substituting the word "eight" and by striking out the words "districts" or "district" wherever the same occur and substituting the words "wards" or "ward."

Voters' Roll to be in eight parts.

9. In the month of April following the proclamation referred to in section three hereof and thereafter biennially, the Council shall cause a voters' roll to be prepared in terms of Act No. 26 of 1893, as amended by Acts No. 28 of 1902 and this Act, with a view to the election of Councillors in the said eight wards: Provided, however that at all elections of Councillors held prior to the first annual election held after the issue of the proclamation referred to in section three of this Act, Councillors shall be elected as for one constituency upon the voters roll for the time

Preparation of Voters' Roll.

No. 24—1908. being in force with such additions as may be made thereto from time to time in accordance with section twenty-two of Act No. 26 of 1893.

How first election shall be held. Increase of Councillors.

10. At the first annual election to be held after the issue of the aforesaid proclamation when six Councillors will retire under section twenty-four of Act No. 26 of 1893, an election shall be held for the purpose of electing eight Councillors so as to bring the total number of Councillors up to twenty. Each of the said wards shall elect one member who shall hold office for three years and thereafter annually a similar election of a member for each ward to hold office for three years under the provisions of the next succeeding section shall be held, so that the number of Councillors will ultimately be twenty-four. Provided, however, that in the event of any casual vacancy occurring amongst those Councillors who shall have been elected under the provisions of Act No. 26 of 1893 the Council shall in open meeting decide by ballot the ward for which the new Councillor shall be elected, but no ward shall at any time be so chosen which is already represented by Councillors in excess of the number already elected for any other ward.

How casual vacancies to be filled up.

Provision for annual election of Councillors.

11. Section twenty-four of Act No. 26 of 1893 is hereby repealed and the following substituted in lieu thereof:—

An annual election of Councillors shall take place for the purpose of electing eight Councillors to replace an equal number of retiring Councillors, and for the purpose of electing Councillors to fill up such casual vacancies as may be required to be filled up under the provisions of Act No. 26 of 1893, as amended by this Act. The annual election as aforesaid shall take place on a date not earlier than the first and not later than the fourteenth day in the month of September (Saturdays and Sundays excepted), provided, however, that the date of each annual election shall be fixed by a resolution of the Council at an ordinary meeting held not later than the month of April immediately preceding.

Amendment of section 25 of Act No. 26 of 1893.

12. Section twenty-five of Act No. 26 of 1893 is amended by striking out the words "The six candidates at such election who" and inserting "The candidate in each ward who at such election".

Vacancy to be filled up in ward where it occurs.

13. Section twenty-six of Act No. 26 of 1893 is hereby amended by striking out the word "the" occurring after the word "Council" and by substituting the words "such vacancy shall be filled up by an election in the ward in which it shall have occurred. The".

Amendment of section 28 of Act No. 26 of 1893.

14. Section twenty-eight of Act No. 26 of 1893 is amended by inserting after the words "in such notice shall" the words "state for which ward or wards an election shall be held and the number of vacancies to be filled and shall"

15. Section twenty-nine of Act No. 26 of 1893 is amended by inserting after the word "Councillor" in line 2, the words "in any ward," by inserting after the word "voters" in line 3, the words "entitled to vote in such ward," and by inserting after the word "aforesaid" in line 11, the words "for any ward".
16. No candidate may be elected for more than one ward. If any candidate shall accept and transmit nominations for more than one ward to the Town Clerk, both or all of his nominations shall be void. No Councillor holding office for one ward shall be elected for another ward.
17. Section thirty of Act No. 26 of 1893 is amended by inserting after the word "elected" in line 2, the words "for any ward" and by inserting after the word "candidates" in line 7, the words "and the wards for which they have respectively been."
18. Section thirty-one of Act No. 26 of 1893 is amended by striking out the word "place" and substituting the word "places".
19. Every enrolled voter shall be entitled to vote in the ward or wards in which his name shall be enrolled under section eighteen of Act No. 26 of 1893, amended as aforesaid.
20. Section thirty-five of Act No. 26 of 1893 as amended by section four of Act No. 28 of 1902 is amended so that the second question may be: "Have you already voted at this election in this ward in the capacity in which you now seek to record your vote?"
21. The votes in respect of each ward shall be counted separately and the provisions of Act No. 26 of 1893 shall be severally observed in elections in respect of each separate ward.
22. Section forty-seven of Act No. 26 of 1893, as amended by section eight of Act No. 28 of 1902 is hereby amended by inserting after the word "elected" the words "for each ward".
23. Section ninety-one of Act No. 26 of 1893 is hereby repealed and the following substituted in lieu thereof: "After the expiration of the time specified in the notice referred to in section ninety of Act No. 26 of 1893, a Court of Assessment shall be appointed annually, consisting of five members, two of whom shall be appointed by the Governor, two by the Council and the fifth shall be the Civil Commissioner of the Cape for the time being or such other officer as the Governor may see fit to appoint. The Civil Commissioner or other officer appointed by the Governor shall be the Chairman of the Court which shall meet at such times as the Chairman shall direct. The said Court shall consider the valuation roll and the objections made as aforesaid, and shall have power to take evidence under oath, and shall be entitled to make such alterations or amendments in the valuation roll as by them may seem expedient".

No. 24—1908.
Amendment of provisions as to nominations.

No candidate to be nominated for more than one ward.

Amendment of provisions as to notice of elections.

Amendment of provisions as to election arrangements.

Voter may vote only in the ward or wards in which he is enrolled.

Question that may be put to voter.

Votes cast in each ward to be counted separately.

Certificate as to candidates elected.

Constitution of Assessment Court.

No. 24—1908. **Repealed inconsistent Acts.** 24. So much of Act No. 26 of 1893 styled "The Cape Town Municipal Act, 1893," of Act No. 28 of 1902 styled "The Cape Town Municipal Amendment Act, 1902," and of any Act or Law that may be inconsistent with the provisions of this Act are hereby repealed.

Short Title 25. This Act shall be read together with Act No. 35 of 1887, Act No. 26 of 1893, Act No. 9 of 1894, Act No. 15 of 1894, Act No. 25 of 1897 and Act No. 28 of 1902, and may be cited as "The Cape Town Municipal Amendment Act, 1908."

No. 25—1908.]

[September 1, 1908.]

ACT

To Amend the Dutch Language Judicial Use Act,
No. 21 of 1884.

[Assented to 31st August, 1908.]

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

Amendment of Sec. 1, Act No. 21 of 1884. 1. From and after the 1st day of January, 1909, "The Dutch Language Judicial Use Act, 1884," shall be read and construed as if the words "may and," appearing in the fourth line of the first section thereof, were omitted therefrom.

Short Title. 2. This Act shall be read as one with the said Act, and may be cited for all purposes as "The Dutch Language Judicial Use Amendment Act, 1908."

No. 26—1908.]

[August 31, 1908.]

ACT

To Apply a sum of Money for the Service of the
Year ending 30th June, 1909.

[Assented to 31st August, 1908.]

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

Public Revenue to be charged with £4,980,354. 1. The public revenue of the Colony is hereby charged towards the service of the year ending 30th June, 1909, with a Sum of Four Millions Nine Hundred and Eighty Thousand Three Hundred and Fifty-four Pounds Sterling, in addition to the Sum of One Million Pounds Sterling provided for by Act No. 3 of 1908.

How to be applied. 2. The money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto, and more particularly specified and set forth in the Estimates

and Supplementary Estimates of the Expenditure for the Year ending 30th June, 1909, with the notes to such Estimates, submitted to and approved by Parliament. No. 26—1908.

3. The said aids and supplies shall not be issued or applied to any use, intent or purpose other than the particular services to which the said amounts have been granted respectively by this Act, and the aforesaid Schedule, Estimates and Supplementary Estimates. Not to be applied except as granted.

4. This Act may be cited for all purposes as the "Appropriation Act, 1908." Short Title.

SCHEDULE.

Schedule.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishments.	Services Exclusive of Establishments.	Total.	Required to be provided for.
I. Ministerial Department of Prime Minister... ..	£ 115,219	£ 44,871	£ 160,090	£ 155,090
II. Ministerial Department of Colonial Secretary	357,428	909,052	1,266,480	1,261,552
III. Ministerial Department of Treasurer	578,374	2,759,333	3,337,707	1,159,904
IV. Ministerial Department of Attorney-General	554,970	120,283	675,253	656,253
V. Ministerial Department of Commissioner of Public Works	40,333	108,698	149,031	147,531
VI. Ministerial Department of Secretary for Agriculture	160,252	119,032	279,284	277,784
Railways, excluding charges for Relaying and Re-grading and Strengthening of Bridges	1,806,576	4,061,269	5,867,845	3,658,114
Railways, Relaying and Re-grading and Strengthening of Bridges	317,224	1,966,016	2,283,240	2,283,240
... ..	...	39,000	39,000	39,000
<i>Less</i> amount provided for by Act No. 3 of 1908 ... ..	...	...	...	1,000,000
Total required to be voted	...	...	...	4,980,354

No. 27—1908.]

[September 8, 1908.

ACT

To Provide for the raising of a Loan for certain Works and Services, to make provision for the deficiency for the Years 1906-'07 and 1907-'08, to authorize the issue of Colonial or Consolidated Stock in payment of the purchase of Private Railway Lines, and to authorize the re-appropriation of moneys authorized for certain works to certain other works.

[Assented to 4th September, 1908.]

Preamble.

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

Public Loan
of £182,000
authorised.

1. For the purpose of carrying on the Works and Services specified in Schedule "A" hereunto annexed, it shall be lawful for the Governor to raise by public Loan, either temporarily or by means of Consolidated or Colonial Stock in London or in the Colony, the sum of One hundred and eighty-two thousand pounds, stg. (£182,000).

Temporary
Loans of
£648,124 18s.
5d. and
£980,000 au-
thorised.

2. It shall be lawful, and the Governor is hereby empowered, to raise by Temporary Loan in such manner as may to him seem most expedient, the sum of Six hundred and forty eight thousand one hundred and twenty-four pounds eighteen shillings and five pence stg. (£648,124 18s. 5d.), to meet the deficiency of the Financial Year 1906-'07, and it shall further be lawful to raise in like manner the sum of Nine hundred and eighty thousand pounds stg. (£980,000), or such sum as may be required, not exceeding that amount, to meet the deficiency of the Financial Year, 1907-'08.

Purchase
price of ac-
quisition of
railways may
be paid in
Cape Govern-
ment Consoli-
dated or Co-
lonial Stock.

3. On the acquisition of any railway in the Colony by the Government under the authority of any Act of Parliament the Governor may, with the consent of the persons or Company from whom the railway is acquired, pay the purchase price in Cape Government Consolidated or Colonial Stock bearing interest at such rate as may be agreed upon, and the Governor is hereby authorized to issue the same, and on delivery thereof the Government shall be as fully discharged as if payment had been made in cash.

Certain
amounts au-
thorised to be
spent on sur-
veys.

4. Notwithstanding any conditions to the contrary in sections three, four and five of the Railways Acquisition and Construction Act, 1906, it shall be lawful for the Governor to expend a sum not exceeding four thousand six hundred and seventy-five pounds

£4,675), upon the survey of the Ceres Road to Ceres Line and a sum not exceeding one thousand pounds (£1,000), upon the survey of the Bellville to Durbanville Line out of the sums provided by the said Act for the construction of the said Railways.

No. 27—1908.

5. It shall be lawful for the Governor to apply certain surpluses, as detailed in Schedule "B" hereunto annexed, to cover expenditure in connection with the Railway Construction authorized to be carried out in excess of amounts authorized to be raised by loan as set forth in the said Schedule.

Application of surpluses detailed in Schedule B.

6. For the purpose of constructing the works detailed in Schedule "C" hereunto annexed it shall be lawful to apply certain surplus balances as well as the amounts authorized for the construction of certain other works as detailed in the said Schedule.

Application of certain surpluses to works detailed in Schedule C.

7. It shall be lawful for the Governor to apply certain surpluses as detailed in Schedule "D" hereunto annexed, to cover expenditure on Works authorized to be carried out by the Table Bay Harbour Board in excess of amounts authorized to be raised by Loan, as set forth in the said Schedule.

Application of certain surpluses detailed in Schedule D.

8. This Act may be cited as the "Public Loans Act, 1908."

Short Title.

SCHEDULE "A."

Schedule A

TREASURY :	£
Advances to Agricultural Distillers under section forty of Act No. 36 of 1904	50,000
Loans to Co-operative Associations of Wine and Agricultural Farmers for general agricultural purposes ...	20,000
COMMISSIONER FOR PUBLIC WORKS :	
Water Boring (including £10,000 to cover cost of raising previous Loans) ...	15,000
Bridges or Pontoons ...	2,000
SECRETARY FOR AGRICULTURE:	
Loans for purchase of Fustage for Co-operative Wineries	10,000
Jackal-proof Fencing ...	25,000
	35,000
Surveys—Native Territories ...	25,000
School Board Deficits, January to June, 1908 ...	35,000
	£182,000

No. 27—1908.

SCHEDULE "B."

Schedule B.

		<i>Railways.</i>		
		<i>Surplus.</i>		<i>Deficit.</i>
<i>Act 28 of 1895.</i>				
	Somerset East to King William's Town Line ...	£15,000	0 0	...
<i>Act 40 of 1898.</i>				
	Malmesbury to Pickenier's Kloof Line ...	71,077	6 2	...
<i>Acts 40 of 1898 and 36 of 1899.</i>				
	Queenstown to Tar-kastad Line ...	8,827	14 4	...
<i>Act 38 of 1902.</i>				
	Indwe to Maclear Line ...	21,665	14 5	...
	Mossel Bay to George ...	...		£38,911 7 4
	Cape Collieries ...	...		3,451 0 0
	Mafeking to Ottoshoop ...	...		1,166 8 4
	Riversdale to Mossel Bay Subsidy... ..	...		1,328 7 4
	Paarl to French Hoek ...	...		1,250 0 0
<i>Cost of raising loans.</i>				
	Oudtshoorn to Klip-plaat ...	...		5,464 13 2
	Port Elizabeth to Avontuur ...	...		5,577 2 9
	Kalabas Kraal to Hopefield ...	...		4,902 0 0
	Indwe Line, purchase of ...	...		19,541 3 2
<i>Act 38 of 1906 :</i>				
	Schedule A. ...	...		24,231 1 5
	„ B. ...	...		8,547 12 9
	„ C. ...	...		2,199 18 8
		£116,570	14 11	£116,570 14 11

Schedule C.

SCHEDULE "C."

Post and Telegraphs.

TELEPHONE AND PRIVATE WIRE CONSTRUCTION.

1.	Exchange Area ...	Cape Town ...	£2,000	0 0
2.	do. ...	Kimberley ...	2,000	0 0
3.	do. ...	East London ...	1,000	0 0
4.	do. ...	Grahamstown...	543	0 0

SCHEDULE "C"—(continued).

No. 27—1908.

5.	Exchange Area ...	King William's Town ...	£3,610	0	0
6.	do. ...	Paarl ...	300	0	0
7.	do. ...	Worcester ...	347	0	0
8.	do. ...	Oudtshoorn ...	400	0	0
9.	do. ...	Kalk Bay and Muizenberg	600	0	0
10.	do. ...	Simonstown ...	500	0	0
11.	For General Purposes, Telegraphs and Telephones ...	... ..	1,099	12	3
12.	Additional cost of raising Loan under Act 43 of 1905 (Telegraph portion)		962	7	0
			<u>£13,361</u>	<u>19</u>	<u>3</u>

to be provided for as follows:—

Surplus Unexpended Balances on the completion of the following Works authorized by Act 43 of 1905 and Act 37 of 1906, and Works to be postponed:—

SURPLUSES:

Schedule B. Act 43, 1905.

Telegraph Construction Adjustments on Works carried out under Act 31 of 1902	£178	2	4
Deficit under Sub-section "Erection and Equipment of Private Wires"	0	16	2

Schedule C. Act 36 of 1899.

Crane for lifting Cable Drums ...	17	10	0
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Schedule D. Act 43, 1905.

King William's Town to Queenstown	26	16	3
Kokstad to Harding	38	17	8
Mossel Bay to Brandwacht	5	15	1
Port Alfred to West Bank	5	17	5
Loop Line to Longlands	6	15	8
Cost of raising funds, Schedule B. Act 31 of 1902	0	4	10

Schedule A. Act 37, 1906.

Bedford to Glencliff	85	15	9
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WORKS TO BE POSTPONED:

Schedule B. Act 43, 1905.

Mafeking Exchange Area	748	0	0
Vryburg do. do.	748	0	0
Graaff-Reinet do. do.	1,533	0	0
Kalk Bay and Muizenberg	1,015	8	1

No. 27-1908.

SCHEDULE "C"—(continued).

Schedule D., Act 43, 1905.

Kimberley to Fourteen Streams ...	850	0	0
Queenstown to Station, Underground Cable	350	0	0
Port Elizabeth, Underground Telegraph Cable	2,000	0	0
King William's Town Exchange Area	4,380	0	0
Craddock do. do.	1,127	0	0
Mossel Bay do. do.	244	0	0

£13,361 19 3

Schedule D,

SCHEDULE "D."

*Table Bay Harbour.**Surpluses.**Deficits.**Act 20 of 1900, Schedule "B."*

Cranage and other appliances and Cargo Stores in connection therewith ...	£40,584	6	4
Facilities for dealing with coal ...	1,945	9	6
Contribution from Harbour Board Revenue to above Works ...	123,067	0	0

Act 50 of 1905.

Bogie Trucks (part balance) ...	5,146	13	7
---------------------------------	-------	----	---

Act 33 of 1898 and Schedule "A" to Act 20 of 1900.

Improvement of Harbour of Table Bay ...	...	£90,528	13	6
Improved Coaling Facilities ...	...	13,383	17	7
Adaptation of W. Quay for Railway Traffic	179	0	0

Act 20 of 1900, Schedule "B."

Reclamation of Land, south of South Pier	9,026	0	0
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SCHEDULE "D"—(continued).

No. 27—1908.

Act 33 of 1902.

Works authorised under Act No. 33 of 1902 at £1,301,200, for which only £600,000 on account was provided ...

<i>Surpluses.</i>	<i>Deficits.</i>
...	57,625 18 4
<u>£170,743 9 5</u>	<u>£170,743 9 5</u>

No. 28—1908.]

[September 8, 1908.

ACT

To Apply a Sum not exceeding Eleven thousand eight hundred and forty-one pounds twelve shillings and sixpence sterling, for the purpose of meeting and covering certain Unauthorized Expenditure.

[Assented to 4th September, 1908.]

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

1. The public revenue of this Colony is hereby charged with the sum not exceeding Eleven Thousand Eight Hundred and Forty-one Pounds Twelve Shillings and Sixpence Sterling, to meet unauthorized expenditure beyond the amounts voted or appropriated for the service of the financial year ended 30th June, 1907, described on page 210 of the "Report of the Controller and Auditor-General, with Statements of the Revenue and Expenditure and Appropriation Accounts of the Colony of the Cape of Good Hope for the financial year 1906-1907" Revenue charged with £11,841 12s. 6d. unauthorized expenditure, year ended June, 1907.
 [G. 1—'08.]

2. This Act may be cited as the "Unauthorized Expenditure Act, 1908." Short title.

No. 29—1908.]

[September 8, 1908.

ACT

To Confirm the Sale of certain Lands at the Van Wyk's Vlei Irrigation Settlement, in the Division of Carnarvon, to Adjust and Regulate the Supply and Distribution of Water for Irrigation, and to make provision for the Licensing of additional Land.

[Assented to 4th September, 1908.]

Preamble.

WHEREAS the disposal of certain Lands at Van Wyk's Vlei, in terms of section nine of Act No. 15 of 1887, was concurred in by Resolution of both Houses of Parliament, dated respectively the 8th and 13th August, 1888, upon certain terms and conditions more fully set forth in Parliamentary Paper, A. 6 of 1888; and whereas certain of the said lands, known respectively as sowing lands, garden lots and building lots have been disposed of by sale under the said Act, upon conditions not wholly in accordance with the said terms and conditions provided as aforesaid; and whereas it is desirable, in the interests of the said irrigation settlement, that certain additional lands should now be disposed of, and that the terms and conditions attaching to the grants made in respect of the lands previously sold, and above-referred to, should be altered and amended in certain respects:—

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

Certain sales
of lots con-
firmed.

1. All sales of lots in the settlement known as the Van Wyk's Vlei Irrigation Settlement, and enumerated in Schedule "A" to this Act, are hereby confirmed, provided that all such sales shall be deemed to have been made subject to the conditions and regulations set out in Schedule "B" hereto, including any penal condition or regulation therein contained, and that the Deeds of Grant shall be amended accordingly, the original to be surrendered in exchange for new amended Deeds; and all land in the said settlement remaining undisposed of at the date of this Act may be disposed of by the Governor in accordance with the regulations set out in Schedule "C" hereto, and subject thereto, and any additional regulations from time to time made thereunder.

Regulations.

2. The Governor may make regulations for the purposes of this Act, and in such regulations may provide for the appointment of a bailiff and an Advisory Board to discharge such duties as may be prescribed by him.

3. It shall be lawful for the Governor to frame regulations for regulating the use and providing for the renting to owners of lots of such portions of the Commonage lands as may be capable of being brought under irrigation and cultivation.

No. 29—1908.
Governor may frame regulations for use and renting of land.

4. This Act may be cited as the "Van Wyk's Vlei Settlement Act, 1908."

Short Title.

SCHEDULE A.

Schedule A.

CARNARVON: VAN WYK'S VLEI ESTATE.

Sowing Lots Sold.

No. of Lot.	Name of Original Grantee.	Date of Title.
16	J. N. Vos	28.8.'94
17	H. W. Vos (Spinster)	"
29	J. N. Vos	"
30	P. J. de Wit	"
31	C. F. Marais	2.8.'95
42	P. Rezant	"
43	J. Rezant	"
44	B. P. Geldenhuys	3.7.'95
45	A. Barker	21.6.'95
55	A. Krugel	"
56	I. Oberholzer	23.12.'95
57	D. P. Minnaar	21.6.'95
58	A. Barker	"
59	J. A. Visser	3.12.'95
71	J. G. de Bruyn	"
72	A. von Grossicks	21.6.'95
73	D. P. Minnaar	"
74	A. J. de Bruyn	"
75	J. J. de Wit	"
76	A. J. H. Malherbe	"
88	A. P. Haarhoff (Spinster)	"
89	"	"
90	J. J. Minnaar	"
91	H. C. Townshend	2.8.'95
92	"	"
93	P. Krugel	21.6.'95
105	C. C. McMillan	"
106	"	"
107	P. Krugel	"
108	C. F. Marais	2.8.'95
109	A. J. H. Malherbe	21.6.'95
110	H. J. Visser	21.6.'95
111	C. Biermann	"
124	J. C. de Klerk	3.7.'95

No. 29—1908.

SCHEDULE "A"—(continued).

Sowing Lots Sold—(continued).

No. of Lot.	Name of Original Grantee.	Date of Title.
125	J. N. Moolman	28.8.'94
126	A. C. A. Alston	21.6.'95
127	E. S. Alston	"
128	M. H. Rossouw	28.8.'94
142	J. N. Moolman	"
143	M. de Bruyn (spinster)	21.6.'95
144	M. Alston (spinster)	"
145	P. C. Moller	28.8.'94
146	J. A. Visser	"
160	I. Oberholzer	21.6.'95
161	C. Biermann	"
162	A. Von Grossicks	"
163	A. J. de Bruyn	23.12.'95
177	J. N. F. Ekkerd, senior	28.8.'94
178	J. N. Ekkerd	"
179	W. Simpson	3.7.'95

Garden Lots.

No. of Lot.	Name of Original Grantee.	Date of Title.
46	P. C. Moller	31.12.'94
50	P. J. Haarhoff	"
51	"	"
65	E. G. Alston	25.8.'94
66	H. J. B. Alston	"
67	H. A. Alston	"
86	A. C. A. Alston	28.8.'94
85	E. S. Alston	"
84	M. Alston (Spinster)	"
87	B. P. Geldenhuys	3.7.'95
88	"	"
109	H. J. B. Alston	31.12.'94
110	J. H. Vos	28.8.'94
112	J. C. de Klerk	31.12.'94
113	M. A. Strumpfer	3.7.'95
129	A. J. Wagner	21.6.'95
130	H. W. Vos (Spinster)	28.8.'94
131	J. H. Vos	"
132	I. Oberholzer	"
111	J. C. de Klerk	31.12.'94
133	C. Biermann	21.6.'95
134	J. N. Moolman	28.8.'94
135	A. von Grossicks	"
136	A. P. Haarhoff (Spinster)	"
62	E. G. Alston	25.8.'94
63	A. C. A. Alston	"

SCHEDULE "A"—(continued).

No. 29—1908.

Building Lots.

No. of Lot.	Name of Original Grantee.	Date of Title.
6	B. P. Geldenhuys	3.7.'95
41	"	"
59	G. A. Duncan	31.12.'94
60	"	"
70	A. G. J. van Rensburg	21.10.'97
74	J. H. Erasmus	"
78	A. Barker	25.8.'94
79	"	"
80	H. C. Townshend	"
81	H. A. Alston	"
82	H. J. B. Alston	"
84	H. C. Townshend	31.10.'95
85	E. S. Alston	25.8.'94
87	"	"
88	G. Alston	"
89	H. J. B. Alston	31.12.'94
90	A. J. van Rensburg	"
91	D. C. Alston	"
92	A. J. de Bruyn	25.8.'94
93	C. J. Haarhoff (spinster)	"
94	A. P. Haarhoff (")	"
95	C. C. McMillan	"
96	E. G. Alston	"
97	A. C. A. Alston	"
98	"	"
99	M. Alston (spinster)	"
100	G. Alston	"
101	A. J. Wagner	3.7.'95
102	J. P. Lehanie	25.8.'94
103	"	"
108	A. P. Haarhoff (Spinster)	30.12.'97
109	C. C. McMillan	21.10.'97
110 } 111 }	Undenominational School	12.10.'97
118	A. J. H. Malherbe	25.8.'94
119	H. W. Vos (Spinster)	"
120	J. H. Vos	"
130 } 131 }	Rhenish Missionary Society	5.9.'02
135	W. Simpson	25.8.'94
136	D. P. Minnaar	"
136A	H. E. Walton	15.3.'98
139	C. J. Biermann	21.10.'97
140	Rhenish Missionary Society	5.9.'02
142	M. E. Biermann	30.12.'97

SCHEDULE "A"—(continued).

Building Lots—(continued).

No. of Lot.	Name of Original Grantee.	Date of Title.
143	C. Biermann	3.7.'95
144	J. C. de Klerk	31.12.'94
145	M. A. Strumpfer	3.7.'95
146	A. von Grossicks	25.8.'94
148	L. Gerber	21.10.'97
149	J. H. Erasmus	3.7.'95
150	I. Oberholzer	25.8.'94
151	J. N. Moolman	"

I certify that the lots above quoted were granted to the respective persons mentioned on the dates specified.

ARCH. S. HARKER,
for Surveyor-General.

Surveyor-General's Office,
6th August, 1908.

Schedule B.

SCHEDULE "B."

REGULATIONS FOR THE CONTROL OF CERTAIN MATTERS
CONNECTED WITH VAN WYK'S VLEI ESTATE.

PART I.

SUPPLY OF AND RATES OF CHARGE FOR WATER FOR
IRRIGATION TO SOWING AND GARDEN LOTS.(a) *Sowing Lots.*

1. The bailiff shall on or before the 15th April of each year post up at his office a notice defining the extent of land within the area of the sowing lots which may be irrigated by the water impounded by the dam. In making this provisional calculation the bailiff will ascertain the volume of water stored in the reservoir above the five feet level at the main discharge valve and assume four acre feet of water in the reservoir to be required for the irrigation of one acre of winter crops. Should the volume of water stored in the reservoir be increased by late rainfall after the 15th April, the area to be irrigated will be increased proportionately. Due notice thereof will be similarly given by the bailiff.

2. Between the 15th and 25th of April, in each year, erf holders desiring a supply of water for the winter irrigating season must register with the bailiff particulars of the area of land they propose to irrigate during the winter season, and such applications

shall have reference to each individual lot separately. Should the aggregate area thus registered exceed the area defined in the bailiff's notice, the bailiff shall in the first place make a ratable reduction in areas applied for which individually exceed five morgen or half an allotment; provided that no area shall be thus reduced below five morgen or half an allotment.

If the amount of water available is insufficient to irrigate, on an average, half the area of each of the full allotments on account of which application has been made, then the bailiff will distribute the water available in *pro rata* shares amongst the erfholders who have made application, irrespective of the areas applied for, and each applicant will be informed what area has been allotted to him. It shall be open, under these circumstances, for applicants to withdraw their applications, in which case the areas of the remaining applicants will be ratably increased.

If the total area applied for is less than can be matured by the water available, vacant allotments (erven) within the boundaries of the estate may be given out on temporary sowing leases on such terms as may from time to time be notified.

3. During the winter months, May to October, water will be supplied to registered applicants at the rate of 15s. per morgen for which four waterings as defined in section five, as a maximum, will be given, including a preliminary watering before sowing.

4. During the summer months, October to May, subject to there being sufficient water in the reservoir after the winter crops have been provided for and after the summer requirements of gardens and plantations and the requirements of the village lots have been taken into account, water for irrigation will be supplied to all holders of sowing lots on application. Such single waterings will be charged for at the rate of 7s. 6d. for each morgen supplied.

In order to encourage the cultivation of leguminous crops a water rate of 4s. per morgen per watering will be charged for beans, peas, lentils and other leguminous crops other than lucerne.

5. For the purpose of these regulations (preceding sections one to four) the area to be irrigated within the boundaries of the sowing lots will be divided into plots, each plot being not greater than one half-morgen in extent and each fed separately from a distributing furrow. On a properly levelled field a watering will be held to have been given when a good stream of water turned in at one place on the margin of the field shall have spread over the whole area. The flooding of large areas being wasteful, the bailiff is empowered to stop the supply of water to a field of large extent when he estimates that sufficient water has flowed on to the field for the efficient irrigation of the area, even though the whole area has not been covered by the water.

6. As soon as it has been decided which plots of land as defined under the preceding section shall be irrigated during any

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season, a system of rotation will be prepared under which each lot will receive water in turn working down the main furrow. Particulars of the system of rotation adopted will be publicly notified. Should an erfholder not be in a position to take the water at his allotted turn he must wait till it comes down again in the course of the next cycle of distribution.

7. The irrigated lands being at a considerable distance from the dam, and the stoppage of water being exceedingly wasteful, irrigation will be practised throughout the twenty-four hours under such conditions for control of rotation and supply as may from time to time be publicly notified at the office of the bailiff or by other approved means.

(b) *Garden Lots.*

8. A minimum water rate of twenty shillings per annum shall be payable on each garden lot on account of which application for water has been made, and such payment shall entitle the owner to 1,000,000 gallons per annum per morgen, provided the supply in the reservoir is sufficient to enable the supply to be made. Any quantity beyond this allowance shall be paid for at the rate of one penny per thousand gallons. All water so delivered under this section will be measured by the bailiff over triangular or trapezoidal notches, and such measurement shall be final and binding upon all parties. The supply of water to gardens will be given by rotation at fixed intervals which will be notified by the bailiff.

PART II.

CONTROL OF FURROWS AND METHOD OF DISTRIBUTION
FOR SOWING AND GARDEN LOTS.

9. The main furrow or furrows will be maintained by the Government until other provision for this purpose shall have been made, but all distributing furrows running alongside or across roadways whether serving sowing or garden lots shall be constructed by the occupiers or holders at their own cost and any distributing furrows over any lot or lots shall upon demand of the bailiff or other duly authorised officer, be deflected in such manner as to convey the water past any obstruction to the nearest point in the same or other roadway below such obstruction.

10. Where furrows are to be constructed, enlarged or put in repair the bailiff shall decide as to which owner or owners shall bear the cost of the work, and his decision shall be final.

11. The bailiff shall have free access over any lot for the purpose of cleaning or repairing the main furrow or furrows and the right to enter upon any lot for the purpose of general

inspection and also for the purpose of satisfying himself as to the state of any furrow or dam used in irrigation. He shall also be empowered to limit the length of any strip of land irrigated from any given furrow, and may refuse to issue water to any owner upon whose allotment there may be an insufficiency of distributing furrows or inadequate directing walls or dams.

12. The owner of a lower lot may, with the approval of the bailiff, construct a furrow over an upper lot for the purpose of conveying water from a roadside or distributing furrow to the point of greatest elevation upon the lower lot: provided always that it be not reasonably possible to convey the water direct to the desired point by means of a furrow partly or wholly situated on the lower lot. Conveyance of water shall mean conveyance by gravitation along a furrow excavated to a depth of say not more than one foot and at a reasonable inclination.

13. Forcing water over any elevation by means of artificial dams or other obstructions or the accumulation of water to a greater depth than three inches at the lower end of any irrigable area shall not be permitted, and should such accumulation take place, the water may be run off the land by order of the bailiff, and applied to the irrigation of other ground. The deliberate creation of any such obstruction or accumulation of water shall be an offence punishable by fine as hereinafter provided.

14. Any accidental or artificial elevation other than an approved dam, sluice or furrow causing an obstruction to the passage of water over any lot of irrigable land with the effect of raising the surface of the water on the upper side of such elevation more than three inches above the natural surface of the ground, shall forthwith be removed on demand from the bailiff, or failing compliance may be by him removed at the cost of the owner of the land; provided that when any such accidental obstruction or elevation affects an extensive area, the owner, with the sanction of the bailiff, may construct a furrow specially designed for the irrigation of such area.

PART III.

CONSERVATION OF AND PROTECTION OF WATER FROM POLLUTION.

15. Any person guilty of wastefully or unduly using water from any furrow or other source serving a supply from the reservoir shall on conviction for each offence be liable, in terms of section one hundred and eighteen of Act No. 32 of 1906, to a fine or penalty subject to a maximum as hereafter provided calculated at the rate of five shillings per morgen, or part of a morgen wetted, or at the rate of 1s. per 1,000 gallons, or portion of

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1,000 gallons, should water be allowed to flow into wells, pits or tanks, which in the opinion of the bailiff are unsuited to the efficient storage of water.

16. No kraal, stable or other source of possible pollution of any furrow or other means of distribution of water from the reservoir shall be built about or adjacent to the line of the main furrow without previous approval.

17. Bathing in the main or chief distributing furrows, and the washing of any bedding, clothing and other articles therein is prohibited. Water for such purposes may be drawn therefrom, but any operations of the character described must be conducted at a distance of not less than thirty feet from the edge of the furrow and under such conditions that no foul or used water shall return to the furrow by surface flow. The owners of pigs or other animals polluting the water in the main furrows shall on conviction be liable to a fine as provided in Clause Nineteen of the regulations.

18. In order to prevent the water contained in the reservoir from becoming so charged with alkali and other salts so as to render it unsuitable for irrigation, stock and domestic purposes, the reservoir shall from time to time be partially or completely drained, as may be found desirable, all water so run off being strictly excluded from all gardens and arable lands. The bailiff shall post up at his office a notice stating that the dam will be drained for cleaning purposes ten clear days before such draining is commenced.

19. Any person who shall be guilty of a breach, or an attempt to commit a breach, of any of these regulations and conditions shall be deemed to be guilty of an offence and on conviction shall be liable to the penalty provided by section one hundred and twenty of Act No. 32 of 1906, as if he had been convicted of an offence under the said Act.

20. These conditions and regulations may, from time to time, be altered and amended by Proclamation published in the *Gazette*.

Schedule C.

SCHEDULE C.

CONDITIONS OF LICENCE BY SELECTION OF SOWING LOTS AT VAN WYK'S VLEI, CARNARVON.

1. Applications will be receivable only from the present owners of arable lots in the Van Wyk's Vlei Settlement at the rate of one additional lot for each such lot now held.

2. Every application for such land shall be made, in writing, to the bailiff, who shall note thereon the day on which such application shall be received by him, and forthwith forward the same to the Minister.

3. Any two or more applications for the same land received on the same day after the date above fixed shall be deemed to have been made simultaneously, and all applications made before the date so fixed shall be treated as if they had been made on such date.

4. The lands so applied for shall with the approval of the Governor be allotted according to priority of applications, provided that when two or more applications shall be made simultaneously for the same land, the right of priority shall be determined by lot.

5. Every applicant for land under this notice shall make and append to his application a declaration to the following effect :—

I (A.B.) (insert occupation), residing at....., in the district of....., do solemnly and sincerely declare that I make this present application for my own exclusive use and benefit, and not directly or indirectly for "the use or benefit of any other person whomsoever, that I have not made any arrangement or agreement to enable or permit any other person to acquire the land in respect of which this my application is made," and I hereby desire that in the event of the lot specified in my application being allotted by priority of application to some other person, my application may be applied to such other lot within the defined area as may fall to me.

.....
(Signature of Applicant)
(A.B.)

Declared before me at.....this
.....day of.....19.....
(C.D.)
Justice of Peace.

6. No person other than the registered owner of arable allotments at Van Wyk's Vlei shall be a competent applicant for the land under this notice, and no person who has at the time of application made any arrangement or agreement to permit any other person to acquire the land so applied for shall be allotted land, and no person shall be capable of receiving more than one allotment for each of the lots originally held by virtue of selection under this notice.

7. The Minister shall issue to the first applicant who shall have fulfilled the specified conditions for any land under this Notice, a licence to hold the land applied for on the following terms and conditions :—

- (a) Government Land Surveyors employed in the survey of Crown or other lands, or Engineers in the service of the Government, with their assistants and servants, shall

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- for professional purposes have the right of access at any time to any part of the land licensed. •
- (b) All roads, paths or tracks running over the land licensed shall remain free and uninterrupted until closed by competent authority in due form of law.
 - (c) The right to all ores, metals, minerals or precious stones is reserved to the Government, but the licensee shall have such owner's rights as are or may be conferred upon leases of Crown Land by any Act relating to mining.
 - (d) The licensee shall be required to keep all the existing improvements on the land in good repair during the term of licence, and to deliver up the same in good repair, but shall not be entitled to any compensation for the same.
 - (e) The licence of any lot shall be inseparable from the ownership of the original holding by virtue of which such licence was acquired, and the transfer of such original holding shall *ipso facto* entail the transfer of the licence.
 - (f) The licensee shall wholly and absolutely forfeit his licence, together with all improvements made, upon the breach of any condition binding him.
 - (g) The occupation of land under this licence shall not be held to be *bona fide* occupation under the provisions, and for the purposes of section twenty of Act No. 40 of 1895.
 - (h) That the licence shall be for five years, reckoned from the next first July or first January following the date of application and shall include the period between the date of application and such date.
 - (i) That the yearly payment in respect of such licence shall be at the rate of 2s. 6d. per morgen.
 - (j) That the land shall be licensed subject to such rules and regulations for the distribution and use of irrigation water from the Van Wyk's Vlei Dam, to such regulations as to periods of fallowing land, and to the payment of such water or other rates as the Governor may from time to time impose by Proclamation.
 - (k) No additional water right shall attach to any lots licensed under this Notice; but the water rights attaching to the original holding shall be divisible between such holding and any land licensed hereunder in such manner as may be decided from time to time: Provided that in respect to the fallowing of land under this clause and the division of water under the clause next succeeding, water shall be supplied to any particular allotment (whether an original holding or part thereof or an additional allotment held under this lease) only

for two years in succession from a date to be fixed in such case ; and, after expiry of such two years period, all such lands shall remain fallow for not less than twelve consecutive calendar months : subject to the exception that virgin soil may be cropped in the first instance for the first three years in succession, but thereafter only for two years in succession as above laid down.

- (l) No commonage rights shall attach to lands licensed under this notice.
- (m) That at the expiration of the five years from which any licence may be granted the licensee shall have the option of renewal for a further period of five years upon the same terms should Parliament in the meantime not have approved of terms and conditions for sale of the land.

8. No land held under the provisions of this Notice shall be transferable during the currency of the licence mentioned in the clause next preceding.

No. 30—1908.]

[September 18, 1908.
ACT: Repealed by Act 37 of 1923

To Amend the Law relating to Stamps and Companies and Companies that issue Loans in consideration of Premiums.

[Assented to 8th September, 1908.]

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

Preamble.

1. (1) Section fourteen of the "Stamp Acts Amendment Act, 1887," and so much of any other law as may be repugnant to, or inconsistent with, the provisions of this Act are hereby repealed, save as to things done, liabilities incurred or proceedings instituted thereunder prior to the promulgation of this Act. Repeal of repugnant Laws.
- (2) Instead of the words "section fourteen of this Act" contained in section sixteen of "The Stamp Acts Amendment Act, 1887," there shall be read the words "section three of the Insurance and Loan Companies Act, 1908."
2. For the purposes of this Act the expression "Insurance or Loan Company" shall include any company, society, association or person carrying on the business of fire marine, accident or life assurance, or insuring against any class of risk or contingencies, or issuing sinking fund policies, or issuing bonds or certificates, or other instruments undertaking or securing the payment of any lump sum at any fixed or certainly ascertainable dates, with or Definition of "Insurance or Loan Company."

No. 30—1908.

without *interim* advances in consideration of periodical payments, or receiving subscriptions, premiums, or money in any manner whatsoever, and undertaking in consideration thereof to make advances or loans or provide for expenditure for any purpose whatsoever, and shall include any building society which issues such bonds, certificates or instruments.

Deposit of security

3. (1) No insurance or loan company shall transact or attempt to transact any business, or issue any policy, bond or instrument as aforesaid to any person within the Colony unless and until it shall have deposited with and to the satisfaction of the Treasurer security, if its head office or place of business is within the Colony, to the value of five thousand pounds, liable, however, to be increased in accordance with such regulations as the Governor may prescribe therefor to not exceeding ten thousand pounds, and, if its head office or place of business is elsewhere than within the Colony, to the value of ten thousand pounds.
- (2) In the case of any such company transacting business at the date of this Act, and desiring to continue its business within the Colony, there shall be granted, if the head office is within the Colony, six months' grace within which the deposit may be made, and, if the head office is situate elsewhere, ninety days' grace.
- (3) Securities deposited under section fourteen of the Stamp Acts Amendment Act, 1887, shall be deemed to have been deposited under this Act.
- (4) The income derived from any security deposited may be paid to the depositor.
- (5) Any such company may, on giving due notice to the Treasurer, withdraw from his custody any securities deposited under the provisions of this Act or of "The Stamp Acts Amendment Act, 1887," provided there be deposited with the Treasurer by such company securities to his satisfaction of an equal value, and any such substituted securities shall, for all purposes, be treated as securities originally deposited.

Provided that this section shall not apply to a mutual or other genuine building society which shall satisfy the Minister that its head office and directorate are in this Colony, that it is established on a sound financial basis and is being conducted on sound financial principles; and provided further that any society claiming exemption under the foregoing proviso shall satisfy all reasonable requirements of the Government Actuary or officer appointed to inquire into its financial basis, working and condition; and provided finally that for the purpose of the exemption the decision of the Minister shall be final and decisive.

4. Any person transacting or attempting to transact business in behalf of, or inducing any other person to transact business with, or in any way whatsoever canvassing for, any insurance or loan company which has not duly deposited the security required to be deposited by this Act shall be guilty of an offence, and shall be liable on conviction to a penalty not exceeding five hundred pounds sterling, or to imprisonment with or without hard labour for a period not exceeding six months, or to both such fine and imprisonment.

No. 30—1908.
Penalty for failure to deposit security.

5. The Resident Magistrate of the district in which any offence against the provisions of this Act is committed shall have jurisdiction to impose the penalty provided in respect of such offence.

Jurisdiction of Magistrate.

6. If any insurance or loan company fails to deposit duly the security required by this Act it shall be lawful for the Supreme Court, at the suit of the Treasurer, to order the payment of the amount of such security to the Treasurer by the company, or its representative or agent within the Colony, and direct the withdrawal or cancellation of the licence, if any, held by such Company.

Supreme Court may order payment of security.

7. Every insurance and loan company shall furnish such annual and other returns and particulars in such form and manner as may be required and prescribed by the Governor, and in default of furnishing such returns or particulars, such company shall be guilty of an offence, and shall be liable on conviction to a penalty not exceeding five hundred pounds, to be sued for in any competent Court.

Annual returns to be furnished.

8. This Act shall take effect from a date to be proclaimed by the Governor, and may be cited as the "Insurance and Loan Companies Act, 1908."

Short Title.

No. 31—1908.]

[September 11, 1908.]

ACT

To Provide for the cleansing of Tick-infested Cattle in certain Divisions of the Cape Colony.

[Assented to 10th September, 1908.]

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

Preamble.

1. The provisions of this Act shall be in force in every division in which it shall be proclaimed by the Governor, acting in pursuance of a resolution to that effect passed by the Council of such division at a meeting, of which not less than thirty days previous notice shall have been given in the *Gazette* and in some newspaper circulating in such division.

Proclamation of Act.

- No. 31—1908.
2. In this Act the following terms shall have the several meanings assigned to them, that is to say :—
- “Cattle” shall mean ox, cow, bull, calf or heifer.
- “Tick-infested” shall mean any animal visibly infested with ticks and which it is shown has not been cleansed within the number of days required by this Act.
- “Cleansed” shall mean dipped, sprayed or otherwise cleaned in manner provided by regulations under this Act.
3. It shall not be lawful for any owner of cattle to allow any such cattle, if tick-infested, to be upon any main road or any Divisional or Municipal road, or upon any public outspan or commonage unless such cattle shall have been cleansed within fourteen days previously to their being moved or allowed on such road or place, and all such cattle which shall be moved on to or allowed on any such road or place shall be under the charge or control of some competent person, but the provisions of this section shall not apply to the cattle of any person within the boundaries of his property.
4. It shall be lawful for any field-cornet, justice of the peace, sheep inspector or police officer, on finding any cattle upon such road or place, to inspect the same and, if found tick-infested, to demand from the person in charge the production of a certificate, granted under this Act, to the effect that such cattle had been previously cleansed within the period above stated, and if such person shall fail to produce such certificate, or shall fail to prove to the satisfaction of the Court before which the prosecution is brought, that the cattle were cleansed within the period above stated, such person, as well as the owner of such cattle, shall be deemed to be guilty of a contravention of this Act.
5. It shall be the duty of such field-cornet, justice of the peace, sheep inspector or police officer, on finding any tick-infested cattle on any such road or place, the person in charge thereof being unable to produce the certificate mentioned, to cause such cattle to be cleansed at the cost of the owner of the cattle, which cost may be recovered (at the instance of the Crown) in any Court of competent jurisdiction.
6. If any person in charge of such cattle, as aforesaid, shall resist or interfere with such field-cornet, justice of the peace, sheep inspector or police officer in the execution of his duties under this Act, or shall refuse to cleanse the said cattle, he shall be deemed to be guilty of a contravention of this Act.
7. In the case of cattle crossing into the Colony proper from the Transkeian Territories, the certificate required under this Act shall be to the effect that the said cattle were cleansed within fourteen days prior to crossing the border.
8. It shall be lawful for the owner of any farm on which a dipping tank is situated, or for the person in charge of any dipping tank, or for any field-cornet, justice of the peace, sheep inspector, police officer, or landowner who is in a position to
- Meaning of terms.
- Tick-infested cattle on public roads, outspans, etc.
- Certificates of cleansing.
- Duties of Field-Cornets, &c., on finding tick-infested cattle on public roads or places.
- Resisting or disobeying orders of Field-Cornet, &c.
- Cattle from Native Territories.
- Who may grant certificates.

certify to the requisite facts, to grant, if requested thereto, a certificate setting forth that certain cattle described in the certificate have been cleansed, the date of the cleansing, and the number and description of the cattle.

No. 31--1908.

9. It shall be lawful for any poundmaster before releasing any cattle from any pound, in conformity with the laws relating to pounds, to cleanse such cattle and to recover from the owner of such cattle before releasing them the cost of cleansing the same reckoned according to a tariff which shall be framed for that purpose by the Council of the Division within which the person so cleansing shall reside.

Cleansing of impounded cattle.

10. It shall be lawful for the Governor, by proclamation in the *Gazette*, to make rules and regulations for all or any of the purposes of this Act:—

Rules and regulations.

- (a) To describe what shall constitute "cleansing" for the purposes of this Act.
- (b) To provide for the granting of certificates under this Act.
- (c) To provide penalties for the contravention of the regulations under this Act, no such penalty to exceed five pounds.
- (d) Generally, for carrying out the provisions of this Act.

11. Any person who shall contravene any of the provisions of this Act shall be liable on conviction to a fine not exceeding the sum of ten pounds; [and every Court of Resident Magistrate shall have jurisdiction under this Act within the limits of its jurisdiction.]

Penalty clause.

Repealed by Act 32 of 1917

12. This Act may be cited for all purposes as "The Cattle Cleansing Act, 1908."

Short title.

No. 32—1908.]

[September 11, 1908.]

ACT

To Amend Act No. 45 of 1882, commonly called "The Municipal Act, 1882," and other Municipal Acts or Ordinances.

[Assented to 10th September, 1908.]

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

Preamble.

1. The General Municipal Act No. 45 of 1882 is hereby amended as follows:—

Amendment of sections 148 and 150 of Act 45 of 1882.

- (a) In section one hundred and forty-eight all the words after "ratepayers," where that word appears a second time in the said section, are deleted;
- (b) In section one hundred and fifty all the words after "votes," where that word appears a last time in the said section, are deleted, and the word "recorded" inserted in their stead;

No. 32—1908.

And from and after the taking effect of this Act the said Act shall be read and construed as so amended.

Powers to make contributions out of revenues to certain public institutions.

2. From and after the date of the promulgation of this Act, it shall be lawful for any Municipality whether incorporated under Act No. 45 of 1882 or any other Act or Ordinance, to contribute annually out of its revenues such sum or sums of money as may by resolution of the Council be approved of to the funds of any public hospital or any charitable or benevolent institutions of an undenominational character either within or without the limits of such Municipality, the benefits of which hospital or institution are available to the inhabitants of such Municipality, and to the establishment, improvement, or maintenance of any public library, reading room, museum, or art gallery within the limits of such Municipality: but no sum exceeding £50 during one year, shall be contributed to any such hospital, or charitable, or other institution, unless the Council shall have obtained the consent of the ratepayers thereto, in manner provided by the said Act or any other Act or ordinance for obtaining the consent of ratepayers to loans; provided that the total amount of all such contributions in any one year shall not exceed a sum equivalent to one-eighth of a penny in the pound on the rateable value of such Municipality, provided that this section shall not apply to any Municipality until a proclamation shall have been issued by the Governor applying this section in respect of such Municipality, and that no such proclamation shall be issued until the Governor shall be satisfied that the ratepayers in such Municipality by a majority of votes recorded have declared their consent thereto at a poll taken in the manner prescribed by the Act or Ordinance under which such Municipality has been established.

Interpretation of "office of profit" as applied to section 17 of Act 45 of 1882.

3. No person holding the office of district surgeon, field cornet, polling officer or contractor to the Government, or being a member of the Volunteer Force, shall be deemed, as such, to hold an office or place of profit under Government within the meaning and for the purposes of section seventeen of Act No. 45 of 1882.

Short Title.

4. This Act shall be read as one with the said Act and may be cited as "The Municipal Acts and Ordinances Amendment Act, 1908."

No. 33—1908.]

[September 11, 1908.]

ACT

To Amend the Successions Duty Act, 1864, and to provide for the Repeal of the Successions Duty Act, 1895.

[Assented to 10th September, 1908.]

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

1. This Act shall be read as one with the Successions Duty Act, 1864, hereinafter called the principal Act, and may be cited as the "Successions Duty Amendment Act, 1908." No. 33-1908.
Short Title.

2. From and after a date to be appointed by the Governor and notified by proclamation published in the *Gazette* the Successions Duty Act, 1895, shall be repealed. Repeal of
Successions
Duty Act,
1895.

3. Section two of the principal Act is hereby repealed, except as to successions accrued before the 21st day of August, 1908, and there shall be levied and paid into the Colonial revenue in respect of every succession, accruing after the said date according to the net value thereof, the following duties, that is to say:— Amended
rates of duty.

(1) Where the successor shall be a lineal descendant or a lineal ancestor of the predecessor a duty of three pounds per centum upon such value.

(2) Where the successor shall be a brother or sister of the predecessor a duty at the rate of six pounds per centum upon such value.

(3) Where the successor shall be a descendant of a brother or sister of the predecessor a duty at the rate of nine pounds per centum upon such value.

(4) Where the successor shall be in any degree of consanguinity to the predecessor other than is hereinbefore described, or shall be a stranger in blood to him, a duty of fifteen pounds per centum upon such value.

4. The duty imposed by this Act shall be paid at the time when the successor, or any person in his right or on his behalf, shall come into possession of his succession, or the income and profits thereof. When duty
payable.

5. Notwithstanding anything to the contrary in the principal Act or in any other law contained any disposition or devolution of property actually, that is to say physically, situated within this Colony shall be deemed to have conferred or to confer a succession upon the person entitled thereto by reason of such disposition or devolution, notwithstanding that at the time of his death the predecessor may not have been domiciled in this Colony. Disposition
or devolution
of property
situate with-
in this Colony
to be a suc-
cession not-
withstanding
domicile of
predecessor
elsewhere.

6. (1) Stocks, debentures or shares held by any deceased person in any Company carrying on business in this Colony, shall, for the purposes of this Act, be regarded as situated within this Colony notwithstanding that at the date of his death the deceased may not have been domiciled in this Colony or that the instruments of title of such stocks, debentures or shares may not at such date have been actually situated in this Colony or that the head office or transfer office of such Company is outside of this Colony. Provided that where any such Company carries on business outside of, as well as within, this Colony, and it is proved to the satisfaction of the Master that a portion of the capital of such Company is exclusively devoted to the carrying on of the business Stocks, de-
bentures or
shares in
Companies
carrying on
business in
Colony.

No. 33—1908.

outside of this Colony the value of any such stocks, debentures or shares shall, for the purposes of this Act, be such proportion of the current market value thereof within this Colony at the date of the death of the deceased as the capital of such Company not proved to the satisfaction of the Master to be exclusively devoted to the carrying on of the business outside of this Colony bears to the whole capital of such Company.

- (2) Whenever it shall come to the notice of any Company carrying on business within this Colony that any member or holder of debentures of such Company has died, it shall be the duty of such Company to give to the Master immediate notice of such death and information as to the name and address of such deceased person and of the number and value of the stocks, debentures or shares held by him or registered in his name at the date of his death, and it shall not be lawful for any director or officer of such Company to cause or permit the registration in this Colony of the transfer of such stocks, debentures or shares past the name of such deceased person until there shall have been received by such Company a notification in writing under the hand of the Master that the duty upon such stocks, debentures or shares has been paid or that the Master consents to such transfer.
- (3) Any Company carrying on business within this Colony which makes default in complying with the provisions of this section shall incur a penalty not exceeding five hundred pounds and be liable to pay any loss of duty sustained by such default, which amounts may be sued for by the Treasurer in any competent Court; and any director or manager of any Company who shall knowingly and wilfully authorize or permit such default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred pounds, or, in default of payment, to imprisonment with or without hard labour for a term not exceeding one year or to both such fine and imprisonment.
- (4) For the purposes of this Act "Company" shall mean every partnership whereof the capital is divided, or agreed to be divided, into shares, and so as to be transferable without express consent of all the partners; and also any partnership which at its formation or by subsequent admission shall consist, or have at any time consisted, of seven or more than seven members.

7. Whenever it shall come to the notice of any member of a partnership or association carrying on business within this Colony, not being a Company, that any person having an interest in such partnership or association has died elsewhere than within

Obligation
of members
of partnership
etc., upon de-
cease of mem-
ber outside
Colony.

this Colony, it shall be the duty of the members of such partnership or association to give or cause to be given to the Master immediate notice of such death and a declaration upon oath setting forth the nature and extent of the interest of such deceased person in such partnership or association, and to furnish to the Master such additional information as the Master may require; and any member of such partnership or association who, without reasonable excuse, the onus of proving which shall be upon such member, shall fail within reasonable time to notify such death or furnish such information to the Master, shall be guilty of an offence and shall, on conviction, be liable to a penalty of fifty pounds or imprisonment with or without hard labour for three months or both such fine and such imprisonment, and may be ordered by the Court imposing such penalty to pay so much of any duty as may have been due under this Act in respect of any property belonging to such deceased member of such partnership or association.

No. 34 —1908.]

[September 11, 1908.

ACT

To Prohibit the Export of Angora Goats.

[Assented to 10th September, 1908.]

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

Preamble.

1. The "Angora Export Duty Act, 1899," is hereby repealed.

Act No. 21 of 1899 repealed. Export of Angora goats prohibited.

2. From and after the date of this Act it shall not be lawful for any person to export from this Colony any Angora ram or ewe, by land or sea, to any place beyond its territorial limits except to a neighbouring Colony or State, whose laws for the time being similarly prohibit the exportation therefrom of such animals, under a penalty not less than that provided for by this Act.

3. Every person who shall contravene the provisions of this Act by exporting any Angora ram or ewe (except as hereinbefore excepted) shall, on conviction, be liable to imprisonment, with or without hard labour, for any term not less than twelve months nor more than two years.

Penalty.

4. All penalties under this Act may be enforced in the Court of the Resident Magistrate of the District in which the offence was committed.

How penalty to be enforced.

5. This Act may be cited for all purposes as the "Angora Goat Export Prohibition Act, 1908."

Short Title.

No. 35—1908.]

[Not yet promulgated.]

ACT

To Regulate the Sale of Medicines by General Dealers or other Licensed Dealers.

[Assented to 10th September, 1908.]

Preamble.

WHEREAS it appears that some general dealers have in abuse of the authority given them by law sold medicines containing alcohol, not for their medicinal but for their intoxicating properties; and whereas it is desirable to put a stop to this practice,

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

Medicines not to be sold by licensed dealers, except for medicinal purposes

1. It shall be lawful for the Governor, from time to time, to proclaim in the *Gazette* the names or descriptions of medicines which contain liquor within the meaning of section three of the "Liquor Licensing Act, 1883," and any licensed general dealer or other licensed dealer who, as such, shall thereafter sell to any person other than a licensed dealer any such medicines except for medicinal purposes, shall be deemed to have sold liquor without a licence in contravention of the said Act, and shall, on conviction, be liable to the penalties by law provided, anything to the contrary in section five of the "Stamp Act, 1877," notwithstanding. Provided that no such dealer shall be liable to conviction under this section if it shall be proved that in selling any such medicine he reasonably and *bona fide* believed that the said medicine was really required for medicinal purposes only, and that no person shall be prosecuted under this section without the *fiat* of the Attorney-General, Solicitor-General or Crown Prosecutor within their respective jurisdictions.

Date of taking effect of Act.
Short Title.

2. This Act shall take effect upon a date to be hereafter proclaimed by the Governor.

3. This Act shall be read as one with the "Liquor Laws, 1883-1898" and the "Liquor Law, 1904," and may be cited as the "Intoxicating Medicines Sales Act, 1908."

No. 36—1908.]

[September 15, 1908.]

ACT

To Amend the Civil Service and Pensions Funds Act, 1895.

[Assented to 11th September, 1908.]

Preamble.

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

1. (1) The Civil Service and Pensions Funds Act, 1895, shall be construed as if it were expressly enacted therein that if at any time :—

No. 36—1908.

Rights of Contributors to Civil Service and Pensions Funds whose services have or may be in part dispensed with.

(a) The services of a contributor to the Pensions Funds, engaged on daily wages, who is not on the Fixed Establishment, are, by order of the Minister administering the Department in which such contributor is employed, suspended temporarily for any fraction of a day or one or more days in each or any week or month ;

(b) A contributor to the Pensions Funds engaged on daily wages, who now is or shall hereafter be placed on the Fixed Establishment, voluntarily agrees with the Head of his Department to waive his right to work the full number of hours during which he may be entitled to employment ;

(c) A contributor to the Pensions Funds engaged on daily wages is placed on the Fixed Establishment during the operation of working hours of less than forty-eight hours per week ;

for the purpose of calculating pensions and pension contributions, his period of service and wages shall be reckoned as if there had been no suspension, no waiver, and no reduction in the forty-eight working hours aforesaid, and as if he had earned and been paid what he would have had there been no such suspension, waiver or reduction : Provided, that no period of suspension the result of infringement of Civil Service or Departmental Rules and Regulations shall be included ; and provided further that Sundays shall not count.

(2) This section shall take effect as from the first day of January, 1907.

Taking effect of this part of Act.

2. From and after the passing of this Act, section thirty of the Civil Service and Pensions Funds Act, 1895, shall be read and construed as if the following additional provisions were inserted therein :—

It shall be lawful for the Governor to frame rules defining the rights of officers transferred with the consent of the Governor to any other such public service with regard to the Widows' Pension Fund, and such rules shall *inter alia* allow every such officer already transferred at the date of this Act or who may hereafter be transferred to elect :—

Governor empowered to make rules conferring rights on officers transferred to certain other Public Service with regard to the Widows' Pension Fund.

(a) Either to continue to contribute to the Fund, paying up arrears if any with interest from the date of transfer, the contribution to be based on his salary at the date of transfer, and on such portion of any increase of salary received from time to time thereafter as the Governor may decide ; provided that

No. 36—1908.

the Government or Board as the case may be to which he is transferred or the officer himself in every such case shall agree to make good from time to time the difference between the rate of five per cent. credited to the Fund by the Cape Government and the rate of interest actually realized on his contributions ; or

- (b) To cease to contribute, and to be paid a fair surrender value, to be determined by the Minister, on his contributions ; or
- (c) To have his rights in the Fund dealt with by arrangement between the Cape Colonial Government and the Government or Board to whose service he has been transferred, in which case the rules may provide for the payment from the Cape fund of a cash sum in the form of a surrender value or otherwise on a guarantee being given that the Government or Board receiving such cash payment will accept the whole liability for the widow's pension.

Such rules shall prescribe the period within which election shall be made, and failure to elect within the prescribed period shall entail forfeiture of the benefits conferred by this Act.

Short Title. 3. This Act may be cited as the "Civil Service Act Amendment, Act, 1908."

No. 37—1908.]

[September 15, 1908.]

ACT

To Legalize the payment of certain Superannuation Allowances.

[Assented to 11th September, 1908.]

Preamble.

WHEREAS it has been found necessary in order to effect greater economy and reduce the expenditure in the administration of the several Departments of the Civil Service and the Police Force of the Colony to remove or permit the voluntary retirement of certain persons in the said Service and of certain members of the Police Force from the Civil Service and from the Police Force, respectively, upon certain conditions and undertakings in regard to the payment of pensions or gratuities which have not been provided for by law.

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

1. Notwithstanding anything to the contrary contained in the "Civil Service Act, 1895," the "Police Regulations Act, 1882," or any other law it shall be lawful for the Governor, with the consent of Parliament and in pursuance of any and every arrangement, agreement, promise or undertaking entered into or made, prior to the promulgation of this Act, by the head of any Department in the Civil Service duly authorized thereto by the Minister of his Department whereby it was decided :

No. 37—1908.
Special pen-
sion, allow-
ance or gra-
tuities may be
paid under
certain con-
ditions.

(a) in regard to any person removed from the Fixed

Establishment of the Civil Service under the provisions of section thirty-five of the "Civil Service Act, 1895," that the said person should be entitled to and should receive in lieu of the pension to which he would otherwise be entitled thereunder a special annual allowance calculated upon a basis of compensation for the loss of office ;

(b) in regard to any person removed from the Fixed Establishment of the Civil Service under the provisions of section thirty-five of the aforesaid Act whose service for pension purposes was ten years or more at the date of his removal that such person should be entitled to and should receive a certain specified gratuity in lieu of the annual allowance or pension to which he would otherwise be entitled ;

(c) in regard to any person under sixty years of age voluntarily retired from the Civil Service of the Colony that such person should be entitled to and should receive a pension or annual allowance calculated as if the said person were in fact sixty years of age at the date of his retirement upon such increased number of years as shall be required to make up his age to sixty years ;

(d) in regard to any person retired voluntarily or otherwise from the Civil Service of the Colony who may have had service under the Imperial Government for which the said Government will contribute towards his pension upon his attaining the age of sixty years that such person should be entitled to and should receive a pension based upon his complete service under the Imperial and the Colonial Governments with certain additional compensation for loss of employment based upon his Colonial service only ;

(e) in regard to any person in the Police Force of the Colony under fifty years of age removed or retired, voluntarily or otherwise, from the said Police Force that such person should be entitled to and should receive a pension or annual allowance calculated as if the said member were in fact fifty years of age at the date of his removal or retirement

to pay the special allowance, pension or gratuity as the case may

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be, payable in terms of any such arrangement, agreement, promise or undertaking aforesaid, so far as the same or any portion thereof may not be lawfully chargeable to the Civil Service Pension Fund, out of the public revenue, and the person or persons aforesaid are hereby declared entitled to payment of the same.

Short Title.

2. This Act may be cited for all purposes as the "Special Pensions Act, 1908."

No. 38—1908.]

[September 15, 1908.

To Amend the Law relating to the Control and Management of the Harbours of Table Bay, Port Elizabeth, East London and Mossel Bay.

[Assented to 15th September, 1908.]

Preamble.

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

Harbour Boards of Table Bay, Port Elizabeth, and East London abolished, and their functions transferred to Government

1. From and after a date to be appointed by the Governor and notified by proclamation published in the *Gazette* :

- (1) The Boards constituted under the provisions of the Harbour Boards Act, 1896 for the control and management of the harbour together with the docks and breakwater off Table Bay, and of the harbours of Port Elizabeth and East London, shall cease to exist.
- (2) The control and management of the harbour together with the docks and breakwater of Table Bay and of the harbours of Port Elizabeth and East London, and of all works of construction or maintenance connected therewith shall be vested in the Colonial Government.
- (3) All property movable or immovable and all rights of what kind soever vested at such date in the Table Bay Harbour Board, the Port Elizabeth Harbour Board or the East London Harbour Board shall become the property of and vested in, the Colonial Government, and the Colonial Government shall become and be liable for all debts and obligations of contract or otherwise for which the said Harbour Boards may at such date be liable, and any agreement between any such Board and any Municipality with regard to the payment of municipal rates shall be taken to have been made between the Government and the Municipality, and rates shall be paid by the Government accordingly: Provided that, in the absence of such agreement, completed before the passing of this Act, the Government may agree with the Municipality from time to time as to the amount to be paid by way of or in lieu of rates and

failing such last-mentioned agreement, shall be liable to pay Municipal rates in respect of such property in accordance with the provisions of Act No. 36 of 1891, as amended by Act No. 19 of 1892, but no such property shall be regarded as entitled to exemption from rates under section four, sub-section (c) of Act No. 36 of 1891 as being either part of any line of railway or a railway building.

- (4) All such powers, rights, exemptions, privileges, functions, duties and obligations as may, under the provisions of the Harbour Boards Act, 1896, the Crown Properties Rating Act, 1891, or any other law, be conferred or imposed upon the Table Bay Harbour Board, the Port Elizabeth Harbour Board, or the East London Harbour Board, shall be regarded as conferred or imposed upon the Colonial Government in respect of its control and management of the harbour together with the docks and breakwater of Table Bay and of the harbours of Port Elizabeth and East London and of all works connected with such harbours; provided that in respect of such control and management, nothing in this Act contained shall be deemed to prohibit or restrict the operation in favour of the Colonial Government of any right or privilege which, under the provisions of any law, may be vested in the said Government.

2. All such rules or regulations, framed for the control and management of the harbours of Table Bay, Port Elizabeth or East London, under the provisions of the Harbour Boards Act, 1896, or any other law, as may be in existence at the date appointed under section one of this Act shall, in so far as the said rules and regulations may be applicable, remain in existence and be enforceable by the Colonial Government until the repeal or amendment thereof by regulations issued by the Governor under the powers conferred by section four, sub-section (4) of this Act.

Existing regulations retained until repealed or amended.

3. (1) The contracts of service of all officers and persons who, at the date appointed under the provisions of section one of this Act, may be employed by the Table Bay Harbour Board, the Port Elizabeth Harbour Board or the East London Harbour Board shall be continued in all respects as if this Act had not come into force and nothing in this Act contained shall be held to confer or impose upon any such officers or persons any rights or obligations under the Civil Service and Pension Funds Acts, 1895, or any other law now or hereafter affecting the Civil Service of this Colony.

Employment of officers.

- (2) Notwithstanding anything to the contrary contained in section thirty (e) of the Harbour Boards Act, 1896, or any other law, it shall be competent for the Minister to whom the administration of the affairs of the harbours

of Table Bay, Port Elizabeth and East London, and the works connected therewith may be assigned, to appoint such persons as may be necessary for the efficient conduct thereof, and to pay them such salaries or wages and impose upon them such conditions as he may deem expedient, provided that due provision shall have been made by Parliament, or be made in accordance with law, for the salaries or wages of the persons so appointed; and the Minister may, at any time, should he deem it expedient, dispense with the services of any officer or person so appointed.

- (3) Subject to the provisions of the Civil Service Act, 1895, it shall be lawful for the Minister to assign to any person in the Civil Service of the Colony any duties connected with the conduct of the business of the harbours of Table Bay, Port Elizabeth or East London, but nothing in this Act contained shall discharge any such person from any service or obligation which he may be liable to fulfil under any laws from time to time governing the Civil Service or infringe upon any rights acquired or to be acquired under such laws by any such person.

Advisory
Boards.

4. (1) As soon as may be after the date appointed under section one of this Act it shall be lawful for the Governor to constitute for the harbours of Table Bay, Port Elizabeth and East London respectively, advisory boards, each of which shall consist of six members, of whom one shall be nominated by the Municipality, two shall be nominated by the Governor, one shall be nominated by the Chamber of Commerce, and the remaining two shall be elected by all persons resident within the Colony who shall have paid during the twelve months ending on the 30th June in each year to the amount of not less than ten pounds sterling, wharfage or landing, shipping or transshipping dues in respect of goods landed, shipped or transhipped at the particular harbour, the voting power to be according to the amount of dues paid as follows:—

Not less than £10 and not exceeding £100, one vote.

Exceeding £100 and not exceeding £300, two votes.

Exceeding £300 and not exceeding £500, three votes.

Exceeding £500 and not exceeding £700, four votes.

Exceeding £700 and upwards, five votes,

provided that "persons" shall include firms with two or more partners, and companies with limited or unlimited liability.

- (2) The Governor may at any time cancel the appointment of any member nominated by him, and may nominate another person to be appointed in his place.

- (3) The Chairman shall be appointed at its first meeting by the members of the board.
- (4) It shall be lawful for the Governor to make regulations prescribing the period during which members shall hold office, the mode in which vacancies shall be filled, the manner in which persons entitled to vote shall be ascertained, and the mode in which votes shall be given, recorded, and counted, and to issue any such directions or frame any such rules as may from time to time be considered necessary for the regulation of all or any of the following purposes :

- (a) The manner in which any such board shall be convened and the intervals at which its meetings shall be held.
- (b) The attendance of members at meetings ; the quorum which shall be necessary to constitute a meeting ; the procedure at meetings ; the manner in which minutes of meetings and other records shall be kept ; and the means by which the results of the board's deliberations shall be conveyed.
- (c) The powers which shall be vested in such boards to enable them to obtain such information and to perform such acts as may be necessary for the determination of any matter under consideration or for the due and proper fulfilment of the duties and functions conferred upon them by virtue of this section.
- (d) All such other matters as may be necessary for the effective execution of the purposes of this section.

5. In respect of each harbour separate and distinct accounts shall be kept, and shall be kept separate from all other accounts.

6. It shall be lawful for the Governor at any time by proclamation to extend all and several the provisions of this Act to the harbour of Mossel Bay, and thereupon this Act shall take effect as and from the date of such proclamation, and an advisory board shall be constituted as soon as may be from that date.

7. The Minister may differentiate in the charge made for wharfage dues on goods imported into any of the harbours mentioned in this Act, between such goods as are imported by persons and firms who contract to have all their goods conveyed by rail between any points where in the opinion of the Minister there is competition between rail and wagon or other vehicle for the carriage of such goods, and goods imported by persons and firms who do not so contract, and shall have power to collect the amount of such difference in wharfage dues from any consignee of such goods so conveyed by wagon or other vehicle ; and for the purpose of carrying this into effect shall have power to provide by regulations for returns by merchants of all goods dispatched by wagon or other vehicle between such points, pro-

Separate accounts to be kept.

Extension of provisions of Act to Mossel Bay.

Differential wharfage dues when goods forwarded by wagon.

No. 38—1908. vided that such regulations together with a schedule of such points shall be submitted to Parliament during the first week of each Session.

Short Title. 8. This Act may be cited as "The Harbours (Table Bay, Port Elizabeth, East London and Mossel Bay) Control Act, 1908."

No. 39—1908.]

[September 18, 1908.

ACT

To Amend the Law relating to Licences and Stamps.

[Assented to 11th September, 1908.]

Preamble.

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

General Dealers, Importers, and Agents for Foreign Firms: licence fees,

1. The fees payable for the licences herein specified and issued after the date of this Act shall be as follows, and Schedule II. of the Stamp Act Amendment Act, 1887, is hereby amended accordingly:

General Dealers: in respect of each place of business:—

Half yearly	£2 10 0
Yearly	£5 0 0

Importers: For every Importer (over and above his licence as a General Dealer, Auctioneer, Pawnbroker, or dealer in Gunpowder or any other licence he may hold), in respect of goods imported after the 31st day of December, 1908:—

To the value of:

exceeding £1,000 but not exceeding £2,000	£10 0 0
" 2,000 " " 5,000	20 0 0
" 5,000 " " 10,000	30 0 0
" 10,000 " " 20,000	40 0 0
" 20,000 " " 30,000	50 0 0
" 30,000 " " 40,000	60 0 0
" 40,000 " " 50,000	70 0 0
" 50,000	100 0 0

provided that for the purpose of calculating the amount payable hereunder the value of goods imported in transit to any place beyond the borders of the Colony shall not be taken into account, and provided further that the existing tariff shall apply in respect of goods imported up to and including the 31st day of December, 1908.

Agents for Foreign Firms: For every such Agent: ^

Half-yearly	£25 0 0
Yearly	50 0 0

and for each additional firm represented by him (not to exceed in all £50 additional) 5 0 0

(If domiciled in this Colony, half the above rates.)

2. The fee payable under tariff 15 of "The Stamp and Offices Fees Act, 1884," for the licence of an apothecary, chemist and druggist issued after the date of this Act shall be three pounds fifteen shillings sterling half-yearly, and seven pounds ten shillings sterling yearly, and shall be deemed to cover all business which may be done under a general dealer's licence; and for a game licence issued after such date the fee shall be one pound sterling; and the said tariff is hereby amended accordingly.

No. 39—1908.
Apothecary's
and Game
licences.

3. From and after the date of this Act the fee payable for a permit under section four of the "Native Labour Agent Act, 1899," shall be one pound sterling for the year in respect of each district in which the runner is employed.

Permits under Act No. 6, 1899.

4. From and after the date of this Act the following annual licences shall be payable and shall be regarded as imposed by tariff 15 of Act No. 20 of 1884, viz. :—

Licences for commercial travellers, retail tobacco dealers, apothecaries and ostrich feather dealers.

- (a) For exercising the calling of a Commercial Traveller (including the exercise of such calling by an agent for a foreign firm) soliciting orders, except for agricultural machinery, from other than licensed dealers or tradesmen for articles required for the purposes of their trade, in respect of each division in which he solicits such orders and in which the firm represented by him has no established place of business ... £5 0 0
- (b) For selling tobacco by retail within municipalities or Village Management Board areas except under a general dealer's licence or except when sold by the producer ... £3 0 0
- (c) For selling, except under an apothecary's, chemist's or druggist's licence, patent or proprietary medicines (in addition to the general dealer's licence) ... £1 0 0

5. (a) Section one of the Ostrich Feathers and Skins Theft Repression Act, 1883, is hereby amended by inserting the words "or as the agent for such buyer" after the word "feathers," where this word appears the first time in the said section. The licence issued to such agent shall be in the form A, *mutatis mutandis*, set forth in the Schedule to the said Act, and all and several the provisions of the said Act shall apply to such agent.
- (b) In section four of the Ostrich Feathers and Skins Theft Repression Act, 1883, the word "Ten" is hereby substituted for the word "Five."
- (c) The provisions of this section shall take effect from and after the date of the promulgation of this Act save and except as to licences issued before the said date.

Repeal of section four of Act 32 of 1883.

6. From and after the date of this Act the following stamp duties shall be payable and shall be collected by means of stamps on patent medicines, cartridge and

Stamp duties on patent medicines, cartridge and

No. 39—1908. in such manner as the Governor by Regulation shall prescribe, but shall otherwise be taken to be imposed by the "Stamp Act, 1864," viz. :—

- (a) In respect of patent or proprietary medicines exposed for sale by retail; when the retail selling value (at the port of importation or the place of manufacture within this Colony) of the contents of each immediately containing bottle, packet, box, etc., as the case may be, exclusive of the amount of the stamp duty, does not exceed :—

	£	s.	d.
1s. 6d. a stamp duty of	0	0	2
2s. 6d. " " " " " " " "	0	0	4
4s. " " " " " " " "	0	0	6
10s. " " " " " " " "	0	1	6
20s. " " " " " " " "	0	2	6
30s. " " " " " " " "	0	4	6
50s. " " " " " " " "	0	10	0
Over 50s. " " " " " " " "	1	0	0

- (b) For every permit enabling the holder (other than a licensed dealer in ammunition for the purpose of trade) to purchase cartridges or gunpowder :—For Revolver cartridges, bores 5 m/m to 15 m/m, or Rook Rifle cartridges, 297/250 to 450 bore, for Shot cartridges, bore 410 to 20 bore, for every 100 1 0
 For No. 1—23 bulletted caps, ball and shot, .22 bore cartridges, 297/230 Morris tube cartridges, cartridges known as Saloon cartridges, for every 100 0 6
 Other cartridges, for not exceeding 25 0 6
 and for every additional 25 or fraction of 25 0 6
 For each permit enabling the holder to purchase gunpowder other than blasting powder or fireworks in respect of each lb. thereof 0 6
- (c) Upon every agreement in writing entered into within this Colony not otherwise liable to stamp duty, and whether the agreement is comprised in one or more documents or letters—in which latter case the document to be stamped shall be the document constituting the acceptance... .. 1 0
 subject to the following exemptions :
- (1) Agreements the matter whereof is not of the value of £5.
 - (2) Agreements for the hire of the services of any labourer, artificer, manufacturer, or menial servant.
 - (3) Agreements relating to the sale of any goods, wares, or merchandise.

£ s. d. No. 39—1908.

(4) Agreements made between the master and mariners of any ship or vessel for wages on any voyage.

Upon every solemn declaration (not otherwise required to be stamped) made in connection with private transactions, arrangements or agreements, except such declarations as are required to be made by Government regulations only 0 6

7. The following tariff is hereby substituted for tariff No. 2 in Schedule II of the "Stamps and Licences Amendment Act, 1898," and shall take effect from and after the date hereof: Scrip, share, warrants, &c., debentures and transfers.

Upon every scrip certificate, scrip or share (new scrip certificates without change of proprietorship excepted);

(a) Issued to the proprietor or entitling any person to become the proprietor of any share in any Company or proposed Company.

(b) Issued or delivered in the Colony to the proprietor or entitling any person to become the proprietor of any share in any Colonial or Foreign Company or proposed Company.

	s. d.
For every £10 of subscribed capital or fraction thereof	1 0
For every registered transfer of any such instrument: for every £10 of subscribed capital or fraction thereof	0 6
For every debenture issued by any Company or Corporation: for every £10 or fraction thereof	1 0
For every transfer or cession of any debenture not payable to bearer: for every £10 or fraction thereof	0 6

8. In this Act the expression "patent or proprietary medicines" shall mean any medicine Patent and proprietary medicines defined.

- (a) protected in the Colony under current Letters Patent; or
- (b) prepared, or purporting or professed to have been prepared from some secret formula; or
- (c) prepared, or purporting or professed to have been prepared by some secret or occult art, whether or not the formula is or is professed to be secret; or
- (d) sold under a name or trade mark registered specially in regard thereto; or
- (e) sold under any description which by reason of the use of the possessive case, or otherwise, implies or indicates proprietary rights.

No. 39—1908.

Application
of Act to Na-
tive Terri-
tories.

9. This Act shall, on and after such date as may be prescribed by the Governor by proclamation, apply and be in force in the Territories annexed to the Colony under the provisions of the "Transkeian Annexation Act, 1877," "The Tembuland Annexation Act, 1885," the "Walfish Bay and St. John's River Territories Annexation Act, 1884," the "Pondoland Annexation Act, 1894," the "Xesibe Country Annexation Act, 1886," and the "Rode Valley Annexation Act, 1887."

Short Title.

10. This Act shall be read as one with the existing Stamp Acts, and may be cited as the "Stamps and Licences Act, 1908."

No. 40—1908.]

[September 18, 1908.]

ACT *

To Provide for the Granting of Licences for the Sale of Light Wines.

[Assented to 11th September, 1908.]

Preamble.

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

Preliminary.

1. In this Act the expression "wine" shall mean "natural wine" as defined by Act No. 42 of 1906, as amended for the time being by any later Act, the produce of any British South African Colony, and the alcoholic strength of which does not exceed fourteen per cent. by volume.

Licensing
Court author-
ised to grant
certificates
for wine
licences.

2. From and after the date of this Act it shall be lawful for a Licensing Court, constituted under the laws for the time being relating to the sale of intoxicating liquors, and notwithstanding anything to the contrary therein contained, at any meeting thereof, to grant, in accordance with and subject to the provisions of this Act, certificates for the issue, by the Distributor of Stamps, of licences for the sale for consumption on the licensed premises of wine only, provided that such licences shall be restricted to premises situate within a municipality: Provided further that the granting of any such licence as aforesaid or any renewal thereof shall be subject, *mutatis mutandis*, to the provisions contained in Act 25 of 1891 in respect of local option.

Suitability
of place of
business.

3. No certificate for a licence under this Act shall be granted by the Licensing Court unless it is satisfied that the premises are suitable for the purposes of the exercise of such licence, or if it be proved to its satisfaction, upon objection made, that the applicant is of bad fame or character, or of drunken habits, or has previously forfeited a licence, or has been convicted of selling liquor without a licence within a period of three years; and provided that no such certificate or licence shall be granted, or if granted be, or continue to be valid, to authorize the sale of wine

under this Act in any room or place which is not entirely separated by substantial walls or partitions (without any doors or openings) from any room or place in which such person carries on any other business, including the business of a chemist, but excluding *bona fide* cafes, restaurants and boarding-houses.

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4. If any intoxicating liquor of any kind whatsoever other than wine as hereinbefore defined is proved on any occasion to have been sold or supplied or consumed ~~or to have been found exposed or intended for sale or disposal or consumption~~ in or upon any premises licensed under this Act, the holder of the licence shall be liable to the penalties for the time being provided for contravention of section seventy-five of Act No. 28 of 1883; and shall in addition be liable to have his licence declared cancelled by the Court before which he is convicted. The provision of this section in regard to the consumption of such other intoxicating liquor upon licensed premises shall, however, not apply if it be proved that the liquor was consumed or intended for consumption by a *bona fide* lodger in such licensed premises, and was not supplied by the licence holder in contravention of the provisions of any liquor law.

Penalty for selling liquor other than wine.

5. A licence under this Act shall authorize the sale of wine on the premises and during the days and hours specified in the licence only and subject to such restrictions and conditions as may be imposed by Licensing Courts upon liquor licences under the Liquor Licensing Acts for the time being in force and as shall seem meet to such Licensing Court: provided, however, that such conditions shall in no case be more favourable to the licensee, as regards the days and hours of sale, and as regards the sale of liquor to natives, children or other persons to whom the sale of liquor is restricted or prohibited, than the most favourable conditions imposed upon any retail liquor licence operating within the municipality: and provided further that in no case except that of a *bona fide* boarding house, in respect of the supply of wine to boarders therein, shall such licence authorize the sale of wine on Sundays, Good Friday and Christmas Day.

Restrictions and hours of sale, etc.

6. No licence under this Act shall be granted to any person who would be disqualified from obtaining a retail licence under the Liquor Licensing Acts for the time being in force, and no wine shall be sold or supplied to any person to whom it could not legally be sold or supplied were the licence a retail licence granted in the municipality under the said Acts.

Persons to whom licences must not be granted.

7. All licences hereunder shall expire on the 31st day of March next after the date of issue thereof; and for every licence shall be paid to the Treasury the sum of five pounds sterling, to be collected by means of stamps.

Licences: period and fees payable.

8. No licence shall be transferred to any person or place without the consent and approval of the Resident Magistrate and any two members of the Licensing Court endorsed on the licence.

Transfers.

No. 40—1908.

Retail licence holder under Act No. 28 of 1883 to replace licence under this Act.

Death or insolvency of licensee—provisions on.

Temporary licences.

Rights of Police and Inspectors.

Liabilities of holders of licences.

9. On and after the date of the passing of this Act any person holding a retail licence under Act No. 28 of 1883, shall be entitled at the expiration of his annual licence to apply for a licence under this Act to replace his previous licence, and such application shall be considered as for a renewal of his licence.

10. In the case of the death or insolvency of the holder of a licence the widow (if any) or executor, or *curator bonis*, or trustee, as the case may be, may carry on the business until the expiration of the licence, either personally or by an agent approved of in writing under the hand of the Resident Magistrate, and without any formal transfer of the licence.

11. The Resident Magistrate may if he shall deem fit grant to the holder of any licence hereunder a certificate authorizing the issue of a temporary licence for the sale of wine at any place of recreation or amusement. The certificate shall specify the place and the hours and the number of days during which the sales are authorized, and such restrictions and conditions as the Magistrate may impose, provided that the licence shall not endure for longer than eight days in all. For every such certificate shall be paid the sum of five shillings sterling a day, to be collected as aforesaid.

12. The police and inspectors of liquor licences shall have the same rights and be liable to the same duties with regard to premises licensed hereunder as if they were licensed under the Liquor Licensing Acts.

13. With regard to the following matters the holder of a licence granted hereunder shall be under the same obligations and disabilities and be liable to the same penalties as if he were the holder of a retail licence issued under the Liquor Licensing Acts, the provisions of which, with regard to such matters, shall be taken to be inserted herein, viz. :—

- (a) Production of licence on demand by person or officer authorized to demand production thereof.
- (b) Notification of name and nature of licence in front of premises.
- (c) Supply of wine on credit.
- (d) Acceptance of pledges or securities.
- (e) Permitting drunkenness, or violent, riotous or indecent conduct to take place upon the licensed premises.
- (f) Supplying wine to any person already intoxicated.
- (g) Keeping premises open for sale of wine, or selling or exposing wine for sale during unauthorised days or hours, or sale to unauthorized persons, or in contravention of the restrictions on the sale to any persons.
- (h) Wilfully mixing or causing to be mixed with any wine any injurious, poisonous, or deleterious ingredient or substance to adulterate the same for sale.
- (i) Selling or keeping for sale any wine with which any ingredient or substance injurious to health has been mixed.

- (j) Closing during riots.
- (k) Employing persons under the age of fifteen years (for the purpose of supplying the public with wine).
- (l) Opening of bar entrances (where bars are kept) upon a public street.

14. The Governor may make regulations prescribing the form and manner in which applications for licences hereunder may be made, and with regard to the public notification of applications, the form and manner in which objections shall be made and notified to the applicant, and the hearing of the application and objections in open Court; the convening of Licensing Courts at any time when necessary for entertaining applications; the transmission of Certificates, and the forms of licences.

Regulations by Governor.

15. In the case of the holder of any licence under this Act being a company, firm or association of persons the penalty provided for any contravention of this Act shall be imposed on the person or persons for the time being having the management or control of the licensed premises; and any director, and any member of the firm, and any person in charge or apparent charge refusing to disclose the name and identity of the manager shall be taken to be the manager, and shall be liable as if he himself were actually vested with the management and control of the premises at the time of the commission of the offence.

Punishment where holder a company, firm or association of persons.

16. No licences under this Act shall be granted before the election of new members of the Licensing Court by the members of the Divisional Council to be elected in 1908.

Granting of licence after new D.C. election, 1908.

17. All offences against this Act shall be cognisable before and the full penalties may be imposed by the Resident Magistrate or any Special Justice of the Peace within whose jurisdiction such offences shall have been committed.

Jurisdiction.

18. The provisions of this Act shall not be extended to apply to the Transkeian Territories or British Bechuanaland.

Provisions not to apply to certain parts.

19. This Act may be cited as "The Light Wine Licences Act, 1908."

Short Title.

Act 41—1908.]

[September 18, 1908.]

ACT

To Further Amend the Law relating to the Allotment of Agricultural Lands.

[Assented to 11th September, 1908.]

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

Preamble.

1. The Act No. 40 of 1906, entitled "The Agricultural Lands Further Amendment Extension Act, 1906," is hereby repealed.

Repeal of Act No. 40 of 1906.

No. 41—1908.

provided that the conditions of title deeds of erven in the several European communal settlements in the district of Elliot rendered null and void by the aforesaid section shall again become part and portion of the conditions of such title-deeds, save and except in respect of such erven or portions thereof as shall have been alienated, mortgaged or otherwise dealt with under and by virtue of the provisions of Act No. 40 of 1906, and in respect of the erven in the settlements of Maxongo's Hoek, Cormor and Noah's Ark.

Commonage may be assigned by Governor to holders under Tembuland Commission tenure.

Subdivision of the Elliot Commonages and grant of sections to holders of arable allotments.

2. It shall be lawful for the Governor, with the consent of both Houses of Parliament, to assign lands not being arable lands as commonage for the holders of allotments under the tenure recommended by the Tembuland Commission (1882-1883).

3. The Governor may from time to time, upon the petition of three-fourths of the allotment holders, among whom shall be included the holders of all such erven or portions thereof as shall have titles under the provisions of Act No. 40 of 1906, sub-divide the commonage set aside for the holders of arable allotments under the tenure recommended by the Tembuland Commission (1882-1883), into lots equal in number to such allotments and available for sale to the holders of the same, and thereupon each such holder shall be entitled to purchase one lot of such subdivided commonage land in respect of each arable allotment of which he is the registered owner at an annual quitrent to be fixed for that purpose by the Governor and subject to the conditions set forth in sub-sections (a), (c), (d) and (e) of the fifth section of Act No. 15 of 1887, entitled "The Crown Lands Disposal Act, 1887," the conditions appearing in the title-deeds of the arable allotments, and the following special condition, namely:—

(a) That if at any time any adjacent or neighbouring proprietor requires a right of way or road of necessity to or from his land over the land hereby granted, the grantee shall be bound to allow him without compensation such way or road of necessity, and to point out the direction and width thereof: Provided that in case of a dispute or difference regarding such road or its sufficiency, the direction and width of the road shall be decided upon by a Board, consisting of the Resident Magistrate, as chairman, and two landowners resident in the district, to be nominated by the Minister.

Governor may cancel hypothecation clause.

4. It shall be lawful for the Governor, with the consent of both Houses of Parliament, to cancel the hypothecation clause in the title deeds to the agricultural erven and the commonage sections.

Quitrent shall be redeemable.

5. The annual quitrents payable in terms of this Act shall be redeemable in the manner provided by section two of Act No. 40 of 1895.

6. The survey expenses, cost of erection of beacons and office fee for title, shall be borne equally by the several grantees of commonage sections, provided that these amounts shall be payable in six equal annual instalments to become due on the date on which the quitrent on such land falls due.

No. 41—1908.
 ———
 Payment of expenses of survey and title deed in six annual instalments.
 Regulations.

7. It shall be lawful for the Governor by notice in the *Gazette* to make regulations for giving effect to this Act.

8. This Act shall be read as one with "The Agricultural Lands Further Amendment Extension Act, 1906," and may be cited as "The Elliot Commonages Subdivision Act, 1908."

Short Title.

No. 42—1908.]

[September 18, 1908.]

ACT

To Further amend the Laws Regulating the Disposal of Crown Lands.

[Assented to 11th September, 1908.]

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

Preamble.

1. The provisions of section eleven of the "Crown Lands Disposal Act and Leasing Acts Amendment Act, 1895," regarding the allotment of land offered for selection under that Act shall apply only in the case of applications received after the date fixed in the notice, and, from and after the taking effect of this Act, if any applications for such land shall have been received on or before the date fixed in the notice, it shall be lawful for the ~~Surveyor-General~~ ^{Minister} acting upon the advice of a ^{the} Land Board constituted ~~in~~ ^{under Land Settlement Act} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~case~~ ^{case} ~~of~~ ^{of} ~~the~~ ^{the} ~~land~~ ^{land} ~~offered~~ ^{offered} ~~for~~ ^{for} ~~selection~~ ^{selection} ~~under~~ ^{under} ~~that~~ ^{that} ~~Act~~ ^{Act}, to allot such land to a suitable and desirable person from among the applicants whose applications have been received on or before the date fixed in the notice, and to take the further steps prescribed in the aforesaid Act towards the licence and grant of such farm to the allottee as though the said allottee were the first applicant or he whose right of priority had been determined by lot, ~~provided however that no such allotment shall be made by the Surveyor-General until the Minister shall have signified his concurrence therein in writing, and provided that, in the event of the Minister disagreeing with the recommendation of the Land Board in regard to the applicant to whom an allotment is to be made, the question shall be settled by the majority of the Land Board to which shall be added for this purpose the Minister and the Surveyor-General.~~

Allotment of farms to approved applicants.

2. The Board shall ~~consist~~ ^{be} of the Civil Commissioner of the Division in which the farm offered for selection is situate and of two persons to be appointed for the purpose by the Governor whose qualifications to serve on the Land Board shall be the

Constitution of Land Board

No. 42—1908.

qualifications prescribed by section number sixty-five of "The Irrigation Act, 1906," for Water Court Assessors, and who shall be selected from a list prepared in the manner therein provided.

Duties of Board.

3. It shall be the duty of the Board after satisfying itself as far as possible as to the correctness of the declarations made by the applicants and of any other statements which may accompany their applications, and after making such enquiries as may be deemed necessary into the circumstances and character of the applicants, to select from among such applicants the individual who, in its opinion, is the most suitable and desirable; and thereupon to report the result to the ~~Surveyor-General~~ ^{Minister of Lands}, provided that in no case shall the Board be bound to select any person whom it may deem undesirable.

Penalty for false declaration.

4. In the event of any of the statements contained in the declaration made by an allottee being proved at any time during the currency of his licence to be false in any material respect, the applicant shall forfeit all right to the land applied for, as well as all moneys paid in respect thereof, and any improvements which may have been effected thereon.

Amendment of section 12 of Act 40 of 1895.

5. The words "that I am not the owner of any land" contained in the declaration prescribed in section twelve of Act No. 40 of 1895 are hereby amended so as to read "that I am not the owner of any landed property (other than urban property) of the value of more than £100."

Licences to prospect for water on Crown Lands.

6. Notwithstanding anything to the contrary contained in the "Crown Lands Disposal Act," or any other law, it shall be lawful for the Minister from time to time upon application made or if he should otherwise deem it advisable, and after publication in the *Gazette* and in one or more newspapers circulating in the Division for a period of two months of a notice describing, as near as may be, the situation of the land, and calling for applications from persons desirous of obtaining such licences, to grant licences to approved applicants to prospect for water upon such unoccupied Crown Lands as he may from time to time determine.

Applications for Licences.

7. Applications for licences to prospect for water on Crown Land shall be addressed to the Civil Commissioner of the Division in which such land is situated for transmission to the Minister, and shall be dealt with by the Board provided in section one of this Act, as if the same were an application for land to be allotted: provided, however, that every such application shall be accompanied by the declaration prescribed in section twelve of Act No. 40 of 1895, as amended by section five of this Act.

Terms of Licence.

8. The prospecting licence shall be issued free of charge, and shall hold good for a period of one year, and the prospector shall be bound to commence operations within six months of the issue of the licence, and to carry on the same with all rea-

sonable diligence, failing which such licence shall be forfeited, unless it shall be proved to the satisfaction of the Minister that *bona fide* efforts have been made, and that the failure in finding water has not been due to any fault of the licensee; in which event the prospecting licence may, upon application of the licensee, be renewed for a period not exceeding one year at the discretion of the Minister, provided, however, that the licence may be terminated by the prospector at any time upon giving written notice to the Resident Magistrate of the District of his intention to do so.

9. All licences issued for prospecting for water upon surveyed Crown Lands shall be deemed to extend to the area defined by the beacons of such Crown Land, and all licences issued for prospecting for water upon unsurveyed Crown Lands, shall define as near as may be the locality in which the applicant intends to prospect for water, and shall be deemed to extend over all unoccupied unsurveyed Crown Lands within a radius of three miles round the spot where the licensee commences his digging or boring operations; and when any licence is granted the name of the licensee, and the locality in which he intends to prospect shall be made public by notice in the *Gazette*; and during the continuance of such licence upon unsurveyed Crown Lands, no person shall be entitled to dig or bore for water within three miles of any well or borehole upon which a licensed prospector is engaged or in which he has discovered water: provided, however, that no licence shall confer upon any prospector the right to prospect for water upon any surveyed Crown Land upon which any well, fountain, or natural oozing already exists, or within three miles of any well, fountain or natural oozing, situated upon any unsurveyed Crown Lands except upon special sanction of the Minister after sufficient proof having been given him that the water of such existing well, fountain or natural oozing is insufficient or unfit for use.

10. The holder of a prospecting licence shall be bound to report the discovery of water by him to the Resident Magistrate of the Division, within three months of the date of such discovery, failing which, the licence shall be subject to forfeiture, and he shall lose all claim in respect of the water found by him; unless it shall be proved to the satisfaction of the Minister that the omission or delay in reporting such discovery was caused by circumstances beyond his control; or that the water discovered by him is insufficient or unfit for ordinary use.

11. Prior to any licence being granted to any applicant to prospect for water, he shall be informed with respect to surveyed Crown Lands of the terms and conditions upon which the land will be allotted to him under the provisions of Act No. 40 of 1895, and with respect to unsurveyed Crown Lands, of the terms and conditions and the maximum purchase price together with the expenses of survey and title for which the land, calculated as if

Limits of
Prospecting
area.

Occupation
Licence, con-
ditions of.

Terms upon
which sur-
veyed Crown
Lands will be
allotted.

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if it were 10,000 morgen in extent, would be allotted to him under the provisions of Act No. 40 of 1895, and that he will be entitled to such area as he may desire or as the Minister under the circumstances may deem advisable, not exceeding 15,000 morgen, for a price calculated upon the same basis; and upon the condition that upon survey the boundaries will be arranged by the Surveyor to the best advantage with regard to the well or borehole, due regard being had to the claims of adjoining prospectors, and that the decision of the Minister with regard to such boundaries shall be final, the rights of such applicant in the meantime to extend to all unoccupied unsurveyed Crown Land within a radius of three miles from his well or borehole, or half-way to the well or borehole of any other prospector digging or boring upon adjoining unsurveyed Crown Land, such boundaries in case of dispute to be temporarily defined by the Field-Cornet of the Ward and two persons, one to be chosen by each of the prospectors, at the cost of such prospectors.

Decision of prospector on discovery of water.

12. So soon as any prospector shall have reported the discovery of water in sufficient quantity and fit for use, he shall forthwith elect whether he will accept allotment of the area upon which he has found water, and in the event of his accepting such allotment the provisions of Act No. 40 of 1895 shall apply, and if he do not accept such allotment, he shall either surrender all claim to the land, or the Minister may, upon sufficient cause shown, extend his licence for any period not exceeding the full two years hereinbefore provided, or a period of six months from the date of making such report.

Payment of instalments.

13. Upon a prospector accepting allotment of an unsurveyed area round any water discovered by him he shall pay the annual instalments as for and in respect of an area of 10,000 morgen or such lesser area, as may have been determined by the Minister upon issue of his licence, until such time as the land has been surveyed and the area actually determined, whereupon he shall pay any deficiency, or be entitled to any refund of any difference between the actual annual rate of instalment payable with regard to the true area of the said land, and that previously fixed, with regard to the said land calculated upon the basis above referred to, and the provisions of Act No. 40 of 1895 shall meanwhile apply as if the land were already surveyed.

No claim under Act or on Government where licence not obtained.

14. No person who shall prospect for and discover water on Crown Land without having previously obtained a licence shall be entitled to any claim under this Act, and no holder of a licence for prospecting for water under this Act, shall have any claim on the Government for any expenditure incurred, in the event of his not having been successful in his search for water, or surrendering his claim to the land to which his licence refers.

Governor to frame regulations.

15. It shall be lawful for the Governor from time to time to issue regulations in the *Gazette* to give effect to the provisions contained in sections six to fourteen of this Act.

16. The Minister shall be the authority to determine whether the water reported to be discovered is of sufficient quantity and fit for use. No. 42—1908.
Minister to determine.

17. This Act may be cited as the “Farms Selection Act, 1908,” and shall be read as one with the “Crown Lands Disposal Act and Leasing Acts Amendment Act, 1895.” Short Title.

No. 43—1908.]

[September 18, 1908.]

ACT

To Provide for the Control and Protection of Trekpaths and other Servitudes in favour of the Public.

[Assented to 11th September, 1908.]

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

1. The term “animals” shall in this Act have the meaning assigned to it in the third section of “The Pounds and Trespasses Act, 1892.” Definition of terms.

“Minister” shall mean the Minister to whom the Governor has assigned the administration of this Act.

2. So much of “The Divisional Councils Act, 1889” or any other Law as may be inconsistent with or repugnant to this Act is hereby repealed. Repeal of repugnant Laws.

3. From and after the date of this Act all trekpaths, resting places, watering rights and other servitudes in favour of the public, existing over private property, whether such servitudes have been or may be established by long usage or by any instrument in writing, shall be under the control of the Divisional Council of the division in which the property burdened with such servitudes is situate. Divisional Councils vested with control of public servitudes.

4. Every Divisional Council within the Colony shall publish, within six months of the taking effect of this Act, in the *Gazette* and in one or more newspapers circulating in the division a complete descriptive list of all such servitudes on private property and all such servitudes, outspans and doordrifts upon Crown Land so far as such servitudes, public outspans and doordrifts are known, but the omission from such lists of any servitude shall not in any degree prejudice the rights of the public thereto. Every Divisional Council shall also give notice in writing to the owners or occupants and other parties known to be interested that such servitudes are claimed against the property and are included in the list aforesaid. Divisional Councils to publish lists of public servitudes.

5. Any owner of a private property or his lawful agent who shall dispute the existence of any servitude contained in the list Owner of property may dispute servitude.

No. 43—1908.

mentioned in the preceding section shall within six months of the first publication of such list lodge in writing with the Divisional Council his objection to the inclusion of such servitude therein, and shall furnish in writing the grounds of such objection and all such information in support thereof as he may be possessed of. In the event of no objection being raised within the said period by the owner of the property affected or his lawful agent the servitude shall be considered as undisputed, and shall be and remain in force over such property until modified, altered or removed as hereinafter provided. Provided however that with regard to servitudes the existence of which cannot be disputed at the time but might be disputed at some future time on the ground of long disuse or disuse for any specified period of time the failure to raise such objection within the said period of six months shall not revive such servitude and affect the right of the owner of any property upon which such servitude exists to dispute the same at such future time.

Commission
of inquiry to
investigate
dispute.

6. Upon the receipt of a notification from the owner of a private property or his lawful agent that a servitude named in the list as affecting his property is disputed by him, the Divisional Council shall depute a commission of inquiry composed of not less than three of its Councillors, none of whom shall have any interest in the matter in dispute or be related to the owner or any other party interested in the dispute, to investigate all the circumstances connected with the servitude and to determine the validity or otherwise of the objection, provided that the Chairman of the Divisional Council shall be a member of such committee, and provided that a notice, to the effect that the servitude is disputed and that it is the intention of the Divisional Council to investigate the dispute, shall be posted for general information at some conspicuous place at the respective offices of the magistrate or assistant magistrate of the district, and the Divisional Council and at the residence of each Field-cornet of the division and shall be published in the *Gazette* and in one or more newspapers circulating in the division at least once a fortnight for a period of one month, which notice shall clearly describe the property affected and its situation, the nature and extent of the servitude to which objection is made, and the date and place of inquiry, of which details the Divisional Council shall also give special notice in writing to the objector.

Decision of
Commissioners to be
final unless
appealed
against.

7. The decision of the commissioners may be given by any two of them notwithstanding the dissent of the third, and shall be communicated by the Divisional Council in writing to the parties interested, together with a notification that unless notice of appeal to arbitration, as by this Act provided, shall within three months from and after the receipt of such notification be lodged with the Divisional Council for the purpose of reversing or altering such decision, the same will become final, binding and conclusive, subject only to arbitration by the Commission or

8. It shall be lawful for any person whom such decision as aforesaid shall concern to require at any time within the three months aforesaid by notice in writing to the Divisional Council that the matter in dispute be finally settled by arbitration in accordance with "The Lands and Arbitration Clauses Act, 1882," and "The Arbitrations Act, 1898," read together, whereupon the Divisional Council shall, without loss of time, proceed to arbitration accordingly.

No. 43-1908.
Owner may appeal to arbitration.

9. Upon a dispute being settled either by the commission of inquiry or by arbitration in accordance with the provisions of this Act, it shall be the duty of the Divisional Council to advise the Surveyor-General of the terms of such settlement in order that that officer may take the steps hereinafter prescribed for the due registration thereof: provided, however, that should a survey be required in the opinion of the Surveyor-General to effectually complete such registration he may appoint a surveyor to carry out the work and recover the cost of the survey from the party or parties in the dispute who may agree at the time of the inquiry to bear the same, or who shall be bound by the terms of the arbitration award so to do.

Divisional Council to advise Surveyor-General of settlements of disputes.

10. Every Divisional Council shall within one year of the taking effect of this Act and at least once in every three years following thereon publish in manner prescribed in the fourth section hereof a list of servitudes similar to that described in the said section, which list shall clearly designate those servitudes which are disputed and those which are undisputed or in respect of which the disputes have been settled. The results of every settlement of a dispute shall, within three months of such settlement, be published in like manner as an addition, confirmation or amendment of the said list.

Divisional Councils to publish final lists of public servitudes.

11. Every Divisional Council within the Colony shall furnish each field-cornet within the division with a similar list to that mentioned in the last preceding section of such servitudes, public outspans and doordrifts within his ward, and it shall be the duty of every field-cornet if instructed thereto by the Divisional Council to make himself thoroughly acquainted with every such servitude within his ward, to ascertain its position, extent and boundaries, and to periodically inspect it. He shall also, if instructed thereto by the Divisional Council, warn offenders and shall, upon any infringement or encroachment taking place, forthwith advise the Divisional Council thereof in writing. The costs of inspections or other services rendered by field-cornets under this Act shall be defrayed by the Divisional Council concerned.

Field-cornets to periodically inspect public servitudes and report encroachments to Divisional Councils.

12. It shall be the duty of every Divisional Council to protect and enforce the rights of the public against the owner or occupier of a private property, burdened with any such servitude and to notify him in writing of any infringement of any such right, and warn him to desist from such infringement: and any owner or

Penalty for infringing public servitudes.

No. 43—1908.

occupier who, after one month's notice shall have been given him as aforesaid, fails or neglects to comply with the terms of such notice or to remove the encroachments or obstacles mentioned therein shall, upon conviction by the Resident Magistrate, be liable to a penalty of not exceeding twenty-five pounds or, in default of payment, to imprisonment without hard labour, for any term not exceeding two months, unless such fine be sooner paid, and the Resident Magistrate may order the removal forthwith of such encroachments or obstacles, and on the person so ordered neglecting to remove the same the Divisional Council may remove them and may recover from the offender, by civil process in the court of the Resident Magistrate of the district, the expenses necessarily incurred in so doing, provided however that the provisions of this section shall not apply to servitudes which are in dispute.

Persons using trekpaths except for trekking to be liable for trespass.

13. Any person without the consent of the owner, using any private property, burdened with any such servitude, for hunting, shooting, or when such shall be forbidden by the Divisional Council for vehicular traffic, or for any purpose to which the public have not an established right, or for the grazing of animals otherwise than when engaged in *bona fide* trekking or travelling with such animals, shall be liable to prosecution by the owner of the servient property for trespass, and to have his animals impounded just as if there were no servitude over the property, provided, however, that should such owner have enclosed or cultivated any portion of his property burdened with a servitude, he may not lawfully impound animals found thereon whilst *bona fide* trekking or travelling.

Definition of *bona fide* trekking.

14. For the purpose of this Act a person shall be deemed to be *bona fide* trekking or travelling with animals upon any day when he shall travel or shall have travelled on that day with such animals such number of miles as may be determined from time to time by the Divisional Council concerned and duly published in manner provided in the sixth section of this Act: provided that any person constantly driving the same animals on or along a trekpath in the course of his farming operations shall not be considered to be *bona fide* travelling or trekking.

Penalty for hunting on outspans and doordrifts on Crown Lands. Field-cornet may impound animals found on such land except when trekking.

15. Any person hunting or shooting upon Crown Land, being either a public outspan, resting place or door-drift, without a special permit from an officer duly authorized by Government to issue such permit shall be liable upon conviction to a fine not exceeding ten pounds, or in default of payment to imprisonment, with or without hard labour for any term not exceeding fourteen days. When found upon such Crown Land, any animals not *bona fide* trekking or travelling or in actual employment for drawing vehicles shall be liable to impoundment by the field-cornet, or by any person deputed by the Divisional Council therefor.

16. From and after the date of this Act, it shall be lawful for the Governor on the recommendation of the Divisional Council, and with the consent of the owner in the case of private property, or if no agreement can be come to with the owner, as may be decided by arbitration in accordance with the provisions of "The Lands and Arbitration Clauses Act, 1882," and "The Arbitrations Act, 1898," read together, to close, reduce in width, deviate and alter the positions of trekpaths and to modify or cancel other public servitudes when it shall not be opposed to the public interests to do so, provided that a fair and reasonable sum of money—to be fixed, in case of disagreement by arbitration in the manner aforesaid, shall be paid into the general revenue of the Colony by the owner of any property released from such servitude in consideration of such release, or such other servitude as may be approved by the Governor shall be granted. Before taking action under this section notice of the intention of the Governor to do so shall be published in the *Gazette*, and in one or more newspapers published or circulating in the division in which the servient property is situated; and no such action shall be taken unless and until the Governor shall be satisfied that no sufficient reason has, within two months of the first publication of such intention, been adduced against such action: provided that the provisions of this section shall, where they may be opposed to the provisions of "the Outspans Act, 1902," or "the Outspans Act, 1906," not apply to outspans: provided that in case the divisional council shall have legally incurred any expenditure in connection with any outspan sold under this section, the amount so expended shall be refunded out of the amount realized by the disposal of such outspan.

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The Governor may close and deviate trek paths, and modify and cancel public servitudes.

17. Before taking any action, such as is prescribed in the last preceding section in respect of any trekpath or door-drift which leads to or through any other division or divisions or modifying or cancelling any servitudes in connection with such trekpath or door-drift, the Council shall communicate its intention with all particulars to the Council of such other division or divisions with a view to obtaining their concurrence and if the Councils cannot agree, the matter shall be submitted to the arbitration of the Minister, and his decision confirmed by the Governor, shall be binding upon the parties, and final.

Divisional Council to consult Councils of other divisions affected, and, in case of disagreement, the Minister to decide.

18. It shall be lawful for the Council of any division to decrease from time to time by notice in the *Gazette* and in some one or more newspapers, if any, published or circulating in such division and subject to the provision contained in the one hundred and fifty-sixth section of "The Divisional Councils Act, 1889," the width to be allowed on each side of any public road or trekpath or any part thereof for the purpose of removing stock in cases where such road, or any part thereof,

Divisional Council may alter width of public road to allow for removal of stock.

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19. When any trekipath shall in terms of the provisions of this Act have been closed, reduced in width, deviated or its position altered, or any other public servitudes shall have been modified, cancelled, or declared after inquiry not to exist, the Surveyor-General or the Registrar of Deeds shall, upon production to them respectively, of the Deeds of Grant or Transfer, as the case may be, of the properties concerned, duly register the fact thereon in such manner and subject to the payment of such fees as shall be prescribed by regulations framed in accordance with the provisions of section four of "The Deeds Registry Act," No. 19 of 1891, which section shall for the purpose of registering such servitudes apply to title deeds filed in the office of the Surveyor-General.

Divisions may be exempted from operations of this Act.

20. It shall be lawful for the Governor at the request of the Council of any division and by proclamation in the *Gazette* to exempt such division from the operations of this Act.

21. This Act may be cited for all purposes as "The Trekipaths Act, 1908."

No. 44—1908]

[September 18, 1908.

ACT

To Regulate the establishment of Native Townships on Private Property

[Assented to 11th September, 1908.]

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

Definition of terms.

1. In the interpretation of this Act the following terms shall be taken to have the meanings respectively assigned to them, as hereunder:—

"Erf" shall mean any area not exceeding one morgen or such larger extent as the Divisional Council may fix by resolution duly approved by the Governor and thereafter notified to the Registrar of Deeds, and by notice published in the *Gazette* and in a local paper circulating in the division in which such private property is situate.

"Native" shall mean any Basuto, Bechuana, Bushman, Damara, Fingo, Griqua, Hottentot, Kafir, Koranna, Pondo, Zulu, or other native of South or Central Africa.

"Native Township" shall mean any area being private property which has been divided, or which it may hereafter be proposed to divide, into more than fifteen erven or more than such greater number of erven as the Divisional Council may fix by resolution duly

approved by the Governor, and thereafter notified to the Registrar of Deeds, and by notice published in the *Gazette* and in a local paper circulating in the division in which such private property is situate, the said erven being owned or occupied by Natives or under offer of sale or lease to Natives.

“Private Property” shall mean any landed property, not being landed property situate within the limits of any Municipality or Village Management Board Area, at any time held under deed of grant, transfer, or lease, and shall be deemed to include any erf or erven originally forming a portion thereof held either under separate deed or deeds of transfer or under lease.

“Owner” shall be taken to include any lessee or other person under agreement with the owner for the possession or occupation of any private property.

2. (1) An owner shall be deemed to have established a Native township within the meaning of this Act if or when he shall have sold, let or offered for sale or lease to any Natives, or permitted or agreed to permit to be occupied or possessed by any Natives, more than fifteen erven or such greater number as may be fixed by the Divisional Council and approved by the Governor as aforesaid. Sub-division of property for purposes of Native township.
- (2) No owner shall be entitled to divide his property in such wise that the subdivisions thereof together with other private properties neighbouring or adjoining thereto would have the effect of forming a Native township within the meaning of this Act, and any owner attempting to subdivide his property in contravention of this section shall be liable to the penalties provided by this Act and to an interdict under the seventh section.
3. (1) No Native township shall be established on any private property without the previous consent of the Governor and, notwithstanding anything to the contrary in the law relating to the registration of deeds or any other law, no registration of any transfer or lease of any erf in any Native township shall be effected unless the establishment of such township has been approved by proclamation as hereinafter provided, and unless such transfer or lease is substantially in accordance with the terms and conditions prescribed by such proclamation. No township to be allowed without consent of Governor.
- (2) The owner of any private property on which a Native township has already been established shall be deemed to have established such Native township in contravention of the provisions of this Act if such owner fails to make application for permission as hereinafter provided within six weeks from the date of the taking effect of this Act: provided that upon failure to make such

application such owner shall not by this Act be relieved of any obligation under contracts of sale or lease of any erven already entered into at the date of such proclamation: and provided further that if application as aforesaid be made and approved, the purchasers or lessees of such erven shall not by this Act be relieved of any obligations under such contracts.

- (3) Notwithstanding anything to the contrary in the law relating to the registration of deeds or any other law, no private property or erf shall be sub-divided and transferred without the sanction of the Governor so that any area of division or sub-division is less in extent than one morgen or less in extent than such smaller area as the Divisional Council may fix by resolution duly approved by the Governor and thereafter notified to the Registrar of Deeds and by notice published in the *Gazette* and in a local paper circulating in the division in which such private property is situate.

Application for permission to establish township and particulars to be supplied.

4. (1) Any owner of private property who desires to lay out a Native township on such property shall make application in writing for permission so to do to the Minister stating the following particulars and submitting therewith a preliminary plan showing:—
- (a) The extent and situation of the private property or portion thereof to be disposed of for the purposes of the proposed Native township;
 - (b) The extent of land to be reserved for commonage;
 - (c) The number, size and situation of erven into which the land is to be divided;
 - (d) The proposed manner of disposal of the erven and the proposed conditions of sale, or lease or other agreement for the possession or occupation of such erven;
 - (e) The number, size and situation of erven to be reserved for public purposes and the conditions of reservations;
 - (f) The sources of water supply;
 - (g) The number, size and situation of any erven already occupied or leased or under offer of sale, or lease or other agreement for the possession or occupation of such erven.
- (2) It shall be lawful for the Minister to call upon the applicant to supply all such further particulars as may, in the opinion of the Minister, be necessary to enable the Governor to determine whether the laying out of the proposed Native township is desirable in the public interests, and to defer consideration of the application pending receipt of such particulars.
- (3) The Minister shall thereupon consult the Divisional Council, regarding such application, and in the event of

objection by the majority of that body shall not proceed without the sanction of both Houses of Parliament.

- (4) The provisions of sub-sections (1), (2) and (3) shall apply *mutatis mutandis*, to any application in respect of a Native township already established.
5. (1) Every application as aforesaid shall as soon as practicable be submitted to the Governor, and it shall be lawful for the Governor either to approve of the application on such terms and conditions as the Governor may deem fit, or to refuse the application if, by reason of the unsuitability of the private property for the needs of a township or other cause, it shall appear to the Governor that the proposed establishment of a Native township is likely to be prejudicial to the public interests.
- (2) Upon approval of any application the Minister shall immediately notify the applicant of such approval and of the terms and conditions prescribed by the Governor and require the applicant to submit to the Surveyor-General a complete plan of the area of the Native township including the Commonage, prepared in accordance with the terms and conditions prescribed by the Governor.
- (3) Upon receipt of such plan the Surveyor-General shall if the terms and conditions prescribed by the Governor have been duly complied with certify to the correctness of such plan and forward the same so certified together with a certified copy of the terms and conditions prescribed by the Governor, to be filed of record in the Office of the Registrar of Deeds and notify the Minister.
- (4) Thereafter a proclamation shall be issued defining the area of the township including the Commonage and setting forth as far as may be practicable the terms and conditions prescribed by the Governor in approving of the establishment of the township.

Governor may approve or refuse any application. Steps to be taken if approved.

6. Any owner who establishes a Native township on private property before the issue of such proclamation, as is provided for in the last preceding section, shall, upon conviction, be liable to a fine not exceeding five hundred pounds sterling.

Penalty for unauthorised township.

7. It shall be lawful for the Supreme Court, Eastern Districts Court, High Court, or any Circuit Court having jurisdiction to restrain and interdict any owner from establishing a Native township in contravention of this Act and the Minister, Divisional Council, any Municipality within twelve miles from the boundaries of which it is proposed to establish such township or any registered owner of land within a like distance from the nearest point of such proposed township, may by motion apply

Application to Higher Courts to interdict establishment of Native township.

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for such interdict without being put to proof of any special damage or special interest in the matter.

Provision
for local
authority and
regulations.

8. (1) It shall be lawful for the Governor to proclaim any Native township to be a district within the meaning of Act No. 23 of 1897 and to appoint such persons as he may deem fit, not being more than five or less than three in number to act during his pleasure as the local authority for the purpose of the due control and management of such township and subject to the provisions of this Act such local authority shall have and exercise all the rights and powers and shall discharge all the duties and functions conferred or imposed upon like bodies by section fourteen of the said Act No. 23 of 1897.

(2) In addition to the powers conferred by section fourteen of Act No. 23 of 1897 aforesaid it shall be lawful for the Governor from time to time to make, alter or revoke in respect of any township regulations for all or any of the following purposes:—

(a) For preventing encroachments on lands reserved for public purposes and for the regulation of commonage rights;

(b) For the equitable distribution of the water supply for domestic or other purposes;

(c) Generally for the purposes of the good and orderly management and control of the Native township and for the maintenance or proper observance of any of the terms and conditions prescribed in the proclamation authorizing such township.

(3) The regulations as aforesaid may impose a penalty for any breach or contravention thereof not exceeding five pounds sterling or in default of payment imprisonment with or without hard labour for a period not exceeding thirty days: and all prosecutions for any such breach or contravention may be instituted in the Court of the Resident Magistrate or before any Special Justice of the Peace having territorial jurisdiction.

Levy of rate.

9. (1) Until the establishment or extension of a Municipality so as to include any Native township the Governor shall have the power to direct that the Divisional Council shall levy a rate, not exceeding threepence in the pound sterling for any one year, upon all the rateable property within the limits of such township; and such rate shall be levied, collected, recovered and accounted for by the Divisional Council in all respects as if it were a rate levied by such Council for its own purposes.

(2) The proceeds of the rate so levied, after deducting ten per centum for the expenses of collection and administration, shall be held by the Divisional Council until

devoted to the due carrying out of the provisions of the last preceding section in such manner as may from time to time be required by the Minister.

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10. This Act may be cited for all purposes as the "Establishment of Native Townships Act, 1908."

Short Title.

No. 45—1908.]

[September 18, 1908.

ACT

To Amend the "School Board Act, 1905."

[Assented to 11th September, 1908.]

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

Preamble.

1. This Act shall be read as one with the "School Board Act, 1905," and the "School Board Amendment Act, 1906," save in so far as the provisions of these Acts may be altered or repealed thereby, and is divided into parts as follows :—

Scope ; division into parts.

PART I.—Finance.

PART II.—General Provisions.

PART I.

FINANCE.

2. So much of any other law as may be repugnant to or inconsistent with any of the provisions of this Act shall be and the same is hereby repealed.

Repeal of repugnant Laws.

3. (a) Notwithstanding anything contained in sections seventy-two, seventy-three, seventy-five and seventy-six of the "School Board Act, 1905," or any other law, the liability of the Government or the Department, to contribute to any deficiency of any School Board caused by an excess of expenditure over income shall, from and after the date of the promulgation of this Act, cease and determine, except in so far as any such deficiency shall have accrued on or before the thirtieth day of June, 1908, and the liability upon the Government in respect of any debts of any School Board for which the Government has not made itself specifically liable incurred before the said date and not included in the half yearly accounts made up and balanced to the said 30th June, 1908, shall be one-half of such portion thereof as may have been contracted legally and under lawful authority.

Discontinuance of liability of Government for School Board expenditure.

(b) Section fifteen of the "School Board Act, 1905," is hereby repealed except as regards expenses incurred thereunder previous to the date of the promulgation of this Act, and from and after such date all legitimate expenses of any election held under the said Act or any

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amendment thereof shall be wholly defrayed from the funds of the Board concerned.

Certain areas not affected by this Act, except in manner mentioned.

4. Nothing in this Act contained shall be taken to authorize any alteration of the law at present existing in so far as concerns taxation for School Board purposes in the divisions of the Cape, Port Elizabeth, East London, or Kimberley, in any Municipal School Board area, or in any such area as is referred to in section seventy-five of the "School Board Act, 1905," save and except that the whole of the excess of expenditure over income of such School Boards accrued after the 1st July, 1908, shall be met by the Divisional Council or, in the case of a Municipal area, by the Municipal Council, or in the case of the areas referred to in section seventy-five of the "School Board Act, 1905," in the manner provided in said section.

Section 73 of School Board Act, 1905, amended.

5. Section seventy-three of the "School Board Act, 1905," is hereby amended by the substitution of the words "one penny" instead of the words "three farthings" in both places where such words appear in the said section. From and after the date of the promulgation of this Act it shall not be lawful subject to the provisions of sections eleven and twelve of this Act to levy within any one calendar year more than the maximum amount authorized to be levied by any rate under section seventy-three of the "School Board Act, 1905," as amended by this Act, or by a house rate under section fifteen of this Act; but, if such maximum amount prove insufficient, any balance that may be required shall be paid out of the ordinary funds of the Divisional or Municipal Council levying such rate.

Levy of rate upon estimate by Board of excess of expenditure over revenue.

6. From and after the date of the promulgation of this Act it shall be the duty of any Divisional or Municipal Council authorized to levy any tax for School Board purposes to levy such tax upon being notified by the department that upon an estimate of revenue and expenditure framed by some Board within the area of such Divisional or Municipal Council, and approved by the department, an excess of expenditure over revenue is anticipated and that the Board desire the levy of a tax to meet such excess. It shall be competent for any Divisional or Municipal Council from time to time during the course of the collection of any rate, to pay over any money so collected to the School Board entitled thereto.

No taxation in one school district for requirements of another school district.

7. Wherever any divisional area contains more than one school district, the financial requirements of every such district, not being a separate Municipal district, shall be kept and treated separately by the Divisional Council, and it shall not be lawful for any Divisional Council, in levying any rate for School Board purposes, to levy such rate upon or in respect of any property outside of the district of the Board for whose requirements such rate is levied. Provided that this provision shall not apply with reference to deficits accrued before the 1st day of July, 1908.

8. Upon some date between the 1st and the 15th day of December, 1908, it shall be the duty of every Divisional Council, except the Divisional Councils of the Cape, Port Elizabeth, East London and Kimberley, to hold a special meeting of which not less than fourteen days' notice shall have been given in writing by the Secretary of such Council to each member thereof, for the purpose of determining whether in future in respect of the whole of the deficit caused by an excess of expenditure over income of any Board or Boards within the Division, not being Boards of separate Municipal areas, there shall be levied a tax under the provisions of Part VII. of the "School Board Act, 1905," as amended by this Act, or a rate upon houses under this Act as hereinafter provided. Such question shall be determined at such meeting by a majority of the members present and voting, and the decision then taken shall finally decide the mode of School Board taxation for the future: provided that no part of any deficit accrued before the 1st day of July, 1908, shall be provided for by a rate upon houses.

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Divisional Council to decide future method of taxation for School Board purposes.

9. Whenever at any meeting held under the provisions of section eight of this Act any Divisional Council shall decide that there shall, whenever it becomes necessary to levy a tax to meet the requirements of any Board or Boards within its Division, be levied a tax upon houses under the provisions of this Act, it shall be the duty of such Council to immediately notify such decision to the Board or Boards within the Divisional area, not being Boards of any separate Municipal area, and to the School Committee of every school under the control of such Board or Boards situated within every Municipality contained within the divisional area, if any.

Notification to Boards and School Committees in Municipalities of decision to adopt taxation by house rate.

10. (a) Immediately upon the receipt of any such notification as is provided in section nine of this Act it shall be the duty of any Board so notified to call within every Municipality within the district of such Board a combined meeting of all the members of the Committee of every school within such Municipality, of which meeting fourteen clear days' notice in writing shall be given to every member of a School Committee within such Municipality. Every such meeting shall be held not less than two and not more than three weeks from the date of the receipt by the Board of the notification referred to in section nine of this Act.

Procedure on receipt by Board of such notification.

(b) At such meeting it shall be decided by the majority of members of school committees within the Municipality present and voting whether, in view of the decision of the Divisional Council, such Municipality shall be constituted a separate school district or whether such Municipality shall, for School Board purposes, continue to be portion of the Divisional area. Schools which are not represented by Committees but are governed

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directly by School Boards shall be represented at such meeting by such number of School Board members as the School Board may appoint for the purpose, not being more than the maximum number of Committee members allowed to any one school within the Municipality by the School Board and where the School Board directly governs all schools within the Municipality the majority of the Board shall decide.

Creation of new school district for Municipality on decision of combined School Committees. Procedure thereupon.

11. (a) If at any meeting held under the provisions of section ten of this Act it be decided to constitute the Municipality in question a new district for School Board purposes, the Governor shall by proclamation define and constitute such Municipal area a school district, and thereupon such area shall become subject to the law governing taxation for School Board purposes in any Municipal School Board area.
- (b) The Board of the new Municipal district thus created shall as soon as constituted take over the assets and liabilities of all schools within such district, and the Municipal Council of such Municipal area shall pay to the Divisional School Board the amount of the excess, if any, accrued between the 1st day of July, 1908, and the date of the constitution of the new district, of expenditure over income in reference to the schools within such Municipal area and half the costs of administration throughout the whole Divisional area incurred between such dates. Provided that where more Municipal areas than one are created School Districts within any Divisional area, such half cost of administration shall be borne in equal proportion by the School Boards of each such new district.
- (c) Any difference which may arise in regard to any adjustment of accounts under this section shall be referred to the Auditor-General, whose decision in the matter shall be final.
- (d) The Municipal Council may temporarily advance any amount required to be paid under this section against a school rate thereafter to be levied, or may levy a special rate to meet such amount in addition to any other school rate which may be levied by such Council under section seventy-three of the "School Board Act, 1905," as amended by this Act.

House rate.

12. From and after the date of the passing by a Divisional Council, in terms of section eight of this Act, of any resolution to levy in respect of School Board purposes a tax upon houses, all such monies as require to be raised in future for such purposes by such Divisional Council, shall be raised by means of a rate upon houses, payable by the occupier, to be styled the house rate, and to be imposed, assessed, levied and collected as hereinafter set

forth: Provided that occupier shall mean and include any person of either sex occupying a house in his or her own right, and that, in case of married persons living together, the husband shall be deemed to be the occupier: Provided, further that when and as often as the revenue derived from such rate shall be insufficient to meet the expenditure in respect of which such rate was levied, it shall be competent for such Divisional Council to meet the deficiency by means of the levy of the owner's rate, or owner's and tenant's rate combined, as provided by Part VII. of "The School Board Act, 1905," as amended by this Act.

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13. For the purposes of this Act the word "house" shall be construed to mean every distinct and separate habitation occupied by human beings, and also every house, warehouse, counting-house, shop, mill, factory, workshop, engine-house, store, or office, used as a place of business, although not occupied as a habitation: provided that this definition of the word "house" shall be subject to and modified by the rules in the next succeeding section set forth.

Definition of "house"; definition subject to rules.

14. With reference to what shall be deemed to be houses within the meaning of this Act, and with reference to the valuation of such houses, the following rules shall apply and be observed:

Rules to be observed.

(a) No store upon any wine farm, used only for storing the wine or spirits made upon such farm, and no store upon any farm used only for storing the produce of such farm shall, although such wines, spirits, or produce may be sold at such store, be deemed to be a place of business, so as to be liable to be rated as such under this Act; but every such store shall be valued as if part and parcel of the dwelling-house of the occupier of such farm.

As to store on farm.

(b) Every stable, coachhouse, and outbuilding shall be valued as if part and parcel of the dwelling-house to which it belongs: Provided that in case any such stable, coachhouse, or outbuilding be occupied as a place of business separate from the said dwelling-house it shall be liable to be rated under this Act.

Stable, coach-house, &c.

(c) If two or more buildings, within a radius of fifty yards from the centre of the principal building, be together occupied by one family as a dwelling, then those buildings shall, for the purpose of this Act, be valued together with the principal building, and their united value shall be regarded as the value of one house, and shall be liable to the rate as the value of one house. The term "family" shall, for the purpose of this rule, embrace the persons following, and the servants of any of them, viz.:

As to buildings close to principal building and occupied by one family.

(1) Husband and wife, and the ascendants and descendants of both or either of them, living with them, and paying no rent for any of the said buildings.

Who are included in term "family."

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- (2) Widower or widow, and the ascendants and descendants of such widower or widow, or of any deceased spouse of such widower or widow, living with such widower or widow, and paying no rent for any of the said buildings.

No descendant, being or having been married, and who shall reside as the head, or as the wife of the head, of a distinct family in any building separate from the principal dwelling-house (although within the radius aforesaid), shall be deemed to live with or belong to the family occupying the principal dwelling-house, and such separate building shall be liable to be rated under this Act as a separate house, although such descendant may pay no rent for such building.

Places of business close to principal building and occupied by same person.

- (d) If two or more buildings within a radius of fifty yards from the centre of the principal building shall all be occupied as places of business by the same person, whether such person shall carry on in each such building the same description of business or not, then all such buildings shall be liable to be rated under this Act as one house upon the united values of such buildings.

What shall be deemed "principal building."

- (e) What shall be deemed to be the "principal building" for the purpose of this Act shall be determined by general repute; and failing any such general repute, then the building of the greatest value shall be deemed to be the principal building.

If separate parts of same building be occupied by persons of different families.

- (f) When one building shall be partitioned and divided into parts, so that there shall not be, by means of any door or opening, any internal communication between such parts, and each or any of such parts shall be occupied as a dwelling by a person or family other than the person or family, or persons or families, occupying the other part or parts, then each part of such building shall be regarded as a separate house, and be liable to be rated as such. In case one or more of the parts of any such divided building as aforesaid shall be occupied as a dwelling, and any other part as a place of business (whether such business be that of the occupier of the part or parts used as a dwelling or not), then the part or parts occupied as a dwelling shall be valued for purposes of the rate as a separate house, or as separate houses (as the case may be), and the part or parts occupied as a place of business shall also be valued for purposes of the rate as a separate house or as separate houses (as the case may be), subject to the provisions of section twenty of this Act.

Or be used as dwelling-house and place of business respectively.

- (g) Should there be between the parts of any building, such as is described in paragraph (f) of this section, an internal communication by means of a door or opening,

Internal communication between separate parts by means of door or passage.

or enclosed and covered passage leading from one part into the other or others, then the whole building shall be valued as one house, no matter whether the parts be occupied by one person or by different persons.

- (h) When any room of any house, whether such room be on the ground floor or on an upper storey, shall not communicate by any internal opening with the rest of the house, and can only be entered from without, such room shall, if occupied by a person paying rent for the same as a separate apartment, be deemed to be a separate house, and be liable to be rated as such under this Act, but if not so occupied, it shall be valued as part and parcel of the house of which it is a room, and not separately from such house.

Room rented separately and not communicating with rest of house.

- (i) In valuing for the purpose of this Act any house occupied together with a farm, or garden, or other land, the valuator shall, as a general rule, first take into account the fair marketable value of the house and land together, should such value be known to him, and then estimate, according to the best of his skill and knowledge, what proportion of such value firstly belongs to or arises from the house, regarded as distinct from the land, and shall value the house accordingly.

Valuation of house with land annexed.

- (j) No hut, not exceeding in value the sum of forty shillings, situated on any part of any farm, and occupied temporarily as a place of shelter by any servant in charge of stock when grazing at a distance from the homestead, or in charge of growing crops, shall, in case such servant shall have a permanent residence at some other part of such farm, be deemed to be a habitation liable to be rated under this Act.

Temporary huts of 40s. value not liable to be rated.

15. (a) Upon every house within a school district in respect of which monies are to be provided under section twelve of this Act, occupied on the first day of January of the year 1909 and of each succeeding year as a dwelling-house or place of business, there shall be payable to the Divisional Council of the said district on the date mentioned in the notice to be given under section twenty-eight in each year, a rate according to the value of such house, upon the following scale:—

House rate payable according to value of house: scale of values.

On every house not exceeding in value £100, the sum of 10s.

On every house—

exceeding in value	£100, and not exceeding	£500, the sum of	£1.
"	£500,	" "	£750, " £1 10s.
"	£750,	" "	£1,000, " £2.
"	£1,000,	" "	£1,250, " £3.
"	£1,250,	" "	£1,500, " £4.
"	£1,500,	" "	£1,750, " £5.
"	£1,750,	" "	£2,000, " £6.

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And for every additional £250 and fraction of £250 of such excess an additional sum of £1, provided that in no case shall the rate exceed £10 :

Power of Council to reduce or increase scale

Provided that any Divisional Council may reduce the rate in accordance with the said scale in so far as the Board's financial demands upon them justifies the said reduction, and may increase the said rate up to fifty per cent. of the sums payable on the above scale ; provided that no occupier in any School District shall be called upon to pay any greater sum than £15 in respect of any house in the said district.

Certain houses not rateable.

16. The following houses shall not be rateable within the meaning of this Act :—

- (a) Houses the property of the Colonial Government if used for public purposes and not as residences.
- (b) Houses in the occupation of any public body and used for public purposes.
- (c) Houses used exclusively either for public worship, or for public worship and educational purposes, or for schools, colleges, libraries, museums or school or college boarding houses.
- (d) Houses used exclusively for hospitals, lunatic asylums, benevolent asylums or orphanages.
- (e) Houses the property of the Imperial Government, or in the occupation of any member of His Majesty's Regular Forces in this Colony.
- (f) Houses occupied by railway servants situate in railway camps.

Council to arrange for valuation and valuation roll.

17. (a) Not later than the first day of January, 1909, every Divisional Council which has decided that there shall be levied a tax on houses shall arrange for a complete valuation to be forthwith made of all the houses within its division and not comprised within any Municipal School Board area, and a roll, to be termed the Valuation Roll, to be made thereof, and also for a complete list to be framed of occupiers liable to pay the education rate.
- (b) A valuator or valutors shall be appointed for each divisional area or portion thereof, after due notice given by the divisional council calling for tenders from persons willing to undertake the valuation and the framing of the valuation roll—provided that the Council shall not be bound necessarily to accept the lowest tender, and that the same valuator may be appointed for more than one district : and provided further that nothing shall prevent the Council from appointing one or more of the officers of any Board as such valuator or valutors without adopting the above procedure as to notice and tenders, or from having such valuation made concurrently with any other valuation.

- (c) The said Valuation Roll shall be completed on or before the first day of April, 1909.
- (d) Such valuation and every quinquennial valuation to be made under this Act as hereinafter provided may be made simultaneously with the ordinary valuation of rateable property within the area of the Divisional Council concerned made in accordance with the terms of the Divisional Councils Act, 1889, and, notwithstanding anything to the contrary contained in section two hundred and forty-five of the said Act or in any other law, it shall be lawful for any such last-mentioned valuation to be postponed until the date fixed for the making of any valuation under this Act.
18. (a) A new valuation—to be termed the quinquennial valuation—shall be made at the expiration of every five years from the date of the previous valuation, as hereafter provided. Quinquennial valuation.
- (b) The Governor shall have the power to make and publish in the *Gazette* Regulations not inconsistent with the provisions of this Act providing for the manner in which the first and every subsequent valuation shall be made and the Valuation Roll framed. Power of Governor to make regulations.
19. The house rate imposed in any year shall be due and payable by the person in actual occupation, on the first day of January in that year, of the house upon which such rate is charged; and no person shall be liable to pay such rate merely because he is the owner of any house, of which house he is not in actual occupation. Where two or more persons are jointly in actual occupation they shall elect which of them shall be liable for the rate, and in default of election the valuator shall decide to the best of his ability, subject to an appeal as provided by this Act. By whom rate payable.
20. When any person occupies more than one house in the same school district, he shall be liable to pay the said rate in respect of that house which is valued the highest, and that only. When any person occupies more than one house, such houses being in different school districts, he shall be liable to pay the said rate in respect of each such house. Liability of person occupying more than one house.
21. It shall be the duty of the valuator for every district, or any portion thereof, to value for the rate imposed by this Act the houses situated in such district or portion thereof; and for the purpose of making such valuation it shall be lawful for such valuator or any person authorized by him, in writing, to make such valuation, to enter at all reasonable hours upon any working day, upon any lands in order to value any house situated on such lands, but he shall not be entitled, except by permission, to enter such house; and any person who shall by force or violence or by threats of force or violence, resist, molest, oppose, hinder, or obstruct such valuator or any person authorised by him as Duty of valuator; power of entry.

Penalty for unlawfully obstructing valuator.

No. 45—1908.

aforesaid whilst lawfully employed in and about assessing the value of any house, shall be guilty of an offence and shall, upon conviction, be liable to a fine not exceeding £10, and in default of payment to imprisonment with or without hard labour for any period not exceeding one month, without prejudice to the prosecution of such person, in ordinary form of law, for the crime of assault or for any greater crime which such person may have committed in the course of such resistance and obstruction as aforesaid. But no person prosecuted for a contravention of this section shall be afterwards prosecuted for any other crime alleged to have been committed by means of the same act constituting such contravention; and, conversely, no person prosecuted for such other crime shall be afterwards prosecuted for any contravention of this section and alleged to have been committed by means of the same act constituting such other crime.

How if valuator refused permission to enter.

Should the valuator, or any person authorised by him, in writing, to value any house, request permission to enter such house for the purpose of better ascertaining its value, and the occupier of such house, or the inmates thereof, refuse such permission, it shall not be lawful for such occupier to object to the valuation of such house: Provided such valuation has been made *bonâ fide*, and that it be not grossly excessive: Provided, also, that every person authorised as aforesaid shall be bound, upon demand made by the occupier of any lands upon which such person shall have entered or shall be about to enter, to show his written authority for so doing; and failing the production of such authority, it shall be lawful for such occupier to prevent such person from entering upon such lands, or continuing thereon, as the case may be.

Person authorized by Valuator to show written authority.

Duty of valuator to value and to serve notice on occupier.

22. It shall be the duty of every valuator, as soon as possible after his appointment, to value each house liable to pay the rate within the school district for which he shall have been appointed, and to serve or cause to be served on the occupier of every such house a notice, written or printed, or partly written and partly printed, in substance as follows:—

Form of notice.

School Board District of.....
to.....

Take notice that the house (or, if the building be not a dwelling-house, "the premises") in your occupation and at which this notice is delivered has been valued for house rate at the sum of £.....

Should you deem the above valuation too high, you will be at liberty to appear before the Valuation Court either in person or by some person authorised by you in writing at the..... of..... on the..... day of..... at o'clock in the forenoon, with your witnesses, if you have

any, to prove your objection: failing such appearance and proof, the valuation aforesaid will become fixed.

No. 45 1908/

Dated.....day of.....Signed A.B.,
Valuator.

The same day shall be inserted in all the notices served in the same district as the day for the appearance of objectors before the Court.

23. Every such notice shall be served on the occupier personally by showing him the original notice and leaving with him a copy and explaining to him the nature of such notice, or, if personal service cannot reasonably be effected, then by showing to some inmate of the house liable to be rated the said original notice and leaving with such inmate a copy thereof and explaining to him the nature thereof, and if no such service as aforesaid can be reasonably effected, then by leaving a copy of such notice in the said house, or by affixing a copy to the door or other conspicuous part of such house, and the person serving the same shall enter on the back of the original notice a memorandum of the service and of the manner in which the same was effected.

Mode of effecting service of notice.

24. (a) The valuator shall notify to the Divisional Council the day named in the notices aforesaid for the appearance of objectors; and upon the day so named the Valuation Court (hereinafter provided for) shall sit at the day, hour and place named in the said notices for the purpose of hearing and deciding upon objections to the valuation made; and the said Court shall hear what shall be urged by or on behalf of the objector and the valuator, and may, if necessary, take evidence on oath, and shall confirm or reduce such valuations as justice shall require; and the valuation as fixed by such Court shall be binding and conclusive: provided that the Court may adjourn the hearing upon any objection or objections as circumstances may require.

Notice to Council of day fixed for objections. Sitting of Valuation Court.

Court to fix valuation.

(b) Due publication shall be made by the Divisional Council of the date of the said sitting of the Court, in the *Gazette* and in some newspaper or newspapers circulating in the district.

Notice of sitting of Court.

(c) The day named in the said notices shall be a day as soon after the first day of April as conveniently may be, regard being had to the provisions of sections twenty-six and twenty-seven of this Act.

Day named in notices.

25. The valuator shall furthermore as soon as he has finished the valuation of houses, and obtained the names of occupiers, and not later than the first day of April in every fifth year frame a complete assessment roll showing the valuation of the several houses valued by him, to be styled the Valuation Roll; and he shall transmit such Roll to the Divisional Council on or before the said date.

Completion of valuation roll by certain date.

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Notification
that roll open
to inspection.

26. Immediately on receipt of the aforesaid Roll the Secretary of the Divisional Council shall notify by advertisement in some newspaper generally circulating in the district that a copy of such Roll is ready for inspection at the office of the Council during office hours and at such other places, if any, as the Council may direct, and that such Roll or copies thereof will remain for the inspection of all persons concerned for a period of seven days, such period to terminate not later than the tenth day of April, prior to the sitting of the Valuation Court (hereinafter provided for) on the appointed day: provided that it shall not impair the validity of the advertisement or of any subsequent proceedings if such advertisement should only be published after the appointed period of seven days have already begun to run: provided further that on or before the first of the appointed days during which the said Roll or copies thereof shall lie for inspection the Secretary of the Council shall publish a notice at a conspicuous place at the Council office notifying the fact.

Appointment
of Valuation
Court by
Council.
Court to
decide on ob-
jections.

27. As soon as may be after the receipt from the valuator of the notification referred to in section twenty-four of this Act, and on or before the fifteenth day of April, in every fifth year, the Divisional Council shall appoint three out of their number to form a Valuation Court to hear and decide on objections to valuations; and thereafter on the day fixed and appointed in the valuator's notice and in the notice published by the Council, as provided in section twenty-four of this Act, the said Court shall hear and decide on any objections to valuations as justice shall require: the said objections to the Valuation Roll shall be heard and decided upon before the first day of May: and the decision of the Court upon valuations shall be final and conclusive and without appeal.

Secretary to
give notice of
amount of
rate.

28. As soon as a house rate is fixed the Secretary of the Council shall give notice in some newspaper circulating in the district of the amount of such rate, and in such notice shall call upon all persons liable to pay such rate to pay the same at the office of the Council at any time within sixty days thereafter, and shall affix a copy of such notice in the English and Dutch languages at some conspicuous place at such office.

Penalty for
non-payment
within 60
days.

29. Should any person liable for the payment of such rate make default in the payment thereof to the Secretary within the period mentioned in the notice issued under section twenty-eight of this Act, then such person shall be liable to pay in addition to the rate in regard to which he shall have made default an additional sum equal to one-tenth of such rate; and such additional sum shall, together with the original rate, be deemed to be the rate payable under this Act and be recoverable as such.

Duty of
owner to give
notice of
change of
occupation of
house in cer-
tain cases.

30. (a) During the month of January in the year 1910, and in every year thereafter, it shall be the duty of every owner of a house within any area in which a house rate is leviable to notify to the Secretary of the

Divisional Council the name of any occupier of such house upon the 1st day of January in such year who may not have been the occupier of the same upon the 1st day of January in the preceding year, and any owner who, without lawful excuse, the onus of proving which shall be upon such owner, shall fail to give such notice to the Secretary of the Divisional Council during the month of January as aforesaid shall be liable for any house rate levied in respect of the occupation of such house during the year in which he shall have failed to give such notice, and the amount thereof may be recovered from him at the suit of the Secretary of the Divisional Council in any competent Court upon proof by such Secretary that such amount has not been secured from the person liable for the same, and that the failure to secure the same has been occasioned wholly or partly by the neglect of such owner to comply with the terms of this section.

(b) In the event of any such owner having been condemned to pay, and having paid, any such amount, he shall be entitled to recover the same by action against the person in respect of whose occupation it was in the first instance due and payable.

31. Nothing in this Act contained shall make it compulsory upon any School Board to request the advance of any money or the levy of a rate in any year, in case the Board shall not deem it expedient to have such money advanced or such rate levied, provided that if no such money is advanced or no such rate levied the Board shall take steps to provide for the deficiency in current revenue by means of voluntary contributions, guarantees or any other lawful methods; and provided further that in case a deficiency is found to exist after the auditing of the accounts of any year, the Minister may direct that the deficiency shall be met within such period as he may prescribe, or that, in case of failure to meet such deficiency within such period, a sufficient rate be levied for the purpose, and such rate shall be levied and made payable by his order at any time of the year. In the event of such rate being a house rate, all and several the provisions of this Act in reference to the limitation of the amount of such rate, to the publication of notice of the levying of such rate, and to the time within and manner in which such rate is due and payable shall apply.

Not compulsory on Board to request levying of rate or making of advance.

Minister's powers in case of deficiency.

32. It shall be lawful for the Governor from time to time to make grants in aid of education in districts where, owing to the poverty of the inhabitants or the small amount of rateable property, it is not practicable to make suitable provision for education; such grants shall be made out of the funds to be provided by Parliament for the purpose, and shall be expended in accordance with regulations to be approved of by the Governor

Governor's power to make grants in aid.

No. 45-1908.

and published in the *Gazette*, and a copy of such regulations and a return of any grants made thereunder shall be every year laid upon the Table of both Houses of Parliament within thirty days after the commencement of each Session.

Occupiers of other than European Parentage excluded from Valuation Roll.

33. Wherever a house rate has been agreed upon and until a school or schools may be established for any district, under the provisions of section forty-eight of the "School Board Act, 1905," for the children of persons of other than European parentage or extraction, the valuator shall, in making the Valuation Roll, exclude occupiers of other than European parentage or extraction; but as soon as any such school shall be duly established under the provisions of the said section, the Divisional Council shall appoint a valuator or valutors who shall proceed to make a Valuation Roll for such occupiers in manner as hereinbefore provided, and such occupiers shall be added to the existing Valuation Roll: provided that if at the date of promulgation of this Act any public undenominational school for the children of such persons exists in any district, such persons shall be deemed to be occupiers for the purpose of the Valuation Roll under this Act and be liable to be rated accordingly.

Consequences of establishment of school under section 48, Act 35, 1905.

Valuation Court revising Roll.

34. The Valuation Court shall in revising the Valuation Roll be guided by the terms of this Act and the directions and provisions, *mutatis mutandis*, contained in section twenty-two of the "Divisional Councils Act, 1889."

Certified copy of Roll to be *prima facie* evidence.

35. Any printed or written copy, purporting to be a copy of the Valuation Roll of any school district, signed by the Chairman, or person for the time being acting as Chairman, and the Secretary of the Divisional Council, shall be *prima facie* evidence of such Roll and of the contents thereof.

Omission of formalities not to invalidate proceedings, or Roll.

36. No omission to make any notification by advertisement or otherwise, with regard to any Roll, or to exhibit, or keep any Roll for inspection, shall be deemed to prevent, invalidate or render imperfect any of the proceedings by this Act prescribed with regard to the making, framing or completion of any Roll, or to invalidate any such Roll.

Governor's power to direct preparation of Roll within a prescribed time.

37. If from any cause the preparation of the Valuation Roll has been omitted or not completed, the Governor may at the request of the Divisional Council direct the same to be done within such time as may be prescribed, and upon the publication of such order in the *Gazette*, such omission or non-completion shall be rectified, and such Roll validated in accordance with the terms of such order.

Omission of revision of Roll rectified by direction of Governor.

38. If from any cause the revision of any Roll awaiting revision under this Act has not been made or completed within the proper time appointed or allowed for that purpose, the Governor may appoint a day for holding a Court for revising such Roll, and such day shall, as to all such acts and proceedings as then remain to be done or had with respect to such Roll, be

deemed to be for all intents and purposes the day appointed for such revision, and all further proceedings shall be had and taken accordingly: and in any matter arising out of or to be done under this or the preceding section the Governor may order all such steps to be taken as may be necessary to give effect to the true intent and purpose of Part I. of this Act.

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39. The provisions of the "Small Debts Recovery Act, 1905," shall apply to the recovery of rates under this Act, provided that if any person liable to pay any such rate shall prove to the satisfaction of the Magistrate that he is not possessed of moveable property to the value of £5, no judgment shall be given against him in respect of such rate: but the costs of the proceedings shall be in the discretion of the Magistrate.

Small Debts Recovery Act, 1905, to apply.

40. It shall be competent for any Divisional or Municipal Council to make to Boards within their Divisional or Municipal area temporary advances of funds to meet the current expenditure of such Boards, such advances to be made either out of general funds or out of any surplus on hand of proceeds of rates levied for School Board purposes.

Temporary advances by Divisional or Municipal Council to School Boards.

PART II.

GENERAL PROVISIONS.

41. It shall be lawful for the Governor by Proclamation, to amalgamate two or more School Districts into one such District, and for that purpose to amend or repeal any previous Proclamation issued under the provisions of the fourth section of the "School Board Act, 1905" and to provide by Regulations for the nomination and election of a new Board to give effect to the provisions of this section: provided that no such amalgamation shall be made save upon the application of ~~not less than three~~ ~~fourth~~ of the members of the Board of each district concerned. Such amalgamation shall take effect from such date and upon such conditions as the Minister shall approve.

Amalgamation of School Districts.

42. The restrictions as regards the proclamation of any new Municipality or Village Management Board area provided by section fifty-six of the "School Board Act, 1905," shall not apply in the case of any township established before the taking effect of the said Act in which sufficient provision for school purposes has, in the opinion of the Minister, already been made.

Restrictions of Act of 1905 modified.

43. In every Board hereafter constituted, whether upon the creation of a new school district or upon the effluxion of the term of office of any existing Board, two-thirds of the members shall be elected by the persons entitled to vote at any election for members of such Board, and of the remaining number of members to be appointed, one shall be nominated and appointed by the Municipal Council or Divisional Council according as the district is a Municipal or Divisional area, and the remaining number to

Method of appointment of members of Board.

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be appointed shall be appointed by the Governor, notwithstanding anything in section ten of the "School Board Act, 1905," to the contrary.

Section 11, Act 35, 1905, amended.

Voters to record votes at any polling place in District.

Repeal of section 23, Act 35, 1905.

Vacancy in Board may be filled by remaining members of Board.

Repeal of provisos 1 and 4 of section 36, Act 35, 1905.

Power of School Board to enter into agreement with persons desirous of establishing, & c., farm schools.

Section 41, Act 35, 1905, amended.

Members of Board resident at a distance entitled to certain allowance.

44. The eleventh section of the "School Board Act, 1905," is amended by striking out the words "and votes being recorded in the ward in which the voter resides" and substituting therefor the following: "save that voters may record their votes at any polling place within the School District."

45. (a) Section twenty-three of the "School Board Act, 1905," is repealed.

(b) If any elected member of a Board shall during the currency of his period of office, die, resign, or become or be found to be disqualified under the thirteenth section of the School Board Act, 1905, it shall and may be lawful for the remaining members of the Board at a meeting specially called for the purpose after due notice as provided by Regulations, by the votes of the majority present at such meeting to elect a successor to fill the vacancy so caused, and such successor shall serve until the next ordinary election.

46. (a) The first and fourth provisos of section thirty-six of the "School Board Act, 1905," are herewith repealed.

(b) Notwithstanding anything to the contrary in the said thirty-sixth section, the School Board shall have power to enter into agreements in writing with persons desirous of establishing farm schools or of continuing existing farm schools. Such agreements may provide:—

I. For the furnishing by the farmer of board and lodging for the teacher and a suitable room for a school room;

II. For the payment by the farmer, as manager, of portion of the salary of the teacher;

III. For an undertaking that the school shall continue to be carried on for a period to be stated in the agreement;

IV. For the payment in whole or in part of the school fees of the children of such farmer;

V. For any other conditions that the Board may deem expedient, and the Department approve.

47. The following words shall be omitted from section forty-one of the "School Board Act, 1905":—

"(a) Resident within the school district or outside it, but not more than three miles from the boundary thereof, (b) occupying their own property within the school district or renting a property therein for occupation; and"

48. Any member of a School Board residing at a distance of five miles or more from the usual place of meeting of the Board may receive out of the funds of the Board a sum of ten shillings

for attendance at each meeting, not exceeding two in any one month, anything to the contrary in the fifty-eighth section of the "School Board Act, 1905," notwithstanding if the Board approves.

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49. No member of any School Board shall become a contractor under any contract with the Board of which he is a member, or be interested in any such contract directly or indirectly, or become surety for any contractor under such contract : and if he shall so contract, be interested, or become surety, he shall forfeit his seat on the Board and the same shall become vacant : provided that this shall not apply to a person who lets property to the Board for school purposes or to a member of a public body which contracts as such with the School Board.

Member not to contract with Board, or become surety for contractor.

50. The Board shall cause books to be provided and true and regular accounts to be kept therein of receipts and expenditure under this Act in manner provided by section seventy-one of the "School Board Act, 1905," ; and the said books shall at all reasonable times on every Wednesday be open at the office of the Board to the inspection of any member, ratepayer or creditor of the Board ; provided that it shall be competent for the Auditor-General at any time on request thereto made by the Minister to direct by notice in the *Gazette* in what way the accounts shall be made up.

Board to provide books and cause regular accounts to be kept.

Books, open for inspection.

Auditor-General's power to direct mode of making up accounts.

51. The Board shall, after the audit provided in section seventy-one of the "School Board Act of 1905," without delay forward its accounts in triplicate, one of such accounts to the Department and two to the Auditor-General, who after audit shall return one of these accounts finally audited by him to the Board through the Department.

Report of examination and audit.

Transmission of audited accounts to Department and Auditor-General.

52. The said auditing shall be in accordance with Regulations framed by the Auditor-General and approved of by the Governor, and published by proclamation in the *Gazette*, and such Regulations may from time to time be altered or amended by the Auditor-General with the like approval intimated in the like manner ; such Regulations, so proclaimed as aforesaid, shall have the same force and effect and be subject to the like restrictions as the Regulations provided for in section eighty-two of the "School Board Act, 1905," provided that it shall and may be lawful in and by such Regulations to differentiate, if it be deemed expedient so to do, between different districts as regards the system to be followed in the keeping of books and making up of accounts and in the auditing thereof.

Auditing to be in accordance with regulations framed by Auditor-General and approved by Governor.

53. The provisions of sections one hundred and nineteen and one hundred and twenty of the "Divisional Councils Act, 1889," with regard to the appointment of examiners and the powers conferred on such examiners and the penalties therein referred to shall *mutatis mutandis* apply in the case of the examination of accounts under this Act.

Sections 119 and 120, Act 40, 1889, to apply *mutatis mutandis*.

No. 45—1908.

Reimbursement of Divisional or Municipal Board for expenditure incurred for certain purposes.

54. It shall be the duty of every Divisional or Municipal Council to keep separate accounts showing the expenditure incurred by such Divisional or Municipal Council in carrying out the obligations imposed on it by this Act in reference to the making of valuations, the levy and collection of rates and any other matters, for the purpose of meeting the financial requirements of any Board; and it shall be competent for any such Divisional or Municipal Council to reimburse itself for such expenditure, to the extent agreed upon between such Council and the Board concerned or, in the event of disagreement, to the extent decided by the Auditor-General, out of any funds in the hands of such Council available for the requirements of such Board.

Term of office of School Boards.

55. Subject to the provisions of section twenty-five of the "School Board Act, 1905," all Boards existing at the date of the promulgation of this Act and any Board constituted subsequent to such date under and by virtue of section twenty of the "School Board Act, 1905," shall hold office until the 30th day of September, 1909, and their successors shall come into office upon the first day of October, 1909, and together with any members who may have been appointed to fill casual vacancies, go out of office at the end of the third year from such date, and thereafter a fresh election shall be held at the expiration of every third year.

When elections to be held for new Municipal districts.

56. As soon as practicable after the notification of any decision in terms of section ten of this Act to constitute any Municipality a new district for School Board purposes an election shall be held and a Board constituted for such Municipal district and an election held and a new Board constituted for the divisional area from which such Municipal district has been separated, and upon the constitution of the new Board for such divisional area the existing Board shall go out of office. The Boards thus constituted shall, notwithstanding that they may have been created previous to the 1st day of October, 1909, continue in office until the 30th day of September, 1912, and all and several the provisions of the "School Board Act, 1905," or any amendment thereof and of this Act shall apply to the election and constitution of new Boards to succeed such outgoing Boards.

Establishment of Industrial Schools.

57. Notwithstanding anything to the contrary in section thirty-three of the "School Board Act, 1905," it shall be competent for any School Board either singly or in conjunction with one or more other School Boards to establish, or, by agreement with the existing authorities, to undertake the control of any Industrial School; provided that this is done with the consent of the Minister on such terms as he may approve.

Short Title.

58. This Act may be cited as "The School Board Further Amendment Act, 1908."

No. 1—1909.]

[June 9, 1909.]

ACT

To Continue, for a certain period, sections two and three of the "Sinking Funds Suspension Act No. 13 of 1908."

[Assented to 8th June, 1909.]

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

Preamble.

1. Sections two and three of the Sinking Funds Suspension Act No. 13 of 1908 are hereby continued and shall remain in operation during the further period of the financial year commencing on the 1st July, 1909, and closing on the 30th June, 1910.

Extension of period during which Sinking Fund to be suspended.

2. This Act may be cited as the "Sinking Funds Suspension Act, 1909."

Short Title.

No. 2—1909.]

[June 9, 1909.]

ACT

To Apply a sum not exceeding Two Million Pounds Sterling towards the service of the year ending 30th June, 1910.

[Assented to 8th June, 1909.]

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

Preamble.

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending 30th June, 1910, with a sum not exceeding Two Million Pounds Sterling (£2,000,000), which sum shall be applied towards the service of the said year in conformity with the Estimates of the Expenditure for the year ended the 30th June, 1909, which have been approved of by Parliament.

Revenue charged with £2,000,000 towards services of year ending 30th June, 1910.

2. This Act may be cited for all purposes as "The Appropriation (Part 1909-'10) Act, 1909."

Short Title.

No. 3—1909.]

[June 9, 1909.]

ACT

To Continue, for a certain period, the Special Retrenchment Act No. 7, 1908.

[Assented to 8th June, 1909.]

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

Preamble.

No. 3—1909. 1. The Special Retrenchment Act, 1908, is hereby continued, and shall remain in operation until the first day of July, One Thousand Nine Hundred and Ten, on and after which day it shall cease to have effect, unless otherwise determined by Parliament: Provided that the salary, wages, fees and every other emolument other than travelling, forage and sustenance allowances referred to in section two of the Special Retrenchment Act, 1908, shall apply to amounts earned between the first July, 1908, inclusive, and the thirtieth June, 1910, inclusive.

Extension of period during which salaries to be reduced.

Short Title. 2. This Act may be cited as the "Special Retrenchment Act, 1909."

No. 4—1909.]

[June 9, 1909.]

ACT

To Provide for the use of certain surplus moneys towards certain works and services, and to repeal the Provisions of Section Seven of Act No. 37 of 1906, in regard to the redemption charges under the New and Additional Railway Act, 1902, in so far as the financial year 1908-09 is concerned.

[Assented to 8th June, 1909.]

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

Application of certain surplus balances for certain purposes. 1. For the purpose of carrying out the works and services detailed in the Schedule hereunto annexed, it shall be lawful to apply certain surplus balances therein set forth, whether more or less, as the case may be, as well as any amounts which may have been or may hereafter be authorised for the same works and services.

Paragraph 2 of section 7 of Public Loans Act, No. 37 of 1906 repealed so far as it affects certain redemption charges. 2. The provisions of the second paragraph of section seven of the Public Loans Act No. 37 of 1906 shall be and are repealed in so far as they affect the redemption charges for the financial year 1908-09, in connection with the unredeemed portions of the sums of Eight hundred and eighty-five thousand Pounds (£885,000), and One hundred and twenty-five thousand Pounds (£125,000), mentioned in section two of the New and Additional Railway Works Act No. 42 of 1902.

Application of £45,065 9s. 8d. for purpose of meeting certain estimated deficit on Table Bay Harbour Account. 3. For the purposes of meeting portion of the estimated deficit on the Table Bay Harbour Account at the 30th June, 1909, it shall be lawful for the Governor to apply the amount of Forty-five thousand and sixty-five Pounds nine shillings and eight pence (£45,065 9s. 8d.) standing to the credit of the Harbour Board Depreciation Account.

Short Title. 4. This Act may be cited for all purposes as the "Finance Act, 1909."

SCHEDULE.

No. 4—1909.

Schedule.

1. Loans to School Authorities	£75,000	0	0
2. Shortfall of provision under Act No. 27 of 1908, for School Board deficits owing to such deficits having been calculated on a Cash basis	3,000	0	0
3. Fencing Advances under Act No. 15 of 1891	1,500	0	0
4. Harbour Deficits :			
Table Bay	£66,000	0	0
<i>Less</i> amount provided under Section 3 of this Act	45,065	9	8
		20,934	10 4
East London		45,000	0 0
5. Railways :			
Mafeking-Ottoshoop Line :			
Cost of Survey, Mafeking to Buurman's Drift		54	0 0
Port Elizabeth-Avontuur Line.			
Cost of Bridge over Gamtoos River		21,000	0 0
Cost of raising Loans, Act 20 of 1897		226	1 1
Somerset East-Kingwilliamstown Line		9,285	8 7
		<u>£176,000</u>	<u>0 0</u>

Surplus Balances.

1. Act 37 of 1906 — Loans to Local Authorities	£78,000	0	0
2. Acts 36 of 1899 and 9 of 1900—Hart's River Irrigation	26	3	7
3. Act 43 of 1905—Cape Town Gaol New Isolation Wards	229	5	10
4. Act 43 of 1905—Cala : Completion of Offices in hand	273	19	9
5. Act 36 of 1899 and 9 of 1900.—Port St. John's Harbour	9,144	4	7
6. Railways :			
Act 44 of 1905 :			
Victoria West to Carnarvon Railway	5,000	0	0
Somerset West to Somerset Strand Line	1,500	0	0
Act 40 of 1898 :			
Sir Lowry's Pass—Caledon Railway Line	15,000	0	0

No. 4—1909.

6. Railways—*Continued.*

Act 38 of 1902 :

Indwe—Maclear Railway Line ...	20,000	0	0
De Aar—Prieska do. ...	5,000	0	0

Act 26 of 1904 :

Railway Stores Reserve ...	41,826	6	3
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	£176,000	0	0
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No. 5—1909.]

[June 9, 1909.]

ACT

To Amend temporarily certain provisions of the
Members of Parliament Allowances Act, 1888.

[Assented to 8th June, 1909.]

Preamble.

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

Members of Parliament Allowances may be suspended by Governor's Proclamation for certain period.

1. Anything to the contrary in section five as interpreted by sub-section (c) of section six of the Members of Parliament Allowances Act, 1888 (No. 16), it shall be lawful for the Governor, during the present Session of Parliament, by Proclamation to declare and enact that members shall not be entitled to be paid the remuneration or allowance, in the said section five provided for, in respect of such days intervening between such sittings as shall be specified in such Proclamation.

Members travelling allowance during adjournment.

2. Members shall be entitled to be paid travelling allowances in respect of the journeys to and from their places of residence from and to the place whereat Parliament is summoned to assemble, made in the interval between the sittings in the first section hereof referred to and the provisions of section three of Act No. 16 of 1888 as to the calculation of such allowances shall apply to the payments made under this section.

Short Title.

3. This Act may be cited as the "Members of Parliament Allowances Act, 1909."

No. 6—1909.]

[October 12, 1909.]

ACT

To Apply a further sum not exceeding One Million
Five Hundred Thousand Pounds Sterling to-
wards the service of the year ending 30th
June, 1910.

[Assented to 11th October, 1909.]

Preamble.

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

Revenue charged with

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending

30th June, 1910, with a further sum not exceeding One Million Five Hundred Thousand Pounds Sterling (£1,500,000) which sum shall be applied towards the service of the said year in conformity with the Estimates of the Expenditure for the year ended the 30th June, 1909, which have been approved of by Parliament.

No. 6—1909.
£1,500,000 towards service of year ending 30th June, 1910.

2. This Act may be cited for all purposes as “The Appropriation (Part 1909-1910) Act, 1909.”

Short Title.

No. 7—1909.]

[October 19, 1909.]

ACT

To Apply a further sum not exceeding One Hundred Thousand and Eighty-five Pounds Sterling for the Service of the Year ended 30th June, 1909.

[Assented to 16th October, 1909.]

WHEREAS it is necessary to provide for certain expenditure necessarily incurred during the year ended the 30th June, 1909, in addition to the sums provided by Acts No. 3 of 1908 and No. 26 of 1908: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ended on the 30th June, 1909, with a further sum of One Hundred Thousand and Eighty-five Pounds Sterling, in addition to the sums provided for by Acts No. 3 of 1908 and No. 26 of 1908.

Public Revenue charged with £100,085

2. The money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto and more particularly specified and set forth in the explanatory Schedule to this Act submitted to Parliament.

How to be applied.

3. This Act may be cited for all purposes as the “Additional Appropriation 1908-1909 Act, 1909.”

Short Title

Additional Appropriation 1908-1909.	Establishments.	Services exclusive of Establishments.	Total.	Votes to be taken.
	£	£	£	£
I. Prime Minister ...	252	10,328	10,580	10,580
II. Colonial Secretary .	1,569	35,253	36,822	36,822
III. Treasurer ...	6,976	5,117	12,093	12,093
IV. Attorney-General ...	699	311	1,010	1,010
V. Commissioner of Public Works ...	15,235	16,108	31,343	31,343
VI. Secretary for Agriculture ...	919	7,318	8,237	8,237
Grand Total ...	£25,650	£74,435	£100,085	£100,085

Schedule.

No. 8—1909.]

[October 22, 1909.]

ACT

To Provide for the grant of certain land known as "Dal-Weiding," to the present proprietors of certain adjacent properties in Division of Paarl.

[Assented to 20th October, 1909.]

Preamble

WHEREAS in the year 1829 the owners of the farms "Rust en Werk," "Vlakkeland," "Goede Rust," "Nonpareille," "Roggeland," "Schoongezigt," "De Hoop," "Calais," "St. Omer," "Nederburg" and "Orleans," in the Division of the Paarl, applied in conformity with Government advertisement of the 23rd July, 1813, for the grant on perpetual quitrent of certain Crown land situated between their properties and the "Zanddrift Outspan":

And whereas an objection was raised by the townspeople of the Paarl to the above application being acceded to on the ground that they claimed grazing rights over the said land:

And whereas the rival claimants allowed the final date prescribed by Government Notice of the 7th September, 1843, to pass without arriving at a settlement and the further petition of the said owners, presented in the year 1845, was rejected in terms of Government Notice, dated 15th March, 1844:

And whereas, although a further application in 1849 was also not entertained by the Government, the applicants and their successors in title have nevertheless continued jointly with the townspeople of the Paarl to graze their stock on the said land:

And whereas an agreement has been arrived at between the Town Council of the Paarl and the Village Management Board of Huguenot on behalf of the townspeople, and the present owners of the aforesaid farms, in terms of which the said owners are to have the exclusive right to graze over a certain portion of the land originally applied for, on condition that they give up all rights they may possess over the remainder:

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

1. Notwithstanding anything to the contrary contained in the "Crown Lands Disposal Act, 1887" (No. 15 of 1887), or any other law, it shall be lawful for the Governor to grant to the present registered owners of the following farms as they were held in 1829, viz.:—The farms "Rust en Werk," "Vlakkeland," "Goede Rust," "Nonpareille," "Roggeland," "Schoongezicht," "De Hoop," "Calais," "St. Omer," "Nederburg" and "Orleans," being situate in the Division of the Paarl, certain land situated near to the said farms, namely:—

Governor
may grant
land to suc-
cessors in title
of 1829 owners
in Dal Josaphat.

Certain two pieces of land, together in extent about 632 morgen and 507 square roods, being known as Dal-Weiding Lots A and B, situate in the Division of the Paarl, and bounded as follows :—

No. 8—1909.

- | | | |
|--------|---|--|
| Lot A. | { | North by Rust en Werk and Vlakkeland. |
| | | North-East by Goede Rust, Nonpareille, Driekant, Roggeland, Klein Meitje, Schoongezicht and De Hoop. |
| | | East by Vlakkeland, Calais, and St. Omer. |
| | | South by St. Omer. |
| | | South-East by Nederburg and St. Omer. |
| Lot B. | { | South-West by Nederburg and Zanddrift Oost Annex. |
| | | West by Main Line Railway. |
| | | North, by Rust en Werk. |
| | | East by Main Line Railway. |
| Lot B. | { | South and South-West by Zanddrift Oost Annex. |

2. The land shall be held jointly by the grantees exclusively for the purpose of a common grazing ground and not for cultivation and the grant shall be subject to the general conditions set forth in section five of Act No. 15 of 1887, except only that no compensation shall be payable by Government in case it resume unimproved land, and subject to the provisions of any law for the time being regulating the working of and prospecting for precious stones and minerals.

Conditions of grant.

3. Should the grantees at any time desire to have the land sub-divided they may petition the Government and on receipt of a petition signed by the then registered owners of not less than two-thirds of the ground comprised in the original farms mentioned in the first section of this Act, the Minister may consent to the sub-division. The petitioners shall then notify all the registered owners of the intention to sub-divide the land and shall fix a date not less than one month after such notice on which to meet and consider the lines of sub-division. The sub-division shall then be effected in such manner as the said owners may mutually agree upon or, in case of any dispute, as a board of three persons to be appointed by the Minister but paid by the petitioners shall decide.

How sub-division of the land may be effected.

4. In order to give effect to the sub-division finally agreed upon, the petitioners shall employ a surveyor to make a survey and frame diagrams of the several sections and upon the completion of the work each of the aforementioned grantees or their successors in title shall be bound to take transfer of the section assigned to him and to pay the respective share of the survey expenses: Provided that in the event of any person refusing or neglecting to pay the survey expenses and to take transfer of his section within three years from the date of completion of the survey, the Supreme Court may declare the section to be forfeited and order that the land be sold at public

Survey for sub-division and recovery of survey expenses.

No. 8—1909. auction; provided further if after costs of survey, auction fees and legal expenses, if the Court shall decide that they are to be borne by the defaulter, shall have been defrayed there be any remainder of the sum realised at the sale, such residue shall be paid to the person for whom the section was surveyed.

Holdings of sub-divisions not to be bound to use land for grazing purposes only.

5. When the sub-division has been effected the duly registered holders of the several sections shall no longer be bound to use the land exclusively for grazing purposes.

6. This Act may be cited as "The Dal-Weiding Grant Act, 1909."

Short Title.

No. 9—1909.]

[October 26, 1909.]

ACT

To Place all fences on the same footing as Vermin-proof fences in respect of the liability for damages occasioned thereby.

[Assented to 22nd October, 1909.]

Preamble.

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

Non-liability for damage by fences.

1. No owner, or lessee under him, upon whose land any fence shall be lawfully erected, shall be liable for any damage occasioned to any person or to the property of any person by coming in contact with such fence: Provided that the provisions of this Act shall not apply to any fences lawfully erected within the limits of any Municipality or Village Management Board area; and provided further that such damage has not been occasioned by the negligence of such owner or lessee either in the erection or keeping in repair of such fence.

Short Title.

2. This Act may be cited as "The Non-liability for Damage by Fences Act, 1909."

No. 10—1909.]

[November 12, 1909.]

ACT

To Provide for the Establishment and Control of Labour Colonies and Industrial Institutions for the Relief of Indigent Persons.

[Assented to 8th November, 1909.]

Preamble.

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

1. For the purposes of this Act:—

Definitions.

(a) "Labour Colony" shall mean any undertaking constituted in accordance with the provisions of this Act, for the amelioration of the circumstances of indigent per-

sons by farming, agriculture or cognate pursuits, in conjunction with facilities for the education of the children of such persons.

- (b) "Industrial Institution" shall mean any institution similarly constituted for the instruction of the children of indigent persons or of destitute children as defined by Act No. 24 of 1895 as amended by this Act, in trades, handicrafts or cognate occupations.
- (c) "Indigent Person" shall mean and embrace any British Subject domiciled in this Colony who shall be entitled to the benefits of this Act under regulations to be framed as hereinafter mentioned.
- (d) "Founder" shall mean any person or body legally representative of any Charitable Organization, Religious Denomination or recognized Church or of a section of such Organization, Denomination or Church, who under the provisions of this Act shall organize and adequately provide for the maintenance and management of a Labour Colony or Industrial Institution for the benefit of Indigent Persons and their children; or a School Board which shall institute or undertake the management of an Industrial Institution.
- (e) "Minister" shall mean the Minister of the Crown to whom the administration of this Act shall be assigned.
- (f) "Constitution" shall mean the formal record and presentation of any terms, conditions and arrangements, not in conflict with this Act, under which any Labour Colony or Industrial Institution shall originally be established by proclamation as hereinafter provided.
- (g) "Regulation" shall mean any rule, order or instruction proclaimed under this Act for all or any of the purposes described in section fourteen, but no regulation shall vary any matter embodied in the original constitution of any Colony or Industrial Institution without the concurrence of both Houses of Parliament.

Provided that nothing in this Act shall apply to any Labour Colony or Industrial or other Institution now existing or which may hereafter be established unless and until the responsible authorities of such Colony or Institution shall apply for constitution under this Act as hereinafter provided for, or until it shall otherwise be brought under the operation of this Act, as contemplated in the succeeding sections.

2. Every intended founder of a Labour Colony or Industrial Institution proposed to be established under the provisions of this Act, shall furnish to the Minister full information in respect to:—

Labour Colonies:
Application for constitution of.

- (1) The circumstances of the indigent persons for whose benefit such Colony or Institution is proposed.

No. 10—1909.

- (2) The financial and other arrangements proposed for the establishment, administration and maintenance of the Colony or Institution.
- (3) The terms and conditions governing admission to and residence within such Colony or Institution.
- (4) The terms of land tenure proposed for inhabitants of any Colony, and particulars of any lands already held or proposed to be acquired for the purposes of any Colony or Industrial Institution.
- (5) Any other principles, conditions, or arrangements which the said Founders may desire to be embodied in any contemplated original Constitution.
- (6) Any other matters upon which the Minister may desire to be satisfied.

The Minister may, on his own behalf, institute such further inquiry as he may deem necessary in respect to any application for the constitution of a Labour Colony or Industrial Institution.

Constitution
by proclama-
tion of a La-
bour Colony.

3. When the Minister shall be satisfied in all respects, the Governor may, under some appropriate designation and within specific limits, proclaim the constitution of a Labour Colony under this Act. Each such Constitution shall embody such principles, conditions, arrangements and terms as may have been determined between the Minister and the Founders in respect to the matters detailed in the preceding section and in respect to the maintenance of public order, good morals, industrial and other educational arrangements, exercise of trading functions, protection of public health, regulation and control of intoxicating liquor, relations to the Minister, and to the statutory and other local authorities; provided that in such constitution provision shall be made for the compulsory attendance at school of all children of such Colony between the ages of seven and fourteen years, unless they be engaged in a regular occupation and have passed the fourth standard, and provided further that the schools of such Colony may if considered desirable by the Governor in Council be managed by the Founders in direct connection with the Education Department.

No Constitution proclaimed under this Act shall subsequently be varied or altered without specific approval of Parliament, and no Regulations shall be applied to any Colony which shall be in conflict or at variance with its original Constitution, save with concurrence of both Houses of Parliament.

4. If no question requiring the approval of Parliament be involved in the Constitution of any Colony then the Governor may forthwith proclaim such area as may have been agreed upon between the Minister and the Founders to be a "Labour Colony" for the purposes of this Act under some appropriate specific designation.

5. In the event of grants of Crown land being involved in any application, or of financial aids requiring the approval of Parlia-

Proclama-
tion of Colony
area.

Special Par-
liamentary
approval in
certain cir-
cumstances.

ment, no proclamation shall issue until, at the next succeeding session, the Minister shall have obtained approval of the project by both Houses of Parliament and a deed of grant shall have been issued. No. 10—1909.

6. It shall be lawful for the Governor with the consent of both Houses of Parliament, to acquire land for the purposes of a Labour Colony or Industrial Institution, and to grant such land or any other Crown land to the Founders of a Labour Colony, or Industrial Institution in trust for such Colony or Industrial Institution upon such conditions as Parliament may impose. Grant of Land.

7. Loans for the acquisition of land, to be used for the purposes of a Labour Colony or Industrial Institution, or for the prosecution of any works connected with the establishment or development of a Labour Colony or Industrial Institution under this Act may be made to the Founders from funds provided by Parliament for the purpose: provided that at least one-third of the total expenditure in each case shall be provided from other sources and provided further that a return be laid upon the Table of both Houses of Parliament within fourteen days after the meeting of Parliament showing the sums so advanced. The redemption of such loans shall be effected, in accordance with regulations to be proclaimed from time to time under this Act. Loans from public funds.

8. All accounts in connection with the expenditure of loans or monies granted from public funds shall be kept and rendered to the Auditor-General in such form as may be required by Regulation. Audit and inspection of accounts.

9. All Labour Colonies or Industrial Institutions established under this Act and all undertakings in connection therewith shall at all reasonable times be open to the inspection of any persons specially deputed thereto by the Minister in writing. A report of such Colonies shall be laid before Parliament each year. Government inspection of Labour Colonies.

10. *Mutatis mutandis* all provisions of this Act specifically applied to Labour Colonies shall equally apply to Industrial Institutions as hereinbefore defined. Act applied to Industrial Institutions.

11. At any time any Labour Colony or Industrial Institution under this Act may by proclamation be constituted an Institution for the purposes of section five of Act No. 24 of 1895 as hereinafter amended, and the Founders of any Colony or Institution may similarly or by Constitution issued under this Act be vested with all the powers and liabilities conferred and imposed by the said Act upon certain Managers, Boards or Councils. Destitute Children's Relief Act may be applied to an Industrial Institution under this Act.

12. Any law to the contrary notwithstanding, where the Founders have advanced or supplied to any Indigent Person admitted to or domiciled within any Labour Colony or Industrial Institution established under this Act articles required by such Indigent Person for agricultural or industrial purposes within such Colony or Institution, such articles shall, in respect of any process of execution issued against such Indigent Person for Articles required for agricultural or industrial purposes protected from seizure.

No. 10—1909. debt incurred prior to his admission, be protected from seizure and shall not be attached or sold without the consent of the Founders.

Destitute
Children's Relief Act, 1895,
amended.

13. Act No. 24 of 1895, "The Destitute Children's Relief Act" is hereby amended as follows and shall so far as relevant be read as one with this Act:—

(i) From section two, sub-section (*e*) the words "not being the parent of the child" shall be omitted.

(ii) The following new sub-section (*f*) shall be read and construed as if forming part of the original section, viz.:—

(*f*) Who after inquiry and upon the sworn testimony of at least two reputable persons shall be adjudged by the Resident Magistrate to be without due protection and support from its parents or lawful guardians, or from any other person ostensibly acting as guardian, or otherwise or in any way apparently responsible for the protection and support of such child.

(iii) In sections three and four the words "under the age of fifteen years" shall be omitted and the words "not over the age of sixteen years" shall be read and construed in lieu thereof.

Regulations
and matters
disposable
thereunder.

14. The Governor, upon the recommendation of the Minister, may proclaim Regulations for the disposal and treatment of any of the following matters arising under this Act; or of additional matters not otherwise provided for, and such Regulations shall have the force of law:—

(1) For the investigation and disposal of applications for the establishment of Labour Colonies.

(2) For defining the status and qualifications of Founders and the measures necessary for the establishment of their position in relation to any Labour Colony.

(3) For the issue and repayment of loans and the investigation and acceptance of security offered in respect thereto.

(4) For the rendering and audit of accounts relating to loans or other aid granted from public funds.

(5) Generally for the regulation of any matters not specifically provided for by this Act; provided always that no Regulation proclaimed under this section shall vary or be in conflict with the terms and conditions embodied in the Constitution of any Colony or of this Act; that all Regulations proclaimed shall, if Parliament be in session, be presented for the approval of Parliament within thirty days from the date of proclamation, and if Parliament be not in session, then within thirty days from the commencement of the session next following the date of proclamation.

15. The Governor may for the purpose of carrying out the provisions of this Act raise by way of loan either temporarily or by means of Colonial or consolidated stock to be issued in this Colony or in England under the provisions of "The Cape of Good Hope General Loans Act, 1881," as amended by the "Cape of Good Hope General Loans Acts, 1883, 1888, and 1892," a sum not exceeding £50,000 (Fifty Thousand Pounds).

No. 10-1909.
Power to borrow

16. This Act may be cited as "The Labour Colonies Act, 1909."

Short Title.

No. 11-1909.]

[November 16, 1909.

ACT

To consolidate and Amend the Game Laws 1886 to 1908.

[Assented to 15th November, 1909.]

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

Preamble.

1. The Acts Nos. 36 of 1886, 38 of 1891, 33 of 1899 and 11 of 1908, together with so much of any other law as is repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

Repeal of Laws.

2. In this Act the terms following shall have the meanings herein assigned to them respectively: that is to say

Interpretation Clause.

"Royal Game" shall mean: Elephant, rhinoceros, hippopotamus, giraffe or camelopard, buffalo, eland, koodoo, hartebeest, bontebok, blesbok, gemsbok, rietbok, klip-springer, zebra, quagga, Burchell zebra, oribi, or any gnu or wildebeest of either variety.

"Game" shall include "Royal Game" as well as the following birds and animals not being domesticated, viz: ^{Ant} paauw, korhaan, guinea fowl, pheasant, partridge and dikkop; buck (comprehending the whole antelope species with the exception of springbucks actually migrating), hare and rabbit; provided that it shall be lawful for the Governor by proclamation issued in compliance with a petition to that effect from the Divisional Council of any division, to declare the exception as regards springbucks actually migrating, not to have effect in such division.

"Game Licence" shall mean a game licence duly issued by Government.

"Local Authority" shall include Divisional Council, Municipal Council and Village Management Board.

3. It shall be lawful for the Governor, by proclamation to be by him issued, to fix and prescribe for each district in this Colony, the close time or fence seasons within which it shall not be lawful to kill, pursue, hunt or shoot at, the different kinds of

Governor to have power to proclaim the close season for the several districts of the Colony.

No. 11—1909.

game respectively within such district either with or without a game licence respectively, or with or without the landowner's permission; until otherwise proclaimed by the Governor under the Act, the fence or close season at present established by law shall continue to be such fence or close season.

Penalty for shooting or selling game during close season.

4. No person shall kill, pursue, or shoot at game in any district in the Colony during the close time, or shall possess, sell, hawk, or expose for sale game in such district after the expiration of one week from the commencement of the close time which shall be proclaimed for any such district, under a penalty of four pounds sterling for the first offence, and eight pounds sterling for every subsequent offence, and, in default of payment in each case, imprisonment with or without hard labour for any period not exceeding one month, unless the fine be sooner paid; but nothing in this section contained shall render it illegal to possess game in any district during the close time of such district if such game shall have been transmitted into such district from some other district in which at the time of such transmission there shall not have been a close season for such game.

Game Licence and Royal Game Licence.

5. No person, save as hereinafter provided, shall hunt any game in any part of this Colony without having previously obtained a game licence, in respect of which the fee for the time being prescribed by law has been duly paid, and no person shall hunt royal game without having previously obtained a special permit from the Governor, and, save as hereinafter provided, also a licence to be known as a royal game licence, in respect of which the sum of three pounds shall be payable by persons domiciled in, and twenty-five pounds by persons domiciled outside this Colony, or such other fee as may from time to time be prescribed by law, and for the issue of such permits and licences the Governor may make regulations to be published in the *Gazette*; provided that a landowner or his children shall not require either licence hereinafter referred to for the purpose of shooting game on the land of such landowner. Any person contravening the provisions of this section shall, on conviction, be liable in regard to game other than royal game, to a fine not exceeding five pounds, or in default of payment thereof, to imprisonment with or without hard labour for a period not exceeding one month, and in the case of royal game, for the first offence, to a fine not exceeding twenty-five pounds, or, in default of payment thereof, imprisonment with or without hard labour for a period not exceeding three months, and for a second or any subsequent offence, to a fine not exceeding fifty pounds, or, in default of payment thereof, to imprisonment with or without hard labour for a period not exceeding six months: Provided that any person domiciled outside this Colony, but owning land therein, shall be entitled to obtain a royal game licence in respect of which the sum of three pounds shall have been paid by him, to shoot royal game on his own land within this Colony.

THE GAME LAWS (1886-1907) CONSOLIDATION AND 5499
AMENDMENT ACT, 1909.

6. (1) The hunting of elephants with tusks weighing less than eleven pounds apiece or of cow elephants and hippopotami is prohibited; and any person who shall contravene the provisions of this section shall be liable upon conviction to a fine not exceeding fifty pounds, or in default of payment thereof, to imprisonment with or without hard labour for a period not exceeding six months unless such fine be sooner paid. No. 11—1909.
Hunting of certain animals prohibited.
- (2) Every elephant tusk weighing less than eleven pounds in the possession of any person shall within six months from the date of this Act be registered by the owner thereof with the nearest Civil Commissioner or Resident Magistrate or Assistant Resident Magistrate, and every such tusk or tusks not so registered shall be liable to confiscation.
- (3) Every Civil Commissioner, Resident Magistrate or Assistant Resident Magistrate shall keep a register of all elephant tusks weighing less than eleven pounds which may be presented to him for registration; and such register shall specify the number and weight of each tusk and the full name and residence of the owner, and the said official shall hand to the owner in respect of each such tusk a certificate of registration in the form set forth in the schedule to this Act.

7. The horns, hides or skins of royal game, and the tusks of elephants and hippopotami shall be subject upon export from the Colony to a duty of twenty per centum of their value at the port of export; and any person exporting or attempting to export any hides, skins, tusks or horns, as aforesaid, without payment of the said duty shall be liable on conviction to a fine not exceeding ten pounds sterling for every such article exported or attempted to be exported or in default of payment thereof to imprisonment, with or without hard labour for a period not exceeding three months unless such fine be sooner paid; provided that no elephant tusk weighing less than eleven pounds shall be exported, under penalty of confiscation of such tusk when discovered; and it shall be lawful for the Governor to make regulations for the purpose of this section. Export duty on horns, hides, or skins of royal game.

8. Any person found in possession of the flesh, skins, hides or horns of any royal game shall, unless he can satisfactorily account to the Magistrate for such possession, be liable on conviction to a penalty of not exceeding fifty pounds, and in default of payment thereof to imprisonment with or without hard labour for a period not exceeding six months. And any person found in possession of the flesh, skins, hides or horns of any game other than Royal game during the close time or fence season, or of game specially protected under any proclamation issued under the provisions of section fourteen, and within the area and period stated in such proclamation, shall, unless he Penalty for being in unlawful possession of flesh, hides or horns of royal game.

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can satisfactorily account to the magistrate for such possession, be liable on conviction to the same fines and penalties as those set forth in section four. And it shall not be competent for any person found in possession of such flesh, skin, horns or hides, to plead that he has purchased or acquired the same by way of barter or otherwise.

Special permits.

9. It shall be lawful for the Governor to grant special permission to any person to shoot, kill or capture without taking out any licence and at any time any birds or animals whether royal game or not if he is satisfied that they are required for public museums or scientific institutions or for scientific purposes or for domestication or acclimatization.

Licence for selling, hawking, or exposing for sale.

10. From and after the passing of this Act, no person shall, anything to the contrary in the preceding section or any other law notwithstanding, sell, barter, hawk, or expose for sale any game, without having previously taken out a licence, to be duly issued by any Distributor of Stamps or any other authorized officer, which licence shall be in addition to the licence to kill, catch, capture, pursue, hunt, or shoot at game required by the said section, and shall be issued subject to the following conditions :—

- (a) No such licence shall be issued by any Distributor of Stamps or any other authorized officer, without a certificate from the Resident Magistrate of the district, that the applicant for such licence is to the best of his knowledge and belief a fit and proper person to sell game.
- (b) Every such licence shall, no matter at what period of the year the same be taken out, expire on the 31st December following; provided that when any such licence shall be taken out from or after the first of July, there shall be payable only one half of the sum appointed in respect of such licence.
- (c) The sum of three pounds sterling shall be payable in respect of every such licence.

Every person who shall sell, barter, hawk or expose for sale any game, without having previously taken out such licence, shall be liable to a penalty not exceeding ten 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: Provided that nothing in this section contained shall apply to the selling, bartering, hawking or exposing for sale by the owner of land of any game killed upon the land owned by him.

Prohibition of sale of game.

11. If three-fourths of the members of the Divisional Council of any division shall by resolution request the Government to prohibit the sale of game in such division except by land-owners or occupiers of farms in the division in respect of game killed upon the land owned or occupied by them, it shall be lawful for the Governor by proclamation in the *Gazette*, to declare

that such prohibition shall be in force in the division named for a period not exceeding three years; provided that no such resolution shall be valid unless notice of the intention to propose the same shall have been given at an ordinary meeting of the Council previously held and until formal notice thereof shall have been published at least once a week for six weeks in the newspaper in which the notices of the Council are usually published; and on and after the promulgation of the proclamation aforesaid anyone contravening the provisions thereof shall, upon conviction, be liable to a penalty not exceeding ten pounds, or in default of payment thereof to imprisonment with or without hard labour for a period not exceeding one month unless such fine be sooner paid.

The prohibition herein referred to shall not however apply to any person who at the time of issue of the proclamation was the holder of a licence to sell game, until the term of such licence shall have expired.

12. No person shall, without special permission of the Governor, for purposes to be mentioned in such permission as hereinafter is provided, at any time wilfully take away, disturb or destroy eggs, or sell, hawk, or expose for sale, or shall purchase eggs of any game birds in any part of this Colony, under the penalty of any sum not exceeding four pounds sterling for the first offence, and not less than eight pounds sterling, nor exceeding ten pounds sterling for every subsequent offence; and the said eggs shall be confiscated to the Government, in whose custody soever the same may at any time be found and may be seized *brevis manu* by any land owner, occupier of land, justice of the peace, field-cornet, constable or police officer; provided always that it shall be lawful for the Governor to permit under his hand any fit or proper person or persons to take, or carry away the eggs of any game bird, or the young of any game, for the purpose of rearing or breeding the same, or for the purpose of acclimatization or scientific investigation; and any person so obtaining the Governor's written permission as aforesaid may himself obtain or take the said eggs, birds or animals, provided always that such writing shall distinctly state the number and denomination of such eggs, birds, or animals which the holders are employed to obtain or take, which shall collectively not exceed the number specified by the Governor's permission aforesaid. And any person obtaining or taking a greater number or other kinds of such eggs, birds, or animals than those specified in the Governor's permission as aforesaid, or giving or affecting to give any person or persons authority to take or obtain, together with what he shall himself take or obtain in the whole, more than the number or other than the kinds specified in such permission as aforesaid, shall be held guilty of wilfully taking all such young or eggs as he shall have taken or obtained, or shall have given or affected to give authority in the whole to take or obtain.

Penalty for taking away, &c., eggs of game birds.

5502 THE GAME LAWS (1886-1908) CONSOLIDATION AND
AMENDMENT ACT, 1909.

No. 11—1909.

No person
to kill, &c.,
game on any
land without
land - owner's
permission.

13. No person shall at any time, either with or without a game licence, kill, catch, capture, pursue, hunt, or shoot at any game, or with gun or dog trespass, on any lands within the Colony, without the permission of the owner of such lands, if private property, under the penalty of any sum not exceeding five pounds sterling for the first offence, and not exceeding ten pounds sterling for every subsequent offence, and in default of payment, in each case, imprisonment with or without hard labour for any period not exceeding one month unless the fine be sooner paid, in addition to any penalty, if any, to which he may be liable under any other section of this Act, the penalty provided by this section to be paid to the owner of the land; provided that any permission given by such owner after the event with reference to the offence shall be as valid as if given before the offence: provided further that for the purposes of this section the word "owner" shall be taken to include the occupier or the person entitled to the right to shoot game on the lands in question, and in the case of Municipal or Village Commonage, the Municipal or Village Management Board respectively.

Governor
may by special
proclamation
protect
certain game
animals for
any time not
exceeding
three years.

14. It shall be lawful for the Governor by proclamation in the *Gazette*, to proclaim and declare as to any parts of this Colony that 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 such proclamation, and also to extend to any such bird or other animal the protection of this Act, as if the same were included amongst the game animals in this Act defined, or to extend to any such bird or other animal such of the provisions of this Act as may be specified in such proclamation, as if such bird or other animal were expressly protected by name in such provisions respectively; and also from time to time to revoke, alter or amend such proclamation.

Hunting of
game illegal,
except by
shooting un-
less upon per-
mit issued by
Governor.

15. No person shall after the taking effect of this Act wilfully kill, catch, capture or hunt in any part of the Colony or attempt to wilfully kill, catch, capture or hunt game of any description except by shooting, save and except under special permit to be issued by the Governor; and any person contravening this section shall be liable to a penalty not exceeding five pounds or in default of payment to imprisonment with or without hard labour, not exceeding one month unless the fine be sooner paid: provided that the foregoing shall not apply to beaters lawfully employed by landowners in hunting large game, or by coursing by landowners or recognized clubs: provided further that it shall be lawful for the owner or occupier of land or for any person authorized thereto by such owner or occupier to kill or capture at any time, in any way, game not being winged or feathered game found injuring crops or plants in cultivated lands, forest, plantation or gardens; and any game so killed or caught under the provisions of this section may be lawfully possessed by such owner, occupier or person, as the case may be, provided that in any prosecution under

Game in-
juring crops
may be des-
troyed.

THE GAME LAWS (1886-1908) CONSOLIDATION AND 5503
AMENDMENT ACT, 1909.

the game laws for killing, pursuing or shooting at game in the close season, the proof that such game was lawfully killed, pursued or shot at by virtue of the provisions of this section, shall be on the person accused. Provided further that it shall be lawful for the Governor, acting on a resolution of two-thirds of the Divisional Council of any division, to extend, by proclamation, the power of killing or capturing game found injuring crops or plants in such division, so as to include the killing or capturing of winged or feathered game.

No. 11—1909.

16. It shall be lawful for the Governor, on the recommendation of any Municipal Council or Village Management Board or Divisional Council of any division of this Colony, by proclamation in the *Gazette* and in a newspaper circulating in the said division, to prohibit the hunting of game at night in such Municipal or Village Management Board area or division between such hours as may be recommended by such Municipal Council, Village Management Board or Divisional Council; and any person contravening such proclamation shall be liable to a fine not exceeding five pounds or in default of payment thereof to imprisonment with or without hard labour for a period not exceeding one month.

Hunting game by night may be prohibited.

17. Every greyhound or bastard greyhound shall be subject to an annual tax of five pounds sterling, to be paid by the owner or person in lawful possession to the Divisional Council or Municipal Council or Village Management Board, on or before a date, and at a place to be fixed by the Divisional Council or Municipal Council or Village Management Board; provided that greyhounds or bastard greyhounds, the property of a landowner or lessee of a farm, or of a resident in a Crown Native Location or Reserve, who is a hut tax payer, or is the holder of a quitrent title, shall be exempted from such tax, so long as they remain under the control and are kept upon the land of such landowner or lessee or within the limits of such Crown Native Location or Reserve as aforesaid; and the owner or person in possession of any greyhound or bastard greyhound on which the aforesaid tax is payable, failing to pay the same on or before the date fixed by the Divisional Council or Municipal Council or Village Management Board, and for one fortnight after written demand shall be liable in the discretion of any Court before which an action for the recovery of the tax is brought to be condemned to pay double the amount of the tax as well as the costs of such action, and in addition the greyhound or bastard greyhound, in respect of the non-payment of the tax on which the owner has been convicted, may be destroyed by or on the order of the Divisional Council or Municipal Council or Village Management Board or any landowner or lessee upon whose ground the animal may be found; provided always that the tax shall not be levied on any greyhound, the property of, or under the control of a member of any duly recognised coursing club and used for coursing purposes,

Tax on greyhounds by Divisional Councils.

Exemption to landowners etc.

Penalty.

5504 THE GAME LAWS (1886-1908) CONSOLIDATION AND
AMENDMENT ACT, 1909.

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Exemption
to Members
of Coursing
Club.

or on any greyhound or whippet registered in accordance with the rules and regulations of the South African Kennel Club in the register of such Club; provided, further, that the tax be collected by the Divisional Councils or Municipal Councils or Village Management Boards under regulations framed by them and approved of by the Governor, and the proceeds to go to the general funds of said Councils; provided further that this clause shall only come into operation if such Divisional Council, Municipal Council or Village Management Board shall by a majority of its members so decide.

Game pre-
serve.

18. It shall be lawful for the Governor by proclamation in the *Gazette*, to define any area, being land the property of His Majesty in His Colonial Government, as a game preserve, and by subsequent proclamations to alter, amend, contract or extend the limits of such area or areas, and to make rules and regulations for the control, working, management and preservation of such game preserves and game therein.

Penalties
for breach of
regulations.

19. Every such rule or regulation may prescribe a penalty for breach thereof, not exceeding twenty-five pounds for each offence or in default of payment to imprisonment with or without hard labour for a period not exceeding three months, and every person contravening any such rule or regulation shall be liable to the particular penalty in that behalf prescribed, and if no such penalty be prescribed then to a penalty of not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

What shall
be *prima facie*
proof of non-
possession of
licence.

20. In any prosecution for infringement of any section of this Act by doing anything without licence, it shall be *prima facie* sufficient for the prosecutor to show that the accused does not appear as the holder of a licence on the list of persons to whom the requisite licence in such case shall have been issued, respectively, kept in the office of the Resident Magistrate before whom or in whose district such case shall be brought for trial in any Court; but it shall be lawful for such accused person to rebut such evidence by proof that he was in fact, at the time of the commission of the offence charged, the lawful holder of such licence.

Notification
of date of
making use of
permits.

21. Every person to whom the Governor's permit required by law to shoot, kill or capture animals or to remove or take away eggs or the young of game has been issued shall give notice to the Resident Magistrate of the district for which such permit is issued of the date on which he proposes to make use of the permit, and shall return the said permit to the said Resident Magistrate, within fourteen days after the number of animals mentioned therein have been killed or captured, or the eggs mentioned therein have been removed.

Game ani-
mals presu-
med to be wild.

22. In any case prosecuted under this Act every game animal shall be presumed to have been wild until shown to have been domesticated.

THE GAME LAWS (1886-1908) CONSOLIDATION AND 5505
 AMENDMENT ACT, 1908.

23. (1) Any person contravening any provision of this Act in respect of which no penalty is specially assigned shall be liable for the first offence 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 three months, and for a second or any subsequent offence to a fine not exceeding fifty pounds, and in default of payment to similar imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine. No. 11-1909.
Penalty clause.
- (2) A moiety except where otherwise provided expressly or by implication of all fines recovered under this Act shall be paid to the informer not being an accessory.
- (3) All offences under ~~this Act~~ and all offences against any other law ~~relating to game~~ may be heard and determined and the penalties provided by the statute may be imposed by the Resident Magistrate. *repealed by Act 32 of 1917*

24. It shall be lawful for the Governor on good cause shown by the Divisional Council of any of the Divisions of the Colony to suspend, by proclamation in the *Gazette*, in whole or in part, as may seem right, the operation of this Act or any part or parts thereof, in the said Division, for any time and with regard to any animal to be specified in the said proclamation. Governor on advice of Divisional Council may suspend operation of Act.

25. This Act may be cited as "The Game Laws (1886-1908) Consolidation and Amendment Act, 1909." Short Title.

SCHEDULE.

Schedule.

CERTIFICATE OF REGISTRATION.

Number.....

I hereby certify that.....
residing at.....
 has this day exhibited to me an Elephant tusk weighing
pounds, and that it has been duly registered
 by me as required by section six of "The Game Laws (1886-1908) Consolidation and Amendment Act, 1909."

.....
 Civil Commissioner.

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

No. 12—1909.]

[November 16, 1909

ACT

To Provide for the Taxation of Cigarettes.

[Assented to 15th November, 1909.]

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

“Cigarettes” defined. 1. In this Act the word “cigarettes” shall be taken to include cigarettes made of cut tobacco or other substituted material, rolled or enveloped in paper, leaf, or other covering.

Stamp duty on Cigarettes. 2. (1) On and after the date of promulgation of this Act, the following stamp duty shall be payable, and shall be collected by means of stamps of such kind, and to be affixed and cancelled in such manner as shall be prescribed by the Governor by regulations to be made by him in that behalf, which duty shall otherwise be taken to be imposed by the Stamp Act, 1864:—

In respect of each tin, box, package or other enclosure containing cigarettes weighing one half-ounce net, or fraction of one half-ounce net, a stamp duty of..... $\frac{1}{2}$ d.

For every additional half-ounce net weight, or fraction of one half-ounce net weight, an additional stamp duty of..... $\frac{1}{2}$ d.

(2) The expression “net weight” shall be construed as meaning the weight of the tobacco or substituted article, together with that of the papers or other coverings of the individual cigarettes respectively.

Mode of sale of cigarettes by retail regulated. Penalty. 3. (1) On and after the date of promulgation of this Act no cigarettes shall be sold by retail or shall be exposed for sale by retail, unless they are:—

(a) First securely enclosed in an unbroken tin, box, package or other enclosure; and unless, further

(b) Such tin, box, package or other enclosure has been first stamped with a stamp of the value hereinbefore in this Act prescribed; and unless, further,

(c) Such stamp has been first affixed and cancelled in the manner directed by the regulations made by the Governor in that behalf, and for the time being in force;

and any person, or, in the case of a company or firm, the manager thereof, contravening any of the provisions of this section, shall be liable to a penalty of a fine not exceeding £20 for each offence, and in default of payment thereof, to imprisonment, with or without hard labour, for not exceeding three months, or to both such fine and imprisonment; and, in addition to any such

penalty, to cancellation of the current licence held for the sale of cigarettes by retail.

(2) Cigarettes shall be taken to be sold by retail whenever sold, no matter in what quantity, to any person purchasing them for any purpose other than the *bona fide* purpose of resale by him in the ordinary course of his business; and cigarettes shall be taken to be exposed for sale by retail as soon as they are brought into any shop or premises in which any such retail transactions take place.

(3) The person having, at the time of the commission of the offence, the management or apparent management of the retail business, shall be taken to be the manager, and if the name of such manager be not disclosed by the person found on the premises then any director or partner may be prosecuted and convicted as if he were the manager.

4. (1) Every tin, box, package, or other enclosure containing cigarettes for sale by retail shall be marked with the true number or the true weight of the cigarettes therein contained, at the option of the vendor, under the penalties prescribed for contravening section three of this Act.

Packages to be marked with weight or number of contents—Penalty.

(2) In case the vendor elect to mark the number and not the weight, for the purpose of calculating the value of the stamp to be affixed and cancelled, every ten cigarettes, or fraction thereof, shall, unless they shall actually weigh more, be taken to weigh half an ounce, and every ten cigarettes or fraction of ten above the first ten, shall, unless they shall actually weigh more, be taken to weigh half an ounce.

5. It shall be lawful for (a) any officer of revenue, excise, or customs on his own authority, and for (b) any other official being authorised in writing by the Assistant Treasurer, a Magistrate, Civil Commissioner or Chief Officer of Police in any district, to enter the premises of any manufacturer, importer, trader or any person or firm or company licensed to sell or suspected of selling cigarettes by retail, for the purpose of ascertaining whether or not the provisions of this Act are complied with; and any person hindering or obstructing any such officer acting in pursuance of this section shall be liable to a fine not exceeding £100, or in default of payment thereof to imprisonment with or without hard labour for not exceeding twelve months, or to both such fine and imprisonment.

Powers of inspection conferred.

All cigarettes found by such officer or official not stamped in compliance with the provisions of this Act, may be seized and detained as long as may be necessary for the purposes of prosecution.

6. Any person who, for the purpose of stamping any cigarettes, uses or supplies or offers to supply any stamp other than a stamp supplied by Government for that purpose, or any stamp so

Offences with regard to stamps.

No. 12--1909.

supplied but previously used, shall be liable to a penalty not exceeding a fine of £100 and, in default of payment, to imprisonment with or without hard labour for not exceeding twelve months, or to both such fine and imprisonment; and all cigarettes stamped with any such unauthorised or previously used stamp shall be forfeited; provided that nothing herein shall be taken to exempt any person from any greater criminal liability he may have incurred by virtue of the provisions of section thirty-two of the Stamp Act, 1864.

Licence duties imposed for manufacture of cigarettes.

7. From and after the 1st January, 1910, a licence duty of one pound sterling (£1) per annum shall be payable for the manufacture of cigarettes for the purpose of sale, such licence shall be in addition to any other licence that may be held by the person intending to manufacture or sell by retail, and shall be regarded as imposed by tariff 15 of Act No. 20 of 1884.

Act No. 1 of 1906, Section 5 further amended.

8. Section five of Act No. 1 of 1906, as amended by section four of Act No. 9 of 1908, shall be read and construed as if the words "and cigarettes" were inserted therein after the word "medicines."

Full jurisdiction conferred on Resident Magistrates.

9. Jurisdiction is hereby conferred on the Resident Magistrate of the District in which any contravention of this Act takes place to sentence the offender to the full penalties under this Act including the cancellation of licences.

Short Title.

10. This Act may be cited as "The Cigarette Tax Act, 1909."

No. 13--1909.]

[November 26, 1909.

ACT

For the Better Prevention of Corruption.

[Assented to 23rd November, 1909.]

Preamble.

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

Definitions

1. For the purposes of this Act the expression "consideration" includes valuable consideration of any kind.

The expression "agent" includes any person employed by or acting for another, and

The expression "principal" includes an employer and a master as contemplated in the Master and Servants' Acts,

and a person serving under the Crown, or under any Municipal or Divisional Council or under any Village Management Board or School Board, or under any company, society or voluntary association, is an agent within the meaning of this Act.

2. (a) If any agent corruptly accepts or obtains, or agrees to accept, or attempts to obtain from any person for himself, or for any other person, any gift or considera-

Agent accepting any gift or consideration.

Handwritten notes: "Who is an agent?" and "Agent" with arrows pointing to the definitions section.

tion as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done, or forborne to do any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business, or

No. 13—1909.

(b) If any person corruptly gives or agrees to give, or offers, any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of this Act done or forborne to do, any act in relation to his principal's affairs, or business, or

Person offering or giving commissions to agent.

(c) If any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal any receipt, account or other document, in respect of which the principal is interested and which contains any statement which is false, or erroneous, or defective, in any material particular and which to his knowledge is intended to mislead his principal, he shall be guilty of corruption and be liable on conviction to imprisonment with or without hard labour, for a term not exceeding two years, or to a fine not exceeding £500, or to both such imprisonment and such fine.

False statements.

Penalty.

3. This Act may be cited as "The Prevention of Corruption Act, 1909."

Short Title.

No. 14—1909.]

[November 30, 1909.]

ACT

To extend the powers formerly vested in Harbour Boards.

[Assented to 29th November, 1909.]

WHEREAS the control and management of the harbour, together with the docks and breakwater of Table Bay, and of the harbours of Port Elizabeth and East London, and of all works and constructions and maintenance connected therewith, are by Act No. 38 of 1908 vested in the Government, with power to the Governor at any time by proclamation to extend all and several the provisions of the said Act, to the harbour of Mossel Bay.

Preamble.

And whereas all property movable and immovable and all rights of what kind soever vested in the Table Bay Harbour Board, the Port Elizabeth Harbour Board, or the East London Harbour Board are the property of, and vested in, the Government, by the aforesaid Act.

No. 14—1909.

And whereas it is desired that power should be given to the Government, as controllers and managers of the harbours aforesaid, to withhold delivery of goods from consignees and others, until the freight or other charges due upon such goods have been paid.

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

Definitions.

1. The expression "shipowner" includes the master of the ship and every other person authorised to act as agent for the owner, or entitled to receive the freight demurrage or other charges payable in respect of the ship. The expression "owner," used in relation to goods, means every person who is for the time entitled either as owner or agent for the owner to the possession of the goods.

Government,
after notice,
may retain
goods until
charges paid.

2. If at the time of landing and delivery (at any of the Harbours, the control and management of which are for the time being vested in the Government by any law herebefore or hereafter enacted) of goods to the Government for transit or delivery to the consignees the shipowner notifies to the Government in writing that freight or other charges to the amount specified in the notice remain unpaid in respect of such goods, the Government is hereby empowered to retain and refuse delivery of such goods to the owner or any other person until

- (a) production of a receipt for the amount, notified as aforesaid, signed or purporting to be signed by or on behalf of the shipowner; or
- (b) production of a release from payment of the amount notified as aforesaid, signed or purporting to be signed by or on behalf of the shipowner; or
- (c) deposit with the Government of the amount notified as aforesaid.

Procedure.
(a) Duty of
depositor to
notify Gov-
ernment
within fifteen
days.

3. (a) When a deposit as aforesaid is made with the Government the person making the same may within fifteen days after making it give to the Government notice in writing to retain it, stating in the notice the sums, if any, which he admits to be payable to the shipowner, or, as the case may be, that he does not admit any sum to be so payable, but if no such notice is given the Government may at the expiration of the fifteen days pay the sum deposited over to the shipowner.

In absence
of notice Gov-
ernment may
pay over de-
posit.

(b) Govern-
ment to noti-
fy shipowner
and tender de-
posit, or retain
deposit for
ninety days.

(b) If a notice is given as aforesaid the Government shall immediately apprise the shipowner of it, and shall pay or tender to him out of the sum deposited, the sum, if any, admitted by the notice to be payable and shall retain the balance, or if no sum is admitted to be payable the Government shall retain the whole of the sum deposited, for ninety days from the date of the notice.

(c) At the expiration of those ninety days unless legal proceedings have in the meantime been instituted by the shipowner against the owner of the goods to recover the said balance or sum, or otherwise for the settlement of any dispute which may have arisen between them concerning the freight or other charges as aforesaid, and notice in writing of these proceedings has been served on the Government, the Government shall pay the balance or sum as aforesaid to the owner of the goods.

No. 14/1909.
(c) In absence of legal proceedings Government to return deposit to owner of goods.

(d) The Government shall by any payment under this section be discharged from all liability in respect thereof.

(d) Release from liability.

4. (a) If the Government on production of a receipt or release as aforesaid or on the deposit of the notified amount as aforesaid delivers the goods to the party producing such receipt or release or making such deposit, no liability whatsoever shall attach to the Government in respect of such goods either to the shipowner, the consignee, the owners, or any person whatsoever.

(a) Delivery of goods by Government.

(b) If no deposit or no payment or no release as aforesaid be made or produced the Government may, and if required by the shipowner, shall, at the expiration of ninety days from the time when the goods were placed in its custody, or, if the goods are of a perishable nature, at such earlier period as in its discretion it thinks fit, sell by public auction either for home use or for exportation the goods, or so much thereof, as may be necessary to satisfy the charges hereinafter mentioned.

(b) Government may or shall after ninety days sell goods.

(c) Before making the sale the Government shall give reasonable notice thereof by advertisement in two newspapers circulating in the neighbourhood or in one daily newspaper published at the port of discharge and, also, if the address of the owner of the goods has been stated on the manifest of the cargo, or on any of the documents which have come into the possession of the Government or is otherwise known to it, send notice of the sale to the owner of the goods by registered letter.

(c) After due notice.

(d) The title of a *bona fide* purchaser of the goods shall not be invalidated by reason of the omission to send the notice required by this section, nor shall any such purchaser be bound to inquire whether the notice has been sent.

(d) Title of *bona fide* purchaser protected.

5. The proceeds of sale shall be applied by the Government as follows and in the following order:—

Appropriation of proceeds of sale.

(a) First, if the goods are sold for home use, in payment of any customs duties owing in respect thereof; then

(b) In payment of the expenses of the sale and advertising; then

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- (i) In payment of the rent, rates, and other charges due to the Government in respect of the said goods ; and then
- (ii) In payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods ; and the surplus, if any, shall be paid to the owner of the goods.

Government entitled to charge for rent and necessary expenses.

6. Whenever any goods are placed in the custody of the Government under the authority of this Act, the Government shall be entitled to rent in respect of the same, and shall also have power at the expense of the owner of the goods to do all such reasonable acts as in the judgment of the Government are necessary for the proper custody and preservation of the goods and shall have a lien on the goods for the rent and expenses.

Limitations.

7. Nothing in this Act contained shall oblige the Government to take charge of any goods which it would not have been liable to take charge of, if this Act had not been passed, nor shall it be bound to inquire into the validity of any claim for freight or other charges made by any shipowner.

Limitations.

8. Nothing in this Act contained shall take away or abridge any powers given by law to any harbour authority, body corporate, or persons, whereby they are enabled to expedite the discharge of ships or the landing or delivery of goods ; nor shall anything in this Act take away or diminish any rights or remedies given to any shipowner or to the Government.

Extension to Mossel Bay.

9. This Act shall apply to the harbour of Mossel Bay, so soon as the Governor by proclamation extends the provisions of Act No. 38 of 1908, to that harbour.

Notice, etc., to whom given.

10. Wherever this Act requires that any notice should be given, or any receipts and releases should be produced to, or deposits of money made with the Government, such notice or receipts and releases or deposits shall be deemed to have been validly given, produced or made, if given, produced or made at Table Bay to or with the Dock Manager, and at Port Elizabeth and East London, to or with the Port Goods Manager.

Short Title.

11. This Act may be cited as "The Harbours Control Act, 1909."

No. 15.—1909.]

[November 30, 1909.]

ACT

To Amend the Law relating to the Election of Members of Local Authorities.

[Assented to 29th November, 1909.]

Preamble.

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

1. Notwithstanding anything to the contrary contained in Act No. 27 of 1892, Act No. 18 of 1899, or any other law, all votes at elections of Members of the Divisional Councils, Municipal, Borough or Town Councils, shall be taken by ballot, in accordance with regulations framed and issued under the provisions of the said Act No. 27 of 1892.

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Ballot at
Elections of
Local Author-
ities made
compulsory.

2. This Act shall be read as one with the said Act and may be cited as "The Local Authorities Ballot Act, 1909."

Short Title.

No. 16.—1909.]

[November 26, 1909.

ACT

To Amend the Law relating to Stamps and Licences, and the Public Revenue.

[Assented to 26th November, 1909.]

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

Preamble.

1. So much of Ordinance No. 11 of 1846, for amending the law relative to the licensing of retail shops as is still in force is hereby repealed.

Repeal of
part of Ord.
No. 11 of 1846.

2. (1) Section one of the Stamps and Licences Act, 1908 (hereinafter referred to as "the said Act"), is hereby amended as follows:—

Amendments
to section 1 of
Act No. 39 of
1908.

(a) by inserting in the *Importers' tariff* the words "agent of a Foreign Firm" between the words "General Dealer" and "Auctioneer."

(b) by inserting in the *Agents for Foreign Firms' tariff* the words "over and above his licence as a General Dealer, Importer or any other licence he may hold," immediately after the words "For every such Agent."

(c) by substituting in the *Agents for Foreign Firms' tariff* the words "If resident for at least three years in any of the Colonies of British South Africa immediately prior to his application for a Licence" for the words "If domiciled in this Colony."

(2) A Licence for an Agent for a Foreign Firm shall not be granted to or in the name of any Company or Firm, but to and in the name of an individual only, nor shall any such licence be granted to, or in the name of, a foreign principal. Provided that no licence as an Agent for a Foreign Firm shall be necessary for any employé of a Licensed Agent who sells, offers for sale or canvasses for orders for goods at the one place of business in this Colony which shall be mentioned in such Agent's Licence.

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- (3) The following definition of "Agent for a Foreign Firm" is hereby substituted for that appearing in section three of the Stamps Acts Amendment Act, 1887 (No. 38), viz.:

"Agent for a Foreign Firm" shall mean any person who sells or offers for sale by sample or otherwise goods of, or canvasses for, a firm whose place of business is not in this Colony, but shall not include a person who sells or offers for sale goods consigned or sold to him by a foreign firm.

3. (1) Every commercial traveller's licence granted under section four of the said Act or any agent of a foreign firm's licence shall be granted in the name of a person as the representative of one company, firm or trader only, whose name and description shall be inserted in the licence. If during its currency the holder dies or becomes unable through illness or otherwise to make use of his licence, the licence may, on application made to the Assistant Treasurer or the Magistrate of the District in which the licence was granted, be transferred to another person, on payment of a stamp duty of 1s. : provided that no such transfer shall be allowed more than twice during the currency of the licence.
- (2) The words "or Cape Colony products or manufactures" are hereby inserted immediately after the words "except for agricultural machinery" in tariff (a) of section four of the said Act.

4. The Ostrich Feathers and Skins Theft Repression Act No. 32 of 1883 is hereby amended by inserting the word "raw" before "ostrich feathers" wherever those words occur throughout that Act. The expression "raw ostrich feathers" shall mean feathers in their original and natural condition and not curled or subjected to any other artificial process.

5. The stamp duty imposed on permits for cartridges or gunpowder under tariff (b) of section six of the said Act shall not be imposed if the officer issuing the permit is satisfied that the immediate destination of the cartridges or gunpowder covered thereby is some place beyond the borders of the Colony.

6. The following tariff is hereby substituted for the tariff (a) of Patent Medicine Stamp Duties in section six of the said Act, viz. :—

"(a) In respect of patent or proprietary medicines sold by retail or exposed for sale by retail when the retail selling price in Capetown or at the place of manufacture within this Colony charged for the medicine in the quantity sold, exclusive of the amount of stamp duty, does not exceed 1s. 6d., a stamp duty of 2d.; if it exceeds 1s. 6d., an additional stamp duty of 1d. for every additional 6d. or part thereof of such price."

Commercial
travellers' &
agents' licen-
ces.

Definition of
Raw Ostrich
Feathers.

Permit for
cartridges
and gun-
powder.

Stamp Duty
on Patent
Medicines.

7. (1) No medicine which is a patent or proprietary medicine within the meaning of the said Act as amended by this Act shall be sold by retail or exposed for sale by retail unless the same (1) is first securely enclosed in a box, bottle, phial, package or other enclosure; and unless, further (2) such enclosure has first been stamped in the manner for the time being prescribed by the regulations with a stamp of the value prescribed by the said Act as so amended; and unless, further (3) such stamp has first been cancelled in the manner prescribed as aforesaid; and any person contravening any of the provisions of this section shall be liable to a fine not exceeding fifty pounds, and in default of payment to imprisonment with or without hard labour for not exceeding six months or to both such fine and imprisonment.
- (2) The penalty provided for any contravention of this section shall, in the case of a company, firm or association of persons be imposed on the person or persons for the time being having the management or control of the business.
- (3) In any prosecution for contravening this section the Court shall accept, when put in evidence by the prosecution, as conclusive evidence of the retail selling price of the medicine or medicines the subject matter of the prosecution:
- (a) In the case of imported medicines a certificate certifying the price, signed by the Assistant Treasurer; and (b) In the case of other medicines, a certificate signed by the Resident Magistrate of the District in which the medicine was manufactured or purports to have been manufactured, certifying the price;

No. 16—1909.
Penalty for
not stamping,
&c., Patent
Medicines.

And such certificate may certify in respect of one or any number of medicines; and the Court shall take judicial notice of all such certificates without any proof as to signature or otherwise.

8. For the purposes of the said Act as amended by this Act the word "medicine" shall be construed as including any substance capable of exercising, or intended or reputed, or in or upon any label, wrapper or the like, or in any separate newspaper or other advertisement, booklet, pamphlet, or leaflet or the like, professed, expressly or by implication, to be capable of exercising, when applied internally or externally, any curative, alleviative or preventive effect in any disease, disorder, affection, or deviation in health or function of, or injury to man or animals; and shall include any toilet article possessing, or professed in manner aforesaid to possess, any such quality or power; but shall not include the so-called Dutch medicines or any food or nutritive substance intended for the use of infants or invalids, or any

Patent or
Proprietary
Medicine defined.

No. 15—1909.

natural mineral water and such foodstuffs, alleged to have medicinal properties, as may from time to time be declared to be exempted by the Minister by Government Notice published in the *Gazette*; or “dips,” for sheep, cattle or other animals; or ordinary disinfectants; and the following medicines, as so defined, shall be taken to be “Patent or Proprietary Medicines,” that is to say:—

- (a) Any medicine the subject matter of any current Letters Patent granted in this Colony or elsewhere, and any medicine to which the word “Patent” is in any manner applied, whether such medicine be the subject matter of any current Letters Patent or not.
- (b) Any medicine purporting, by the use of the possessive case in its name, label, title, description or otherwise to be a “proprietary” medicine—*e.g.*, “—’s Chlorodyne,” “—’s Citrate of Magnesia,” “—’s Gregory Powder.”
- (c) Any medicine bearing any distinctive brand, mark, coat of arms, or device, whether or not the same be registered according to, or be protected by law.
- (d) Any medicine advertised or sold under a distinctive or fancy word, name, title or description used exclusively by the manufacturer or vendor, and applied by him to the particular medicine only, or applied by him also to other preparations, manufactures, or articles manufactured or sold by him, whether or not such vendor or manufacturer has any legal right to the exclusive use and application of such word, name, title or description.
- (e) Any medicine prepared or, in any manner purporting or professed to have been prepared from some secret formula, or, whether or not the formula be secret, by some secret or occult art or process.

When medicines are to be regarded as being exposed for sale.

9. For the purposes of the said Act as amended by this Act a patent or proprietary medicine shall be taken to be exposed for sale as soon as it is brought into any shop in which retail transactions take place, but not as long as it remains in any portion of retail premises set apart for dispensing or storing purposes, and is there being kept *bona fide* for the purposes of dispensing or storing only.

Powers of entry and inspection for purposes of ascertaining compliance with the Act and other Acts

10. (1) It shall be lawful for (a) any officer of revenue, excise, or customs on his own authority, and for (b) any other official being authorized in writing by the Assistant Treasurer, a Magistrate, Civil Commissioner or Chief Officer of Police in any district, to enter the retail premises of any chemist or druggist or any person or firm or company licensed to sell or suspected of selling patent or proprietary medicines, for the purpose of ascertaining whether or not the provisions of the Licensing and Stamps Act, 1908, as amended by this

Act are complied with; and it shall further be lawful for any officer or official to enter the business premises of any person or firm or company for the purpose of ascertaining whether the provisions of the stamp laws with regard to the stamping, granting, issue or delivery of the documents specified in section five of Act No. 20 of 1884 are complied with and any person hindering or obstructing any such officer acting in pursuance of this section shall be liable to a fine not exceeding £100 or in default of payment thereof to imprisonment with or without hard labour for not exceeding twelve months or to both such fine and imprisonment.

- (2) All medicines and all documents found by such officer or official not stamped in compliance with the provisions of the said Act as so amended or the Stamp Acts relating thereto, as the case may be, may be seized and detained as long as may be necessary for the purposes of prosecution.

11. Any person who, for the purpose of stamping any patent or proprietary medicine, uses or supplies or offers to supply any stamp other than a stamp supplied by Government for that purpose or any stamp so supplied but previously used, shall be liable to a penalty not exceeding a fine of £100 and, in default of payment, to imprisonment with or without hard labour for not exceeding twelve months, or to both such fine and imprisonment; and all medicines stamped with any such unauthorized or previously used stamp shall be forfeited; provided that nothing herein shall be taken to exempt any person from any greater criminal liability he may have incurred by virtue of the provisions of section thirty-two of the Stamp Act, 1864.

Supplying false stamps or stamps previously used.

12. It shall be lawful for the Minister from time to time by Government Notice in the *Gazette* to publish the names or classes or descriptions of medicines deemed by him to be exempted, as falling within the classes of medicines specially exempted by this Act, as well as the names or classes or descriptions of medicines liable to stamp duty; and if any article named or indicated therein as being specially exempted, be sold or exposed for sale by retail, no prosecution shall be instituted or continued in respect thereof.

Certain powers conferred on the Minister.

13. If any person executes or signs any document or signs any declaration and delivers or parts with the same without first having affixed thereto and cancelled the stamp, if any, imposed thereon by sub-section (c) of section six of the said Act, he shall be liable on conviction to a fine not exceeding £10, which fine, as well as any fine leviable by virtue of section five of the Stamp and Office Fees Act, 1884, may be imposed by criminal process at the instance of the Crown or a private individual, and in default of payment of any such fine the offender shall be liable to imprisonment, with or without hard labour, for not

Penalty for not stamping, etc., declarations, etc.

No. 16—1909.

exceeding one month : Provided that in any prosecution under this section it shall be a good defence that the defendant was unable to procure the necessary stamps at the place of execution or delivery of the documents or declarations concerned.

Amendment of Tariff 16, Schedule II., Act 20 of 1884.

14. So much of Tariff No. 16 in Schedule II. of Act No. 20 of 1884 as is inconsistent with or repugnant to the tariff substituted in section seven of Act No. 39 of 1908, for Tariff No. 2 in Schedule II. of the Stamps and Licences Amendment Act, 1898, is hereby repealed.

Certain penalties made recoverable by Crown.

15. Whenever by any law relating to Licences, Stamps, Customs, Excise, or other modes of raising revenue its contravention is rendered punishable by any fine or penalty (whether with or without any forfeiture) at the instance of a private individual whether by civil or criminal process, the fine or penalty may be imposed by any competent Court, in all cases in which proceedings shall not already have been instituted by a private individual, at the instance of the Crown by criminal process; and in any such proceedings it shall suffice if the offender is charged with contravening the section or tariff of the Statute imposing or declaring the fine or penalty.

Penalty for defrauding the Public Revenue.

16. Any person who, by any act or omission, intentionally defrauds or attempts to defraud the public revenue shall be liable on conviction, if no special punishment is prescribed under any other law, to a fine not exceeding £100, and, in default of payment, to imprisonment with or without hard labour for not exceeding twelve months or to both such fine and imprisonment.

Jurisdiction conferred on Resident Magistrates.

17. All offences against this Act or any Act as amended by this Act shall be cognisable before and the full penalties may be imposed by the Resident Magistrate within whose jurisdiction such offences shall have been committed.

Taking out of licences suspended until 1st January, 1910.

18. The operation of this Act in so far as it imposes the duty of taking out licences upon persons heretofore free from such obligation is hereby suspended until the first day of January, 1910, and no such duty shall be payable in respect of any portion of the year 1909.

Short Title.

19. This Act may be cited as "The Stamps and Licences Act, 1909"

No. 17.—1909.]

[November 30, 1909.

ACT *.

To Amend the Light Wine Licences Act, 1908.

[Assented to 26th November, 1909.]

Preamble.

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

Act No. 40 of 1908 amended.

1. Section two of the "Light Wine Licences Act, 1908," is hereby repealed, and from and after the date of the promulgation of this Act it shall be lawful for the Council of any Municipality, notwithstanding anything to the contrary contained in the

Laws for the time being relating to the sale of intoxicating liquors, to grant certificates for the issue by the Distributor of Stamps of licences to be operative within such Municipality for the sale for consumption on the licensed premises of wine only. The granting of such certificates as aforesaid shall be in accordance with and subject to, and any licence so issued shall, for all purposes, be deemed to be a licence issued under and by virtue of, the provisions of the "Light Wine Licences Act, 1908," as amended by this Act. Provided that no light wine licence shall be granted for any premises within any native location within the bounds of any Municipality.

2. The "Light Wine Licences Act, 1908," is hereby further amended in the following manner:—

Further amended.

- (a) By the deletion from section three thereof of the words "the Licensing Court" and the substitution therefor of the words "any Municipal Council."
- (b) By the insertion in section four of the words "kept or" before "sold" and the deletion in that section of the words "or to have been found exposed or intended for sale or disposal or consumption."
- (c) By the deletion from section five thereof of the words "to such Licensing Court" and the substitution therefor of the words "to the Municipal Council granting such licence"; and by the deletion in the proviso of the word "such" before "conditions" and the substitution therefor of the word "the" and by the insertion after "conditions" of the words "applying to light wine licences in any municipality."
- (d) By the deletion from section eight thereof of the words "Resident Magistrate and any two members of the Licensing Court" and the substitution therefor of the words "Resident Magistrate together with the Mayor or Chairman or person lawfully acting as such and any two members of the Municipal Council."
- (e) By the deletion from section fourteen thereof of the words "in open Court" for the purpose of substituting "in open Council" and also of the words "the convening of Licensing Courts at any time when necessary for entertaining applications."
- (f) By adding to section twelve "and shall report to the Municipal Council upon each application made for the grant, renewal or transfer of a light wine licence."
- (g) By the addition at the end of sub-section (K) of section thirteen of the words "or delivering or supplying wine or knowingly permitting wine to be delivered or supplied to persons under the age of fifteen years."
- (h) By the addition to section thirteen of a new sub-section: (M) "persons who may object to the granting or renewal of licences."

No. 17—1909.

Application for Licence may be considered by Municipality.

3. Subject to the provisions of section four of this Act applications for the grant of licences under this Act shall be considered (and shall be decided upon by the majority of Councillors present at the time the decision is arrived at, the Mayor or Chairman, or the Councillor acting as such, in the case of equality of votes, to have a casting vote, in addition to his ordinary vote) at a special meeting, and adjournments thereof, to be convened by the Mayor or Chairman or Councillor for the time being acting as such, once, but not more than once, every four months, and at which there shall be present the number of members necessary to form a quorum under the law under which such Council is constituted, provided, however, that nothing in this section contained shall prevent the consideration at any meeting of the Council of any such application, received in due time prior to the meeting at which such applications were appointed to be considered but the decision upon which has been adjourned from such meeting.

Notice of application to be published before application considered.

4. No application for a licence under this Act shall be considered by any Municipal Council unless there shall, for at least one month previous to such consideration, have been published in some newspaper circulating within the Municipality and have been posted in some conspicuous place at or in the office of the Council a notice intimating the name of the applicant, the nature of the application, a description of the premises referred to in the application, and the day and hour when and the place where the Council will consider the said application.

Licensed Houses closed on Polling Day.

5. All premises except *bona fide* boarding-houses licensed for the sale of wine shall be closed on the day of polling at Parliamentary elections between the hours of eight in the morning and six in the afternoon. Any person who shall keep open any licensed premises, except *bona fide* boarding-houses in contravention of this section, shall be liable upon conviction to the same penalties and forfeiture of licence respectively as are provided by law for selling liquor without a licence.

No person to hold more than one licence in Municipality.
Short Title.

6. No person, company or corporation shall hold, directly or indirectly, more than one licence within one Municipality for the sale of light wines under the provisions of Act No. 40 of 1908.

7. This Act shall be read as one with the "Light Wine Licences, Act, 1908," and may be cited as "The Light Wine Licences Amendment Act, 1909."

No. 18.—1909.]

[November 30, 1909.]

ACT

To Amend the Criminal Law.

[Assented to 26th November, 1909.]

Preamble.

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

1. Whenever any person shall be sentenced to pay a fine or in default thereof undergo a term of imprisonment and before the expiration of the said term of imprisonment any portion of the amount of the said fine be paid or levied the term of imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which the prisoner is sentenced as the sum so paid or levied bears to the amount of the fine for which he is liable.

No. 18—1909.
Proportion-
al reduction
of imprison-
ment in cer-
tain cases.

2. Every Resident Magistrate shall be bound upon production to him of the process of Court of any other Resident Magistrate as in the 68th Rule of the Courts of Resident Magistrates mentioned, signed by the Resident Magistrate exercising jurisdiction in the said Court or by the Clerk thereof, to grant his concurrence to such process by an endorsement thereof, after which the said process or any copy thereof may be served within the local limits of the jurisdiction of the Magistrate so endorsing it and shall be as good, valid and effectual within the said limits as if it had been originally issued out of the Court of such last-mentioned Magistrate.

Endorse-
ment of pro-
cess of Magis-
trates Courts.

3. Whenever under the provisions of section forty-seven of Act No. 20 of 1856, section two of Act No. 10 of 1865, or section twenty of Act No. 39 of 1877, the Magistrate shall forward to the Registrar of any superior Court the records of the proceedings in any criminal case, for the purpose of review by a Judge, he shall forward with such records any written statements or arguments which the accused may desire to append to the record.

Records in
Criminal
Cases for re-
view.

4. Whenever in the course of any preparatory examination before any Resident Magistrate or Assistant Resident Magistrate it shall appear to such Resident Magistrate or Assistant Resident Magistrate, as the case may be, that the crime or offence under examination should from its nature be tried summarily by such Resident Magistrate or Assistant Resident Magistrate under any summary jurisdiction that such Resident Magistrate or Assistant Resident Magistrate may in respect of such particular crime or offence possess, then such Resident Magistrate or Assistant Resident Magistrate may at any stage of such examination stop the proceedings and place the accused on his trial under such jurisdiction as aforesaid, and the depositions already taken at such examination may be read to the accused, and be taken for evidence at such trial, provided always that it shall be competent for the prosecutor or the accused to recall any witness who may at the examination already have given evidence.

Preparatory
examination
may be
changed into
trial under
ordinary jur-
isdiction.

5. This Act may be cited for all purposes as the "Criminal Law Amendment Act, 1909."

Short Title.

No. 19.—1909.]

[December 3, 1909.]

ACT

To Apply a Sum not exceeding Forty-five Thousand One Hundred and Eleven Pounds Eleven Shillings and One Penny Sterling, for the purpose of meeting and covering certain Unauthorised Expenditure.

[Assented to 29th November, 1909.]

Preamble.

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

Revenue charged with £45,111 11s. 1d. unauthorised expenditure year ended June, 1908.

1. The public revenue of this Colony is hereby charged with the sum not exceeding Forty-five Thousand One Hundred and Eleven Pounds Eleven Shillings and One Penny Sterling, to meet unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended 30th June, 1908, described on page 168 of the "Report of the Controller and Auditor-General, with Statements of the Revenue and Expenditure and Appropriation Accounts of the Colony of the Cape of Good Hope for the financial year 1907-1908." (G.1-'09.)

Short Title.

2. This Act may be cited as the "Unauthorized Expenditure Act, 1909."

No. 20.—1909.]

[December 3, 1909.]

ACT

To Provide for the Taxation of Incomes, and to amend Act No. 21 of 1908.

[Assented to 29th November, 1909.]

Preamble.

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

Repeal of section three of Income Tax Act, 1908. Additional Taxation Act, 1904, and Income Tax Act, 1908, applied.

1. Section three of "The Income Tax Act, 1908" is hereby repealed.

2. Subject to the provisions of this Act all and several the provisions of Part II of the "Additional Taxation Act, 1904," as amended by "The Income Tax Act, 1908," and of "The Income Tax Act, 1908," shall apply to the charging, levying, collection and payment of the tax hereby imposed, and this Act shall be read as one with the said Acts as so amended: Provided that if the Commissioner is satisfied, in any case, that the taxable income of any person does not exceed £300, he may assess such income without calling upon such person to make any return; but nothing herein shall be taken to relieve any person whose income may not be so assessed from his obligation to make a

return on the ground that his taxable income did not exceed £300; or to relieve any person whose income may be so assessed, but whose actual taxable income exceeded £300, from his obligation to make a return.

3. From and after the date of the passing of this Act there shall be charged, levied, collected and paid to the Revenue of the Colony for the service of the year ending 30th June, 1910, an income tax in respect of all incomes arisen or accrued during the year ended 30th June, 1909, to any person whether residing within or without the Colony at the rates following, that is to say:

Income Tax
levied.

A. By every person not being a Company included in subsections B or C hereof:

- | | | |
|---|--------|--------------------------------|
| <p>(1) If the amount of income taxable exceeds fifty pounds and does not exceed one hundred pounds, or if any person not otherwise liable to taxation under this Act, shall have occupied for the twelve months ended 30th June, 1909, any house, being either separately or jointly, with any land occupied therewith, of the value of seventy-five pounds</p> | } | The fixed sum of ten shillings |
| <p>(2) If the amount of income taxable exceeds one hundred pounds and does not exceed three hundred pounds</p> | } | The fixed sum of one pound. |
| <p>(3) If the amount of income taxable exceeds three hundred pounds and does not exceed one thousand pounds:</p> | | |
| <p>(a) For the first three hundred pounds of such income</p> | } | The fixed sum of one pound. |
| <p>(b) For every pound over and above the first three hundred pounds of such income</p> | ... | One shilling. |
| <p>(4) If the amount of income taxable exceeds one thousand pounds and does not exceed one thousand and five hundred pounds:</p> | | |
| <p>(a) For the first one hundred pounds of such income</p> | } | The fixed sum of one pound. |
| <p>(b) For every pound over and above the first one hundred pounds of such income</p> | ... | One shilling. |
| <p>(5) If the income taxable exceeds one thousand and five hundred pounds and does not exceed three thousand pounds, for every pound of such income</p> | ... .. | One shilling. |
| <p>(6) If the income taxable exceeds three thousand pounds:</p> | | |
| <p>(a) For every pound of such income and in addition thereto</p> | | One shilling. |

No. 20—1909.

- (b) On so much of such income as exceeds three thousand pounds and does not exceed ten thousand pounds, for every pound Threepence.
- (c) On so much of such income as exceeds ten thousand pounds, for every pound ... Sixpence.
- B. By every company registered with limited liability not being a company included under sub-section C hereof, provided that the least amount of tax payable by any such company liable to tax shall be ten shillings:—
- (a) For every pound of the amount of income taxable ... One shilling.
and in addition thereto
- (b) On so much of such income as exceeds three thousand pounds and does not exceed ten thousand pounds, for every pound ... Threepence.
- (c) On so much of such income as exceeds ten thousand pounds, for every pound ... Sixpence.
- C. By every Diamond Mining Company and Copper Mining Company, the amount of whose income taxable exceeds fifty thousand pounds:—
For every pound of the income of such company ... Two shillings.
4. The provisions of the “Small Debts Recovery Act, 1905” shall apply to the recovery of Income Tax in every case in which the amount due and payable under this Act or under “The Income Tax Act, 1908,” does not exceed the sum of twenty pounds.
5. This Act may be cited as “The Income Tax Act, 1909.”

Small Debts Recovery Act applied.

Short Title.

No. 21—1909.]

[December 3, 1909.]

ACT

To Amend the “Trekpaths Act, 1908.”

[Assented to 29th November, 1909.]

Preamble.

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

Amendment of section fourteen of “The Trekpaths Act, 1908.”

1. The “Trekpaths Act, 1908,” shall, from and after the taking effect of this Act, be read and construed as if after the word person in the proviso to section fourteen there were inserted the words “so trekking or travelling more often than once a fortnight, or.”

Short Title.

2. This Act may be cited as “The Trekpaths Act Amendment Act, 1909,” and shall be read as one with “The Trekpaths Act, 1908.”

No. 22—1909.]

[December 7, 1909.]

ACT

To extend to Special Justices of the Peace certain powers conferred on Magistrates by Act No. 33 of 1905.

[Assented to 2nd December, 1909.]

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

Preamble.

1. It shall be lawful for the Governor from time to time by proclamation to confer upon the Special Justices of the Peace named therein, to be exercised by them within their respective local jurisdictions, all or any of the powers by the second section of the "Magistrates Increased Powers Act No. 33 of 1905," conferred upon Resident Magistrates and certain Assistant Resident Magistrates.

Certain powers conferred upon Special Justices of the Peace.

2. This Act may be cited as "The Special Justices of the Peace Act, 1909."

Short Title.

No. 23—1909.]

[December 3, 1909.]

ACT

To Provide for the raising of a Loan for certain Works and Services; to make provision for the balance of the deficiency for the year 1907-1908; to make provision for the deficiency for the year 1908-1909; to authorize the re-appropriation of Moneys authorized for certain Works and Services to certain other Works and Services; and to authorize the bringing to final charge all losses sustained in connection with Loans issued under the provisions of Acts 43 of 1905 and 27 of 1908.

[Assented to 2nd December, 1909.]

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

Preamble.

1. For the purpose of carrying on the works and services specified in Schedules "A" and "B" hereunto annexed, it shall be lawful for the Governor to raise by Public Loan, either temporarily or by means of Consolidated or Colonial Stock in London or in the Colony the sum of £427,500 (four hundred and twenty-seven thousand five hundred pounds sterling).

Public Loan £427,500 authorized.

No. 23—1909.

Temporary Loan £11,854 15s. 5d. together with an amount to meet deficiency for financial year 1908-9 authorized.

2. It shall be lawful and the Governor is hereby empowered to raise by Temporary Loan in such manner as may to him seem most expedient the sum of £11,854 15s. 5d. (eleven thousand eight hundred and fifty-four pounds fifteen shillings and five pence sterling) to meet the balance of the deficiency of the Financial Year 1907-1908, and it shall further be lawful to raise in like manner the sum of £375,000 (three hundred and seventy-five thousand pounds sterling) or such sum as may be required to meet the deficiency of the Financial Year 1908-1909, as certified to by the Controller and Auditor-General.

Surplus balances to be applied to certain Telephone, Telegraph and Postal Works.

3. For the purpose of carrying out the works and services detailed in Schedule "C" hereunto annexed it shall be lawful to apply certain surplus balances as well as the amounts authorized for the construction of certain other works as detailed in the said Schedule.

Loan £10,000 under Act 37 of 1906 to be applied to Hospitals as well as Asylums.

4. The sum of £10,000 "Hospitals and Asylums," mentioned in Schedule "C" to Act No. 37 of 1906 and authorized under section three of the said Act to be raised by public loan is hereby authorized to be applied to Hospitals as well as to Asylums.

Losses on loans to Co-operative Associations to be final charge against loans.

5. It shall be lawful and the Governor is hereby authorized to bring all losses sustained in connection with loans issued to Co-operative Associations of Wine and Agricultural Farmers under the provisions of Acts Nos. 43 of 1905 and 27 of 1908, to final charge against the loans raised for such purposes under the said Acts.

Expenditure under this Act controlled.

6. No expenditure shall be incurred for any service provided for in this Act, until the Treasurer shall have notified under his hand that the funds for such service are available.

Short Title.

7. This Act may be cited for all purposes as the "Public Works Loan Act, 1909."

Schedule A.

SCHEDULE A.

1. TREASURY :

Purchase of farm "Otterdam," Division of Clanwilliam, and expenses connected therewith...	£9,350
Loans under Acts Nos. 11 of 1882 and 25 of 1904—Schools	50,000

2. POSTS AND TELEGRAPHS :

Telegraph Extensions :

Ladismith to Van Wyks Dorp	£1,500
Jansenville to Waterford	900
Porterville Road to Halfmanshof and Saron	300
Carnarvon to Loxton	1,000
Uppington to Kakamas and Keimos	4,500
Steytlerville to Baviaans Kloof	1,500
Adelaide to Linton	400
	<hr/> 10,100

3. PUBLIC WORKS DEPARTMENT :

<i>(a) Buildings :</i>			
Umtata Hospital : Rebuilding, £ for £	...	...	2,500
New Law Courts (additional)	...	...	50,000
Houses of Parliament : Alterations	...	...	40,000
Improvements to Government House and Public Offices	...	...	5,000
<i>(b) Roads :</i>			
Hondeklip Bay to Wallekraal (to complete)...	...	...	5,000
Naude's Nek to Maclear Station (additional to Act No. 37 of 1906)	...	...	5,000
Belmont to Douglas (to complete)	...	...	3,000
Assistance to Divisional Councils	...	...	5,000
<i>(c) Bridges :</i>			
Lady Loch Bridge (to replace existing structure)	...	...	10,000
Bridges or pontoons (additional to Act No. 27 of 1908)	...	...	2,000
<i>(d) Lighthouses :</i>			
Slangkop Syren or Lighthouse, with Quarters	...	...	3,750
<i>(e) Ports :</i>			
Knysna Jetty : Reconstruction	...	...	5,000
Port St. John's Harbour Improvements and Equipment	...	...	9,000
<i>(f) Irrigation :</i>			
Brand Vlei Irrigation Works (to complete)...	...	...	2,000

4. AGRICULTURAL DEPARTMENT :

Expenditure for erection of Cool Storage at Docks	...	...	6,000
Expenditure in connection with East Coast Fever, including salaries of Veterinary Surgeons, Police and Native Guards	...	...	56,500
Advances in aid of constructing Cattle Dipping Tanks	...	...	20,000
Ice-making and Cold Storage Plant at Vryburg	...	...	3,300
Agricultural College or Colleges	...	...	10,000

5. RAILWAYS :

Regrading	...	...	52,500
Strengthening of Line between Fourteen Streams and Kimberley	...	...	31,500
Two New Engines	...	...	10,500
Fencing Railways	...	...	10,500

£417,500

No. 23—1909.

SCHEDULE B.

Schedule B. POSTS AND TELEGRAPHS.

Wireless Telegraphy:

Installation of	£10,000
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Schedule C.

SCHEDULE C.

				Telephones.	Estimated.
1.	Exchange area,	Cape Town	£34,164
2.	"	Port Elizabeth	...	...	5,881
3.	"	Kimberley	...	...	4,357
4.	"	East London	...	...	5,635
5.	"	Queenstown	...	...	2,500
6.	"	Grahamstown	...	...	1,495
7.	"	King William's Town	...	...	890
8.	"	Cradock	...	...	182
9.	"	Mossel Bay	...	...	219
10.	"	Paarl	...	...	641
11.	"	Worcester	...	...	347
12.	"	Bellville	...	...	180
13.	"	Simonstown	...	...	290
14.	"	Kalk Bay	...	...	449
15.	"	Oudtshoorn	...	...	733
16.	New Private Wires	...	...	...	1,981
17.	Trunk Lines	...	...	...	14,931
				Telegraphs.	
18.	King William's Town-Umtata	(additional wire)	...	...	1,808
19.	Clanwilliam-Van Rhynsdorp	...	...	...	724
20.	Springbokfontein-O'okiep	...	...	...	100
21.	Plettenberg Bay-Storm's River	(new line)	...	...	245
22.	Steinkof-Ramansdrift	new line	...	...	4,472
23.	Accumulators,	Central Telegraph Office	...	...	1,750
24.	Pneumatic Tubes,	General Post Office	...	...	427
25.	General Purposes	...	...	...	4,905
					<u>£89,306</u>

26.	Expenses in connection with the disposal of Brandy taken over from the Agricultural Distillers Association—including salaries, wages and allowances of persons employed in connection therewith, and the outstanding liabilities of the Association at the date of taking over	6,000
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SURPLUS BALANCES.

				Estimated.	
1.	Act 43 of 1905.	Exchange area,	Cape Town	...	£22,164
2.	"	"	Port Elizabeth	...	8,881
3.	"	"	Kimberley	...	1,357
4.	"	"	East London	...	4,035

SURPLUS BALANCES—*Continued.*

No. 23—1909.

5.	Act 43 of 1905.	Exchange area, Queenstown ...	3,780
6.	"	" Grahamstown ...	2,713
7.	"	" King William's Town ...	439
8.	"	" Cradock ...	282
9.	"	" Mossel Bay ...	219
10.	"	" Bellville ...	680
11.	"	New Exchanges ...	496
12.	"	New Private Wires ...	46
13.	"	Pietermeintjesbank - Nelspoort, rebuilding ...	11,158
14.	"	General Purposes ...	219
15.	"	Pneumatic Tubes ...	427
16.	Act 37 of 1906.	Exchange area, East London ...	1,600
17.	"	" Paarl ...	341
18.	"	" Oudtshoorn ...	233
19.	"	New Exchanges ...	2,000
20.	"	New Private Wires ...	2,483
21.	"	Trunk Lines ...	5,893
22.	"	King William's Town-Umtata, additional wire ...	2,030
23.	"	Clanwilliam - Van Rhynsdorp, additional wire ...	724
24.	"	Springbokfontein-O'okiep, addi- tional wire ...	100
25.	"	Cape Town - Somerset West, additional wire ...	400
26.	"	Plettenberg Bay-Storm's Rivier, new line ...	245
27.	"	General Purposes ...	1,080
28.	"	Accumulators, Central Telegraph Office ...	1,750
29.	Act 27 of 1908.	Exchange area, Cape Town ...	2,000
30.	"	" Kimberley ...	2,000
31.	"	" East London ...	1,000
32.	"	" Grahamstown ...	543
33.	"	" King William's Town ...	3,610
34.	"	" Paarl ...	300
35.	"	" Worcester ...	347
36.	"	" Simonstown ...	482
37.	"	" Kalk Bay ...	549
38.	"	" Oudtshoorn ...	400
39.	"	General Purposes ...	1,100
40.	Surplus Balance, Stores Suspense Account	...	1,200
			<u>£89,306</u>
41.	Acts No. 36 of 1904, 43 of 1905 and 27 of 1908, Advances to Agricultural Distillers ...	...	£6,000

No. 24—1909.]

[December 3, 1909.]

ACT

To Amend the Act No. 8 of 1907, entitled "The Sale of Pure Natural Wine Facilities Act, 1907."

[Assented to 2nd December, 1909.]

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

Amendment of Act 8 of 1907.

1. From and after the taking effect of this Act, the Act No. 8 of 1907 shall be read and construed as if the words "sold and delivered to any Native as defined in Act No. 28 of 1898, section five, who is not a Registered Voter" were omitted from the Act, and the following were inserted in lieu thereof: "sold or delivered to any person residing within this Colony, who is not either the registered owner or the occupier of immovable property in South Africa, valued for the purposes of Divisional Council or other local rates at not less than One hundred and fifty pounds sterling."

Short Title.

2. This Act shall be read as one with the said Act and may be cited as "The Sale of Pure Natural Wine Facilities Amendment Act, 1909."

No. 25—1909.]

[December 3, 1909.]

ACT

To Further Amend the School Board Act, 1905.

[Assented to 2nd December, 1909.]

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

Repeal of repugnant laws.

1. So much of any other law as may be repugnant to, or inconsistent with any of the provisions of this Act shall be and the same is hereby repealed.

Financial year of School Boards.

Rendering of estimates of revenue and expenditure.

2. (a) From and after the 1st day of July, 1909, the financial year of all School Boards shall run from the first day of July in any one year to the thirtieth day of June of the year following, and the estimate of revenue and expenditure required to be rendered to the department in terms of section seventy of the School Board Act, 1905, shall be forwarded to the department annually not later than the last day of April in each year. Notification of approval or otherwise of any such estimate shall, within sixty days of the receipt thereof, be conveyed by the department to the Board rendering the same.

(b) An estimate of revenue and expenditure for the period from the first day of January, 1910, to the thirtieth day of June, 1910, shall be rendered by all School Boards to the depart-

ment not later than the thirty-first day of December, 1909, and notification of the approval or otherwise of any such estimate shall, within thirty days of the receipt thereof, be conveyed by the department to the Board rendering the same.

No. 25—1909.

3. (a) No liability shall attach to the department in respect of
- (1) Any deficiency in the funds of any School Board as shown in any statement of accounts of such Board to the thirtieth day of June, 1909,
 - (2) Any debt contracted or liability incurred by any School Board upon or before the thirtieth day of June, 1909, but not yet paid or discharged by that date,

Adjustment of deficits in School Board accounts to 30th June, 1909, and debts contracted upon or before that date.

except in so far as any such deficiency, debt or liability may be one for which the department has made itself specifically liable, or is liable under section three of Act No. 45 of 1908.

(b) Any such deficiency, debt or liability shall be adjusted in full by the Divisional or Municipal Council or other taxing authority concerned within six months of the date of the promulgation of this Act, and such Council or authority shall, notwithstanding anything to the contrary contained in section five of the School Board Further Amendment Act, 1908, as to the maximum amount leviable in any school district within any one calendar year, have power to levy a special rate for such purpose which, in the case of any school district in which School Board requirements are met by the levy of a house rate under the provisions of the School Board Further Amendment Act, 1908, shall be by such house rate, and, in the case of any school district in which School Board requirements are not met by the levy of a house rate shall be by means of a rate levied in terms of sections seventy-two and seventy-three of the School Board Act, 1905, and in the case of any such school district as is referred to in section seventy-five of the School Board Act, 1905, shall be by means of a rate levied in terms of the said section or any amendment thereof.

(c) Any such deficiency, debt or liability not paid to the School Board by the taxing authority concerned within six months of the date of the promulgation of this Act shall be recoverable by law by the School Board from such taxing authority upon the issue by the Minister of a certificate that no good and sufficient reason to his satisfaction for any extension of the time limit for such payment has been shown by such taxing authority.

4. (a) If the accounts of any School Board for any financial year subsequent to the 30th day of June, 1909, duly audited in accordance with the provisions of section seventy-one of the School Board Act, 1905, and section fifty-one of the School Board Further Amendment Act, 1908, show an excess of expenditure over income, or if notification be made by the department to any Divisional or Municipal Council in terms of section six of the School Board Further Amendment Act, 1908, that an excess of expenditure over revenue for any financial year sub-

Local taxation for purpose of deficit in accounts subsequent to 30th June, 1909.

No. 25—1909.

sequent to the 30th day of June, 1909, is anticipated in respect of any School Board within the area of such Council, such excess shall:—

- (1) In the case of any School Board district in which no house rate is levied under the provisions of the School Board Further Amendment Act, 1908, be provided for by a rate not exceeding one-eighth of a penny in the pound which shall be either an owner's rate or an owner's and tenant's rate combined, on the assessed value for School Board purposes of all immovable property within the School District.
- (2) In the case of any School Board district in which a house rate is levied under the provisions of the School Board Further Amendment Act, 1908, be provided by such house rate which shall not be greater than is necessary to produce a sum equivalent to the amount produced by an ordinary rate of one-eighth of a penny in the pound on the assessed value for School Board purposes of all immovable property within the School District.
- (3) In the case of any School Board district established in any portion of the Colony where no fiscal division exists, be provided for by a rate not exceeding one-eighth of a penny in the pound on the value of immovable property in the School Board district assessed for School Board purposes, which shall be raised in the manner prescribed by section seventy-five of the School Board Act, 1905, or any amendment of the said section.

Provided that where the said excess of expenditure over revenue is not sufficient in the opinion of any Divisional or Municipal Council concerned to warrant a rate being levied it shall be competent for such Council to advance temporarily the amount out of its general funds against a rate to be levied at some future time when required.

(b) Any rate, not being a house rate, levied under the provisions of this section by any Divisional or Municipal Council or by any taxing authority under the provisions of section seventy-five of the School Board Act, 1905, may be levied either as a special rate or as part of any other rate lawfully levied for other than School purposes by such Divisional or Municipal Council or taxing authority, and in such proportions of such other rate as may appear to such Council or authority to be necessary and expedient; but any sum not paid over to any School Board within six months of the date of lawful application made for such payment to the said Council or taxing authority shall be recoverable by law by the School Board from such Council or taxing authority upon the issue by the Minister of a certificate that no good and sufficient reason to his satisfaction for any extension of the said period of six months has been shown by such Divisional or Municipal Council or taxing authority.

No. 25—1909.

5. Wherever the revenue obtained or to be obtained from the imposition of a rate of not less than the maximum rate leviable under the provisions of section four of this Act has been or will be insufficient to meet the deficit in the duly audited accounts of any School Board for any financial year subsequent to the 30th day of June, 1909, the amount of the excess of expenditure over income remaining after the appropriation of such revenue to the discharge of the deficit shall, subject to the provisions of section three of this Act, be defrayed by the department out of funds to be voted for that purpose by Parliament. Provided however, that no expenditure shall be passed by the Auditor-General and no liability shall attach to the department in respect of any expenditure incurred by any School Board which has not appeared upon an estimate of income and expenditure submitted to, and approved by, the department in terms of section two of this Act, or otherwise which has not been specially approved by the department unless such expenditure has been lawfully incurred upon or after the first day of July, 1909, and before the first day of January, 1910.

Balance of deficit after appropriation of revenue from local taxation to be defrayed by department.

6. (a) Notwithstanding anything to the contrary contained in section fifty-four of the School Board Further Amendment Act, 1908, the cost of levying and collecting any rate under the provisions of section four of this Act, and of making any valuation for the purposes of any such rate, and any deficiency between the proceeds of any such rate and the amount lawfully requisitioned for School Board requirements caused by the failure to collect or recover any portion of such rate shall be a charge upon the ordinary funds of any Divisional or Municipal Council levying and collecting such rate.

Cost of levy and collection of rate etc., to be borne by taxing authority. Excess to be set aside to meet any future deficiency.

(b) Should the proceeds of any rate levied and collected under the provisions of this Act exceed the sum lawfully requisitioned for School Board requirements, the amount of such excess shall be set aside in the books of the Council concerned for the purpose of meeting any future deficiency of the Board and shall be applied thereto, but subject to the provisions of section nine, subsection (c) of this Act.

7. Wherever any Divisional or Municipal Council, duly authorized thereto under the provisions of section forty of the School Board Further Amendment Act, 1908, or any other law, shall, previous to the date of the promulgation of this Act, have made temporary advances of funds to any School Board to meet, whether wholly or in part, the excess of expenditure over revenue of such Board for any financial year subsequent to the 30th day of June, 1909, any excess of such funds over any amount capable of being lawfully levied by such Divisional or Municipal Council to meet the requirements of the School District concerned for the said financial year shall be retained by the Board and applied to the deficiency of any future financial year.

Where advances by Divisional or Municipal Council to Board to meet excess of expenditure over revenue exceed amount leviable by local taxation Board to retain excess against any future deficiency.

No. 25—1909.

8. If at the date of the promulgation of this Act any Divisional or Municipal Council shall have lawfully levied any rate to meet any School Board requirements for any financial year subsequent to the 30th day of June, 1909, any excess of the amount received from any such rate over the amount which would have been produced by the maximum rate leviable under the provisions of section four of this Act shall be placed on the books of the Council to the credit of future School Board requirements, or, in the event of the proceeds of any such levied rate having already been paid to the School Board concerned, shall by such Board be retained and be applied to the deficiency of any future financial year.

Unauthor-
ized expendi-
ture to be met
by voluntary
contributions,
etc.

9. (a) Any increase appearing in the accounts of any School Board in the rate of any salary payable by such Board as fixed on the 1st day of October, 1909, of which increase the approval of the department shall not previous to the final audit of such accounts have been obtained and any expenditure incurred by any Board which has not appeared upon the estimate of income and expenditure submitted to and approved by the department in terms of section two of this Act or which otherwise has not been specially approved of, shall be payable by means of voluntary contributions, guarantees or any other lawful methods, but shall not be included in any deficit of such Board for the purposes of sections four and five of this Act.

(b) It shall be lawful for School Committees or for Managers of private farm schools, by means of voluntary contributions, guarantees or any other lawful methods, to increase any salary or supplement any expenditure in respect of the schools under their management beyond the amount payable or paid by the School Board of the district.

(c) Where the maximum amount of rate leviable under this Act has not been exhausted in respect of approved expenditure, any balance of such rate may on application by any School Board to the Department be authorised by the Department to be levied, and the proceeds thereof may on the authority of the Department, be made available for strictly educational purposes, but shall not be included in any deficit of such Board for the purposes of sections four and five of this Act.

Power to
make regula-
tions.

10. It shall be lawful for the Governor to make regulations which shall be submitted to Parliament at its next ensuing Session, prescribing the circumstances under which School Boards shall be empowered to remit school fees, grant free instruction, or make any alteration in any scale of school fees, and the manner in which the department shall be authorised to make advances against its share of contribution to the deficiency in the funds of School Boards.

Revocation
of resolution
to meet
School Board
requirements
by a house
rate.

11. (a) It shall be lawful for any Divisional Council which has, in terms of section eight of the School Board Further Amendment Act, 1908, decided to meet School Board require-

ments by the levy of a house rate, to reconsider such resolution at any ordinary meeting of the said Council, and, if a majority of the members present and voting at such meeting are in favour of the revocation thereof, to revoke the same, provided that notice of the intention to propose such reconsideration and revocation shall have been given to each of the members of such Council fourteen days at least before the holding of the meeting.

(b) From and after the date of such revocation all funds required to be provided by such Divisional Council for School Board purposes shall be raised in the manner provided by law for the meeting of School Board requirements in any divisional area where no such resolution in terms of section eight of the School Board Further Amendment Act, 1908, has been adopted.

12. (a) Whenever there is contained within the division of any Divisional Council which has passed a resolution in terms of section eleven of this Act for the revocation of a decision to meet School Board requirements by the levy of a house rate any Municipality which has, under and by virtue of sections ten and eleven of the School Board Further Amendment Act, 1908, become a separate School District, it shall be lawful for the Governor by Proclamation, notwithstanding anything contained in section forty-one of the School Board Further Amendment Act, 1908, as amended by section thirteen of this Act, to cancel the Proclamation defining and constituting such Municipality a separate School District, and thereupon such separate School District shall cease to exist, and such Municipality shall for School Board purposes become embodied and comprised within the School Board District of which it formed a portion previous to its constitution as a separate School District under and by virtue of sections ten and eleven of the School Board Further Amendment Act, 1908, and all and several the assets, rights and liabilities of the Board of the School District thus ceasing to exist shall become vested in, and imposed upon, the School Board of the District with which it has, in terms of this section, become amalgamated. Provided that said amalgamation shall take effect from such date and upon such conditions as the Minister shall approve.

Governor may, in certain cases, cancel Proclamation constituting a separate school district.

(b) Upon the date fixed by the Minister for the amalgamation, in terms of this section, of any school districts, the School Board of the district within which any other School District has become incorporated shall vacate office, and thereupon, under regulations to be issued by the Governor in that behalf, a nomination and election shall take place of a new Board for the district as reconstituted, which shall hold office for the remainder of the term for which the outgoing Board was appointed to serve.

13. Section forty-one of the School Board Further Amendment Act, 1908, is hereby amended by the deletion of the words "not less than three-fourths" from the proviso to the said section and the substitution thereof of the words "a majority."

Amendment of School Board Further Amendment Act, 1908.

No. 25—1909.

14. By reason of the non-payment of rates by the diggers in the Barkly West division, the schools known as diggers' schools, shall be exempted from the control of the School Board of the said division, and shall be managed by local Committees in direct connection with the Education Department.

15. (a) From and after the date of the promulgation of this Act, no member of any School Board shall be deemed or declared to have forfeited his seat, and no persons shall be incapable of being elected as a member of any School Board, by reason of the fact that such member or person has entered into an agreement with such Board for the establishment, continuance or maintenance of any farm school, or that such member or person is interested, whether as surety or otherwise, in any such agreement; and the provisions of the forty-ninth section of the School Board Further Amendment Act, 1908, shall not apply to any such agreement.

Member entering into agreement with Board, exemptions.

(b) No member of any School Board shall, at any meeting of such Board, take part in the discussion or decision of any question relating to:

- (i) the establishment, continuance or maintenance of any farm school in which such member is interested, whether as owner or occupier of the farm upon which such school is established or proposed to be established, or as a surety to any agreement between such School Board and any other person relating to such school, or otherwise; or
- (ii) the maintenance, administration or control of any property let by such member in his private capacity to such School Board.

Any member of a School Board who at any meeting of such Board takes part in the discussion or decision of any question from which he is, in terms of this section, disqualified from taking part shall forfeit his seat on the Board, and the same shall become vacant.

(c) Sub-section (b) of section forty-five of the School Board Further Amendment Act, 1908, is hereby amended by the addition after "1905" in the said sub-section of the words "the forty-ninth section of this Act, or any other law."

Vacancy how filled.

16. If any member of a School Committee shall, during the currency of his period of office, die, resign, or become or be found to be disqualified under the thirteenth section of the School Board Act, 1905, or any other law, it shall and may be lawful for the remaining members of such School Committee at a meeting specially called for the purpose after such notice as may be provided for by Regulations issued by the Governor, by the votes of the majority present at such meeting to elect a successor to fill the vacancy so caused, and such successor shall serve until the next ordinary election of such School Committee.

THE FENCING LAWS (LIABILITIES OF LOCAL 5537
AUTHORITIES) AMENDMENT ACT, 1909.

17. If the managers or other persons having the control of any private school shall intimate to the Minister their desire to hand over the control of such school to the School Board of the District and that such school shall be or become undenominational in character, it shall be lawful for the Minister, after consultation with the School Board concerned, to agree that the control of such private school shall vest in the School Board, and thereupon such School Board shall have control over the said school to the same extent and in the same manner as over other public schools under its management and such school shall for all purposes be regarded as a new school founded and established by the School Board with the approval of the Department.

No. 25—1909.
Private
Schools may
be handed
over to School
Boards.

18. This Act may be cited as the "School Board Further Amendment Act, 1909," and shall be read as one with the School Board Act, 1905, the School Board Act Amendment Act, 1906, and the School Board Further Amendment Act, 1908, save in so far as the provisions of the said Acts may be altered or repealed thereby.

Short Title
and scope of
Act.

No. 26—1909.]

[December 3, 1909.

ACT

To Limit the Liability of Local Authorities ~~in~~
respect of Contributions to Fencing under the
"Fencing Laws, 1883-1905."

[Assented to 2nd December, 1909.]

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

Preamble.

1. Notwithstanding anything to the contrary contained in the "Fencing Laws, 1883-1905," the liability of a Council, Board of Commissioners, or other governing body of a Municipality or Corporate Town, and of the Board of Management of any place where "The Village Management Act, 1881," is in force, to contribute, as an "occupier" under the provisions of the said Laws, to the erection or maintenance of any dividing fence, shall be deemed to apply only in respect of the fencing of lands lying outside the limits of such municipality, town or place as the case may be.

Limit of liability under
Fencing Laws
of Local Au-
thorities.

2. This Act shall be read as one with "The Fencing Laws, 1883-1905," and may be cited as "The Fencing Laws (Liability of Local Authorities) Amendment Act, 1909."

Short Title.

No. 27—1909.]

[December 7, 1909.]

ACT

To authorise the Disposal of Certain Lands at Rondebosch held by the Board of Trustees for the Diocese of Cape Town.

[Assented to 3rd December, 1909.]

Preamble.

WHEREAS by a grant made by the Governor to and in favour of the Right Reverend Robert Gray, Bishop of Cape Town, and his successors on the 31st day of January, 1854, and subsequently transferred to the Board of Trustees for the Diocese of Cape Town on the 16th May, 1870, it is provided that a certain piece of land situated on the Camp Ground, Rondebosch, Cape Division, within the limits of the Municipalities of Rondebosch and Mowbray, measuring 69 morgen and 20 square roods, and extending westward of the line P.Q. on the diagram attached to the said grant, shall, with the exception of 300 square roods to be selected with the consent of Government as a site for a school and schoolmaster's house, be appropriated exclusively as pasture land for the use of the minister for the time being of St. Paul's Church, Rondebosch, who shall be entitled to the use and profits thereof, provided that it shall at all times remain open to the public as a place of exercise and recreation.

And whereas the Board of Trustees for the Diocese of Cape Town, to whom portion of the said land is now transferred, and the said minister are willing to forego their rights over the main part of the said portion, and to place the same under the control and management of the Municipal Councils of Rondebosch and Mowbray for the purpose of public parks and recreation grounds and for thoroughfares and widening roads, with right to alienate certain other parts of the said land not required for the purpose of such public parks, recreation grounds, thoroughfares or roads, in consideration of which the Board of Trustees for the Diocese of Cape Town are to receive authority to alienate the remaining part of the said portion not so required by the Municipal Councils as aforesaid.

And whereas such an arrangement will secure to the public the better enjoyment and good management of the said proposed parks and recreation grounds and thoroughfares, and will be to the benefit of both the Municipal Councils and the Board of Trustees aforesaid, and is otherwise desirable and equitable.

And whereas a plan and book of reference of the land proposed to be alienated has been deposited in the Office of the Clerk of the House of Assembly and with the Surveyor-General.

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

1. The remainder of the piece of land described in the aforesaid grant dated 31st January, 1854, and transferred on the 16th May, 1870, as aforesaid, and more fully shewn on the plan deposited with the Clerk of the House of Assembly and the Surveyor-General shall be freed from the conditions and servitudes imposed by the said grant and be dealt with or disposed of in manner following:—

No. 27—1909.
To provide for disposal of land granted on January 31st, 1854.

2. There shall be transferred to the Board of Trustees for the Diocese of Cape Town in trust for the Parish of St. Paul's Church, Rondebosch,

Portions to be transferred to Board of Trustees in trust for Parish of St. Paul's, Rondebosch.

- (a) That portion of lot 1 which is south of the red line N.P. measuring about one morgen four hundred and thirty square roods and situate in the Municipality of Rondebosch.
- (b) The portion marked lot 2 measuring three hundred and sixty-two square roods situate in the Municipality of Mowbray.
- (c) That portion of lot 13 which is south of the red line R.S. measuring about ninety square roods situate in the Municipality of Rondebosch.
- (d) That portion of lot 12 which is north of the red line T.V. measuring about five hundred and ten square roods situate in the Municipality of Rondebosch and on which the Mission School Chapel (now known as St. Thomas' Church) has been built.

3. There shall be transferred to the Municipality of Mowbray:—

Portion to be transferred to Mowbray Municipality.

- (a) That portion of lot 1 which is north of the red line N.P. measuring about fifty-four square roods, situate in the Municipality of Rondebosch.
- (b) The portion marked lot 1A, measuring two hundred and sixty-five square roods, situate in the Municipality of Mowbray.
- (c) The portions marked lots 19 and 20, measuring together about one hundred and ten square roods, situate in the Municipality of Mowbray.
- (d) That portion of lot 3 measuring about one hundred and ten square roods which is within the Municipality of Mowbray.
- (e) Those portions of the Camp Ground Road and of the Maitland Road which fall within the limits of the Mowbray Municipality.

4. There shall be transferred to the Municipality of Rondebosch the remainder of the remaining extent of the land described in the grant aforesaid, being the rest of the land shown on the plan.

Remainder of land to be transferred to Rondebosch Municipality.

5. The Board of Trustees for the Diocese of Cape Town may sell, dispose of or alienate the properties to be, in terms of section two, conveyed to them, or any part thereof, provided that the proceeds be invested by the said Board of Trustees in like

Manner in which proceeds of sales by Diocesan Board shall be dealt with.

No. 27—1909. manner as other trust monies under its administration, and that the income derived therefrom be paid to the minister and churchwardens for the time being of the parish of St. Paul's Church, Rondebosch, for the benefit of the said parish.

Diocesan Board's property exempted from rates until alienated. 6. Any portion of land which the said Board of Trustees for the Diocese of Cape Town may acquire and retain in trust in terms of this Act shall unless and until sold, leased or otherwise used in such manner as to yield revenue or alienated by the said Trustees be and continue free from assessment for Municipal and Divisional rates. The portions of lots 12 and 13 to be transferred in terms of sub-sections (c) and (d) of section two shall be reserved exclusively for ecclesiastical purposes.

Lot 2 freed from road construction contribution until alienated. 7. No contribution shall be claimable by the Municipality of Mowbray for the construction, kerbing and guttering of the roads around lot 2 referred to in section two, sub-section (b) hereof, unless and until the Board of Trustees shall sub-divide or sell or lease or otherwise use the said lot in such manner as to obtain revenue therefrom. So soon as any portion of the said lot is sold, leased, disposed of or beneficially used as aforesaid, the Board of Trustees, or the purchaser, if any, shall be required to contribute to the Mowbray Municipality at the rate of one pound sterling (£1) for every three and one-half ($3\frac{1}{2}$) square roods of land so alienated or used. Such payments may thereupon be recoverable from the several owners and their successors in title in twenty-five annual instalments at the rate of six pounds ten shillings sterling (£6 10s. 0d.) per centum per annum, which rate is calculated to cover repayment of principal and interest at four per centum per annum, and the first and subsequent instalments shall be payable in like manner as is prescribed in section five of Act No. 41 of 1899.

Authority for Municipal Council with Governor's sanction to alienate certain portions. 8. Pursuant to the provisions of sections one hundred and sixty and one hundred and sixty-three of the Municipal Act, 1882, and subject to such conditions and restrictions as may with the consent of the Governor be imposed regarding the size of a lot, the nature of the buildings to be erected thereon, and the use to be made thereof, the Council shall have power and authority but only for the purpose of raising funds in order to give effect to the provisions of this Act, if it be proved to the satisfaction of the Governor that the requisite moneys cannot be raised by loan or from general municipal revenues to sell, dispose of, and alienate, of the land to be transferred in terms of sections three and four those portions of lots 9, 6 and 4, which lie to the westward of the red lines WX, YZ, ZH, lots 7, 8, 18, 19, 20, 21 and the portion of lot 13 northward of the red line S R.

Rights of preemption to owners of adjoining land. 9. Whenever the Council shall decide to alienate the western portion of lot 9 or any part of the seven lots last named in the preceding section, the registered owner of the property abutting on such part shall have the right to purchase the same at a fair price. In the event of any dispute arising between the Council

and any such adjoining owner either regarding the price to be paid for or concerning any other matter in connection with such part, such dispute shall be settled in accordance with the provisions of the Arbitration Act of 1898. The aforesaid right of pre-emption shall lapse unless exercised within three years after notification by the Council in the *Gazette* of its decision to sell; provided always that the owners of such adjoining lots shall be entitled to reasonable access by the roads at present in use from their respective properties over the parts abutting thereon to the public road.

10. The Council may not alienate but shall reserve for the purpose of widening or otherwise improving the roads and thoroughfares adjacent thereto, lots 3, 5, 10, 14, 15 and 16 and the parts of lots 9, 6 and 4 not included in section eight.

Portions reserved for improvement of roads.

11. Until required for the purposes contemplated in the preceding section, the ground therein referred to may be laid out and maintained by the Council as open or enclosed spaces, gardens, pleasure grounds or areas for recreation. Temporary structures may be erected on any of the said lots other than on lots 3, 5 and 10, provided always that the owners of the properties abutting on the lots mentioned in section ten shall at all times be afforded reasonable access across such lots, but no work shall be undertaken without the previous sanction of the Governor in the nature and character thereof in respect to the portion of lot 3 which may abut on any property for the time being owned by the Crown. No trees shall be removed from the said areas or from the portions of lots 12 and 13 referred to in sub-sections (c) and (d) of section two without the sanction of the Chief Conservator of Forests.

Temporary use may be made of reserved areas.

12. The Council may enter into agreements with the owners of properties abutting on the land other than lot 10 referred to in sections nine and ten, whereby such owners may include the whole or any part thereof within their fences. No such owners shall thereby acquire *dominium* or right of ownership over any such land and may only use the same in terms of such agreement with the Council. They shall not be entitled to any compensation for being dispossessed by the Council, save in respect of anything done pursuant to stipulations set out in such agreements.

How Council may deal with areas.

Council may allow adjoining owners to use reserve.

13. The Council may not alienate :—

- (1) The portion marked lot 1A referred to in sub-section (b) of section three.
- (2) Lot 11 and so much of lot 12 as is to the south of the red line T V on the said plan. Provided that the areas mentioned in this section shall be reserved in perpetuity as public parks or places for exercise and recreation under control of the Council.

Places reserved for public parks and recreation grounds.

14. The portion marked lot 17 on the plan shall not be alienated. It shall be under the control of the Municipal Council of Rondebosch, but shall at all times remain open to the public as a

Lot 17 to remain open to public.

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place of exercise and recreation: Provided that the rights by this section, reserved to the public, shall not include the right to train, exercise or race racehorses or racing ponies.

Cemetery to be undisturbed.

The area in extent three hundred square roods included in the said lot and shewn on the plan as a cemetery shall be undisturbed.

How Council may deal with areas.

15. In respect of land other than lot 17 acquired and reserved or retained under this Act, each Council may from time to time make, establish, maintain, enclose and provide gardens, parks, ornamental, pleasure, recreation, athletic and other grounds, pavilions, refreshment rooms, lavatories, and the like accessories and conveniences. Each Council may from time to time provide or arrange for the use of the several areas, other than lot 17, falling within its limits, fix tariffs of charges for the said use and define and collect reasonable fees for admission to any enclosed or reserved parts, provided that all such tariffs shall be submitted for the approval and sanction of the Governor in like manner as other Municipal regulations before being enforced.

Council may fix tariffs.

Council may make regulations for control and good order.

16. Each Council shall be entrusted with the management, regulation and control of the several areas falling within its limits and may from time to time level, drain, or otherwise lay out and improve them, and may further, in order to carry out its powers and preserve and control the said areas and maintain good order therein, make regulations and impose penalties for the breach thereof, provided that all such regulations shall be framed and submitted for the approval and sanction of the Governor and be enforceable in like manner as other Municipal Regulations.

Restrictions imposed on alienable lots.

17. No licence for the sale of intoxicating liquor shall be granted or issued in respect of any part of the land made alienable by this Act, nor shall a house of less value than one thousand pounds sterling be erected on any such land save and except as in this Act is otherwise provided, nor shall any portion be used as a place for carrying on any manufacture, trade or business.

Existing roads defined and to remain undisturbed, with power to increase the width.

18. The roads marked on the aforesaid plan shall, with the exception of a path for pedestrians only, shown on lot 12, be taken to be and include all public roads and thoroughfares now existing on the said piece of land granted as aforesaid on January 31st, 1854, and shall, with the exception of the path aforesaid, remain free and uninterrupted, provided that the Council shall have the right to use any portion of the land made inalienable by this Act for increasing the width of or for extending any road shewn on the said plan whenever deemed necessary.

Board to apply for amended title.

19. The Board of Trustees before or after giving transfer of the several portions of the said land as in this Act provided may and shall if thereto requested by the Municipal Council of Rondebosch apply under the provisions of Act No. 9 of 1879 for and obtain an amended title to the land in conformity with this Act. The costs charges and expenses of obtaining such amended title shall be paid in proportion to the extent of land acquired under this Act by the said Board and by the said Municipal Council of Rondebosch.

20. The land hereby authorised to be transferred to the Board of Trustees for the Diocese of Cape Town in trust as aforesaid and to the Municipality of Mowbray and to the Municipality of Rondebosch shall be exempt from payment of transfer and stamp duty.

No. 27—1909.
 Exemption from transfer and stamp duty.

21. Any amount still due and owing to the Cape Divisional Council by virtue of a judgment obtained in the Supreme Court at Cape Town on 21st December, 1885, against the Bishop of Cape Town for the time being, as holder of the land included in the grant of the 31st January, 1854, is hereby remitted.

Cape Divisional Council judgment remitted.

22. The costs, charges and expenses incurred in the passing of this Act shall be paid by the Municipality of Rondebosch.

Costs of Act to be paid by Municipality.

23. Nothing in this Act contained shall be deemed or taken to derogate from or abrogate any right or privilege heretofore enjoyed by the public over, upon or in respect of lot 17 or any portion thereof.

Rights of public preserved over lot 17.

24. In this Act the word "Council" shall apply to the Municipal Council of Rondebosch or to the Municipal Council of Mowbray according as the land affected lies within the Municipality of Rondebosch or Mowbray respectively.

Definition.

25. This Act may be cited for all purposes, as "The Rondebosch Church Lands Act, 1909."

Short Title.

No. 28—1909.]

[December 7, 1909.]

ACT

To Amend the Disused Cemeteries Appropriation Act, 1906.

[Assented to 3rd December, 1909.]

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

Preamble.

1. Notwithstanding anything contained in the "Disused Cemeteries Appropriation Act, 1906," the land mentioned in Schedule "G" of the said Act and transferred to the control of the Municipality of Cape Town, in terms of section two of the said Act, is hereby vested in the Superintendent-General of Education, the Civil Commissioner of the Cape Division, and the Chairman of the School Board of the Cape Division, each for the time being and his successors in office, to be held in trust for the School Board of the Cape Division to be used by the said Board for school purposes, and from and after the date of promulgation of this Act the said Municipality shall be divested of all right, title, interest, powers or duties in or in regard to the said land, and the said Municipality shall, as soon as may be after the said date, transfer the said land to the said Trustees: Provided, however, that the said Board shall reimburse to the said Municipality all sums incurred or expended by it in

Certain land appropriated under the "Disused Cemeteries Appropriation Act, 1906," to be vested in School Board of Cape Division for school purposes.

5544 MISSION STATIONS AND COMMUNAL RESERVES
ACT, 1909.

No. 29—1909. connection with the said land prior to the date of transfer to the said Trustees : And provided further that if the said land or any portion thereof be no longer required by the said Board for school purposes, the Governor may, with the authority of Parliament, direct that the said land or any portion thereof, together with any buildings thereon, shall be used for public or charitable purposes in such manner as may seem fit, anything in Act No. 28 of 1906, notwithstanding.

Time Limit. 2. The said School Board shall within five years of the promulgation of this Act apply such land to school purposes, failing which the land shall revert back to the Municipality for the purpose of sub-section (b) of section one of Act No. 28 of 1906.

How land may be disposed of. 3. Notwithstanding anything contained in the "Disused Cemeteries Appropriation Act, 1906," the land mentioned in Schedules A, B, C, D, E, H, I, of the said Act, and appropriated by the original owners in terms of the provisions of the said Act, may be disposed of, either as a whole or in portions by private treaty by the said owners, for purposes similar to those mentioned in sub-section (a) of section one of the said Act, subject to the consent of the Governor in writing being had and obtained and subject to the consent of Parliament ; provided that the proceeds of such sale shall be used and applied to religious, charitable, or educational purposes in Cape Town ; and provided further that the provisions of section three of Act No. 28 of 1906, shall apply to all land so disposed of.

Short Title. 4. This Act may be cited as "The Disused Cemeteries Appropriation Act Amendment Act, 1909."

No. 29—1909.]

[December 7, 1909.

ACT

To Provide for the better management and control of certain Mission Stations and certain Lands reserved for the occupation of certain Tribes or Communities, and for the granting of titles to the Inhabitants of such Stations and Reserves.

[Assented to 3rd December, 1909.]

Preamble. BE it enacted by the Governor of the Colony of the Cape of Good Hope with the advice and consent of the Legislative Council and the House of Assembly thereof as follows :

INTRODUCTORY.

Short Title. 1. This Act may be cited as the "Mission Stations and Communal Reserves Act, 1909."

Definitions. 2. For the purposes of this Act except where the context otherwise indicates.

- “Mission station” shall mean any land held by a missionary society or religious body as a grant in trust for the natives or coloured persons in occupation of such land ;
- “Communal reserve” shall mean any Crown land in the Division of Namaqualand reserved or set apart otherwise than by formal grant for the occupation of native or other communities ;
- “Prescribed” shall mean prescribed by this Act or by any regulation promulgated under and by virtue of the powers and authorities conferred by the provisions of this Act ;
- “Society” shall mean any Missionary Society or religious body holding any land as a grant in trust for the natives or coloured persons in occupation of such land ;
- “Registered occupier” shall mean any person whose name is included in a register of occupiers of land within a mission station or communal reserve framed in the manner prescribed ;
- “Board of Management” shall mean the body established under this Act for the administration and control of the local secular affairs of any mission station or portion thereof or of any communal reserve.

PART I.—MISSION STATIONS.

3. The Governor may by proclamation apply the provisions of this Act to any mission station, the limits of which shall be in such proclamation described : provided that no such proclamation shall be issued unless and until the previous consent in writing of the trustees of the mission station has been furnished and the people affected thereby have been consulted in the manner prescribed.

Application of Act.

4. Upon promulgation of any proclamation as aforesaid it shall be lawful for the Governor, after inquiry by the Resident Magistrate, or a Commissioner duly appointed for the purpose, in the manner prescribed

Procedure upon application of Act.

- (1) To fix and determine the area or areas of land in occupation by the Society for church, school, residential and other purposes, to cause a survey to be made of such land, and thereafter to grant to the Society title thereto ; subject to a reservation of precious stones and minerals in favour of the Crown, and subject to the condition that no part of such land so granted shall be mortgaged, sold, or alienated without the previous consent of the Governor and in any case only in accordance with such conditions as the Governor may approve, including conditions as to the disposal of the proceeds of such mortgage, sale, or alienation.
- (2) To fix and determine what rights, if any, as to grazing on the commonage and as to the use of fuel and water shall be held by the Society in respect of such land ;

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- (3) To fix and determine in respect of such grant an amount (not exceeding the amount of the rate paid to the Divisional Council) which shall be annually payable by the Society to the Board of Management as and for a local rate for the general purposes of the mission station ;
- (4) To cancel and annul the existing title in respect of the mission station described in such proclamation ;
- (5) To cause the remaining area of the mission station to be demarcated and reserved for the use and occupation of the registered occupiers ;
- (6) To determine who are the persons entitled, at the date of the promulgation of such proclamation, to be occupiers of land within such portion of the mission station as has been demarcated and reserved in terms of sub-section (5) of this section ; to direct that a register of such persons and of the number and extent of the separate lots or holdings respectively occupied by them be framed, and, upon completion of such register, that proceedings be taken for the election of the members of a Board of Management, as prescribed ; and
- (7) To determine what extent of land shall be regarded as a separate lot or holding for the purposes of this section.

Board of
Management:
Membership.

5. (1) The Board of Management shall consist of nine persons of whom six shall be elected by and from amongst the registered occupiers, and three shall be appointed by the Governor, one of whom shall be recommended by the Society, together with the Resident Magistrate of the District, or such other officer or person as the Governor may from time to time nominate and appoint for the purpose, who shall be an additional member of the Board and shall, when present, preside as Chairman at its meetings. The Chairman of any meeting of the Board shall have a deliberative as well as a casting vote.

(2) The provisions of sections five, seven, eight, nine, ten and eighteen of the "Villages Management Act, 1881," shall, so far as applicable and consistent with the terms of this Act, apply, in respect of the members of the Board of Management elected by the registered occupiers, to the manner of election of such members, their qualifications and disqualifications for membership, their tenure of office, and the filling of their seats when vacant.

(3) The tenure of office of any member of the Board of Management appointed by the Governor shall be for a period of twelve months : Provided that such member may be re-nominated at the expiration of his term of office. Provided further that any such member shall be disqualified from membership and his seat shall become vacant and be filled by the Governor upon the

occurrence of any event which, had such member been elected by the registered occupiers, would, under the provisions of this section, have disqualified him from membership and rendered his seat vacant.

6. (1) The Board of Management shall exercise its rights, powers and duties over the entire area of the mission station, exclusive of such portion or portions as may, in terms of subsection (1) of section four of this Act, have been set apart for, or granted to, the Society. Provided that it shall be lawful for the Governor, after consultation with the Society and Board of Management, to direct that any land thus excluded which is locally separated from the main portion of the land set apart for, or granted to, the Society, shall come within the jurisdiction of the Board, and thereupon such locally separated land shall become subject to taxation by the Board, and the Society shall be entitled to nominate, in respect thereof, some person who shall be deemed, for the purposes of this Act, to be the occupier thereof, and entitled to registration as such.

Powers and
 Duties of
 Board.

(2) Every such Board shall have and exercise the rights, powers and duties exercisable by a Board of Management under sections fifteen, nineteen, twenty, twenty-two, twenty-three and twenty-four of the "Villages Management Act, 1881," and of a local authority established under the provisions of sections thirteen and fourteen of the "Public Health Amendment Act, 1897," and such other powers and duties as may be conferred and imposed upon it by this Act, or any regulations promulgated under or by virtue of section sixteen hereof ;

(3) In each year the Board of Management shall levy a rate of not less than ten shillings to be paid by each registered occupier in respect of each separate lot or holding occupied by him and by all such adult male residents upon the mission station as may not be relieved from the obligation to make such payment by regulation framed by the Board of Management and approved by the Governor. The proceeds of such rates and all other revenues of the Board of Management shall, subject to such restrictions as may be imposed by the Governor by regulation promulgated under the provisions of section sixteen of this Act, be appropriated by the Board of Management solely to defray the cost of the exercise and performance of its rights, powers and duties: Provided that with the concurrence of the Resident Magistrate the Board may by special resolution grant a reduction, not exceeding one half, in the rate in respect of any lot or holding, if the Board shall consider that the unimproved value of such lot or holding is less than the average value of all the lots or holdings.

7. Upon it being shown to the satisfaction of the Governor that any Board of Management has failed to properly carry out any duty devolving upon it under the provisions of this Act or any regulation promulgated hereunder, it shall be lawful for

Procedure
 upon failure
 of Board to
 perform any
 duty.

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the Governor, after giving three weeks' notice thereof in the *Gazette* and any paper circulating in the district, to appoint some person to carry out the said duty, and such person shall thereupon become vested with all the powers of the Board in that behalf. The cost of carrying out such duty shall be borne by the funds of the Board, and, if there be no such funds or they be insufficient, then it shall be lawful for the Governor to levy for the purpose a special rate not exceeding ten shillings to be paid by all such persons as would be liable to the payment of an annual rate levied under the provisions of section six of this Act. Any such special rate shall be payable and recoverable as in same manner as the said annual rate.

Individual
Tenure.

8. (1) As soon as any Board of Management shall adopt a resolution in favour of the survey, for the purpose of individual tenure, of the land reserved as provided in sub-section (5) of the fourth section of this Act for the use and occupation of the registered occupiers, it shall be lawful for the Governor to direct that a public meeting of registered occupiers be called for the purpose of considering the terms of such resolution after public notification of the date and purpose of such meeting for a period of not less than six weeks in such manner as may be prescribed; and if the resolution shall have been approved by a majority of the registered occupiers present at such a meeting the Governor may

- (a) Cause such land to be divided and surveyed.
 - (b) Allot to the occupiers of such land at the date of such division and survey such portions thereof as they may, in the opinion of the Governor, be respectively entitled to occupy at the time, and, in case of doubt or dispute, determine any question as to right of occupation or the area of land to be allotted;
 - (c) Cause to be demarcated and set apart sites for public buildings, and such areas as may be available for burial, market, recreation, or any other public purpose;
 - (d) Reserve, subject to the provisions of this Act, the remaining extent of such land for the use of the community as commonage;
 - (e) Grant to the registered occupiers, free of quitrent, but subject to the provisions of this Act and to all such reservations as are usual in quitrent grants of Crown land, such portions of the land as may have been respectively allotted to them;
 - (f) Direct that the cost of subdivision and survey shall, in the first instance, be borne out of public funds; and prescribe the manner in which such costs shall be allocated amongst the grantees, and the times and manner in which the said costs shall be paid.
- (2) Upon failure of any grantee, within six months of the date when same shall become due and payable, to pay the share of

costs allocated against him or any instalment thereof, notice of such failure and of the intention of the Governor to cancel the title deed in consequence thereof shall be posted by the Resident Magistrate of the District at the Court House and either at the Office of the Board of Management or at some other place within the mission station; and after such notice shall have remained so posted for six months it shall be lawful for the Governor, if the amount due together with an additional charge of two shillings and sixpence has not at such date been paid, to cancel the title deed and sell the land to some approved person upon such terms and at such price as he may think fit. Provided that the proceeds of any such sale, after deduction therefrom of the total sum due from the previous grantee together with the aforesaid charge of two shillings and sixpence, shall be paid over to such previous grantee.

9. (1) No land allotted under the provisions of sub-section (6) of section four of this Act or allotted or granted under the provisions of section eight hereof shall be alienated, transferred, ceded, leased, mortgaged or rendered liable to execution for debt without the previous consent of the Governor; nor shall any such land be capable of sub-division or of being held in joint occupation or ownership.

Restraint upon alienation and prohibition of sub-division or joint ownership or occupation.

(2) (a) Whenever, by the terms of any will or other testamentary document, or as a consequence of succession upon intestacy to any deceased person, or by the dissolution of any community of property subsisting between spouses, any land allotted under the provisions of sub-section (6) of section four of this Act or allotted or granted under the provisions of section eight hereof, would ordinarily come into the occupation or ownership of more than one person or require to be sub-divided for the purpose of separate benefit, the Resident Magistrate of the district, after consultation with the Board of Management, shall determine the respective values of the shares of the persons beneficially interested in such land, and shall appoint from among such persons one person into whose occupation or ownership alone such land shall come. Provided, that no such appointment shall be made unless and until adequate arrangements to the satisfaction of the beneficiaries not so appointed, or their lawful representatives and of the Resident Magistrate shall have been made by the person proposed to be appointed for the payment to such beneficiaries of the value determined as hereinbefore provided of their respective benefits.

(b) Upon failure from any cause of the person so appointed to carry into effect the arrangements made for the satisfaction of the shares of such beneficiaries, notice of such failure and of the intention of the Governor in consequence to cancel the right of occupation or ownership, as the case may be, previously granted to such person in terms of sub-section two (a) of this section shall be posted by the Resident Magistrate at the Court

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House and either at the Office of the Board of Management or at some other place within the mission station; and after such notice shall have remained posted for thirty days it shall be lawful for the Governor, unless the said arrangements shall by that time have been carried into effect, to cancel the said right and to appoint from among the beneficiaries some other person who may be willing and able to make adequate arrangements to the satisfaction of the other beneficiaries or their lawful representatives and of the Resident Magistrate for the payment of the value of the shares of such beneficiaries.

(c) In the selection of any person for appointment under this section the Resident Magistrate shall be governed by the wishes of the majority in value of the beneficiaries where such majority exists. Provided that it shall be competent for the Resident Magistrate to represent to the Minister any cause why the wishes of the majority in value of the beneficiaries should not be complied with, or cannot conveniently be ascertained, and for any beneficiary to appeal to the Minister against any decision of the Resident Magistrate under this section, and the decision of the Minister upon any such representation or appeal shall be final.

(d) Upon the failure of the Resident Magistrate to make any appointment in terms of this section by reason of the inability of any one of the beneficiaries to make adequate arrangements to the satisfaction of the other beneficiaries or their lawful representatives and of the Resident Magistrate for the payment to such other beneficiaries of the value of their shares, it shall be lawful for the Governor to order that the right of occupation or of ownership in the land, as the case may be, shall be sold to some approved person upon such terms and conditions and at such price as he may think fit, and that the proceeds of such sale, after deduction of any costs incurred, be divided amongst all the beneficiaries proportionately to the extent of their interest in the land.

Mode of
Transfer.

10. (1) Whenever the approval of the Governor shall have been obtained to the alienation of land allotted under the provisions of sub-section (6) of section four of this Act or allotted or granted under the provisions of section eight hereof the transferor or his lawful agent shall complete a form of transfer substantially in the manner set forth in the schedule to this Act, and which shall, in the case of land granted under the provisions of section eight of this Act, be endorsed upon the title deed of such land, and leave it, together with the sum of two shillings and sixpence for a stamp of that value to be affixed to the said form of transfer, with the Resident Magistrate of the District.

(2) The Resident Magistrate, upon being satisfied that the requirements under this Act for the validity of such alienation have been complied with, shall, in the case of land allotted under the provisions of sub-section (6) of section four of this Act, register such transfer in such manner as may be prescribed, and,

in the case of land granted under the provisions of section eight of this Act, shall transmit the title deed with the form of transfer endorsed thereon to the proper Registrar of Deeds for the purpose of the due registration of such transfer.

(3) No transfer duty, fee of office, stamp duty or charge other than as in this section provided shall be paid in respect of any such transfer.

(4) The provisions of the Titles Registration and Derelict Lands Act, 1881, shall be applicable in respect of any land allotted or granted under the provisions of section eight of this Act; provided that no person shall be entitled to any order under the said Act unless the consent of the Governor shall previously have been procured, and that any transfer pursuant to any such order shall be effected, as nearly as may be, in accordance with the provisions of this section.

11. Notwithstanding anything to the contrary contained in the Divisional Councils Act, 1889, or any other law, all property within the area of jurisdiction of a Board of Management shall be deemed to be one undivided property for the purposes of this Act or law; the Board of Management shall be liable for the payment of any rates assessed by the Divisional Council on such property and shall pay such rates out of its funds; and the names of the members of the Board of Management shall, upon their election or appointment and after notification thereof in writing to the Divisional Council by the Chairman of the Board of Management, be included on the list of registered voters for Divisional Council purposes. Provided that no rate assessed by the Divisional Council under the provisions of Part III. of the Divisional Councils Act, 1889, shall, in respect of any such property, exceed in any one year a sum which would be produced by the payment of two shillings by each of the duly registered occupiers for the time being and where the provisions of section eight of the said Act have been proclaimed then in respect of every separate lot or holding within the area of jurisdiction of the Board of Management.

Divisional Council rates.

12. (1) It shall be lawful for the Governor at any time to cause to be sold, in such manner and upon such terms as he may think fit after consultation with the Board of Management, any portion of the commonage of any mission station which may not be required for the purposes of the community; provided that no such sale shall take place unless and until

Sale of portion of Commonage not required.

- (a) A resolution of the Board shall have been adopted in favour thereof;
- (b) Such resolution shall have been approved of by a majority of the registered occupiers present at a public meeting to be called for the purpose, after public notification in such manner as may be prescribed for a period of not less than six weeks of the terms of the resolution and of the date fixed for such meeting.

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(2) The Governor may by proclamation exclude the land so sold from the limits of the area of jurisdiction of the Board of Management and from the scope of operation of this Act.

(3) The proceeds of any such sale shall be paid to the Board of Management and shall, under such restrictions as the Governor may appoint, and subject to the approval of the Governor, be devoted exclusively to the erection or equipment of school buildings, or to irrigation works or other public purposes.

No liquor licence to be granted within Board area.

13. Notwithstanding anything to the contrary contained in Act No. 28 of 1883 or any other law it shall not be lawful to grant any liquor licence within the area of jurisdiction of any Board of Management.

Tenure of land to be communal for purposes of Act 14, 1887.

14. All land allotted under the provisions of sub-section (6) of section four of this Act or allotted or granted under the provisions of section eight hereof shall, for the purposes of section seventeen of Act No. 14 of 1887 or any amendment thereof, be deemed to be held on communal tenure.

Application of 9th section of Vagrancy Act, 1879.

15. The provisions of the ninth section of the Vagrancy Act, 1879 shall apply to every area under the jurisdiction of a Board of Management and shall be operative in respect of any registered occupier whose rights as such shall have ceased and determined but who, the same notwithstanding, shall, without lawful authority, have entered into or continued in occupation of land; and for the purpose of the said section any person continuing in occupation of land his right to occupy which shall have ceased and determined shall be deemed to have originally entered upon such land without lawful authority.

Regulations.

16. It shall be lawful for the Governor in respect of any mission station to make, alter and revoke regulations for all or any of the following purposes:—

- (1) For the manner in which the people of any mission station shall be consulted and inquiry shall be held for the purpose of the due carrying out of sections three and four of this Act and for the framing and keeping of a register of persons entitled to occupy land in any mission station and of the separate lots or holdings held by such persons, and for the registration and hearing of claims for inclusion in, or any objections to, such register, and for the removal therefrom of the name of any deceased person or of any person who by transfer of property, or for any other cause shall have ceased to possess the prescribed qualification for exercising the rights of a registered occupier;
- (2) For the lease of sites for trading purposes within the area of jurisdiction of any Board of Management and the regulation of the rentals chargeable in respect of such sites;
- (3) For vesting in, or imposing upon, any Board of Management any powers and duties in addition to the powers and duties vested or imposed by this Act;

- (4) For the appropriation of rates or other revenues and for the authorization of any expenditure to be incurred to the Board of Management ;
- (5) For prescribing the manner in which the accounts of a Board of Management shall be kept and the times when and manner in which such accounts shall be audited and balance sheets published ;
- (6) For prescribing when and how often the meetings of the Board of Management shall be held, and the procedure at such meetings ;
- (7) For the assessment and recovery of any rates and the collection of any fees or dues chargeable by any Board of Management ; and for the exclusion of any registered occupier who shall not have paid any lawful rate, fee, or due, from the right to vote in any election of a member of the Board until such rate, fee, or due, be first paid ;
- (8) For the admission and registration of new residents within any area under the jurisdiction of a Board of Management wherein survey for the purpose of individual tenure has not taken place, and for the allocation or allotment to such new residents of building sites and garden or arable lands ;
- (9) For prescribing the manner in which the regulations of any Board shall be promulgated ;
- (10) For the prohibition of beer-drinks and for the prohibition, regulation or restriction of the making or brewing of Kafir beer and for the suppression of heathenish practices ; and
- (11) Generally for the purposes of carrying out the provisions of this Act.

17. It shall be lawful for the Board of Management by regulation with the consent of the Governor to prescribe the number of cattle or live stock which registered occupiers shall be allowed to put to graze on the commonage thereof without charge, to limit the number which registered occupiers shall be allowed to put to graze on the commonage on payment of a charge, to prescribe the charge which shall be made for all cattle or live stock put to graze in excess of the number entitled to free grazing, and to hire any land or lands for grazing purposes for the joint use of persons having commonage rights.

Regulation of grazing on Commonage.

18. Any regulations promulgated under this Act may impose a penalty for any breach or contravention thereof not exceeding a fine of five pounds sterling or in default of payment imprisonment with or without hard labour for a period not exceeding thirty days. Any such breach or contravention may be prosecuted in any competent Court, and any Special Justice of the Peace within whose area of jurisdiction any such breach or contravention has occurred shall have jurisdiction to try the offender and to impose the penalties prescribed.

Contravention of regulations.

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 Procedure on non-payment of rates, etc.

19. In case any rate fee or due prescribed shall remain unpaid for a period of six months from the date when it shall have become payable it shall be lawful for the Resident Magistrate, upon application by the Board of Management, to issue a warrant requiring the Messenger of the Court or any officer of the Board to levy and raise the amount due, together with such costs as may be prescribed, by sale of the movable property of the person making default. Should the proceeds of such sale not be sufficient to meet the amount due together with the costs incurred, or should the person in default not be in possession of any movable property, notice of the intention of the Governor to cancel the right of occupation or of ownership as the case may be of the defaulter shall be posted by the Resident Magistrate at the Court House and at the office of the Board of Management or some other place upon the mission station, and after such notice shall have remained posted for six months it shall be lawful for the Governor if the amount due together with an additional charge of two shillings and six pence shall not at that date have been paid, to cancel the right of occupation or of ownership, as the case may be, of the defaulter and sell such right to some approved person upon such terms and at such price as he may think fit. Provided that the proceeds of any such sale after the deduction therefrom of the amount due, together with the aforesaid charge of two shillings and six pence, shall be paid over to the defaulter.

PART II.—COMMUNAL RESERVES.

Application of Part II. of Act.

20. The Governor may by proclamation apply the provisions of Part II. of this Act to any communal reserve after the people affected thereby have been consulted in the manner prescribed.

Application of provisions of Part I. to Communal Reserves.

21. All and several the provisions of Part I of this Act save and except sections three and eight hereof shall apply *mutatis mutandis* to any communal reserve; provided that at any time after issue of any proclamation as aforesaid it shall be lawful for the Governor, in addition to the powers conferred by section four of this Act.

- (a) To cause a survey to be made of the boundaries of such communal reserve, and
- (b) To direct that the cost of such survey shall, in the first instance, be borne out of public funds subject to repayment by the Board of Management.

Procedure subsequent to first election of Board of Management.

22. (1) For the purpose of any election of the Board of Management of a communal reserve subsequent to the first election it shall be lawful for the Governor after consultation with the Board:—

- (a) To direct that the area of the communal reserve be divided into such number of wards not exceeding six as he shall deem expedient;
- (b) To determine the boundaries of such wards and the manner in which the register of occupiers of each such

ward and of the lots or holdings occupied by them shall be compiled and kept ;

- (c) To prescribe the number of members of the Board which shall be accorded to each ward :

and thereafter at any election the registered occupiers of each ward shall elect separately the number of members allotted to it.

(2) No person shall be capable of election for any ward unless resident within such ward, and no person shall be capable of representing more than one ward.

(3) Whenever the number of elected members of any Board of Management within this section shall exceed six it shall be lawful for the Governor for every such member in excess of six to appoint one member in addition to those appointed or to be appointed under the provisions of section five of this Act.

23. It shall be lawful for the Governor to appoint a Superintendent who shall in the absence of the Resident Magistrate preside over the Board of Management and shall exercise such powers and perform such duties as may be prescribed.

Appoint-
ment of Su-
perintendent
—powers and
duties.

24. It shall be lawful for the Governor, as soon as a resolution in favour of the exercise of the powers conferred by this section shall be adopted by the Board of Management, to direct that a public meeting of registered occupiers shall be called in like manner as provided by section eight of this Act to consider such resolution, and, if the resolution shall have been approved by a majority of the registered occupiers present,

Outer or re-
serve com-
monages.

- (1) To direct that an outer or reserve commonage be defined and demarcated after a sufficient area has been allowed and set apart for the common lands or commonage surrounding the portion or portions used for residential purposes, and that the claims of all registered occupiers lawfully having or exercising rights within the limits of such outer commonage shall be inquired into and determined in the manner prescribed ;
- (2) With the previous concurrence of both Houses of Parliament to grant any registered occupier as aforesaid, in satisfaction of his claim, title to such portion of the outer or reserve commonage as may be allotted, which title shall be free of quit-rent but subject to all reservations usual in quit-rent grants of Crown land, and to dispose by sale at public auction of any remaining portion or portions of such outer commonage : provided that the proceeds of any such sale shall be devoted to such public purpose within the communal reserve as the Governor may approve, and that the land so granted or disposed of may by proclamation be excluded from the limits of the communal reserve ;
- (3) To direct that the cost of survey of such outer or reserve commonage shall, in the first instance, be borne out of public funds, subject to repayment by the Board of Management, or grantee, or purchaser as aforesaid.

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25. It shall be lawful for the Governor to lease any portion or portions of the commonage land of any communal reserve for mining purposes subject to, and in accordance with, the mineral laws of the Colony relative to Crown Lands, and to assess a reasonable annual rental to be paid by the lessee to the Board of Management in respect of any such lease in addition to any other charge payable under the said law.

Individual Tenure. 26. It shall be lawful for the Governor by proclamation, if a resolution in favour of the survey for the purpose of individual tenure of the area of any communal reserve shall have been adopted by the Board of Management thereof, and if such resolution shall have been approved by a majority of the registered occupiers present at a meeting called in like manner as is provided in section eight of this Act, to apply the provisions of the said section to such communal reserve or so much of the said provisions as may be applicable and with such modifications as may be necessary: provided, that no such proclamation shall be promulgated unless and until a copy thereof shall have been laid upon the Table of both Houses of Parliament one month previously, and that notice shall be given in the *Gazette* of the intention to issue such proclamation, at least one month before the laying of a copy thereof upon the Table of both Houses of Parliament as aforesaid.

PART III.—GENERAL.

Application of provisions of Part I to Mission Stations on private property 27. Subject to the previous consent in writing of the owner of any private property on which any mission station not coming within the provisions of this Act shall have been established, it shall be lawful for the Governor by proclamation to apply the provisions of Part I of this Act, *mutatis mutandis* and in so far as they are applicable: Provided that any such proclamation as aforesaid shall only be issued after consultation with the occupiers of such mission station as to the terms of consent and any reservations imposed by the owner in the manner prescribed: and provided further that the terms of such consent and any reservations as aforesaid are embodied in the said proclamation.

Exclusion of Mission Station from Municipality or Village Management area and application thereto of provisions of Part I. 28. (1) It shall be lawful for the Governor by proclamation to exclude from the limits of any Municipality or area under the "Villages Management Act, 1881," any private or communal property on which any mission station not coming within the provisions of this Act or missionary institution shall have been established or any private property which at any time previous to the date of promulgation of this Act was comprised within the limits of any such mission station or missionary institution, upon such terms as to the apportionment of property and the division of rights and liabilities as may have been agreed upon between the Council of such Municipality or the Board of such area on the one hand and the owner of the said property on the other, or, in the event of failure of the parties to arrive at an

agreement upon such terms as to the apportionment of property and the division of rights and liabilities as may be determined upon by a majority of a Commission of three members appointed by the Governor for the purpose: provided that the Council of such Municipality or Board and the owner as aforesaid shall each have the option of nominating one of such members and that the third member shall be appointed by the Governor to preside over such Commission.

(2) Such proclamation shall specify the terms as to the apportionment of property and the division of rights and liabilities so agreed upon or determined and it shall be lawful for the Governor to apply all or any of the provisions of Part I of this Act, *mutatis mutandis* and in so far as they may be applicable, to any area severed under the provisions of this section from any Municipality or area under the Villages Management Act, 1881, and to make regulations governing the manner in which effect shall be given to such apportionment of property and division of rights and liabilities.

29. (1) Whenever any area under the Villages Management Act, 1881, not being a mission station within the meaning of this Act is of the character of a settlement of natives or coloured persons, commonly called a mission location or mission station, congregated about or in the neighbourhood of any missionary institution, it shall be lawful for the Board of Management thereof at any general meeting to adopt a resolution in favour of the substitution in respect of such area of the provisions of Part I of this Act in place of the provisions of the Villages Management Act, 1881, and thereupon it shall be lawful for the Governor, by proclamation, to declare that upon and after a date to be specified therein, the provisions of the said Act shall cease to apply to such area, and that all and several the provisions of Part I of this Act shall, *mutatis mutandis*, and in so far as applicable, apply thereto.

Application of Part I to certain other Mission Stations or Locations.

(2) It shall be lawful for the Governor by proclamation to declare that on and after a date to be specified therein the provisions of section sixteen, sub-section (10), of this Act shall be applicable to any area which is not under the Villages Management Act, 1881, and is not a mission station within the meaning of Part I. of this Act but is of the character of a settlement of natives or coloured persons commonly called a mission location or mission station, congregated about or in the neighbourhood of any missionary institution, and in such proclamation to prescribe the limits within which the provisions aforesaid shall be in force; and thereupon the provisions of section eighteen of this Act shall apply to any contravention of any regulation issued in terms of this section in respect of any such area.

No. 29—1909.

Schedule.

SCHEDULE.

FORM OF TRANSFER.

I, the within named.....in consideration of £.....paid to me by.....the receipt of which sum I do hereby acknowledge, hereby transfer to him all right, title and interest in and to the land held by me under this title; the approval of the Governor having first been obtained.

In witness whereof, I have hereunto subscribed my name at..... this.....day of..... 190.....

(Signature or Mark).

Before me,

.....

Resident Magistrate or

Assistant Resident Magistrate.

NOTE.—When transfer is to be effected by a Registrar of Deeds or by an Executor, Trustee or other legal representative, or when the land to be transferred is not held under title deed, the above form should be varied so as to meet the altered circumstances.

No. 30—1909.]

[December 7, 1909.

ACT

To provide for the redemption of quitrents payable on all Trading Station Grants in Native Locations or Reserves in Cape Colony and its Dependencies, and for the fixing of uniform rates of Quitrent and Trading Licence Fees.

[Assented to 3rd December, 1909.]

Preamble.

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

Redemption of quitrents on Trading Station Grants.

1. Notwithstanding anything to the contrary contained in any Law the provisions of section two of the "Crown Lands Disposal Act and Leasing Acts Amendments Act, 1895," in regard to the redemption of quitrent shall apply *mutatis mutandis* to the quitrents payable on all Trading Station Grants in Cape Colony and its Dependencies, whether such grant was made before or after the passing of this Act.

Fixing rate of quitrent on all Trading Stations at four shillings per morgen.

2. Notwithstanding anything to the contrary contained in any Law the annual quitrent payable in respect of every Trading Station in Cape Colony and its Dependencies to which title has been or shall be issued shall be fixed at four shillings per morgen, subject to a minimum rate of £1 (one pound) sterling per annum, —this arrangement to take effect from the first day of January, 1910.

3. Notwithstanding anything to the contrary contained in the Law relating to Stamps and Licences or any other law, on and after the first day of January, 1910, there shall be paid in respect of every Trading Station whether granted as such under Title or held by Certificate of Occupation issued in terms of the next succeeding section a sum of £12 per annum for a Trading Licence: Provided that if the licence be issued on and after the first day of July in any year the sum of £6 only shall be charged.

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Trading Licence Fee to be £12 per annum.

4. It shall be lawful for the Governor after consultation with the District Council (if any) by a Certificate of Occupation to grant to any approved applicant permission to occupy a site for a Trading Station upon Crown Land being portion of a communally occupied Native Location or Reserve, or other land occupied entirely by Natives, subject to the provisions of the second and third sections of this Act and to the general conditions set forth in the Schedule hereunto annexed and such special conditions as to the Governor may seem expedient: provided, however, that the said general conditions may from time to time be supplemented or amended by Resolution of both Houses of Parliament; and provided further that a Certificate as aforesaid may be issued in respect of any land occupied or to be occupied for the purposes of any *bona fide* trading or other craft for which a licence is not required by law, subject only to the payment of a lease rent equivalent to the rate of quitrent fixed in section two of this Act.

Governor may grant permission to occupy Trading Stations.

5. This Act may be cited as "The Trading Stations Act, 1909."

Short Title.

SCHEDULE.

Schedule.

Conditions of Certificate of Occupation.

1. That the permission to occupy shall convey no ownership in the land; provided that in the event of a general survey of the location or area, and the issue of individual title, the claim of such occupier to a grant of the land shall be recognized subject to the sanction of Parliament, and to such conditions as may be approved by it.

2. That the occupier shall not have the right to lease or sublet the land or to sell or transfer the permission to occupy without the sanction of the Governor being first had and obtained.

3. That the occupier shall in no case be entitled to any compensation from the Government for any improvements made on the land, except as is hereinafter provided.

4. That the occupier shall be bound to enclose the land, failing which he shall not be entitled to claim fees or compensation for trespass of stock thereon.

5. That the occupier shall take out the licence (if any), required by law for the purpose of carrying on his trade or craft.

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6. That the permission to occupy may be withdrawn if the land or buildings thereon ceased to be used for the purposes of the trade or craft for which it is granted ; provided that in the event of the said withdrawal the occupier shall have the right to dispose of the materials of such buildings by sale or otherwise, and to remove the same.

7. That the permission to occupy may be withdrawn on three months' notice given at any time, if the land be required for public purposes by Government ; provided that the occupier shall be entitled to such reasonable compensation for damage to improvements thereon as may be mutually agreed upon or determined by arbitration.

8. That the occupation of the land shall be subject to all such duties or regulations as may from time to time be laid down.

No. 31—1909.]

[December 7, 1909.

ACT

To Admit certain Persons employed in Harbour Work into the Civil Service of the Colony.

[Assented to 3rd December, 1909.]

Preamble.

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

Definitions.

1. For the purposes of this Act :

- (a) "Harbour Employee" shall mean any person who was in the employ of the late Table Bay Harbour Board, Port Elizabeth Harbour Board, or East London Harbour Board, on the 31st December, 1908, and who was not on the Fixed Establishment of the Civil Service of the Colony, and whose services were on the 1st January, 1909, transferred to the Government by virtue of section three of the Harbours (Table Bay, Port Elizabeth, East London and Mossel Bay) Control Act, 1908.
- (b) "Mossel Bay Harbour Employee" shall mean any person employed by the Mossel Bay Harbour Board who not being on the Fixed Establishment of the Civil Service of the Colony at any date when the Governor may, in terms of section six of The Harbours (Table Bay, Port Elizabeth, East London and Mossel Bay) Control Act, 1908, extend the said Act to the Harbour of Mossel Bay, shall be transferred to the Government service by virtue of section three of the said Act.
- (c) "Fixed Harbour Employee" shall mean a harbour employee or a Mossel Bay Harbour employee admitted to the fixed establishment of the Civil Service of the Colony under the provisions of section two hereof.

2. Notwithstanding anything to the contrary in the said Harbours Control Act, 1908, or the Civil Service and Pensions Funds Act, 1895, or any other Law, it shall be lawful for the Governor, after the passing of this Act, in the case of any harbour employee, or after the extension of the Harbours Control Act, 1908, to the Harbour of Mossel Bay in the case of any Mossel Bay Harbour employee, to place him upon the Fixed Establishment of the Civil Service upon the completion of at least ten years continuous approved service, provided that such appointments shall be confined to employees, irrespective of the manner in which their remuneration is calculated, whose offices at the time of the passing of and for the purposes of this Act are declared by the Governor, not later than three months from such time, to be such as would ordinarily be held by persons who have passed the Civil Service Examination, or by persons possessing qualifications wholly or in part professional or technical, and provided such employees elect in terms of section four of this Act to contribute to the Pension Funds from a date not later than the passing of this Act, or in the case of a Mossel Bay Harbour employee not later than the date of the extension of the Harbours Control Act, 1908, to the Harbour of Mossel Bay.

3. Every fixed harbour employee shall, for the purposes of section sixteen of the Civil Service and Pensions Funds Act, 1895, be deemed to have served not less than ten years in the Department of the General Manager of Railways.

4. Every harbour employee whose office is declared by the Governor in terms of section two of this Act to be such as would ordinarily be held by a person who has passed the Civil Service Examination or by a person possessing qualifications wholly or in part professional or technical and who, at the date of the commencement of his continuous approved service, was not more than forty years of age, may elect within four months of the taking effect of this Act whether he will become a contributor to the Civil Service Pension and Widows' Pension Funds in terms of the Civil Service and Pensions Funds Act, 1895, and the Regulations framed thereunder, and should he so elect may further elect from what date within his period of continuous approved service (not however before the first day of July, 1886, or earlier than the date on which he shall have attained the age of seventeen years) his contributions to such Fund shall accrue or be calculated, and any such employee shall be permitted to pay the amount due for the arrear period for which he may elect to contribute in such instalments as the Minister may consider reasonable; provided that the arrear contributions shall be made on the emoluments, ordinarily regarded in the Regulations aforesaid as pensionable emoluments, actually drawn by the employee during the period to which such arrear contributions apply.

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Governor empowered to place on Fixed Establishment certain Harbour Board employees.

Interpretation of section 16 of the Civil Service Act as regards employees so fixed.

Contributions to Civil Service Pension Funds.

No. 31—1909.

How Pen-
sions to be
computed.

5. (a) Any superannuation or compensation allowance which may be granted to any person contributing to the Pension Funds under the provisions of this Act shall be computed only in respect of that period of his service for which he has contributed, save and except such portion of his continuous approved service prior to the 1st July, 1886, after he had attained the age of seventeen.

(b) No additional pension shall be claimable upon the ground of professional service.

Regulations
by Governor.

6. It shall be lawful for the Governor from time to time to make, add to, amend or repeal rules and regulations for the carrying out the purposes of this Act.

Short Title.

7. This Act may be cited for all purposes as the "Harbours Employees Act, 1909."

No. 32—1909.]

[December 7, 1909.]

ACT

To Consolidate and Amend the Law relating to Natives on Private Property, or Crown Land and Locations thereon.

[Assented to 3rd December, 1909.]

Preamble.

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

Laws re-
pealed.

1. The provisions of this Act shall come into force on the 1st day of January, 1910, and thereupon the provisions of Act No. 30 of 1899, exclusive of sections twenty-four and twenty-five thereof, and so much of Act No. 37 of 1884 as relates to locations on private property and of any other laws as may be repugnant to or inconsistent with the provisions of this Act shall stand repealed, except as to anything duly done or any liability accrued or penalty incurred in respect of such laws.

Definitions.

2. In the interpretation of this Act the following terms, wherever used, shall bear the meanings hereby respectively assigned to them:—

"Animal" shall mean any horse, mule, ass, head of horned cattle, sheep, goat, pig, and such other animal as may from time to time be proclaimed by the Governor to fall within this definition.

"Inspector" shall mean any officer appointed to perform the duties of supervising and controlling the residence of Natives upon private property as prescribed.

"Kafir Beer" shall, in addition to the liquor commonly so-called, be taken to mean and include fermented liquor made from prickly pears, commonly called "prickly pear beer," fermented liquor made from honey, commonly called "honey beer," and any

other fermented liquor which the Governor may, by proclamation in the *Gazette*, declare to be a liquor for the purposes of the provisions of this Act.

“Labour Tenant” shall mean any Native male adult resident in a private location who is not a servant but is *bona fide* required by the location proprietor for the due working of his private property in or about the farming operations, trade, business, or handicraft by him carried on upon such private property.

“Location Proprietor” shall mean the owner or occupier of any property on which a private location is established or the manager for such owner or occupier or the representative under the provisions of section four of this Act of any absentee owner or occupier of property on which a private location is established.

“Native” shall mean any Basuto, Bechuana, Bushman, Damara, Fingo, Griqua, Hottentot, Kafir, Koranna, Pondo, Zulu, or other Native of South or Central Africa.

“Ordinary Tenant” shall mean any Native male adult residing on private property who is not the owner of such private property or a labour tenant or a servant.

“Prescribed,” except where the context otherwise indicates, shall mean as laid down in this Act or in any regulations promulgated under the provisions of this Act.

“Private Location” shall mean any number of huts or other dwellings on any private property occupied by one or more Native male adults, who are not servants.

“Servant” shall mean and include any Native male adult residing on private property who is *bona fide* and continuously employed by the location proprietor in his domestic service or in or about the farming operations, trade, business or handicraft by him carried on upon such private property.

3. (1) It shall be lawful for the Minister to appoint inspectors for the supervision and control of the residence of Natives upon private property in the manner prescribed by this Act, and such other fit and proper persons as may be necessary to assist them in the performance of such duties. Appointment of officers: their powers and duties.
- (2) Any person who shall obstruct any such inspector or person in the execution of his duties shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five pounds, and in default of payment, to imprisonment with or without hard labour for a period not exceeding three months. Penalty for obstructing officers.
4. (1) It shall not be lawful for any person to establish a private location without a licence in the form prescribed. No such licence shall be issued unless and until Authority for establishment of private locations.
- (i) Written application therefor has been made to the inspector;
- (ii) A report upon such application has been furnished by the inspector to the Civil Commissioner;

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- (iii) Notification of the application has been published in the manner prescribed.
 - (iv) The Civil Commissioner is satisfied that during the continuance of the licence there will ordinarily be resident upon the property upon which the location is proposed to be established either the owner of such property or some fit and proper representative of such owner approved by such Civil Commissioner subject to an appeal to the Minister.
 - (v) In the case of labour tenants, the Civil Commissioner after consultation with the Divisional Council issues a certificate approving of the issue of a licence, and specifying the number of Native male adults who are authorized to reside in the private location, and the place, or area, or limits upon or within which the huts or other dwellings, or kraals of such residents shall be erected; and in the event of an appeal to the Minister from the decision of the Civil Commissioner the Minister may issue a certificate approving of the issue of a licence and specifying the number of native male adults and other particulars as aforesaid according as the Minister may decide after such inquiry as may be prescribed.
 - (vi) In the case of ordinary tenants, the Civil Commissioner issues a certificate that the Divisional Council and the Governor have approved of the establishment of a private location and specifying the number of Native male adults authorized to reside in such location, and the place, or area, or limits upon or within which the huts or other dwellings, or kraals of such residents shall be erected.
- (2) No private location shall be deemed to have been established, and no licence fees as hereinafter provided shall be payable, by reason of the personal occupation of any private property by:—
- (i) Any Native who is the sole owner of such property under title or deed of transfer registered in the Deeds Registry:
 - (ii) Any Native who is the sole lessee of a portion of such private property, where the remainder of such private property is occupied by the owner thereof or by his manager, and who pays in cash in respect of his occupation of such property a rental of not less than thirty-six pounds per annum, under a *bona fide* written lease registered as prescribed.
 - (iii) Any Native who is the sole lessee of such private property, where such private property consists at the date of the promulgation of this Act of the

Exemptions.

entire extent of any land held under separate title or deed of transfer registered in the Deeds Registry, and who pays in cash in respect of such property a rental of not less than an annual amount equal to eight per cent. of the assessed value of such property for Divisional Council purposes per annum under a *bona fide* written lease registered as prescribed :

- (iv) Any Native who is at the date of the promulgation of this Act the joint owner of such property under title or deed of transfer registered in the Deeds Registry, so long as he continues to be such owner :
 - (v) Any Native male adult residing on such private property who is certified by the inspector to be so old or chronically infirm as to be incapable of rendering service : or any native specially exempted for past good services by the Minister, after consultation with the Divisional Council.
 - (vi) Any Native male adult who is in *bona fide* attendance at any industrial or other school on such property, or who, upon producing proof to the satisfaction of the Civil Commissioner, is certified as prescribed to be *bona fide* employed as a teacher or preacher.
- (3) No private location shall be deemed to have been established, and no licence fees, as hereinafter provided, shall be payable, by reason of the occupation of any private property by any Native male adults in the *bona fide* and continuous employment of the owner or occupier of such private property (who in the case of a Native is exempted under the preceding sub-section) in his domestic service or in or about the farming operations, trade, business or handicraft by him carried on upon such private property : provided that in respect of any native occupiers of private property who are exempted under sub-section (2) (ii, v, vi) of this section, the Civil Commissioner shall, subject to an appeal to the Minister, certify the number of native male adults in the *bona fide* and continuous employment of such exempted person as aforesaid, whose occupation of such private property shall not be regarded as constituting a private location.
- (4) No licence fees, as hereinafter provided shall be payable in respect of any Native male adults residing on private property who are in *bona fide* and continuous employment for mining purposes by any person other than the owner of such private property and who produce proof to the satisfaction of the Inspector of the payment of

No. 32—1909.

Renewal of
Licences.

any hut tax for which they may be liable in the Districts to which they respectively belong.

5. (1) In the case of any private locations existing upon the 31st day of December, 1909, and consisting of two or more Native male adults joined in any *bona fide* written lease and paying in cash a rental amounting to forty-eight pounds or upwards per annum in the case of two such lessees and not less than an additional twelve pounds each per annum for any greater number of lessees, it shall be lawful for the Civil Commissioner, upon proof to his satisfaction of the existence of such leases and upon the registration thereof in any manner prescribed, to dispense with the procedure required by this section and to summarily issue and renew licences throughout the subsistence of the minimum term of such leases without any payment of licence fees as hereinafter provided.

(2) On the expiration of the term of any existing licence or any licence issued under this Act, the Civil Commissioner upon the application of the location proprietor for the renewal thereof, shall dispense with the procedure prescribed by the last preceding section for the issue of a licence and summarily renew such licence upon payment of the fee prescribed in section six of this Act unless it has come to his knowledge that some reason against the grant of such renewal has arisen since the date of the issue of the said licence, in which event he shall require that the said procedure shall be followed and the decision upon the application shall be postponed accordingly. Pending such final decision a temporary renewal of the licence shall be granted by the Civil Commissioner upon payment of the ordinary licence fee, and if the application shall finally be refused, a proportionate amount of such fee shall be returned to the applicant.

Location
Licences.

6. The licence for a private location shall be an annual licence, and shall be issued or renewed as from the 1st day of January in each year, and upon issue or renewal, the location proprietor shall pay in advance as a licence fee for each labour tenant the sum of ten shillings per annum, or for each ordinary tenant the sum of two pounds per annum: Provided, however, that, in the event of the establishment of a private location upon any date subsequent to the first day of July in any year, the licence authorized in respect of such location shall extend to the 31st day of December in the same year and half the fees aforesaid shall be payable in respect thereof.

Penalty for
establishment of un-
authorized
location, &c.

7. (1) Any person who shall establish a private location, without a licence or suffer or allow the existence upon his land of any unlicensed private location, or any location pro-

prietor who shall without the previous written authority of the inspector knowingly allow any Native male adults other than those specified in his licence to reside in any private location, or shall erect or suffer to be erected any hut or dwelling-place for a resident of any private location beyond the place, area or limits, if any, defined in manner prescribed, shall be liable for each such offence to a penalty not exceeding twenty-five pounds; and the Resident Magistrate may, upon conviction, order and fix a date for the abolition or removal of any unauthorized private location or the removal of any unauthorized occupant of a private location. Upon failure to comply with any such order the location proprietor shall, unless he shall prove to the satisfaction of the Magistrate good and sufficient reasons for such failure, be liable to a penalty not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for any term not exceeding three months, and it shall be lawful for the Resident Magistrate, whether or not any good, sufficient and satisfactory reasons for such failure be proved, to make such order as he may think fit to effect the removal of the unauthorized private location or the unauthorized occupant of a private location.

- (2) Any person having no apparent right or authority to be in any private location may be served with an order in writing signed by the Resident Magistrate requiring him to remove therefrom, and unless such person shall, within such time as may be prescribed, prove to the Resident Magistrate good cause why he should not remove from such location, he may at the expiration of such time upon the written order of the Resident Magistrate be summarily removed therefrom by any inspector or other person appointed in terms of section three of this Act or by any police constable. Any person who without lawful authority or excuse, the onus of proving which shall be upon such person, returns to any private location from which he has been summarily removed in terms of this section, shall be deemed and taken to be an idle and disorderly person and shall, upon conviction, be liable to the penalties prescribed in section two of the "Vagrancy Act, 1879."

8. It shall be lawful for the Governor to make regulations not inconsistent with the provisions of this Act for any of the following purposes, and to provide therein that any person contravening any such regulation shall, upon conviction, be liable to a penalty not exceeding five pounds sterling or in default of payment to imprisonment with or without hard labour for any period not exceeding one month:—

Regulations.

No. 32—1908.

- (1) Prescribing the manner of, and the particulars required to be submitted with, any application for a licence for a private location.
- (2) Prescribing the manner in which applications for licences shall be publicly notified and dealt with, and the person by whom, and the manner in which, the costs of any prescribed public notification shall be defrayed.
- (3) Prescribing the form of licences and certificates issuable under this Act.
- (4) Prescribing the powers and duties of inspectors and other persons appointed under this Act.
- (5) Prescribing the manner in which appeals under section four of this Act shall be lodged and dealt with.
- (6) For the compilation and keeping of a register by every location proprietor and a transcript thereof, by the inspector, showing
 - (a) the full names of the Native male adults resident in his private location and whether they are ordinary tenants, labour tenants or servants;
 - (b) the numbers of huts occupied by such Native male adults or their families;
 - (c) the numbers and marks or description of any animals owned by, or in the lawful possession of, such Native male adults.
- (7) For the registration in the Civil Commissioner's office of *bona fide* written leases.
- (8) Requiring the production to any inspector or other officer appointed under this Act, of any licence or register or the furnishing of such other information as any such officer may be empowered to require.
- (9) For the branding of any animals owned by Native male adults resident upon private property within such areas as may be specified.
- (10) For the seizure or impounding of any animals owned by Native male adults resident upon private property which have not been registered or branded as prescribed.
- (11) For prohibiting the overcrowding of huts or other dwellings upon private property.
- (12) For the establishment and maintenance of order amongst Native residents upon private property, and generally for the better carrying into effect of the provisions of this Act.

Summary
disposal of
complaints
regarding seizure or impounding of
animals.

9. It shall be lawful for any person who may feel himself aggrieved by any seizure or impounding of any animals as prescribed to complain to the Resident Magistrate who shall thereupon inquire into and summarily adjudicate upon the matter of such complaint and make such order as to him shall seem proper.

10. (1) In case any Native residing on private property shall be charged with having stolen any animal or having received such animal knowing it to have been stolen, the fact of the animal in respect of which the charge is made having been found in possession of such resident without being registered as prescribed shall be *prima facie* evidence of the guilt of such resident and the onus of proving that he is not guilty shall be upon him.
- (2) Whenever any resident of a private location shall be convicted of the theft of any animal the Resident Magistrate of the District shall be empowered to direct the removal from such location of the person so convicted or to direct the removal of the kraal of such resident to any other place on the private property on which such location is established.
- (3) Whenever any resident of a private location shall be convicted of the theft of any animal belonging to or in the lawful possession of the owner or occupier of any private property within a radius of ten miles of the private property on which such location is established it shall be lawful for the Court by which such resident is convicted, on the application of the owner of such animal or of any person authorized in writing by such owner, to summarily and without pleadings inquire into the value of such animal and to adjudge that the location proprietor shall be liable for the value thereof, and such judgment shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted: Provided that
- (a) Proof to the satisfaction of the Court is produced that prior to such theft notice has been given to the location proprietor by the inspector warning such location proprietor of his liability to proceedings under this section for the recovery of the value of any animal stolen by residents of the private location and that written notice of such application has been served on the location proprietor within such reasonable time previously as would admit of his attendance at the hearing thereof;
- (b) Whenever the value of any animal has, under the provisions of this section, been paid by a location proprietor to the owner thereof, such location proprietor shall have the right to claim by ordinary civil action in any competent Court the amount of such value from such resident;
- (c) No such liability shall be imposed in the event of the owner of such animal having recovered from such resident the value thereof;

No. 32—1909.
Stock thefts
by Natives
resident upon
private pro-
perty.

No. 32-1909.

- (d) In the event of the recovery of such value from such resident after the payment by the location proprietor of the amount thereof, such location proprietor shall, unless he shall, under the provisions of sub-section (b) of this section, have recovered the amount paid by him to the owner of the stolen animal, be entitled to have the said amount deducted from the amount recovered from such resident and to have the same refunded to him ;
- (e) Any location proprietor against whom any judgment in terms of this section is given shall be entitled to claim in respect of such payment all and several the privileges conferred by sections nine, ten and eleven of the "Stock and Produce Theft Repression Act, 1893," upon a person convicted of, or committed for trial upon, a charge of theft of stock or produce in respect of any judgment pronounced against such person for the value of the stock or produce stolen and damages sustained by its owner by reason of its loss.

Maintenance
of good order
at beer gather-
ings and pro-
visions relat-
ing to Kafir
Beer.

11. (1) Any person having or holding or permitting to be had or held in or about any hut or kraal or upon any private property whereof he has possession, occupation or control a gathering or party commonly known as a beer drink shall be held responsible for the good behaviour of all persons present at such gathering or party ; and should any affray, assault or other breach of the peace occur during such gathering or party, or subsequently arise therefrom, such person so having or holding or permitting as aforesaid such gathering or party shall be liable to a fine not exceeding ten pounds sterling or in default of payment to imprisonment with or without hard labour for any period not exceeding three months in addition to any punishment inflicted for any other offence of which he may have been guilty including any such affray, assault or other breach of the peace in respect of which he may be liable.
- (2) Upon receipt of a petition signed by the majority of registered Divisional Council voters in any ward or field-cornetcy praying for the prohibition of gatherings or parties commonly known as beer-drinks it shall be lawful for the Governor by proclamation to prohibit the having or holding of any beer gathering or party for drinking Kafir beer on any private property in such ward or field-cornetcy and any person who shall have or hold or permit to be had or held any beer gathering or party for drinking Kafir beer in or about any hut or kraal or upon land whereof he has possession, occupation or control in contravention of this sub-section shall be liable upon conviction to the penalties in part (1) of this section.

- (3) It shall be lawful for the Governor to make regulations not inconsistent with the provisions of this Act for regulating and restricting the making, brewing, possession or consumption of Kafir beer on private property in any district and for regulating or restricting the holding of gatherings commonly known as beer drinks, and to provide therein that any person contravening any such regulation shall, upon conviction, be liable to the penalties provided for a breach of regulations framed under section eight of this Act.
- (4) For the purpose of the due carrying out of the provisions of this section it shall be lawful for the Governor, anything to the contrary in this Act or any other law notwithstanding, to exercise the powers provided by the preceding sub-section in and in respect of the residents of any location on Crown Land adjoining private property in any District in which regulations under the said sub-section have been promulgated and by regulations to apply thereto the provisions of sub-section (1) of this section.
- (5) Sub-section (a) of section seven of the "Liquor Law Amendment Act, 1898," is hereby amended by the addition at the end of the said sub-section of the words "or any other fermented liquor which the Governor may, by proclamation in the *Gazette*, declare to be a liquor for the purposes of the provisions of this Act."
12. (1) In any proceedings for contravention of this Act the onus of proof that any Native is exempted from the operation of any provisions of this Act by reason of his being a servant or a sole lessee or an owner or joint owner of private property shall be upon the person charged with such contravention. Proceedings under Act.
- (2) Proceedings may be instituted against any proprietor of a location who is charged with any contravention of this Act or any regulations under this Act in the Court of the Resident Magistrate of either the district in which the private location is situate or if the proprietor be resident elsewhere the District in which such proprietor resides.
- (3) The Courts of Resident Magistrates or of Assistant Resident Magistrates to whom separate areas of jurisdiction are specially assigned by the Governor shall have summary jurisdiction to inflict to the full extent the awards and penalties prescribed in this Act or in any regulation promulgated thereunder.
13. (1) Whenever, in terms of sub-section (1) of section five of this Act, any licence is summarily issued or renewed by any Civil Commissioner in respect of any private location existing on the 31st day of December, Provision for performance of obligations of location proprietor where

No. 32—1909.

joint lessees
licensed sum-
marily under
section four.

1909, and consisting of two or more Native male adults joined in any *bona fide* written lease and paying in cash a rental amounting to £48 or upwards per annum in the case of two such lessees and not less than an additional £12 each per annum for any greater number of lessees, it shall be lawful for the inspector, if there be no person resident upon the property upon which the private location is established, whether as owner or occupier or as representing the owner or occupier, to require such lessees to elect one of their number who shall, for the purposes of this Act, have imposed upon him all and several the duties and obligations of a location proprietor in respect of any duly established location.

- (2) Failing such election it shall be lawful for the Civil Commissioner to appoint one of the said lessees who shall, for the purposes of this Act, have imposed upon him all and several the duties and obligations aforesaid.
- (3) Nothing in this section contained shall be deemed to relieve any location proprietor from any obligation or duty in respect of any such location.

14. (1) It shall be lawful for the Governor after consultation with the Divisional Council to revoke any licence issued under the provisions of this Act, or to modify any such licence in respect of the number of male adults authorized to be in a private location or in respect of the place or limits of such private location, if satisfied that such revocation or modification is in the public interest. Such revocation and modification shall be notified by notice published in the *Gazette* and shall take effect from the date fixed in such notice. Such notice shall allow of sufficient time to enable the occupants of the location to reap or gather any crops that may already have been planted at the date of such notice, and, if the time so fixed shall extend beyond the period of the licence, the location proprietor shall not be required to take out a fresh licence in respect of the excess period but shall otherwise comply with the requirements of this Act.

- (2) A refund of licence fees shall be made to the location proprietor whose licence is revoked or modified under this section in proportion to the period of such licence unexpired at the date fixed for the revocation thereof, or to the number of native male adults affected by the revocation or modification of such licence as the case may be.

15. The provisions of this Act shall not apply within any Municipality or any area under the operation of the "Villages Management Act" or to any location proclaimed under the

Governor
may revoke or
modify any
licence.

Application
of Act in
respect of

provisions of section one of the "Native Labour Locations Act, 1899", or to any area proclaimed under the provisions of the "Establishment of Native Townships Act, 1908," or to any area under the jurisdiction of any Board of Management appointed under the provisions of the "Mission Stations and Communal Reserves Act, 1909." ~~Provided, that it shall be lawful for any Municipality by any regulations framed, as by law required, or in respect to any area under the control of a Village Management Board or of any local authority appointed under the provisions of the "Establishment of Native Townships Act, 1908," or of a Board of Management appointed under the provisions of the "Mission Stations and Communal Reserves Act, 1909," for the Governor by proclamation or such Board by regulations, framed as by law required to apply the provisions of this Act, and of any regulations under this Act, or any of them, so far as they can be applied, to such Municipality or area as the case may be.~~

No. 32—1909.
Municipalities or areas under Village Management Boards or Locations under the Native Labour Locations Act, 1899, or Mission Board Areas or Communal Reserves.

16. This Act shall be cited as the "Private Locations Act, 1909"

Short Title.

No. 33—1909.]

[December 14, 1909.

ACT

To abolish the powers of the Divisional Council in certain parts of the Fiscal Division of the Cape and to provide for the exercise of its powers and for the requirements of local government generally in other parts of the said Division by a body to be styled the Rural Council of the Cape Division.

[Assented to 3rd December, 1909.]

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

Preamble.

A.—PRELIMINARY.

- 1. This Act is divided into Parts, as follows:—
 - Part A.—Preliminary.
 - Part B.—Voters' Rolls.
 - Part C.—Qualification of Councillors.
 - Part D.—Elections.
 - Part E.—Chairman and Officers.
 - Part F.—Audit, Accounts and Assessment of Rates.
 - Part G.—Maintenance of Roads.
 - Part H.—Valuation.
 - Part I.—Rates.
 - Part K.—General.

Division of Act into parts.

No. 33—1909.

Repeal of
Laws.

2. (1) On and after a date to be proclaimed by the Governor after the promulgation of this Act the portions of the "Divisional Councils Act, 1889," (hereinafter termed "the Principal Act") set forth in the Schedule A to this Act shall cease to apply to the Division of the Cape (hereinafter termed "the Division") and the said portions, together with so much of any other law as may be repugnant to or inconsistent with the provisions of this Act, shall be and the same are hereby repealed in so far as they relate to the Division of the Cape—subject nevertheless to the provisions of the third section hereof.
- (2) The provisions of this Act shall thereupon on the said date come into operation in and for the said Division in lieu of the aforesaid portions of the Principal Act, and this Act shall, so far as is consistent with the tenour thereof be read as one with the Principal Act, and any Act amending the same :

Provided that it shall be competent for the Governor (if he shall think fit so to do) to proclaim two dates for the commencement of this Act, on the first of which the provisions of Part "A," together with such portions of the remainder of the Act as may be necessary for the proper carrying out of the said Part "A," shall come into operation, the second and later date being that on which the Act as a whole shall come into operation.

Effect of
coming into
operation of
Act.

3. After the coming into operation of the provisions of this Act the Cape Divisional Council shall be styled "the Rural Council of the Cape Division" (hereinafter referred to as "the Council") and for the purposes of this Act and with reference to the Division of the Cape (and not otherwise) the term "Divisional Council," wherever it occurs in the principal Act, or in any other law, shall be deemed and taken to include the Council. Provided :

- (1) That all property, movable and immovable, and all rights, powers and liabilities theretofore vested in, conferred upon or incurred by the Cape Divisional Council shall be deemed and taken to pass by succession to, in favour of, or against the Council elected under this Act in place of the Cape Divisional Council, and to be in all respects enforceable by and against the Council as though it were the Cape Divisional Council ;
- (2) That the repeal of the portions of the Principal Act set forth in Schedule A shall not affect any acts or things duly done or commenced, any liability for the payment of rate due or payable, any penalties or forfeitures incurred, any offences committed or any proceedings taken, at the coming into operation of this Act.

4. Notwithstanding the aforesaid repeal, the Cape Divisional Council shall continue in office until the first meeting of the Council elected under this Act, but no longer, and shall while so continuing in office be deemed to be a Council in office under the Principal Act, but subject nevertheless, during the period after the coming into operation of this Act and before the meeting of the Council elected under this Act, to such regulations (if any) limiting, modifying or extending its powers as the Governor may promulgate.

No. 33—1909.
Temporary continuance in office of Cape Divisional Council.

5. For the purposes of this Act and of the Principal Act as read with this Act, unless the context shall otherwise require :

Interpretation of Terms.

“District” shall mean a Municipality or other area within the Division constituted a district under this Act, as in the next section provided.

“Chairman” shall mean the Chairman for the time being of the Council elected under this Act.

“Secretary” shall mean the Secretary of the Council for the time being appointed under this Act.

“Enrolled Voters” shall mean voters on the Voters’ Roll for the time being in force under this Act.

“Principal Municipalities” shall mean and include all of the following Municipalities, namely, Cape Town, Green Point and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont and Wynberg.

“Public Road” shall mean any road situate within the Division, but not situate within any municipality in the Division, which is under the superintendence, control and management of the Council.

6. As soon as may be after the commencement of this Act the Division shall be divided into Districts, as follows :

Division of Cape Division into Districts.

(1) The Municipal areas of (a) Cape Town, (b) Green Point and Sea Point, (c) Woodstock, (d) Mowbray (e) Rondebosch, (f) Claremont and (g) Wynberg, shall each constitute a separate District, subject to the provisions of the next succeeding section.

(2) The remainder of the Division shall be divided into nine districts which shall be respectively fixed, defined and proclaimed by the Governor, and may be subsequently altered by him.

7. In all future elections for the Council there shall be elected for each District one member : Provided that the District comprising Cape Town shall elect three members, and that, on any two or more Principal Municipalities combining, the combined area shall constitute one District and elect the aggregate number of members previously returned by the said Municipalities severally.

Representation of the several Districts.

8. The first election under this Act shall be held on or before such date not later than four months from the date of coming into operation of Part “A” of this Act, as the Governor may proclaim.

First election of Council.

No. 33—1909.

Framing of
First Voters'
Rolls.

9. Notwithstanding anything to the contrary in any law contained it shall be lawful for the Divisional Council of the Cape Division, and the said Council is hereby required, immediately after the coming into operation of Part "A" of this Act, to proceed to frame the first voters' roll for each of the Districts of the said Division, which rolls shall be completed before a date to be mentioned in the proclamation in the last preceding section mentioned. In framing such rolls the provisions of the sections twelve to twenty of this Act shall apply *mutatis mutandis*, and the said Council shall conform to the requirements thereof: Provided that in the framing of the voters' rolls for any District or portion of a District situate without the limits of a Municipality the names of all voters in such District or portion of a District which appear upon the Divisional Council voters' roll in force at the date fixed for the coming into operation of Part "A" of this Act, shall be included in and constitute the voters' roll for such District or portion of a District.

First Voters'
Roll.

10. The aforesaid first voters' roll shall be the voters' roll for the first election hereinbefore provided for, and, until the voters' roll hereinafter in Part "B" provided for, shall have been duly made out and come into force, shall be the voters' roll for all purposes of, and for any election under, this Act; and the provisions of section twenty-one hereof—respecting the title to vote, the district wherein to vote, and the number of votes to be given—shall *mutatis mutandis* apply to such elections as are in this section referred to.

Interim re-
gulations.

11. It shall be lawful for the Governor to promulgate such regulations as he may deem necessary for the better carrying out of any of the provisions of this part of this Act.

B.—VOTERS' ROLLS.

Framing of
voters' roll.

12. The Secretary shall before the first day of July in 1912 and thereafter before the same day in every third year make out lists to be called the voters' rolls of the several Districts, in the manner following, namely:—

- (1) In the several Districts formed of the Principal Municipalities, as in section six, sub-section (1) provided for, the voters' rolls shall be without alteration the several municipal voters' rolls at the time being in force in each of the said Principal Municipalities: Provided that, in the case of any District constituted of two or more such Municipalities, the Secretary shall combine the municipal rolls of such Municipalities for the purpose of framing the roll for such District.
- (2) In framing the voters' roll for the remaining Districts of the Division, as in section six, sub-section (2) provided for, each such roll shall contain the names in full, arranged in the alphabetical order of surnames, with a description and the value of the property giving title

to vote, and stating whether it is situate within or without a Municipality, and showing whether the voter be owner or occupier: Provided, that for the purpose of this sub-section, in the case of any Municipality lying entirely within the limits of any such District, the municipal voters' roll for the time being in force in such Municipality shall be taken as the roll for that portion of the District constituted by the area within the limits of such Municipality, and for any District or portion of a District not being within the limits of any such Municipality, the following shall be included in and constitute the voters' roll for such District or portion of a District, namely:—Every person of full age who is the owner or occupier of any immovable property or properties within the district not included within any such Municipality as aforesaid, of the value according to the then current assessment roll of not less than £75 and liable to be rated by the Council: Provided, that the name of such owner or occupier does not already appear on the municipal voters' roll as aforesaid of any Municipality forming part of the District in which such property or properties are situate.

Provided, that in the case of two or more persons in joint ownership or occupation of any immovable property situate without a Municipality and who are jointly liable to be rated by the Council in respect of such property, each such person shall be deemed to be an owner or occupier, as the case may be, of such property and be entitled to be enrolled on the voters' roll, provided, the value of such property according to the assesment roll as aforesaid, when divided by the number of such owners or occupiers, as the case may be, shall be equal to £75 for each such owner or occupier, and provided, that in any case not more than three such joint owners or occupiers, as the case may be, shall be entitled to be enrolled in respect of any one property in any one District: And provided further, that if such value when so divided shall be less than £75 for each such owner or occupier, as the case may be, or in case there be more than three such joint owners or occupiers, as the case may be, the persons to be deemed qualified to be enrolled on the voters' roll and to vote shall be such persons, being joint owners or occupiers, as the case may be, as the remaining owners or occupiers may nominate in writing for that purpose, and failing such nomination the persons to be enrolled shall be those selected by the Council from among such joint owners or occupiers, as the case may be.

No. 33—1909.

In the framing of every voters' roll the following shall apply:—

- (a) An owner or occupier shall only be entitled to be enrolled on the voters' roll of the District in which the immovable property entitling such owner or occupier to appear on the voters' roll is situate.
- (b) No person shall be entitled to appear more than once on the voters' roll of any District.
- (c) An owner or occupier shall be entitled to be enrolled on the voters' roll of each and every District in which such owner or occupier may possess the requisite qualification, by ownership or occupation, as hereinbefore defined.

Voters' rolls for seven districts mentioned in section six subsection (2) to lie open for inspection.

13. Immediately after making out the said rolls the Secretary shall cause a copy thereof to lie open for inspection for a period of fourteen days during office hours at the office of the Council; and at such other places, if any, as the Council may direct, and shall notify, by advertisement in two or more newspapers published in the Division, that the rolls may be inspected during the said hours and at the said places, and that all objections to, and claims to be enrolled on any of the voters' rolls, of the nine Districts mentioned in the preceding section six subsection (2) will be heard and determined at some time and place to be set forth in such notice.

Revising Court.

14. The Chairman and two Councillors elected for that purpose by the Council shall, on the day so notified, in open court, hear all such claims and objections, as aforesaid, and determine thereon, and may adjourn the sitting of such court from time to time as may be necessary: Provided, that any person whose name, though appearing on the then current municipal voters' roll of any Municipality forming part of any of the Districts in the last preceding section mentioned, has been omitted from the roll of such District shall be entitled to claim that his name be inserted therein.

Directions for revising voters' roll.

15. The said Chairman and Councillors shall, in revising the voters' roll, as aforesaid,

- (1) Insert the name of every person who shall prove to their satisfaction that the same is entitled to be inserted according to the provisions of this Act.
- (2) Except in the case of death, retain on any such roll the names of all persons to whom no objection has been made.
- (3) Retain on any such roll the name of every person objected to, unless the person objecting appears by himself, or someone on his behalf, in support of such objection, and establishes the same by satisfactory proof.
- (4) In case any objection is made and satisfactorily proved, expunge the name of the person objected to.
- (5) Expunge the name of any person inserted on any such roll who is proved to be dead.

- (6) Insert the name of any person claiming its insertion as being a name appearing in any municipal voters' roll referred to in the proviso to the last preceding section, or insert any name ascertained to be a name so appearing in any such municipal roll as aforesaid whether a claim for such insertion shall have been made or not. No. 33—1909.
- (7) Correct any mistake or supply any omission which may appear to have been made on any such roll.

16. The revised rolls, certified by the Chairman of the Council, shall be the voters' roll for the several Districts for all purposes of this Act, and shall continue in force, and shall not be added to or altered otherwise than as in this Act provided until new rolls have been made and revised under the provisions of this Act, whether the same be duly made at the time appointed or afterwards. Revised voters' roll.

17. Whenever required in writing by the Chairman so to do the Council of any Municipality in the Division shall, for the purposes of sections nine and twelve of this Act, furnish to the Secretary forthwith and without fee a correct copy certified by the Mayor of the then current municipal voters' roll of such Municipality. On request of Chairman, Municipality to furnish copy of voters roll.

Any printed or written copy, purporting to be a copy of the voters' roll of any District, signed by the Chairman or in the case of a District constituted of a Principal Municipality by the Mayor of such Municipality, shall be *prima facie* evidence of such roll and of the contents thereof. Signed copy of voters' roll prima facie evidence.

18. No omission to make any notification by advertisement or otherwise, with regard to any list or roll, or to exhibit, or keep any list or roll for inspection, shall be deemed to prevent, invalidate, or render imperfect any of the proceedings by this Act prescribed with regard to the compilation or completion of any list or roll, or to invalidate any such list or roll. Omission of formalities respecting voters' roll.

19. If from any cause the revision of any list or roll awaiting revision under this Act has not been made or completed within the proper time appointed or allowed for that purpose, the Governor may appoint a day for holding a court for revising such list or roll, and such day shall as to all such acts and proceedings as then remain to be done or had with respect to such list or roll, be deemed to be for all intents and purposes the day appointed for such revision, and all further proceedings shall be had and taken accordingly. Appointment by Governor of day for revising voters' list.

20. If from any cause the preparation or revision of any of the voters' rolls has been omitted or not completed, the Governor may, at the request of the Council or the Minister, direct the same to be done within such time as may be prescribed by the Order in Council authorizing it, and upon the publication of such order in the *Gazette*, such omission or non-completion shall be rectified, and such roll validated in accordance with the terms of such order. Fixing by Governor of time for completing list.

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Right to vote.

21. No person whose name does not appear upon the voters' roll, framed as in the preceding sections provided, shall be entitled to vote at any election of Councillors held under this Act in any District, and at every such election every voter shall vote in the District in which such person is registered as a voter and shall not vote in any other District; nor shall any voter at any election held under this Act be entitled to give more than one vote for each of such number of candidates as there are vacancies to be filled for such District at such election.

Disqualifica-
tions for vot-
ing.

22 The following persons shall not be entitled to vote in a District at any election of Councillors therefor:

- (a) All persons whose names are included in the voters' roll by reason of their names being on any Municipal voters' roll who are for any cause not entitled to vote at an election of Municipal Councillors for the Municipality in respect of which their names are so included.
- (b) All persons who have not paid all sums, if any, due from them in respect of any rates levied under this Act and made payable three months before the day of voting.
- (c) Persons convicted of treason or murder, or, until the lapse of five years from the date of release, any person convicted of rape, theft, perjury or of bribery or receiving a bribe or of any other corrupt practice at any election, or of any infamous crime, and who shall not have received a free pardon.
- (d) Persons whose names do not appear upon the voters' roll for the time being.

C.—QUALIFICATION OF COUNCILLORS.

Qualifica-
tion of Coun-
cillors.

23. Every male person whose name shall appear upon the voters' roll of any District and who shall be registered in the land registers of this Colony as the owner of immovable property situated in the Cape Division, which shall at the time of any election under this Act be valued by the Council or by any Municipality within the said Division, for assessment for rating purposes at an amount of not less than £500 sterling, shall (except as is hereinafter excepted) be eligible to be elected as a councillor. Provided:

- (a) That all lessees of Crown land under the Act No. 26 of 1891 or any other Act shall, for the purposes of this section only, be deemed to be registered owners of land valued in the proportion of £100 sterling for every amount of £6 sterling annually payable by way of rent in respect of the land leased under the said Act, and
- (b) That as often as any such immovable property or land so valued as aforesaid shall be jointly owned or leased by more persons than one, every joint owner or lessee shall be eligible to be elected as aforesaid in case the value of

such property, when divided by the number of the joint owners or lessees thereof, shall yield the sum of £500 sterling; but that in case such joint owners or lessees shall, by the land registers aforesaid or by the lease, appear to be entitled in unequal shares, no such joint owner or lessee shall be eligible in respect of such share only to be elected unless his share shall, regard being had to the total value of the property, yield a sum not less than £500 sterling.

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24. No person whose estate shall be under liquidation or under assignment, no insolvent who shall not have obtained his rehabilitation, no alien who has not been naturalized, no person convicted of treason, murder, rape, theft, perjury, or other infamous crime, and who shall not have received a free pardon, no person of unsound mind, and no person who is not qualified or who is disqualified by this Act, shall be capable of being elected or of continuing a councillor.

Disqualification of Councillors.

25. No person holding any office or place of profit under Government, or under or in the gift of the Council, or concerned in or participating in the profit of any contract with the Council, or concerned in or in the profit of any work to be done under the authority of the Council, shall be capable of being or continuing a Councillor: Provided that nothing in this section contained shall extend or apply to any contract entered into by any company, partnership or association, consisting of more than twenty persons, or any incorporated company, when such person is not a manager or director of such company, partnership or association, and such contract is entered into for the general benefit of such company, partnership, or association: And provided further that it shall be lawful for any Councillor to purchase at public sale any property or right which the Council shall offer to sell by public competition. No person holding the office of District Surgeon, Field Cornet, Polling Officer or Contractor to the Government, or being a member of the volunteer force, shall be deemed as such to hold an office or place of profit under Government.

Further disqualifications.

D.—ELECTIONS.

26. All elections held under this Act shall be before a Returning Officer who shall be the Civil Commissioner of the Cape Division or such other person as may be appointed by the Minister, provided that no such Returning Officer shall be or become a candidate for office at such election.

Returning Officer.

27. Not less than thirty days prior to any election of a Councillor or Councillors, the Returning Officer shall publish a notice (which shall be in substance as set forth in Schedule B to this Act) in the *Gazette* and in two or more newspapers published in the Division calling upon the voters in the respective District or Districts of the Division to nominate a candidate or candi-

Notice calling for nominations.

No. 33—1909. dates for every such District respectively on or before a date to be specified in the said notice, not being less than fourteen or more than twenty-one days after the date of such notice.

Nomination of candidates. 28. The nomination of a candidate for any District shall be in writing in either English or Dutch and shall be in substance as set forth in Schedule C to this Act : Provided that

- (a) No person shall be competent to nominate or join in nominating a candidate for any district unless such nominating person shall be entitled to vote for the said district.
- (b) No voter shall be entitled to sign more nominations than one in any district on pain of having his name erased from all the nominations in which it appears and considered as never placed therein.
- (c) As often as any person signing any such nomination shall be a registered voter residing in the District to which such nomination relates, his omission to state his place of residence shall not vitiate or affect the validity of his signature.
- (d) Although the Returning Officer may deem a candidate to be ineligible, he shall nevertheless receive the said nomination and make a record in writing of such special reception and his reasons for deeming the candidate to be ineligible.
- (e) No informality in any such nomination shall vitiate the same so long as the requisite number of competent voters shall have signed the same, and so long as the names of the candidate or candidates, and the district for which they are nominated, shall be discoverable from the terms of the nomination.

What candidates eligible. 29. No person shall accept nomination for more than one District under pain of every such nomination being declared null and void, nor shall any person not duly nominated by five voters or upwards be eligible to be a candidate or to be elected as a Councillor, and no person duly nominated with his consent shall have any power to withdraw his name after the publication of the notice in the next succeeding section mentioned : Provided that no candidate shall be deemed to have withdrawn his name unless and until he shall have given the Returning Officer at least twenty-four hours notice in writing under his hand of his intention so to do.

Notification respecting candidates and poll. 30. As soon as may be after the day fixed under section twenty-seven as the latest date on which nominations can be received and not less than seven days before the date of the poll, the Returning Officers shall by notice in the *Gazette* and in two or more newspapers published in the Division notify the names of the candidates nominated for each District respectively, and the place, day and hour at or upon which the poll is to take place : Provided

(a) That if in any case no greater number of candidates shall be nominated for any District than the number to be elected, no poll in or for such District shall take place and the candidate or candidates so nominated shall be deemed to be duly elected. No. 33—1909.

(b) That the aforesaid notice shall enumerate the Districts, if any, for which no poll is to be taken and the candidate or candidates elected for the same.

(c) That if in any case there shall be less than the required number of candidates nominated for any District, then the persons duly nominated as candidates shall be deemed to be duly elected and fresh nominations to fill the vacancy or vacancies in such District shall be called for in manner aforesaid. Fresh nominations where insufficient candidates.

31. As soon as may be after the said notice has been given, the Returning Officer shall address and transmit a copy thereof to the Town Clerk of the several Municipalities and to each Field-cornet, and upon the receipt of such notice each of the aforesaid addressees shall forthwith exhibit and post the same, signed by him, for general information at or near his office or residence as the case may be: Provided that no failure or neglect to comply with any of the provisions of this section shall render void the poll to which such notice relates. Transmission of notice to Town Clerks and Field-cornets.

32. Every Polling Station for a District shall be at such place or places within such District as the Returning Officer may determine. For all elections the Returning Officer shall, in addition to any other duties devolving upon him, appoint Polling Officers and do such other acts and things and make such arrangements to facilitate the taking of the poll as he may deem advisable for effectually conducting the election; and everything done by the Returning Officer shall be at the expense of the Council: Provided that the Returning Officer may delegate to the Town Clerk of the several Municipalities forming separate Districts under this Act, who shall be termed Assistant Returning Officers, such of his powers and duties as the Minister shall approve, save as regards the giving of the notices referred to in sections twenty-seven to thirty and section forty-one of this Part, and the declaration and publication of the poll in section thirty-eight provided for. Polling Stations and Polling Officers.

33. The voting at all elections held under the provisions of this Act shall be by ballot, and the poll shall be conducted and declared in accordance with, and the election generally shall be regulated by, regulations to be framed and proclaimed by the Governor under the provisions of this Act, corresponding substantially, as far as is practicable and *mutatis mutandis*, with the provisions of sections thirty-seven to eighty-two both inclusive of the Franchise and Ballot Act, 1892: Provided, that the Governor may at any time by proclamation issue fresh regulations in lieu of all or any of the regulations theretofore proclaimed. Voting to be by ballot.

No. 33—1909.

by him under the provisions of this Act; Provided nevertheless, further, that such new regulations shall likewise correspond as aforesaid with the said provisions of the said Act.

Polling hours.

34. The poll at every polling place in any District shall open at eight o'clock a.m. and close at seven p.m., before or after which hours respectively no votes shall be received.

Candidate's representative at polling place.

35. Any candidate may be present or may appoint in writing one agent to represent him at any polling place for the purpose of seeing that the votes are fairly taken and recorded. In case an agent be appointed, the Polling Officer shall require such agent to deliver to him for record his authority in writing to act, and if such agent shall neglect or refuse so to do, the said Polling Officer shall not be at liberty to recognise his agency.

What questions may be put to persons tendering vote.

36. At any election the Polling Officer shall, if he see fit or if required to do so by any candidate or his duly authorized agent, put to the person tendering his vote any of the questions following:—

- (1) Are you the person whose name appears upon the list of voters received from the Returning Officer of this Division for the purposes of this election?
- (2) Have you already voted at this election for this District?
- (3) Have all sums due and payable by you in respect of Rural Council rates, or Municipal rates, as the case may be, made payable three months or more before this date been paid?

And no person who shall refuse to answer any such question or who shall not answer the first and third of such questions absolutely in the affirmative, and the second of such questions absolutely in the negative shall be entitled or permitted to vote. Every person who shall wilfully make a false answer to any of the questions aforesaid, or who shall poll or attempt to poll more than once, shall, upon conviction, be liable to a fine not exceeding £20, or in default of payment to imprisonment with or without hard labour for any period not exceeding three months unless such fine be sooner paid, or to imprisonment without the option of a fine.

Voters not required to answer other questions.

37. No voter shall at any election be required to answer any questions except as aforesaid, and no person claiming to vote at any election shall be excluded from voting except by reason of its appearing to the Polling Officer upon putting any such question allowed as aforesaid that he is not the person whose name appears on the said list, or that he has previously voted at the same election, or that such sums as aforesaid due for rates are unpaid, or except by reason of such person refusing to answer any of the said questions.

Declaration and publication of poll.

38. As soon as may be after the declaration of the poll the result of which shall be declared by the Returning Officer in the manner provided for by regulations, the Returning Officer shall cause to be published in the *Gazette* the names of the Councillors

who shall have been elected by the respective Districts, placing opposite to or in connection with every such name the name or number of the District by which such Councillor was elected.

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39. All the acts enumerated as "corrupt practices" in any Act for the time being in force regulating or in respect of elections of members of Parliament shall, *mutatis mutandis*, be deemed to be "corrupt practices" with reference to all elections under this Act. And every person committing any act forbidden or made punishable by any such Act relating to elections of members of Parliament, in reference to any elections under this Act, shall upon conviction incur and be liable to such penalty or punishment as is by such Act provided.

Corrupt practices.

40. If, by reason of the failure in one or more Districts to nominate or to elect candidates, or of the existence of irregularities or of errors in the taking of any polls, not yet corrected, or of complaints not yet decided, it shall so happen that there shall not be published in manner aforesaid, the names of Councillors of the new Council sufficient to form a quorum, the Council then in existence shall remain in office until the names of a number of Councillors of the new Council sufficient to form a quorum shall have been published: Provided that, as soon as the names of a number of Councillors of the new Council sufficient to form a quorum shall have been published, then such Councillors shall, for the time being, form the Council, and the Council shall be, to all intents and purposes, competent to perform all functions and duties belonging to it, in case such functions or duties shall not, by some particular Act or Acts, require the presence of a greater number of Councillors than the number so published.

Failure to elect quorum of new Councillors.

41. If it shall happen that, by reason of any accident or other cause, the Returning Officer shall not, in regard to the election of the Council under the provisions of this Act, give on the proper dates the notices or fix the proper dates required by this Act to be given or fixed or shall omit to do anything by this Act required to be done, whereby it shall happen that the names of at least a quorum of candidates to be Councillors of the new Council cannot be published for a period of at least seven days before the latest day on which a poll for the election of Councillors could be held, it shall be lawful for the Governor to authorize such Returning Officer to publish, or cause to be published, such a notice as aforesaid, fixing such day or days for the receiving of nominations for candidates for the representation of the several Districts of the Division, and such day or days for publishing any other notice or doing any other act, as may be most convenient, and the Councillors of the old Council shall remain in office until the first meeting of the new Council elected under the provisions of this Act.

Extension of time by Governor for nominating Councillors, &c.

42. The Councillors who shall be elected to form the first Council shall go out of office on the first day of November, 1912, prior to which date a new election of Councillors shall

Triennial tenure of office by Councillors.

No. 33—1909. take place ; and so on with triennial vacancies and triennial elections for ever : Provided that nothing in this section contained shall prevent a Councillor going out of office from being re-elected.

E.—CHAIRMAN AND OFFICERS.

Election of Chairman. 43. At the first meeting of Councillors held after the first election and every subsequent triennial election of Councillors, the Councillors present shall elect a Councillor to be Chairman, who shall forthwith enter upon his office and continue therein for one year from the date of his election, when he shall retire and be succeeded by a Chairman duly elected for the succeeding year unless his office be sooner vacated and so on from year to year. And in case of such vacancy as last mentioned, a successor shall, at the next ordinary meeting of the Council after such vacancy has occurred, be chosen by the Councillors from amongst themselves, who shall forthwith enter upon his office and serve as Chairman for the remainder of the period for which the vacating Chairman was elected, and so on from year to year : Provided always that should a Chairman not be elected at a meeting as herein described, he may be elected at the first ordinary meeting of the Council held thereafter or at a special meeting called for the purpose : And provided further that the retiring Chairman in any year is eligible for re-election to that position.

Deputy Chairman 44. The Councillor in office at the time of the election of the Chairman who shall last have held the office of Chairman of the Council at any time prior to the then elected Chairman, or failing any such Councillor still in office, such other Councillor as the Council shall elect, shall be Deputy Chairman and shall, during the absence or illness of the Chairman, do all acts which the Chairman as such may do. The fact of the absence or illness of the Chairman shall be notified by the Secretary or his deputy at the first meeting of the Council after the illness or absence of the Chairman has happened, and be recorded in the Council's minutes. Such record shall be a sufficient authority for all acts done within the scope of this Act by the Deputy Chairman in lieu of the Chairman during such period of illness or absence. If the office of the Deputy Chairman shall become vacant by reason of death or resignation, or by his ceasing to be a Councillor, the Council shall, at the next ordinary meeting following the meeting at which such vacancy is reported, elect one of their number to fill the vacancy.

Who to preside at meetings of Council. 45. At every meeting of the Council the Chairman, if present, shall preside. If the Chairman be absent, then the Deputy Chairman shall preside. If neither the Chairman nor the Deputy Chairman be present, such Councillor as the members of the Council then present choose shall preside.

46. At every meeting of the Council five shall form a quorum, and the Chairman or other Councillor presiding at any meeting shall in regard to all questions that may come before such meeting have his original or deliberative vote as well as a casting or second vote. No. 33—1909.
Quorum—
casting vote.

47. The Council shall be empowered to appoint and, subject to the provisions of section one hundred and four of the Principal Act, dismiss from time to time a Secretary and such other officers and servants as the Council may deem expedient for the carrying out of the purposes of this Act or the Principal Act or any regulations framed hereunder or thereunder: Provided that, when the powers and duties of the Cape Divisional Council pass and devolve under this Act to and upon the Council, such of the existing officers and servants of the Cape Divisional Council may be transferred to and become the officers and servants of the Council as the Council may determine: And provided further that should the Council on any other ground than misconduct not see fit to take over any salaried officer whose services under the said Divisional Council have extended for a period of at least one year, or having taking over such officer see fit to dis-pense with the services of such officer within two years of being so taken over, the Council shall pay to any such officer com-pensation at the rate of one month's pay for each complete year of his service whether under the said Divisional Council or the Council. Secretary
and other
officers.

48. The Council shall take from every officer employed by it, who shall be charged with the receipt or disbursement of any of the funds of the Council, sufficient security in respect of the office held by him. Security
from officials.

F.—AUDIT, ACCOUNTS AND ASSESSMENT OF RATES.

49. The Council shall cause books to be provided, and true and regular accounts to be kept therein of all sums of money received and paid on account of and for the Council, and of the several purposes for which such sums of money have been received and paid, and of all revenue which may have accrued, and of such liabilities as may have been incurred but not discharged at the end of each calendar year, and of such authorised writing off of irrecoverable revenue, or for depreciation, as are hereinafter described; and shall cause all such entries to be made in such a manner as to readily and clearly produce the accounts hereinafter prescribed as required of the said Council; and such books shall be kept in the Council office, and shall not be taken thence except by leave of the Council or by process of some competent court; and such books shall at all reasonable times be open to the inspection of any Councillor or Ratepayer, and any Councillor or Ratepayer may make copies or extracts from the said books without paying for the same. Books of
account of
revenue, ex-
penditure
and liabilities.

No. 33—1909.

Monthly statements and balance sheets, &c., to be rendered to the Council and, if confirmed, to be submitted to and examined by the auditors.

50. Monthly statements shall be prepared in such form as shall be prescribed in regulations under the "Audit Act, 1906," of the receipts and payments of the Council during the previous month, with the balance sheet of the Council at the end of each month, and shall, at the next meeting of the Council, be laid before the Council; and if the same be found just and true, they shall be allowed by the Council subject to audit, and such accounts and statements shall thereupon be rendered to the auditors hereinafter mentioned who shall examine and audit the same, ascertaining that the expenditure is in accordance with votes or resolutions or contracts of the Council, and that such votes, resolutions and contracts are authorised by law, and shall ascertain the cash balance held and where such balance is deposited, and the Council shall produce and lay before the said auditors all books, papers and writings in their custody or power relating to, or having any bearing upon, the transactions recorded in such accounts; and if the said auditors after due inquiry, shall be satisfied that all moneys received have been duly and properly accounted for and that all payments charged have been duly authorised and made and correctly charged, and any transfers from one account to another have been authorised by the Council and are such as may be legally made, the said auditors shall certify to the correctness of such accounts in the form prescribed by regulations under the "Audit Act, 1906," but if the said auditors shall deem that there is just cause to disapprove of any item in the said accounts, they may disallow the same, stating in the report to the Council their reasons for such disapproval.

Certificate by auditors after audit and annual abstract of financial transactions.

51. On completion of the examination and audit of the accounts and statements in connection with each month's transactions, the said auditors shall jointly grant a certificate in which the total amount of the sums forming respectively the charge and discharge of such account and the balance, if any, remaining due shall be set forth; and every such certificate shall be signed by them and subject to the final audit of the Controller and Auditor-General shall be valid and effectual to discharge the Council, as the case may be, either wholly or from so much of the amount with which the Council may have been chargeable as the Council may appear by such certificate to be discharged from; and on or before the fifteenth day of the month following the date of every such certificate such certificate shall, with all necessary supporting vouchers, documents and proofs, be forwarded by the Council to the Controller and Auditor-General for final audit and upon receipt of such discharge for the month of December in each year the Council shall cause to be framed an abstract or abstracts showing the transactions of the calendar year in question, as audited and passed by the said auditors which shall be verified by the signature of the Chairman to such certificate as may be prescribed

in regulations under the "Audit Act, 1906," and such abstract or abstracts together with all necessary supporting vouchers, documents and proofs shall be forwarded by the Council to the Controller and Auditor-General for verification and final audit, and shall thereafter be advertised by the Council in two or more newspapers published in the Division, and shall be laid before both Houses of Parliament with such report thereon as the Controller and Auditor-General may see fit to make.

52. If any person who may be surcharged by the Controller and Auditor-General or by either of the said auditors as having made, or authorised, or as being otherwise responsible for, any illegal payments appearing in the accounts of the Council, or for any short collection of revenue due to the Council, shall fail to adjust or recover such surcharge within such time as may be allowed for its recovery by regulations under the "Audit Act, 1906," the Controller and Auditor-General or the said auditors as the case may be shall forthwith report such surcharge and all necessary particulars to the Minister who after due inquiry may advise the Governor to relieve the person in default of such surcharge or may sue the person in default, in any Court of competent jurisdiction, for the recovery of any amount which, in the opinion of the Minister, has been properly surcharged and the costs adjudged to be payable by the defendant in any such suit shall be payable by such defendant personally or out of the funds of the Council, as such Court may direct.

Surcharge by Auditor-General or the auditors Governor's power to relieve and Minister's power to sue on surcharge.

53. The Controller and Auditor-General, personally or by authorized deputy, shall be entitled at any time to make examination without previous notice to anyone, of the books and cash in hand, and to compare the cash with the books and check the various balances, the cash in hand and the bank account and to make such inquiries and investigations as to him may seem necessary for ascertaining particulars regarding any matter connected therewith: Provided that in each case a report of the result of such examination shall be made to the Council and to the Minister.

Auditor-General's power to examine books, cash, and make investigation.

54. Not later than the thirtieth day of November in each and every year, the Council shall elect a properly qualified auditor, not being a Councillor or officer of the Council, and the Governor shall appoint a properly qualified auditor, not being a Councillor or officer of the Council, who shall each hold office from the first day of January following and throughout the year, and shall be paid by the Council out of the Council's funds such remuneration as the Council may, with the approval of the Governor, deem fitting. Upon the occurrence of any vacancy in the office of auditor by death, removal, resignation or otherwise, the Council or the Governor, as the case may be, shall fill such vacancy forthwith for the portion of the year then unexpired. Provided that any auditor not otherwise disqualified shall be eligible for re-election or re-appointment at the expiration of any

Auditors to be appointed annually by the Council and the Governor, respectively.

No. 33—1909. period of office. Every such auditor shall be bound by and conform to the provisions of this Act relating to audit and accounts, and to any regulations under the "Audit Act, 1906," applied by the provisions of this Act.

Yearly estimate of probable revenue and expenditure. 55. The Council shall in the month of December in every year draw out an estimate in detail under prescribed headings of the probable revenue and expenditure for the year next ensuing, showing the several taxes or rates to be levied or assessed during the same, and the said estimate shall be signed by the Chairman and the Secretary, and shall be open to the inspection of any enrolled voter, and an abstract thereof shall be advertised in two or more newspapers published in the Division before the 31st day of January in the year next ensuing. And after such publication of the said annual estimate, a special meeting of the Council shall be held upon fourteen days' notice, for the purpose of finally considering, amending or confirming the said estimate, and thereafter the Council shall assess, subject to the further provisions hereinafter contained, such rate or rates for the current year as the majority of Councillors present and entitled to vote at such meeting shall deem necessary for all or any of the purposes of this Act. Provided always that any resolution of the Council confirming any estimate of expenditure defrayable from the 'General Purposes Rate' or agreeing to the levying of any 'General Purposes Rate' shall be passed by a majority of the members present and voting, representing Cape Town or the Districts defined by section six, sub-section (2) of this Act.

Assessment of rate.

How books to be kept. 56. The Council shall keep and draw up or cause to be kept and drawn up its books and accounts in such manner as

- (a) To show separately and correctly the amount actually and *bona fide* expended by it upon any object or for any purpose for which any contribution is received or claimable from any other Council or from Government, or any person or public body, and shall half-yearly forward a detailed account of such expenditure to the Government or other contributory.
- (b) To show the Council's expenditure on roads separately from its expenditure for the other purposes of this Act; and such expenditure on roads shall, whenever it is referred to in this Act, be taken and construed to include all sums of money paid for the maintenance and improvement of roads and bridges in accordance with the provisions of this Act and the principal Act, the salaries of the Road Inspector or Inspectors, and such proportionate part of the cost of the Council's establishment, including travelling allowances to Councillors as is provided for in section eighty-four hereof.

57. The Council may with the approval of the Governor make grants annually out of the General Purposes Rate to any Hospital, Convalescent Home or other purely charitable institution within the Division, provided the total amount so granted shall not exceed two and a half per centum (2½ per cent.) of the amount of the General Purposes Rate for the prior year.

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Council's power to make certain annual grants

G. MAINTENANCE OF ROADS.

58. On and after the date of the coming into operation of the whole of this Act the Council shall be divested of and discharged from all rights and duties in respect of roads and outspans within the area of any Municipality, and all the rights and duties in and respecting roads and outspans within the said areas heretofore vested in and devolving on the Cape Divisional Council shall be vested in and devolve upon the respective Municipalities subject to the following conditions:—

Rights and duties in respect of roads situate within Municipalities — Cost of maintenance.

- (1) In the case of the Principal Municipalities the cost of maintaining the existing Main and Divisional roads in the said Municipalities shall be borne wholly by the Municipalities respectively: Provided that the Council shall supply to any of the said Municipalities at the various quarries vested in it, stone, gravel and the like if required by them so to do for the purpose of repairing any of the said roads, at a price reckoned at five per centum above the actual cost to the Council of producing such material at the said quarries.
- (2) In the case of the existing Main and Divisional roads in any other Municipality in the Division, the cost of maintenance shall be borne by the Council, provided that such cost does not exceed such sum per mile annually as shall have been mutually agreed upon between the Council and the respective Municipalities, or, failing such agreement, have been determined by the Minister, whose decision shall be final, and any excess expenditure over such agreed or determined cost shall be borne by the Municipality concerned: Provided that nothing in this section shall be taken as imposing upon the Council any responsibility for any road in any such Municipality constructed after the commencement of this Act, or as affecting in any way the provisions of "The Municipal Amendment Act, 1899": And provided, further, that any such Municipality may enter into an agreement with the Council in regard to the maintenance and control of any portion of any Main or Divisional road by the Council within, or by such Municipality without, the area of such Municipality on such terms and for such period as may be specified in such agreement.

No. 33—1909.

Jurisdiction of Council in respect of certain Main and Divisional Roads.

Provisions of section 193 of Principal Act still to apply.

Application of sections 141 and 142 of Principal Act.

Contributions to be made to Council.

- (3) Subject to the previous provisions of this section, all Main and Divisional roads and outspans situate within any Municipality in the Division shall, after the coming into operation of the provisions of this Act, cease to be deemed or treated as Main or Divisional roads or outspans in so far as concerns the jurisdiction, powers and duties of the Council.
- (4) Notwithstanding anything contained in this section, the provisions of section one hundred and ninety-three Division III, sub-division I. Part VIII. of the Principal Act respecting the inspection of Main roads shall continue to apply to all Main roads situate within any Municipality in the Division, but the remaining sections of Part VIII. aforesaid shall no longer apply to the said roads so situate.

59. The provisions of the last preceding section shall in no way be deemed to affect the provisions of sections one hundred and forty-one, and one hundred and forty-two of the Principal Act, save that the provisions of the said sections of the said Act shall no longer apply to any road within any Municipality, and in so far as any road heretofore under the superintendence, control and management of the Cape Divisional Council is situate and contained in any Municipality in the Division, the part of such road so situate shall in each case vest in the containing Municipality.

60. Subject to the provisions of section one hundred and twelve of this Act the following contributions shall be made to the Council annually by the several Municipalities, those under (a) and (b) hereof to be appropriated in aid of roads maintained by the Council, and that under (c) hereof to be appropriated in aid of any of the purposes to which the 'General Purposes Rate' may be lawfully devoted, viz :—For every "Road Rate" hereinafter mentioned of $\frac{3}{4}$ d. in the pound levied by the Council in respect of roads :—

- (a) By each of the Principal Municipalities,
A sum equal to the amount represented by a rate of $\frac{1}{4}$ d. in the pound upon all rateable property therein upon the then current valuation roll of the Municipality.
- (b) By each of the other Municipalities within the Division,
A sum equal to the amount represented by a rate of $\frac{3}{4}$ d. in the pound upon all rateable property therein upon the then current valuation roll of the Municipality.

Provided that, if the road rate levied by the Council in any one year be less than $\frac{3}{4}$ d. in the pound, the said contributions by any Municipality shall, in respect of such year, be decreased in the same proportion :
And provided further, that at the end of any period

of five years the respective rates of contribution may be revised by Parliament. No. 33—1909.

(c) In addition to the contribution mentioned under (a) hereof the Municipality of Cape Town shall pay to the Council an amount equal to the amount yielded by any 'General Purposes Rate' levied by the Council in accordance with the provisions of section eighty-five of this Act upon all rateable property within the Division without the area of any Municipality: Provided that the amount to be so contributed on any one rate or in any one year shall in no case exceed the sum of two thousand pounds.

61. The above contributions shall be made payable by the said Principal and other Municipalities at least one half the amount thereof on or before the date fixed under section eighty-six hereof for payment of the road rate assessed by the Council, and the other half thereof on or before three months after the said date failing either of which payments the Council may proceed against any Municipality in default precisely as if it were an ordinary ratepayer under this Act, and the provisions of sections eighty-nine, ninety and ninety-two shall apply in all respects to such Municipality: Provided that for the purposes of the said contributions the several Municipalities, and for the purposes of the maintenance of roads transferred to the Principal Municipalities, a Principal Municipality may levy a special rate, if necessary, anything to the contrary in any law notwithstanding.

H.—VALUATION.

62. The Council shall before the month of April in the year 1911 and thereafter from time to time, but not less frequently than once in every three years, cause a valuation of all immovable property within the Division, excluding the several Municipalities, to be made by one or more competent persons to be approved by the Minister and being sworn appraisers and not being Councillors or auditors.

63. Every valuer shall, before entering upon the valuation entrusted to him, make before some Justice of the Peace a solemn declaration in the terms following:—

"I, _____, do solemnly and sincerely declare that I will to the best of my skill and knowledge, and without fear, favour or prejudice, truly and impartially appraise and value all such property as I shall be required to value in the area over which the Rural Council has jurisdiction, for the purpose of assessment, and that I shall conscientiously value the same at and for the full and fair price or sum which such property would, in my judgment, be likely to realise if brought at the time of valuation to voluntary sale and sold upon the usual terms and conditions. And I make this

The recovering of contributions.

Power in Municipalities to levy special rates.

Triennial valuation.

Oath to be taken by valuer.

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solemn declaration, conscientiously intending to fulfil the same.

Declared at _____, this _____ day
of _____ 19____
before me _____.”

And every such declaration shall be lodged with and preserved by the Council.

Right of entry of valuer. 64. Every valuer shall, for the purpose of making the valuation as aforesaid, have power to enter at all reasonable hours in the daytime into and upon any rateable property within the Division without being liable to any action or other proceeding on account thereof.

Right of valuer to put questions. 65. It shall be lawful for any valuer to put to any person in occupation or charge or being the owner of any rateable property, which such valuer shall have been authorised under the provisions of this Act to value, questions upon all such matters as may be necessary to enable such valuer correctly to value such property and to state the names of the owner and occupier or lessee thereof, and such other particulars as may be necessary to be stated in his valuation with regard to the premises. And, if after being informed by such valuer of his purpose in putting such questions, and of his authority under this Act to put the same, any such person in occupation or charge or any such owner shall refuse or wilfully omit to answer the same to the best of his knowledge and belief, or shall wilfully make any false answer or statement in reply to such questions, such person shall, for every such offence, be liable to a penalty not exceeding ten pounds.

Framing of valuation roll a 66. The valuer or valuers shall frame the valuation roll in such a manner as to show :

- (a) The name and the address of the owner.
- (b) The name of the occupier or occupiers (or if unoccupied to be stated).
- (c) Description of the property valued.
- (d) Name and situation of property, with other particulars sufficient for its identification.
- (e) Rateable value, and if divided into separate tenements the value of each such tenement.

Copy of roll for inspection Notices respecting the same.

67. (1) When this valuation roll has been completed it shall be laid before the Council, and a copy thereof shall lie at the office of the Council for the inspection of every owner or occupier of any property included therein, who may at all reasonable times inspect the same, and the Council shall, by notice inserted in the *Gazette* and in two or more newspapers published in the Division, and by circular addressed by post to or left at the last known place of residence or place of business or office of such owner or occupier, call upon owners and occupiers to lodge in writing with the Council any objec-

tions they may have against the valuation of any property whether owned or occupied by them or not, within a specified time, not being less than fourteen days from the first publication of such notice.

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- 2) The Council shall, in such notice, also intimate the place, hour and day—being a day not earlier than fourteen days after the expiry of the time specified as aforesaid in such notice—at and on which the Valuation Court (referred to in the next succeeding section hereof) shall sit to consider the said valuation roll, provided that it shall not be necessary, in any suit or proceeding for the recovery of any rate, to prove anything further, in the nature of due notice of any such valuation as aforesaid than the publication of the notice aforesaid in the *Gazette*.

Intimation
of day for sitting
of
Court.

68. As soon as may be after the expiration of the time specified in such notice the Council shall appoint one, and the Governor shall appoint two fit and proper persons who shall form a Valuation Court, and the members of such Court shall at their first time of meeting elect from among themselves a Chairman: Provided (1) that should any of the said three persons at any time be unable to act, it shall be competent for the Governor or the Council (as the case may be) to appoint another person, either to be a member or to act temporarily as member in place of the person unable to act as aforesaid; (2) that any person temporarily appointed shall, during the term of the sitting (as the case may be) for which he has been appointed to act, have and possess all the powers, and shall discharge all the functions of a member of the Court.

Valuation
Court— Election
of Chairman — Ap-
pointment of
acting mem-
ber, etc.

69. The said Court shall thereafter, on the appointed day, place and hour proceed to consider the valuation roll and the objections lodged as aforesaid, and shall be entitled to make such alterations or amendments in the valuation roll as to them may seem expedient according to statements of sworn appraisers brought before it or according to other evidence given on oath by confirming, increasing or decreasing any valuations included in the roll: Provided (1) that the said Court may from time to time, if it shall think fit, adjourn its sitting to a day, hour and place to be publicly announced before its rising, and thereafter as soon as may be notified at some convenient place at the office of the Council for the information of the public; (2) that it shall be competent for the Court, if it shall deem it necessary or expedient, to adjourn till such then unspecified date as it shall be convened to meet by the Chairman, of which time of meeting, in the event contemplated in this proviso, notice shall be given twice in the *Gazette* and in two or more newspapers published in the Division, not less than seven days before the sitting in question.

Court to
consider valuation
roll and
objections
and to settle
roll — power
of adjourn-
ment.

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70. The Chairman to preside over any such Court shall, before the Court proceeds to consider the valuation roll and the objections lodged against the same, take himself, in open Court, the following oath :

“ I do solemnly swear that I will, to the best of my skill and knowledge, and without fear, favour, or prejudice truly and impartially adjudge upon all questions that may come before me as a member of this Court. So help me God.”

And he shall then administer the same oath to the other members constituting the Court.

Ratepayers' right of objecting respecting under-valuations.

71. Any person liable to the payment of rates in respect of any property included in any valuation, who shall consider that any property included in such valuation is valued lower than it ought to be, may send in to the Council an objection in writing, setting forth the nature of such property and the value which the person objecting considers true and just : Provided that such objections shall be sent so as to be received by the Council not later than seven days before the day appointed as in section sixty-seven of this Act provided for the holding of the said Court.

Intimation of objection to owner, etc.

72. The officer of the Council receiving such objection shall forthwith serve upon the owner, or occupier, or the lessee of the property of which the value is objected to, notice in writing, setting forth the exact terms of the objection lodged, and intimating that such objection will come on for consideration at the Court aforesaid.

Right of owner, etc., to consent to increase of valuation.

73. Should the person receiving notice as aforesaid that an objection has been lodged by the person named in such notice against the value put upon the said property consent that the valuation upon such property may be increased to the amount claimed in and by the objection, such person may, in writing, inform the Council that he consents to such increase, and such officer aforesaid shall report such consent to the Court aforesaid at its sittings, and thereupon the value of such property may be increased accordingly.

Intimation hereof to objector.

74. The officer receiving any such consent as aforesaid shall, in case there shall be time so to do, inform the person who lodged the objection that such objection has been admitted, and that it will not be necessary for him to attend the Court aforesaid to support his objection.

Failing consent Court to determine.

75. In case no such consent as aforesaid shall be given as aforesaid, then the person objecting and the person resisting the objection may, in person, or by any agent appointed in writing, appear before the Court aforesaid upon the day appointed for the sitting thereof, and such Court shall proceed to determine upon such objection, upon such statement and evidence as are referred to in section sixty-nine of this Act.

76. If at the sitting of the Court aforesaid, the person who lodged the objection shall fail to appear to support his objection, or, appearing, shall fail to show sufficient cause for increasing the valuation to which he objected, such objection shall be dismissed, and should the Court think fit, dismissed with costs: Provided that no costs shall be given against an objecting party, unless the party resisting the objection shall have appeared in person or by agent.

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Dismissal
by Court of
unfounded
objection
—costs.

77. If any person, entitled as aforesaid to receive, and who shall have received, notice of an objection lodged to any valuation, shall fail to appear at the sitting of the Court, or, appearing, shall fail to rebut the proof made that the valuation objected to was too low, so that the valuation objected to shall be increased, then the Court may, should it think fit, give costs to the objecting party: Provided:

Increase of
valuation
— Provisions
respecting
costs.

- (a) That no costs shall be given against any person who shall have received notice of objection, and who shall appear at the sitting of the Court, and then and there declare his consent that the valuation objected to shall be increased to some amount less than the amount claimed in and by such objection, which shall be admitted by the objecting party, or found by the Court to be the true and just value.
- (b) That even where such person appears to consent that the value objected to shall be increased to the full amount claimed in and by the objection, no costs shall be given against him, in case he shall prove to the satisfaction of the Court that he received notice of such objection so short a time before the sitting of the Court that he could not send in, as aforesaid, to the Council, before the sitting of the Court his consent to such increase in the valuation.
- (c) That no costs shall be given against any person who shall have received notice as aforesaid, in case such person shall show that he made no application to the valuer to fix the amount of the valuation.
- (d) That in case of any increase of valuation caused by the act or omission of the valuer alone, the Court shall consider whether any reasonable costs of the objector should not be borne by the funds of the Council.

78. As often as the Court aforesaid shall see reason to give costs to any person against any other person, such costs shall be the same as would be payable by a suitor condemned in costs in a Civil case in a Court of the Resident Magistrate of the district; and such costs shall be recoverable by action in the Court of such Resident Magistrate: Provided that, upon proof made of the order of the Court aforesaid giving costs, the liability for such costs shall not be brought into question in the Court of the Resident Magistrate, but only the amount thereof.

Scale of costs
— how reco-
verable.

No. 33—1909.

How valuations become final.

79. When such Court has completed its examination of the valuation roll and has made such alterations and amendments therein as to it may seem necessary, the Council shall cause a copy of such roll as settled to be made for the inspection of persons interested, and shall cause an advertisement to be inserted in two or more newspapers published in the Division, not less than three times within a period of one week from the publication of the first advertisement, intimating to owners and occupiers of landed property, the values of which have been brought under the consideration of the Court on objection lodged, of the completion of the roll and that the same will become fixed and binding upon all parties interested who shall not, before a date fixed in such notice, not being less than fourteen days from the date of the first advertisement, bring the decision of the Court in appeal for final decision before the Court of the Resident Magistrate having jurisdiction in such area: Provided, however, that no person shall be entitled to take any proceedings whatever for appeal who shall not have duly lodged an objection to the valuation as originally made or be interested as owner or occupier in a property, the valuation of which shall have been increased by the Valuation Court, and that no valuation shall be set aside or varied merely by reason that the circular notice referred to in section sixty-seven of this Act shall not have been duly sent.

Interim valuations.

80. It shall be lawful for the Council and it is hereby required once in every twelve months to direct that an interim valuation be made of all property omitted from the valuation roll, and of all property sub-divided or permanently improved by the erection of buildings or otherwise, and of all property materially diminished in value by fire, flood, or similar cause between any two valuations, and to appoint, in accordance with the provisions of section sixty-two of this Act, a valuer or valuers for the purpose, and the valuation roll shall be amended in accordance with the results of such interim valuation, when any objections thereto have been finally decided in accordance with the provisions of this Act.

Valuation of property for purposes of transfer.

81. For the purposes of section thirteen of Act No. 5 of 1884, in so far as the Cape Division is concerned the Municipal Valuation of any property situate within any Municipality and the Council's Valuation of any property situate without any Municipality shall be substituted for the Divisional Council Valuation mentioned in the said section.

I.—RATES.

Property not rateable.

82. (1) After the coming into operation of this Act no rate shall be levied by the Council on

- (a) Immovable property within the limits of any Municipality in the Division;
- (b) Immovable property belonging to the Crown, and either unoccupied or used exclusively (and otherwise than as dwelling houses) by Government or for

Government purposes whether vested in the Colonial Government or otherwise, except as in the next succeeding section set forth ;

- (c) Lands and buildings appropriated exclusively to the purposes of public worship or to public schools, colleges, universities, libraries or museums ;
 - (d) Burial grounds ;
 - (e) Lands and buildings used exclusively for public hospitals, lunatic asylums, benevolent asylums, orphanages, or homes for convalescents or sailors.
- (2) Save as above, all persons owning immovable property within the Division but without the limits of any Municipality therein shall be liable to be rated for the purposes and under the provisions of this Act.

Rateable property.

83. All Crown lands leased under the provisions of Act No. 26 of 1891, or of any other Act, in case such last-mentioned letting shall be for a period not less than one year, shall be liable, so long as the same shall be under lease, to be rated for the purposes of this Act ; and for the purpose of every assessment of such Crown lands, the value of the lands comprised in any such lease shall be deemed to be sixteen times the amount of the annual rent payable by or under such lease : Provided that the Colonial Government shall not be liable to pay any rates in respect of such lands.

Leased Crown lands -- how rated and assessed.

84. At the time of assessing any rate under this Act not being a special rate under section one hundred and one of this Act provided for the Council shall apportion such rate into two parts, of which the first part, to be known as the " Road Rate," shall be devoted to the purpose of defraying expenditure on the roads for the maintenance or construction of which the Council is liable, and the second part, to be known as the " General Purposes Rate," shall be devoted to any other purposes to which under this Act the funds at the disposal of the Council may be applied, or to meet any expenditure not otherwise by law provided for of which the Governor shall approve : Provided that the following charges and expenses shall be borne proportionately to the amount of each part by the two parts into which such rate is divided, viz :—

Division of rate: Road Rate and General Purposes Rate.

- (1) The expenses of any election of a member or members of the Council.
- (2) The expenses of valuation of and assessment of property.
- (3) The collection of rates, other than special rates under this Act.
- (4) The salary of the Secretary and of any other lawfully appointed officers of the Council, as the Council may by resolution approved by the Minister determine.
- (5) The payments by law authorised to be made to members of the Council.
- (6) The cost of audit provided for under section fifty-four of this Act.

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- (7) Any other charge or expense which the Council may lawfully incur and as to which it may by resolution approved of by the Minister determine that it shall be borne in such proportion as aforesaid.

Provided further, that all money raised or received by the Council from any other source for the purposes of this Act, and not otherwise specially appropriated by law, shall be appropriated for the like purposes as the General Purposes Rate aforesaid.

Levying of
annual rate.

85. It shall be lawful for the Council to impose and levy once in every year a rate which shall not exceed, for the first part thereof (or Road Rate) $\frac{3}{4}$ d. in the £, and for the second part thereof (or General Purposes Rate) $\frac{3}{4}$ d. in the £, on the value of all rateable immovable property within the Division excluding the area of any Municipality.

Rates when
due—notice to
be given.

86. (1) The Council shall give not less than thirty days' notice by advertisement in the *Gazette* and in some newspapers published in the Division of the date on which every rate assessed and apportioned under this Act shall become due and payable and of the amount thereof, and shall in addition post to the address of every person liable to pay such rate a notice setting forth the rate levied, the property assessed, the amount payable and the latest date when, and place at which payment must be made: Provided that the non-receipt of such notice shall not be any defence in any proceedings instituted for the recovery of any such rate, nor shall it in any such proceedings be necessary to prove anything further as to due notice of such rate having been given than the publication of the aforesaid advertisement in the *Gazette*.

Liability to
pay rates on
pain of legal
proceedings.

- (2) After such publication in the *Gazette* and some newspapers as aforesaid, it shall be incumbent on all persons liable for such rate to pay the due amount thereof to the Secretary, or such other person as the Council may have authorized to receive the same, on or before the day fixed in the aforesaid advertisement for the payment of the same, on pain of being forthwith liable to legal proceedings for the recovery of the amount.

Evidence in
proceedings to
recover rates.

87. In any proceeding to levy or recover rates or consequent on the levying or recovering of any rate under the provisions of this Act the valuation rolls and rate books of the Council, and all entries purporting to be made therein in manner by this Act required, or any extracts or certified copies thereof signed by the Chairman, shall upon production thereof alone be *prima facie* evidence of such rate, and of the contents thereof without any evidence that the notices required by or other requirements of this Act, have been complied with: Provided that it shall be competent for any person proceeded against to offer evidence to prove the contrary.

88. The Council may, in suing for the recovery of any rates, proceed against the owner, or lessee of Crown lands as referred to in section eighty-three, or occupier, either separately or both of them in one and the same action, each for the whole rate, in any competent Court, and recover the same by the judgment and process of such court: Provided

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Who liable to pay rates.

(a) That any occupier of property on which a rate has been assessed, who is not the owner thereof, and who has not entered into such occupation in pursuance of any agreement for becoming the owner thereof, shall, in the absence of any agreement to the contrary, be enabled to retain or recover from such owner the amount of any rate which he may have so paid, together with any costs or charges incurred prior to such occupier having been notified in writing of the default of the owner, but not any costs or expenses which he may have incurred, or been condemned to pay, in the course of any suit or action brought against him by the Council for non-payment of any such rate after such notification:

Occupier's recourse against owner.

(b) That no occupier of any immovable property shall be liable for any rate which had become due and payable thereon at any time before he entered upon the occupation thereof:

Limitation of occupier's liability.

(c) That any owner, who may have become liable for any rate as aforesaid, shall continue to be liable for such rate, although he may have ceased to own the property in respect of which the rate had been imposed.

Liability once accrued not affected by change in ownership.

89. If after the expiration of the time fixed for the payment of any such rate as aforesaid, any person fail to pay any rates due by him it shall be competent for the Council to cause a demand in writing to be made upon such person, requiring such person to pay the amount stated in such demand within fourteen days after service thereof. And in case any person who shall have had any such demand delivered to him personally, or left at his ordinary place of residence, or place of business, or office, shall make default, it shall be lawful for the Chairman of the Council to issue his warrant directed to the messenger of the Court of the Resident Magistrate of the District, requiring such messenger to levy and raise the amount stated therein by sale of the goods and chattels found on the premises in respect of which such rate shall be due, and continuing to be occupied by the person on whom such notice shall have been served. And every such messenger receiving any such warrant shall execute the same as if a warrant issued out of the Court of the Resident Magistrate of the District, and shall conform to such rules and make such charges in respect of the execution of such warrant as are for the time being applicable to warrants of such Court as aforesaid.

Remedy by distress under Chairman's warrant.

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Recovery by
action in
Court of Resi-
dent Magis-
trate.

90. The Council may at its discretion, after the expiration of the time fixed for the payment of any rate as aforesaid, recover from any person in default (without further notice or demand) the amount of rates due by such person by action in the Court of the Resident Magistrate of the District wherein the rated property is situated, or in any other competent Court.

Alternative
actions where
person liable
not resident
in district
where rate-
able property
situate.

91. In case any person liable for any rate shall not reside within the District wherein the rated property is situated, action may be brought either in the Court of the Resident Magistrate of such District, or in the Court of the Resident Magistrate of the District in which such person shall reside : Provided that as often as any such person not resident in the District in which the rated property is situated shall be proceeded against in the Court of the Resident Magistrate of such District, the summons directed to such person may be served upon the person, if any, in occupation of such property, or upon the person summoned, by the messenger of the Court of the Resident Magistrate of any District in which such person shall be found.

Interest on
overdue rates.

92. In case any rates made or levied under the provisions of this Act shall remain unpaid after three months from the date fixed by the Council for the payment thereof, interest upon such rates shall be chargeable and recoverable by the Council at the rate of six per centum per annum, reckoned from the said date.

When rated
property may
be seized and
leased.

93. When any property rateable by the Council within the Division is unoccupied and any rates thereon accrued under this Act shall have been unpaid for five years, the Council may take possession of such property and grant leases of the same, subject to the provisions of this Act.

For what
term.

94. Every such lease shall be for such term, not exceeding five years, as the Council may deem fit, and shall be granted for the best rent which may be reasonably had for such property, and subject to such stipulations and conditions as the Council may determine.

Notice be-
fore the sei-
zure.

95. The Council shall not take possession of any such property until three months after a notice in writing, setting forth that rates in respect of such property are unpaid, and demanding payment thereof, and stating that in default of payment the Council will take possession of such property under the provisions of this Act, has been served upon the owner of such property, if within this colony, and whose name and address is known to the Council, or if there is no such owner within this Colony, or no such owner whose name and address is so known, until such notice has been affixed to some conspicuous place on such property and published in the *Gazette* at least once a month during three months; and every such notice shall contain a sufficient description of the property to identify the same; but every lease granted by the Council otherwise in accordance with the provisions of this Act shall be valid notwithstanding the non-compliance with the provisions of this section, unless all arrear rates and interest

thereon are paid within twelve months after the Council shall have taken possession. No. 33—1909.

96. Within three months after demand by the owner of any property taken possession of by the Council as aforesaid, made within thirty years after the date of taking possession, and after payment of all arrears of rates due in respect thereof and interest upon such arrears at the rate of six per centum per annum, such owner shall be entitled to resume possession of such land, subject to the terms of any lease theretofore lawfully granted by the Council under the provisions of this Act. How owner may regain possession.

97. All rent and other moneys payable under any such lease shall until the payment of all arrears and interest as aforesaid by the owner, or the expiration of thirty years from the date of taking possession of such property by the Council, whichever shall first happen, be received by the Council and shall be applicable Application of rents accruing under the leases.

- (1) In defraying the expenses of and incidental to the giving of the notices as aforesaid and the execution of such lease and the collection of the rents.
- (2) In payment to the Council of all arrears of rates and other payments due in respect of such property, together with interest on all arrears of rates at the rate of 6 per centum per annum, from the time when interest upon such rates shall accrue respectively, and in payment of all rates and other payments becoming due thereon.

And the residue of such money shall belong to such person as would have been entitled to receive the rents or profits of such property if this Act had not been passed.

98. Unless some person entitled to resume possession of any property of which the Council has taken possession as aforesaid shall within thirty years after the date of taking possession pay all arrears of rates, interest, and incidental expenses properly chargeable under this Act, such property, and all accumulations of rent and other moneys received in respect of such property shall vest absolutely in the Council. After possessing 30 years, property seized to vest in Council.

99. Before passing transfer of any immovable property in the Division, but not being situate within any Municipality therein, the Registrar of Deeds shall require the production of a receipt or other voucher showing that the last rate due to the Council upon such property has been paid and an intending transferor of property in the Division, but not being situate within any Municipality therein, in respect of which such rate has been paid, or in respect of which no rates are payable, shall for the purposes of this section be entitled to be furnished by the Council with a certificate to that effect free of charge. Payment of last rate to be shown before transfer.

No. 33—1909.

Notice to Registrar of Deeds of rates fixed by Council.

100. The Secretary of the Council shall immediately after the making of any rate by the Council transmit to the Registrar of Deeds a written notice showing the date upon which the rate becomes due, and until receipt by the Registrar of Deeds of such notice the rate of which notice has last been received by him shall for the purposes of the preceding section be taken to be the rate last due.

K.—GENERAL.

Governor's power to confer certain powers under "Public Health Amendment Act, 1897."

101. Whenever it shall be shown to the satisfaction of the Governor, in respect of any area within the division not included within the jurisdiction of any Municipality or Board of Management under the Villages Management Act, 1881, that by reason of the density of the population of such area, and its sanitary condition and requirements the Council should be vested with powers and duties of an Urban Local Authority, it shall be lawful for the Governor, by proclamation, to confer or impose upon such Council, in respect of such area, all or any of the powers and duties of an "Urban Local Authority," under the provisions of "The Public Health Amendment Act, 1897," including those of the making, altering or revoking of regulations, and the levying, in accordance with the provisions of the said Act, of a special rate or rates upon such area: Provided that such rate or rates shall not exceed in any one year the sum of 2d. in the pound upon the value of all rateable property situated within such area: And provided further that the Governor may by any subsequent proclamation alter, amend or annul any proclamation made under this section.

Sanitary control of property adjoining urban areas.

102. Any property adjoining any Municipal area or area under a Board of Management under the "Villages Management Act, 1881," or proclaimed under section one hundred and one of this Act may by the Governor be declared by proclamation to be subject to such regulations made by the Council under this Act as the Minister may after due inquiry deem to be necessary for the preservation of the public health in such adjoining area: Provided always that nothing herein contained shall be deemed to render the owner or occupier of any such property liable to the payment of any rate leviable under section one hundred and one of this Act.

Existing regulations to continue in force (without Municipalities) till changed.

103. The rules and regulations of the Cape Divisional Council framed under "The Divisional Councils Act, 1889," or any other Act as existing at the commencement of this Act shall, in so far as the same are not contrary to law or repugnant to or inconsistent with the true meaning and intent of this Act, remain as legal, valid and effectual within the Division, but without any Municipality situate therein as if this Act had not been passed until such time as the same shall have been repealed by the Governor or altered by the Council in due form of law: Provided that the Council may from time to time repeal, alter,

add to or amend any of such rules and regulations aforesaid, proceeding under and subject to the provisions of this Act.

No. 33 1909.

104. The Council may from time to time, subject to the provisions of section one hundred and five make, alter, revoke or amend regulations for all or any of the following purposes: Provided that regulations framed under any of the sub-clauses (2) to (18), inclusive, shall not be in force or apply within the limits of any Municipality and under sub-clauses (3) to (7) inclusive shall not be in force in or apply to the area under the jurisdiction of any Board of Management established under the "Villages Management Act, 1881." And provided further that any regulation framed under any of the sub-clauses (3), (4) and (7) shall not apply to any owner or occupier of property not within the limits of any area proclaimed under section one hundred and one of this Act or proclaimed under section one hundred and two of this Act unless written notice thereof of not less than one month shall have been given to such owner or occupier, and always provided that if any such owner or occupier shall object thereto such regulation shall not be applied until the sanction of the Minister after due inquiry shall have been given thereto

Purposes for which regulations may be made: two classes.

- (1) For regulating the proceedings of the Council and the duties of its officers and servants and for preserving order at meetings of the Council.
- (2) For preventing injury to any dams or the pollution of any water over which the Council may have control, and for regulating or preventing the public washing of clothes and other articles, and for establishing or appointing public washing places.
- (3) For the suppression of nuisances and for the preservation of the public health.
- (4) For compelling residents to keep their premises free from offensive, infectious or unwholesome matters.
- (5) For regulating and restricting the killing of animals, the meat of which is intended for sale, the sale of butcher's meat, the establishment, locality and supervision of slaughter-houses, and the disposal of the waste products of slaughtering.
- (6) For regulating, licensing and inspecting dairies and their appurtenances, in which milk or any product thereof is prepared or kept for sale, and for the inspection of any meat, milk, fruit, vegetables or any article, whether liquid or solid, intended for sale as food for man, and for preventing the sale or exposure, or preparation for sale, of any such as are unsound or dangerous to health.
- (7) For preventing the overcrowding and the unhealthy use of dwellings.

No. 33—1909.

- (8) For planting and preserving trees and shrubs in public places and preventing injury thereto.
- (9) For regulating the use of and generally controlling out-span places.
- (10) For regulating and controlling the use in all public roads of all wagons, carriages, carts and other vehicles drawn by horses or other animals, and of all traction engines, motor cars or other vehicles drawn or propelled by steam, electricity, air, oil or other mechanical power other than railway locomotives, and for licensing, when kept within any portion of the Division without the limits of any Municipality, traction engines, motor cars or other vehicles drawn or propelled by steam, electricity, air, oil or other mechanical power, and for fixing the amount to be paid in respect of such licences.
- (11) For regulating traffic upon, over or in, and preventing injury to roads, bridges, pontoons, ferry boats, or any other property, movable or immovable, vested in the Council.
- (12) For regulating the conditions and manner of construction or extension and the keeping in repair and paving of tramway and railway lines running over public roads, and the keeping in repair and paving by tramway and railway companies and owners of tramcars and railways of the roadway between and adjacent to their rails, and for compelling the watering of such railway and tramway tracks.
- (13) For the more effectual eradication or destruction or prevention of the spread from adjoining divisions of *Xanthium Spinosum* or any other noxious weed or plant.
- (14) For the prevention of destructive bush fires.
- (15) For the destruction of such vermin as may be proclaimed by the Governor to be by its prevalence in the Division a cause of injury to the interests of the inhabitants and for rewarding persons for the destruction of the same.
- (16) For regulating the giving of notices and the deposit for the approval of the Council of plans by persons intending to subdivide for building purposes any estate, and to provide power to prescribe the width and direction and manner of construction and drainage of all new streets thereon.
- (17) For regulating and preventing the exhibition of public advertisements.
- (18) Generally for giving effect to and for the better carrying out of this Act.

105. After any resolution of the Council passing any regulation under the last preceding section has been agreed to a copy of such regulation shall be posted at the Council's office and a

Notice respecting new regulations —

notice shall be published for not less than three weeks in two or more local newspapers calling attention thereto and thereafter such regulation shall be submitted, with any objections raised thereto, for the approval of the Governor, and, if approved, shall be published in the *Gazette* and thereupon shall have the force of law in the area under the jurisdiction of the Council: Provided that the Council may, subject to the approval of the Governor, resolve that any such regulation shall apply only to such area or areas under its jurisdiction as are expressly specified by it: And provided further, that every such regulation may be repealed by the Governor.

No. 33—1909.
Governor's approval—publication—restricted operation.

106. A copy of the *Gazette* containing any regulation shall be evidence of the due making of such a regulation and of the contents thereof.

Evidence of regulations.

107. In framing any regulation the Council may prescribe the time within which any works or things required to be done shall be executed, done or completed, and may provide, in case of default, for the execution, doing or completion by the Council of any such work or thing at the expense of the defaulter.

Power of Council to fix time for carrying out of its requirements.

108. Any regulation made under this Act may impose a penalty for any breach thereof and may also impose different penalties in case of successive breaches, but no penalty shall exceed twenty pounds.

Penalties for breach of regulations.

109. In respect of any roads transferred under this Act to a Municipality such Municipality shall in respect of such roads be vested with and shall have and may exercise all or any of the rights and powers of a "road authority" under the Southern Suburbs of Cape Town Tramway Act No. 29 of 1896.

Powers of "road authority" vested in Municipality.

110. Whenever by this Act it is required that any notice or thing shall be published in newspapers circulating in the Division, such notice or thing shall be published both in English in a newspaper published in English, and in Dutch in a newspaper published in Dutch.

Notices to be published in English and Dutch.

111. (a) On and after the taking effect of this Act the whole of any amount contributable to the funds of the School Board of the Cape Division by the Divisional Council of the said Division in terms of the School Board Act, 1905, and any amending Act, shall be payable by the Council and the several Municipalities in the Division in proportion to the rateable value of the property included in their respective areas, and the amounts so payable by each of the said bodies shall be assessed and notified to it by the Controller and Auditor-General, and if not paid within three months of the receipt of such notification, the said Council may proceed to recover the same from any body in default by action in any competent Court, and the School Board member nominated on the said School Board under the provisions of "The School Board Amendment Act, 1908," shall be nominated by the Council.

Deficiency on income of School Board of Cape Division—how payable.

No. 33-1909.

Power to levy and collect a rate for the purpose.

(b) Any contribution towards the funds of the School Board of the Cape Division payable by the Council or by any Municipality in terms of this section may be raised by such Council or Municipality by means of a special rate, which, in the case of such Council, shall be levied and collected outside the area of any Municipality in the same manner and subject to the same conditions as any rate is authorized to be levied and collected for School Board purposes by a Divisional Council in terms of the School Board Act, 1905, or any amendment thereof, and, in the case of a Municipality, shall be levied and collected in the same manner and subject to the same conditions as any rate is authorized to be levied and collected for School Board purposes by a Municipality in terms of the said Act or any amendment thereof.

Contributions due to Colonial Government.

112. (a) Whenever the current valuation roll of any Municipality upon the basis of which any contribution due by such Municipality to the Council in aid of roads or for School Board purposes is calculated, embraces property belonging to the Crown, which, under the provisions of sections eighty-two and eighty-three of this Act would not be rateable by the Council were it situated within any part of the division outside the limits of a Municipality, then from the amount of such contribution there shall be deducted by the Municipality and paid by the Municipality to the Colonial Government a sum bearing the same proportion to the total amount of the contribution as the rateable value of such property belonging to the Crown bears to the total value of the rateable property within the Municipality appearing upon the valuation roll upon the basis upon which the contribution has been calculated, and the sum to be paid by the Municipality to the Council shall be decreased accordingly.

Crown property exempt from rates.

(b) Whenever, in order to meet any contribution due to the Council in aid of roads or for School Board purposes a special rate is levied by any Municipality, such rate shall not be levied upon, or in respect of, any property belonging to the Crown which, under the provisions of sections eighty-two and eighty-three of this Act, would not be rateable by the Council were it situated within any part of the division outside the limits of a Municipality.

Governor may vary dates specified in Act to meet special conditions of first year of operation.

113. Whenever in this Act it is provided that the Council should perform any duty or anything shall be done or come into operation within a time or upon a date specified therein such time or date shall in respect of the year of coming into operation of this Act be the time or date to be fixed and determined by the Governor, and the provisions of this Act shall thereupon apply *mutatis mutandis* as if the time or date so fixed and determined was the time or date specified in this Act.

Short Title.

114. This Act may be cited for all purposes as "The Rural Council (Cape Division) Act, 1909."

SCHEDULE A.
(Repealed Provisions).

No. 33—1909.
Schedule A.

The following portions of the "Divisional Councils Act, 1889," viz. :—

Division II.—Parts 1, 3, 4, 5 (the whole).

Part 7 (section eighty-three).

Part 9 (sections eighty-five to eighty-eight inclusive).

Part 10 (sections one hundred and one and one hundred and two).

Part 11 (sections one hundred and seven to one hundred and twenty-three inclusive.)

Division III.—Sub-Division I.

Part 7 (the whole).

Part 9 (sections two hundred and two and two hundred and three).

Sub-Division VIII.—(the whole).

Sub-Division IX.—(the whole).

SCHEDULE B.

Schedule B.

CAPE RURAL COUNCIL.

The voters in the several Rural Council Districts in the Cape Division are hereby invited to nominate, in writing, candidates for the representation of such Districts, respectively, in the Rural Council at the ensuing election. Every candidate must be nominated by not fewer than five persons entitled to vote for the District, or otherwise his nomination will be null and void. In the..... District, which is entitled to return..... members, each candidate must be nominated separately by not fewer than five voters. No voter may sign more nominations than one in any District on pain of having his name erased from all the nominations in which it appears and considered as if never placed there. All nominations must be transmitted to the undersigned by the candidate nominated therein, with his acceptance thereof given under his own hand or that of his duly qualified agent not later than the.....day of.... 19... and every nomination received later than that day will be null and void. Every voter signing any such nomination must state his place of residence.

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

(Signed) A.B.,
Returning Officer.

5610 THE INFANT LIFE PROTECTION (AMENDMENT)
ACT, 1909.

SCHEDULE C.

No. 33—1906.

Schedule C.

We, the undersigned, Voters for the.....District, do hereby nominate A. B. of.....in the Cape Division, to become a Councillor of the Rural Council for the said.....District. Dated this.....day of.....19....

Signed C.D.(name place of residence.)
E.F..... do.
G.H..... do.
I.J. do.
K.L. do.
&c., &c., &c.

No. 34—1909.]

[December 7, 1909.

ACT

To Amend the Laws relating to the Courts of
Resident Magistrate.

[Assented to 3rd December, 1909.]

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

Act No. 20 of 1856 amended. 1. From and after the taking effect of this Act section eight, sub-section (2), of Act No. 20 of 1856, as amended by Act No. 43 of 1885, shall be read as though the word "fifty" were substituted for the word "twenty" therein.

Further amended. 2. Section thirty-four of Act No. 20 of 1856 is hereby amended by the substitution of the word "fifty" for the words "forty" or "twenty" whenever the same appeared therein.

Short Title. 3. This Act shall be called "The Resident Magistrate's Court Amendment Act, 1909."

No. 35—1909.]

[December 7, 1909.

ACT

To Amend the Infant Life Protection Act, 1907,
and to make further provision for the
prevention of Cruelty to Children.

[Assented to 3rd December, 1909.]

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

1. The following proviso shall be added at the end of section eleven of Act No. 4 of 1907 :—

“ And provided further that the parent or parents satisfy the Magistrate that the said child is actually his, her or their child.”

2. Section fifteen of Act No. 4 of 1907 is hereby repealed and the following substituted :—

“ If any person who has the custody, charge or care of any child or young person under the age of sixteen years, wilfully assaults, ill-treats, neglects, abandons or exposes such child or young person, or causes or procures such child or young person injury to his health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), such person shall be deemed to be guilty of an offence against this Act, and shall, in addition to the penalties provided therefor, be liable to forfeiture of any reward received or to be received in respect of such infant ; and the said infant may, by order of the said Magistrate, be removed to the care, custody or control of some other person or persons or institution willing to receive and maintain such infant, as to the said Magistrate may seem meet, unless the parent or parents of such child shall within three days make suitable provision for the custody thereof, having first satisfied the said Magistrate that the said child is actually his, her or their child.”

3. For the purposes of the last preceding section a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if he fails to provide adequate food, clothing, medical aid or lodging for the child or young person, or if, being unable otherwise to provide such food, clothing, medical aid or lodging, he fails to procure the same to be provided under the terms of any act, regulations or instructions relating to the relief of the poor.

4. The following proviso shall be added to section twenty of Act No. 4 of 1907 :—

“ Provided that the parent or parents shall satisfy the Magistrate that the said child is actually his, her or their child.”

5. If any person causes or procures any child or young person under the age of sixteen years or having the custody, charge or care of a child or young person under the age of sixteen years, to be in any street, premises or place for the purpose of begging or receiving alms, whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise, such person shall be deemed to be guilty of an offence under this Act. Provided that this section shall not apply to any collection made for or by any recognised charitable institution.

6. A local education authority may direct their medical officer or any duly qualified medical man appointed by the said authority for the purpose, to examine in any public elementary school established or maintained by the authority or elsewhere,

No. 35—1909.

Proof of
parentage.

Punishment
for cruelty to
children and
young per-
sons.

Definition
of neglect.

Proviso to
section twenty,
Act 4 of
1907.

Begging.

Cleansing of
verminous
children.

No. 35.—1909.

the person and clothing of any child attending the school, and if on examination the medical officer or medical man appointed as aforesaid is of opinion that the person or clothing of any such child is infected with vermin or is in a foul or filthy condition, or is the subject of any contagious disease, the local education authority may give notice in writing to the parent or guardian of, or other person liable to maintain the child requiring him to cleanse properly the person and clothing of the child within twenty-four hours after the receipt of such notice, save in the case of a child suffering from any contagious disease when a reasonable time shall be given for the cleansing of such child, such time to be fixed by the education authority. Should the person to whom such notice is given fail within the said time to comply therewith, the medical officer may cause the person and clothing of the said child to be properly cleansed in suitable premises and with suitable appliances and may if necessary for that purpose convey to such premises without any warrant other than this section and there detain the child until the cleansing is effected, or may direct suitable medical treatment to be carried into effect. Where, after the person or clothing of a child has been cleansed by a local education authority under this section, the parent or guardian of, or other person liable to maintain, the child, allows him to get into such a condition that it is again necessary to proceed under this section or fails to carry out the medical treatment directed the parent, guardian or other person shall be liable to a fine not exceeding ten shillings, or, in default of the payment of the said fine, to a term of imprisonment not exceeding seven days with or without hard labour. Any school board shall be held to be a local education authority within the meaning of this Act.

Governor
may frame
Regulations
and Ministers
may cause
inspection to
be made of
child's health.

7. The Governor may frame Regulations for the proper carrying out of any of the provisions of this Act or of Act No. 4 of 1907, and the Minister may, whenever he may deem fit, cause any inspection or inquiry to be made in order to ascertain the state of health of any child dealt with, or in connection with any matter or thing falling under this Act or Act No. 4 of 1907.

Penalty for
contravention
of Act.

8. The penalties for a contravention of this Act shall be those provided in section eighteen of Act No. 4 of 1907.

Short Title.

9. This Act may be cited as "The Infant Life Protection (Amendment) Act, 1909."

No. 36—1909.]

[December 7, 1909.]

ACT

To Amend the Glen Grey Act, 1894.

[Assented to 3rd December, 1909.]

Preamble.

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

1. Upon and after the first day of January, 1910, section forty-seven of the Glen Grey Act, 1894, shall stand amended in the following manner:—

No. 36—1909.
Section 47
of Glen Grey
Act, 1894,
amended.

- (a) By the deletion of the figure “(2)” where that figure appears after the word “sub-sections”; and
- (b) By the addition after the words “section three of this Act” of the words “and European holders of land granted under title issued prior to the date of the promulgation of this Act.”

2. This Act may be cited as the “Glen Grey Amendment Act, 1909.”

Short Title.

No. 37—1909.]

[December 7, 1909.

ACT

To Provide for and Regulate the Issue of Loans for or in respect of the Construction of Vermin-proof Dividing Fences.

[Assented to 3rd December, 1909.]

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

Preamble.

1. This Act shall be read as one with the Fencing Act No. 30 of 1883, and the Fencing Law Amendment Acts No. 15 of 1891 and No. 42 of 1905.

Interpretation.

2. For the purposes of this Act, and of the Fencing Law Amendment Act of 1905, the expression “vermin-proof” shall mean jackal-proof; and for the purposes of this Act the expression “fencing” or “dividing fence” shall unless the contrary intention appears mean dividing fence as defined in The Fencing Act, 1883.

Definitions.

3. Notwithstanding anything to the contrary contained in this or any other Act the provisions of the Fencing Act of 1883 as amended by Act No. 15 of 1891 regarding the contribution by occupiers of adjoining land towards the cost of dividing fences shall apply to such cost of a vermin-proof dividing fence as would have been incurred if the said fence had been a non-vermin-proof fence.

Provisions of Fencing Act of 1883, as amended by Act 15 of 1891, to apply in certain cases.

4. Out of such moneys as Parliament may from time to time provide, or authorize to be raised by way of loan, it shall be lawful to grant to the owners or occupiers of land, not being a Divisional Council, a Municipality, a Village Management Board or a District Council, loans for the purpose of erecting vermin-proof fencing or of converting fencing into vermin-proof fencing, and to such owners or occupiers of adjoining lands, not being a Divisional Council, a Municipality, a Village Management Board or a District Council, who have or may become liable to con-

Loans by Government to certain land owners and occupiers for construction of vermin-proof fencing, etc., authorized.

No. 37-1909.

Interest chargeable on, and manner of payment of loans.

How loan shall be secured.

Particulars required before a loan is granted.

Penalty for failure to complete fencing in respect of which a loan has been granted.

Maintenance and inspection of fencing where loan granted in respect thereof.

tribute towards the cost of any such fencing or any such conversion, loans for the purpose of making such contributions.

5. Every loan granted in terms of this Act shall bear interest at the rate of four and a-half per centum per annum, calculated from the time of payment of the last instalment, and shall be made in three instalments, the first before the work in respect of which it is made is commenced, and of sufficient amount to complete half the fencing, more or less; the second on the completion of half of such work and of sufficient amount to complete the fencing, more or less, and then only upon a certificate having been furnished by the officer appointed to inspect such work in accordance with section seven (b) of this Act to the effect that half of such work has been well and substantially done and that the style and construction of the work and the material used therein are in accordance with regulations framed under this Act; and the third, of which sufficient shall be retained to defray the expenses mentioned in section eight of this Act, on completion of the fencing, and every such loan shall form a preferent claim against the estate of the applicant and shall be secured by promissory note under the hand of the applicant in the form set forth in the first schedule to this Act and supported by two sufficient sureties who shall be bound jointly and severally and *in solidum*. Provided that if two persons co-operate to obtain a loan in terms of the fourth section of this Act, such promissory note shall be supported by one sufficient surety, and if more than two persons so co-operate it shall not be necessary for such promissory note to be supported by suretyship.

6. Before a loan in terms of this Act is granted the applicant therefor shall furnish the approximate length of the fencing proposed to be erected or converted, the estimated cost thereof, and the time within which it will be completed, and such applicant shall complete such erection or conversion within such time or within such extended period as the Secretary for Agriculture may approve of. In the event of the failure of the applicant to complete such fencing or conversion or to complete it within the time or the extended period stipulated it shall be lawful to obtain from the applicant or his sureties a refund of the unexpended portion of the loan; and for the purpose of ascertaining such unexpended portion the applicant shall furnish when called upon by the Secretary for Agriculture receipts as far as practicable of the expenditure incurred upon such fencing or conversion.

7. (a) Any fencing in respect of which a loan has been granted shall be maintained by the owner thereof in good and efficient order until the loan has been repaid in full; and in the event of the failure of the owner so to maintain such fencing it shall be lawful to obtain repayment from the owner or his sureties of the balance of the loan then outstanding.

- (b) It shall be lawful for the Secretary for Agriculture to cause any fencing in respect of which a loan has been granted to be inspected in the course of erection or conversion thereof, or upon its completion, or from time to time while any portion of the loan remains outstanding, and the owner of the land upon which such fencing exists shall permit such inspection at all reasonable times on production of written authorisation by the Secretary for Agriculture or on his behalf; and anyone refusing or obstructing or preventing such inspection after being shown such authorisation shall be liable to a fine not exceeding ten pounds sterling or, in default of payment of such fine, to imprisonment with or without hard labour for a period not exceeding one month.
8. All expenses (including preliminary interest) connected with any application for a loan under this Act, and of inspection of the fencing during the progress of the work or as soon as may be upon its completion shall be paid by the applicant and shall form a charge against such loan. Expenses of application for loans and inspections.
9. For the purpose of repayment of any loan granted under this Act, the provisions of section six of The Fencing Law Amendment Act, 1891, shall *mutatis mutandis* apply, as more particularly set forth in the second and third Schedules to this Act. Repayment.
10. For the purposes of this Act, the Governor may make regulations in respect of the following matters: Governor empowered to make regulations in respect of certain matters.
- (1) The form in which applications for loans are to be made.
 - (2) The style and construction of verminproof fencing and the materials which shall be used therefor.
 - (3) Generally for giving effect to the provisions of this Act.
11. Any person appropriating to any other purpose than the purpose for which the loan is granted any money borrowed under this Act shall be liable to a penalty not exceeding £500 or in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months. Penalty for misappropriating money borrowed under this Act.
12. No expenditure shall be incurred for any service provided for in this Act, until the Treasurer shall have notified under his hand that the funds for such service are available and until the regulations provided for in section ten of this Act, shall have been approved by the Governor and duly published in the *Gazette*. Expenditure under this Act controlled.
13. It shall be lawful for the Governor to apply any available balance of the loan of £25,000 for Jackal Proof Fencing authorized by section one of Act No. 27 of 1908, towards meeting applications for loans in terms of this Act. Balance under Act No 27 of 1908 may be applied.
14. This Act may be cited as "The Fencing Loans Act, 1909." Short Title.

FIRST SCHEDULE.

PROMISSORY NOTE.

No. 37-1909.
First Schedule.

I, the undersigned, promise jointly and severally to pay
 We the sum of £.....with interest thereon
 calculated at the rate of four and a half per centum per annum,
 in.....equal annual instalments
 commencing from the19....., in
 accordance with Schedule.....of Act No.....of 1909, in
 consideration of a loan of £.....granted
 to ^{me}_{us} under the Fencing Loans Act, 1909, for the purpose of
 erecting
 converting a fence into vermin-proof fencing under the provi-
 sions of the said Act.

Witnesses {
 {
 {

Place.....

Date.....

And I, the undersigned..... of
 we,do hereby
 jointly and severally bind ourselves for the due performance by
 the said.....and.....of the
 promise and agreement abovementioned, and in default thereof
 we assume full liability for all obligations devolving upon the
 said.....and.....in terms of the
 said promise and agreement, as sureties *in solidum* and co-prin-
 cipals according to law renouncing the benefits *ordinis seu excus-*
sionis et divisionis with the force and effect of which we are
 fully acquainted and every other benefit of which we might
 otherwise avail ourselves.

Witnesses

Place.....

Date.....

SECOND SCHEDULE.

No. 37—1907.
Second
Schedule.

Table of equal instalments payable at the end of each year for five years, corresponding to amounts payable under the ninth section of this Act and the sixth section of "The Fencing Law Amendment Act, 1891."

Amount payable.		Equivalent amounts payable at the end of each year for five years.		
£		£	s.	d.
1	...	0	4	7
2	...	0	9	2
3	...	0	13	8
4	...	0	18	3
5	...	1	2	10
6	...	1	7	4
7	...	1	11	11
8	...	1	16	6
9	...	2	1	0
10	...	2	5	7
20	...	4	11	2
30	...	6	16	8
40	...	9	2	3
50	...	11	7	10
60	...	13	13	5
70	...	15	18	11
80	...	18	4	6
100	...	22	15	7

Yearly instalments for any sum not mentioned in the table, such as £89 6s. 8d., may be obtained as follows:—

£80	gives	...	£18	4	6
9	"	...	2	1	0
0 6 8	"	...	0	1	6

Therefore £89 6 8 gives ... £20 7 0

THIRD SCHEDULE.

No. 37—1909.

Third Schedule.

Table of equal instalments payable at the end of each year for ten years, corresponding to amounts payable under the ninth section of this Act and the sixth section of "The Fencing Law Amendment Act, 1891."

Amount payable.		Equivalent amounts payable at the end of each year for ten years.		
£		£	s.	d.
1	...	0	2	7
2	...	0	5	1
3	...	0	7	7
4	...	0	10	2
5	...	0	12	8
6	...	0	15	2
7	...	0	17	9
8	...	1	0	3
9	...	1	2	9
10	...	1	5	4
20	...	2	10	7
30	...	3	15	10
40	...	5	1	2
50	...	6	6	5
60	...	7	11	8
70	...	8	17	0
80	...	10	2	3
90	...	11	7	7
100	...	12	12	9
200	...	25	5	6
300	...	37	18	3
400	...	50	11	1
500	...	63	3	10
600	...	75	16	7
700	...	88	9	4
800	...	101	2	1
900	...	113	14	10
1,000	...	126	7	7
2,000	...	252	15	2
3,000	...	379	2	9
4,000	...	505	10	4
5,000	...	631	17	11

Yearly instalments for any sum not mentioned in this Table, such as £1,274 5s. 0d. may be obtained as follows:—

£1,000 gives	...	£126	7	7
200 „	...	25	5	6
70 „	...	8	17	0
4 „	...	0	10	2
and 5s. or $\frac{1}{4}$ of £1 gives	...	0	0	7

Therefore £1,274 5s. 0d. gives £161 0 10

No. 38—1909.]

[December 7, 1909.]

ACT

To Make further Provision for the Leasing of
Public Outspans.

[Assented to 3rd December, 1909.]

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

Preamble.

1. Notwithstanding anything to the contrary contained in the Divisional Councils Act No. 40 of 1889 or any other law it shall be lawful for any Divisional Council, with the consent of the Governor to let the whole or any portion of any outspan on Crown land over which it has control, subject to such conditions as to the right of grazing on the portion let, or on the remainder (if any) of the outspan, as the Divisional Council with the approval of the Governor may determine ; and subject further to such other conditions as to the cultivation of the land, the right to compensation for improvements, the watering of stock, the erection of buildings, and the like, as such Council may similarly determine ; provided that before submitting any application and conditions for the Governor's approval, notice thereof shall be given in the newspapers in which the notices of such Council are usually published, for one month, and if any objections be made such objections shall be forwarded to the Governor with the Council's remarks thereon. No such letting shall be for a period longer than seven years.

Leasing of
Public Out-
spans.

2. The Government shall not be liable to either the lessee or the Divisional Council for payment of compensation for improvements effected on any outspan during any lease entered into under the provisions of this Act save as provided in section four of this Act.

Government
not liable in
certain cases.

3. The proceeds of any lease under the provisions of section two hundred and seven of Act No. 40 of 1889 or of this Act shall from and after the 1st of January, 1910, be applied to improvements on or other expenses in connection with outspans, and in the event of a Divisional Council not requiring the proceeds of such lease for such purpose the lease rent so accruing shall be paid into the revenue of the Colony.

Proceeds of
lease for im-
provements.

4. The Government shall have the right to terminate any outspan lease which may in future be effected under the provisions of section two hundred and seven of Act No. 40 of 1889, or of this Act, upon six months' notice given to the Divisional Council, in case the land is required for public purposes, provided that compensation be paid to the lessee at a valuation to be fixed

Government
to determine
right to ter-
minate lease.

No. 38—1909 by the Government for any permanent improvements erected in accordance with the provisions of and during the currency of such lease and prior to the date of such notice.

Certain provisions of Act 13 of 1906, to apply. 5. The provisions of section seven, sub-sections (b) and (d) of Act No. 13 of 1906, shall, *mutatis mutandis*, apply to every lease under this Act.

Short Title. 6. This Act may be cited as "The Leasing of Outspans Act, 1909."

No. 39—1909.]

[December 3, 1909.

ACT

To Apply a sum of Money for the Service of the Year ending 30th June, 1910.

[Assented to 3rd December, 1909.]

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

Public Revenue to be charged with £2,729,016. 1. The public revenue of the Colony is hereby charged towards the service of the year ending the 30th June, 1910, with a Sum of Two Million, Seven Hundred and Twenty-Nine Thousand and Sixteen Pounds Sterling, in addition to the Sum of Three Million, Five Hundred Thousand Pounds Sterling, provided for by Acts No. 2 of 1909, and No. 6 of 1909.

How to be applied. 2. The Money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto, and more particularly specified and set forth in the Estimates and Supplementary Estimates of the Expenditure (G.26—'09 Second Print, and G.48—'09) for the Year ending 30th June, 1910, with the notes to such Estimates, submitted to and approved by Parliament.

Not to be applied except as granted. 3. The said aids and supplies shall not be issued or applied to any use, intent or purpose other than the particular services to which the said amounts have been granted respectively by this Act, and the aforesaid Schedule, Estimates and Supplementary Estimates.

Short Title. 4. This Act may be cited for all purposes as the "1909—1910 Appropriation Act, 1909."

SCHEDULE.

No 39—1906.
Schedule.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishment.	Services exclusive of establishments.	Total	Required to be provided for.
I. Ministerial Department of Prime Minister ...	£ 113,242	£ 42,185	£ 155,427	£ 150,427
II. Ministerial Department of Colonial Secretary	347,740	932,359	1,280,099	1,275,571
III. Ministerial Department of Treasurer... ..	543,859	2,791,504	3,335,363	1,160,853
IV. Ministerial Department of Attorney-General	538,410	95,411	633,821	614,821
V. Ministerial Department of Commissioner of Public Works ...	35,750	117,661	153,411	151,911
VI. Ministerial Department of Secretary for Agriculture	140,262	127,611	267,873	266,373
	1,719,263	4,106,731	5,825,994	3,619,956
Railways, excluding charges for Relaying and Re-grading and Strengthening of Bridges ...	289,034	1,920,697	2,209,731	2,191,731
Railways, Relaying and Re-grading and Strengthening of Bridges ...	...	50,000	50,000	50,000
Harbours	51,904	315,425	367,329	367,329
	2,060,201	6,392,853	8,453,054	6,229,016
Less amount provided for by Act No. 2 of 1909, and No. 6 of 1909 ...	...	...	...	3,500,000
Total required to be voted ...	...	...	...	2,729,016

No. 40—1909.]

[December 7, 1909.]

ACT

To Amend the Irrigation Act, 1906.

[Assented to 3rd December, 1909.]

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

Preamble.

1. The sixth section of the Irrigation Act, 1906, shall be read as if the following words had been originally inserted after the word "riparian" in the third line thereof: "and he shall moreover be entitled to impound and store, for purposes of irrigation, a reasonable share of such water as there may be in excess of the normal flow of such stream: the normal flow to be determined in each case by the Water Court concerned in accordance with regulations.

Act No. 32
of 1906 amended.

No. 40—1909.

Riparian proprietor not deprived of certain rights

2. Nothing in this Act or in the Act No. 32 of 1906 contained, shall be deemed to deprive any riparian proprietor along a perennial stream of any right to impound and store for the purpose of irrigation so much of the normal flow of such perennial stream as he is, or may be entitled to by virtue of a lawful distribution.

Impounding of water by riparian owner.

3. Subject to all existing rights, every riparian owner upon a perennial stream shall further be entitled to apply to the Water Court concerned for permission to impound or store for the generation of power or for industrial or mining purposes a reasonable share of such water as there shall be in excess of the normal flow of such stream, and the Water Court may grant permits for such use of water subject to regulations and to the provisions to this Act and to Act No. 32 of 1906, and shall determine the amount of water which may be thus stored.

Approval of regulations.

4. All regulations proclaimed under this Act shall be approved by the Supreme Court or by both Houses of Parliament.

Short Title.

5. This Act may be cited as "The Irrigation Act Amendment Act, 1909."

No. 41—1909.]

[December 7, 1909.]

ACT

To Provide for the payment on retirement of Pension Allowances, and other benefits to persons in the employment of the Railway (including Harbours) Administration.

[Assented to 3rd December, 1909.]

Preamble.

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

DEFINITIONS.

Definitions.

1. In this Act, unless inconsistent with the context :

" Actuary " shall mean a Fellow of the Institute of Actuaries of London or of the Faculty of Actuaries in Scotland ;

" Employee " shall mean any person in the employment of the Administration who is remunerated by wages (with or without local or other allowance) calculated at a daily rate or in any other manner than annually, or whose position, irrespective of the manner in which the remuneration attached thereto is calculated, is declared by the Minister in regulations published not later than three months after the passing of this Act, to be one that shall ordinarily be filled by a person other than an officer ;

K 28.12

- “ Fixed date ” shall mean the date fixed by the Minister under section three as the date of the establishment of the Railway Superannuation Fund therein referred to ;
- “ General Manager ” shall mean the officer appointed to administer for the time being the Government Railways of the Cape of Good Hope ;
- “ Interest ” shall mean, in contradistinction to compound interest, simple interest ;
- “ Joint Service ” shall mean the common service of the Administration and one or more other railway administrations of South Africa ;
- “ Medical practitioner ” shall mean a medical practitioner duly registered as such under the laws of the Cape of Good Hope ;
- “ Member ” shall mean any railway servant who is for the time being a contributor to the superannuation fund established under this Act ;
- “ Minister ” shall mean the Minister to whom the Governor has assigned the administration of this Act ;
- “ Officer ” shall mean any person in the employment of the Administration who is remunerated by salary calculated at an annual in contradistinction to a daily or other rate or to any form of remuneration other than an annual salary ; save and except as provided in the definition of the term “ employee ” ;
- “ Pension ” shall mean an annuity or gratuity (as the context may require) payable under this Act ;
- “ Pensionable emoluments ” shall mean the emoluments described in section fourteen as the emoluments on which contributions to the Fund shall be paid ;
- “ Prescribed ” shall mean as prescribed by this Act or by regulation, or by the Minister or any officer authorized under this Act or the regulations ;
- “ Railway servant ” shall include both an officer and an employee, irrespective of whether he is employed on railway work or on harbour work under the control of the Administration ;
- “ Regulation ” shall mean a regulation made and in force under the provisions of this Act ;
- “ Revenue ” shall mean the Public Revenue of the Colony of the Cape of Good Hope ;
- “ Salary ” shall mean the annual pay of an officer and shall include any special or personal allowance attached to a particular office if such allowance when granted be specially declared to be part of pensionable emoluments ;
- “ Temporary railway servant ” shall mean a railway servant holding an office or post prescribed by the Minister as temporary :

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- “The Administration” shall mean the Railway Administration of the Cape Government Railways and such Harbours as are controlled thereby ;
- “The Fund” shall mean the superannuation fund established under this Act, and shall include all moneys which, under this Act or any amendment thereof or the regulations, form part of or are due to such fund ;
- “The Service” shall mean the system of employment of persons by the Administration in the discharge of duties in a department or office thereof ;
- “Wages” shall mean the pay of an employee.

CESSATION OF RIGHT TO CONTRIBUTE TO CIVIL SERVICE PENSION FUND, OR TO BE ADMITTED TO THE FIXED ESTABLISHMENT. WIDOWS' PENSION FUND.

Cessation of right to contribute to Civil Service Pension Fund

Members to contribute to Widows' Pension Fund.

New entrants not admitted to Fixed Establishment.

Establishment of Superannuation Fund.

2. (1) Notwithstanding anything to the contrary contained in the Civil Service and Pensions Funds Act, 1895, or any other law, on and after the fixed date it shall not be competent for a railway servant to become a contributor to the Civil Service Pension Fund ; provided that notwithstanding this condition members shall be required to contribute to the Public Service Widows' Pension Fund on their pensionable emoluments as defined in this Act from the date during their membership on which their pensionable emoluments amount to not less than £100 per annum ; provided further that members shall pay on arrear contributions simple interest at the rate of four per centum per annum.
- (2) Notwithstanding anything to the contrary contained in the Civil Service and Pensions Funds Act, 1895, any entrant to the Service after the fixed date shall not be entitled to be admitted to the Fixed Establishment of the Colony.

CONSTITUTION OF SUPERANNUATION FUND.

3. (1) A Fund to be known as “The Railway Superannuation Fund,” shall be established and exist for the payment, subject to the provisions of this Act, of pensions :—
- (a) To officers and employees already in or hereafter admitted to the Service or already in or hereafter entering Joint Service, who may under this Act become and continue contributors to the Fund ; or
- (b) To their representatives at death.
- (2) The Fund shall be established as from a date to be notified by the Minister in the *Government Gazette* of the Cape of Good Hope.
- (3) The Fund shall be formed and maintained by means of contributions by the members thereof and by the Government in accordance with the provisions hereinafter contained.

4. (1) There shall be two divisions of the Fund according to the class of railway servants who are members thereof, namely :
- No. 41—1909.
Division of Fund according to class of contributors.
- Division I.—For officers.
Division II.—For employees.
- (2) Any member transferred from one division to the other shall rank for pension as if he had originally entered the division to which he is transferred.

5. The Minister may from time to time determine the manner in which the Fund shall be administered and, if he thinks fit, constitute by regulation a Committee of Management consisting of representatives of the Administration and of the members, and may confer upon such committee such powers with regard to the investment of the balances of the Fund under the authority of the Minister, and the claims made upon the Fund, and such other powers by this Act vested in the General Manager as he may think fit.

Management of the Fund.

6. If the Minister shall agree with one or more of the British South African Railway Administrations that the Fund be amalgamated with the superannuation funds of such other Administration or converted into a joint fund for the staff of such administration or administrations, as well as for the railway servants the Minister may make arrangements with the governing body of any such other administration or administrations with regard to the control and management of the Fund, the apportionment of the liabilities of the governing bodies in any such joint fund in respect of interest, management, and other charges and any other questions which may arise out of the amalgamation or conversion of the fund into a joint fund; provided that no such amalgamation or conversion shall be deemed to affect the provisions of this Act in respect of contributions to or pensions from the Fund.

Amalgamation of Fund with other funds

MEMBERSHIP OF FUND.

7. (1) Membership of the Fund shall be optional in the case of railway servants in the employment of the Administration on the fixed date and shall, save as is provided in sub-sections (4) and (5) of this section, be obligatory in the case of those admitted to permanent employment after that date; provided that
- Membership of the Fund.
- (a) unskilled labourers and such other railway servants (not being persons in permanent employment of the Administration) whom the Minister shall decide not to admit as members;
- (b) temporary railway servants or railway servants temporarily employed in a position which is not prescribed as temporary or engaged for a fixed period of employment, unless subsequently taken into permanent employment;

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- (c) female railway servants subject to the provisions of section thirty-seven; shall not be eligible for membership of the Fund.
- (2) Any railway servant whose membership of the Fund is under this section optional and who desires to become a member, shall give written notice to the General Manager of his intention, within six months after the fixed date, and shall thereupon become liable for the payment of contributions, as provided in this Act. Unless he shall give such notice within such period he shall thereafter be ineligible for membership of the Fund.
- (3) If a temporary railway servant or a railway servant temporarily employed in a position which is not prescribed as temporary be appointed to permanent employment he shall become a member of the Fund, and shall be entitled to antedate his membership to the date of his temporary appointment which immediately precedes, without break of service, his appointment to permanent employment: Provided that he pays contributions for the period of his temporary employment with compound interest thereon at the rate of four per cent. per annum, calculated quarterly.
- (4) Any railway servant appointed to permanent employment after the fixed date, if his age on appointment to such employment was forty years or over, shall, subject to the terms of the next succeeding sub-section, have the option of becoming a member of the Fund, but it shall not be obligatory upon him to do so.
- (5) No railway servant in permanent employment at the fixed date or thereafter appointed to permanent employment shall, if his age be fifty years or over, be permitted to become a member without the special sanction of the Minister.
- (6) Any railway servant who at the time of the passing of this Act is a contributor to the Civil Service Pension Fund shall within six months after the fixed date be entitled to elect whether he shall continue his contributions to such Pension Fund or become a contributor to the Superannuation Fund, and in the latter case his contributions to the Civil Service Pension Fund together with such contributions in respect thereof as have been made by Government on the pound for pound principle, plus interest at the rate of £3 15s. 0d. per centum per annum in respect of the total contributions made by the contributor and the Government shall be paid over to the Superannuation Fund.
- (7) Contributors to the Civil Service Pension Fund shall not be entitled to become contributors to the Railway Superannuation Fund save and except as provided for in this Act.

- Option of contributor to Civil Service Pension Fund to join Superannuation Fund.

8. In the case of members who are transferred with the approval of the Minister to or from the Joint Service the following provisions shall apply :—
- (a) If the transfer be from the Service to Joint Service, the member transferred may remain a member subject to the provisions of sub-section (2) of section ten.
- (b) If the transfer be from Joint Service to the Service, and a person transferred is a member of the Fund and is not a contributor to any other superannuation fund he shall, on such transfer, be treated as if he had been in the Service during the whole period of his membership.
- (c) If a person in Joint Service is a contributor to a pension fund of another administration he shall, if he is transferred to the Service, be required to contribute to the Fund in accordance with this Act as and from the date of the transfer.
9. Subject to the provisions of section thirty-six a member who, with the consent of the Minister, is transferred to any railway or other service, whether British or Foreign, shall not be allowed to continue his contributions to the Fund.

No. 41—1909.
 Special provision for membership in case of persons transferred to or from Joint Service.
 Special provision as to persons transferred to other services.

CONTRIBUTIONS.

10. (1) Every member shall contribute to the Fund, so long as he remains in the Service, at the rate of three per cent. per annum on his pensionable emoluments.
- (2) In addition to the contribution at the rate provided in sub-section (1) a member transferred to the Joint Service shall be required as a condition of remaining a member of the Fund to make good thereto the contributions and interest (if any) which would otherwise be paid by the Government to the Fund, on such proportion of his pensionable emoluments as may be chargeable against any other South African Railway Administration or any portion of such proportion which the other Administration shall not agree to contribute to the Fund.
- (3) A member whose age on entering permanent employment was thirty years or over may, within six months after the date of his first contribution to the Fund, elect to make additional contributions at the rate of one-half per cent. or any multiple thereof of his pensionable emoluments; provided that the additional contributions shall not exceed two per cent. of such emoluments.
11. (1) In the case of all railway servants becoming members after the fixed date contributions to the Fund shall commence from the date of appointment to permanent employment: provided that employment on probation may be reckoned in the period of membership if contributions are paid in respect thereof together with com-

Rate of contributions by members.
 When contributions commence.

No. 41—1909.

pond interest at four per cent. per annum calculated quarterly upon such contributions as are in arrear.

- (2) A railway servant who, being in the Service at the fixed date, elects to become a member of the Fund, shall have the option of dating his contributions other than additional contributions from any date from and after the first date of his existing continuous service (but in no case earlier than the date on which he shall have attained the age of seventeen years, or earlier than the 1st July, 1886), up to and including the fixed date.
- (3) For the purpose of this Act any railway servant's period of employment under the Harbour Boards of Table Bay, Port Elizabeth or East London, or, if and when the control of the Harbour at Mossel Bay is taken over by the Colonial Government, under the Harbour Board of Mossel Bay, may be reckoned as part of his continuous service, provided there is no break in such service.
- (4) Any person desiring to antedate his membership shall notify his intention to the General Manager within six months after the fixed date and indicate what period of his past continuous period of employment he desires to have reckoned for purposes of pension. The Minister shall decide whether or not such period may be reckoned as continuous employment for pension purposes.
- (5) Notwithstanding anything in this Act contained, if any railway servant who has before entering the Service relinquished employment with any other Administration or Government in South Africa, shall allege to the Minister that owing to the circumstances of his case hardship would be caused if he were not allowed to treat such employment as continuous for pension purposes with his employment under the Administration and to contribute to the Fund in respect of it, the Minister shall examine his claim, and shall decide whether to admit it, and if so, upon what terms.

12. (1) Whenever, under the last preceding section, membership of the Fund is antedated the member shall be required to pay arrear contributions at the rate of three per cent. on the pensionable emoluments drawn by him during the period to be covered, and there shall be paid from Revenue on his behalf, in respect of the period before the fixed date, compound interest on such arrears at the rate of five per cent. per annum as from the date to which membership of the Fund has been antedated up to the fixed date. In respect of the period from the fixed date up to the date or dates when the payments on account of such arrears are actually made compound interest at the rate of four per cent. per annum calculated quarterly shall be paid by the member.

Arrears of
contributions
and interest
thereon.

- (2) Whenever under the last preceding section membership of the Fund is antedated the member, if he has elected to make additional contributions under sub-section (3) of section ten, shall be entitled to make such contributions in respect of his antedated membership for such period of his continuous pensionable employment after he was thirty years of age or more, as he may desire and as the Minister may approve, but compound interest on such arrears as aforesaid, whether before or after the fixed date, shall be paid by the member.
- (3) Arrears of contributions and interest may be paid by such instalments as the Minister shall determine, but so that a member's total contributions other than additional contributions do not exceed six per cent. of a member's pensionable emoluments unless he so desires; and any instalments paid by a member shall be regarded as applying to the period immediately preceding the period for which contributions have been made by him to the Fund (as the case may be). Upon completing the payment of arrear instalments, as aforesaid, in respect of the pensionable emoluments of the respective years and months preceding his admission to membership, the member shall have a corresponding number of years and months added to his membership, but no such addition shall be made in respect of any period of less than one month; nor shall any person be entitled to any benefits from the Fund in respect of any period for which there has been no specific contribution by him or on his behalf. The cost of any additional benefits granted shall be met by funds voted by Parliament for the purpose.
- (4) If the Minister shall admit any such case as is referred to in sub-section (5) of section eleven, there shall be paid to the Fund by the railway servant arrear contributions at the rate of six per cent. per annum of his pensionable emoluments and from Revenue compound interest at the rate of five per cent. per annum in so far as the other Government or Administration previously employing him shall not agree to pay the whole or any part of such contributions and interest.

13. All contributions to the Fund (including arrear contributions and any additional contributions made under sub-section (3) of section ten) shall be made by deductions from the salary or wages (as the case may be) of the member or in such other manner as may be prescribed by the Minister.

Contributions to be deducted from salaries or wages.

14. (1) The pensionable emoluments on which contributions to the Fund shall be paid shall be as follows:

Pensionable emoluments on which contributions shall be made and shall not be made.

- (a) Salary or wages.
- (b) The estimated value of quarters, whether belonging to the Administration or not, whenever the member

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is allowed to occupy them free of rent, as a portion of his emoluments.

(c) Any allowance granted in lieu of the provision of free quarters.

(d) The assessed value of rations which form a portion of a member's emoluments.

Provided that in the case of an artizan or other member who by reason of the conditions of his employment draws consolidated wages, the Minister may prescribe that for the purpose of calculating his pensionable emoluments such deduction shall be made from his consolidated wages (including remuneration for piecework) as may be necessary to secure uniformity of treatment with other classes of employees.

(2) Contributions to the Fund shall not be payable on the following emoluments, nor shall such emoluments be taken into account in determining the pension payable to any member :

(1) Payments for overtime (except overtime payments to drivers, firemen and guards who are employed on the trip system).

(2) Allowances of whatever character other than those specified in paragraphs (c) and (d) of sub-section (1).

(3) Fees, honoraria and bonuses of any kind.

Contributions of members on leave.

15. (1) A member shall continue to contribute to the Fund while on leave with full pay, and, if he is on half pay leave, his contributions shall be payable on his full pensionable emoluments and not on the half-pay actually drawn. In respect of a period of leave without pay no contribution shall be made, and such period shall be excluded from his period of pensionable employment.

(2) A member shall continue to contribute to the Fund in the ordinary manner whilst absent on sick leave. If sick leave is granted with full or partial pay (whether paid by the Administration or out of a sick or other fund to which the Administration contributes) contributions shall be payable on the full pensionable emoluments which would have been drawn if the member had not been on sick leave. The provisions of sub-section (1) shall apply *mutatis mutandis* in respect of contributions while on sick leave without pay.

Contributions from Revenue.

16. As from the fixed date there shall be paid to the Fund from Revenue on the thirty-first day of March, thirtieth day of June, thirtieth day of September, and the thirty-first day of December of each year a sum equal to the aggregate of the amounts, whether of principal or interest, which shall during the preceding quarter have been paid into the Fund by members or from Revenue under sub-section (1) of section twelve on behalf of members.

BENEFITS.

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17. Any annuity payable by the Fund under this Act shall be based on the average pensionable emoluments of each member for the whole period of his contributions, and shall vary according to the member's age, calculated as from his birthday nearest to the date from which he shall have made contributions. The tables set forth in the Schedule to this Act and marked I and II shall be deemed to show in the case of officers and employees respectively the percentage of such average pensionable emoluments which shall be payable as an annuity in respect of each completed year of contribution; provided that no annuity shall be granted out of the Fund to any person unless contributions have been made by him or on his behalf in respect of a period of ten years or more, and provided further that the member is in other respects qualified for an annuity under this Act.

Annuities payable according to age.

18. A supplementary annuity from the Fund may be obtained by a member making the additional contributions mentioned in sub-section (3) of section ten. The tables set forth in the Schedule to this Act and marked III. and IV. shall be deemed to show in the case of officers and employees respectively the supplementary annuity which may be secured by payment of contributions of an additional one per cent. on a member's pensionable emoluments, provided that no such supplementary annuity shall be granted out of the Fund to any person unless additional contributions have been made by him or on his behalf in respect of a period of ten years or more.

Additional annuity in respect of additional contribution.

19. (1) A member who has attained the age of sixty years and who shall have contributed to the Fund in respect of a period of at least ten years, shall have the right to retire on pension, or may be required by the Government to retire on pension.

Ages and circumstances giving rise to retirement on pension.

(2) A member who for at least five years immediately preceding his retirement shall have continuously occupied the position of telegraphist, engine-driver, or fireman shall, on attaining the age of fifty years, and provided that he has contributed to the Fund in respect of a period of at least ten years, be entitled to retire on pension, or may be required by the Government to retire on pension; but in calculating an annuity in any such case, a member's age at the date in respect of which his first contribution to the Fund has been paid shall be deemed to be increased by as many years beyond his actual age at that date as his age on retirement falls short of sixty years.

(3) A member who having contributed to the Fund in respect of a period of ten years or more, is compelled to retire from the Service by reason of severe bodily injury occasioned without his own default or permanent ill-health shall be entitled (subject to section thirty-

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nine) to receive, in respect of his completed years of membership, an annuity calculated as is provided in section seventeen; provided that in the case of permanent ill-health he produce a satisfactory certificate signed or countersigned by a railway medical officer or such medical practitioner or board as may be prescribed that it has been occasioned without his own default; provided further that the Minister be satisfied on inquiry that the disablement is permanent, and is of such a nature as permanently to incapacitate the contributing member from performing duty.

ON LEAVING THE SERVICE.

Voluntary
retirement.

20. If a member retires from the service voluntarily before superannuation and not in order to avoid dismissal for fraud, dishonesty or misconduct, he shall be entitled to a return of the whole of his contributions, but without interest, and he shall have no further claim upon the Fund.

Retirement
on ill-health,
etc., before ex-
piry of ten
years from
joining the
fund.

21. If a member is compelled, before having contributed to the Fund in respect of a period of ten years, to retire by reason of severe bodily injury occasioned without his own default or permanent ill-health, he shall be entitled (subject to section thirty-nine) to a return of all his contributions with compound interest at the rate of four per cent. per annum; provided that in the case of permanent ill-health he produces a satisfactory certificate signed or countersigned by a railway medical officer or such medical practitioner or board as may be prescribed certifying that it has been occasioned without his own default; provided further that the Minister be satisfied on inquiry that the disablement is permanent and of such a nature as permanently to incapacitate the member from performing his duty. Such member shall have no further claim upon the Fund, but the Minister may grant him out of funds voted by Parliament for the purpose such sum by way of gratuity as he may think fit.

Retirement
due to ineffi-
ciency.

22. If a member is removed from the Service for inefficiency and it is shown that his inefficiency is not due to causes within his own control, there shall be paid over to the Administration from the Fund a sum not exceeding twice such member's contributions without interest, and thereafter such member shall have no further claim upon the Fund, and the Administration shall pay to him such sum not less than the amount of his contributions as the Minister may determine.

Retirement
for other
causes.

23. If a member leaves the Service before superannuation in consequence of his services being discontinued by the Government owing to a reduction in or reorganisation of staff and not for reasons of inefficiency, ill-health, misconduct, fraud, or dishonesty, there shall be paid over to Revenue from the Fund a sum equal to twice the amount of the member's contributions without interest, and thereafter such member shall have no

further claim on the Fund, but the Minister shall pay from funds voted by Parliament for the purpose.

- (1) to such member who is an officer a gratuity calculated on the basis of his salary at the time of his leaving the Service and in accordance with the scale set forth below in respect of the period of his continuous employment in the Service both before and after the fixed date for which he has contributed to the Fund ; provided that if the officer's continuous period of employment both before and after the fixed date shall, in the aggregate, have been fifteen years or more, or in the case of an officer whose age is forty-five years or more, shall in the aggregate, have been ten years or more, he shall receive from Revenue, at his option, either an annuity equivalent in amount to the annuity he would receive from the Fund on retirement owing to ill-health, or a gratuity calculated as aforesaid.

<i>Scale.</i>		
Length of Employment.		Gratuity.
Under one year	Nil.	
One year	One-half month's salary.	
Two years	One month's salary.	
Three "	Two " "	
Four "	Three " "	
Five "	Four " "	
Six "	Five " "	
Seven "	Six " "	
Eight "	Seven and a half months' salary.	
Nine "	Nine months' salary.	
For any period over ten years	One month's salary for each completed year of employment.	

In calculating a gratuity employment before the age of seventeen shall not be reckoned.

- (2) To such member who is an employee such gratuity as the Minister may from time to time prescribe ; provided that if his continuous period of employment shall have been twenty-five years or more and he shall have attained the age of fifty, he shall receive from Revenue at his option either an annuity equivalent in amount to the annuity which he would receive from the Fund on retirement owing to ill-health, or a gratuity of not less than six months' wages exclusive of allowances ;
- (3) provided that in the case both of an officer and an employee the amount paid from Revenue shall in no case be less than the amount which such officer or employee (as the case may be) has contributed to the Fund.

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A gratuity in this section shall be calculated by the year and by the month, but fractions of a month shall be disregarded.

Retirement of servants entering the service when over fifty.

24. A railway servant who under sub-section (5) of section seven has been permitted to become a member of the Fund, shall, if his employment is terminated on superannuation before he has been a member for ten years, be entitled to be refunded his contributions without interest.

ON DEATH.

Death before superannuation.

25. (1) If a member dies before superannuation from the effects of severe bodily injury, occasioned without his own default whilst in the discharge of his duties, there shall be returned to his legal representatives (subject to the conditions in sections twenty-seven and thirty-nine contained) a sum equal to twice the amount of his contributions with interest at the rate of four per cent. per annum.

(2) If a member dies before superannuation from any other cause there shall be returned to his legal representatives (subject to the conditions in section twenty-seven contained) a sum equal to twice the amount of his contributions without interest.

Death after superannuation.

26. If a member dies after superannuation there shall be returned to his legal representative (subject to the conditions in section twenty-seven contained) a sum equal to any difference that may remain between twice the amount of his contributions (exclusive of additional contributions) together with the actual amount of his additional contributions without interest and the aggregate of amounts which he has received by way of annuity.

Circumstances under which contributions payable to deceased's representatives.

27. Notwithstanding anything in sections twenty-five and twenty-six contained, the respective amounts mentioned in those sections shall be paid only when such member leaves :

(a) a widow or children (or step-children) or

(b) a father, mother, brothers or sisters dependent upon him, and in the following order of preference (and where sub-sections (ii) and (iii) apply in such proportions as may be determined by the Minister), namely :

(i) the widow, or failing a widow,

(ii) the children or step-children; or failing children or step-children,

(iii) the father, mother, brothers or sisters.

In all other cases the deceased member's contributions only shall be paid to the legal representative.

Commutation of small annuities.

28. If an annuity not exceeding twenty-five pounds is granted the Minister may, at the request of the recipient, and before the first payment thereof has been made, commute such annuity by a single cash payment calculated actuarially according to the period for which the recipient may be expected to draw the annuity.

FORFEITURE OR PARTIAL FORFEITURE OF BENEFITS.

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29. (1) If a member is dismissed from the Service for misconduct, or retires in order to avoid dismissal or retires by enforced resignation he shall forfeit the whole of his contributions and lose all benefits from the Fund; but the Minister may, in cases where the misconduct is not of a grave nature, authorize the payment to such member of the whole or any portion of his contributions to the Fund, and in cases of grave misconduct may authorize such grant as may be made under sub-section (2) of this section. Dismissal from Service.
- (2) If a member is dismissed from the Service for fraud or dishonesty, or retires in order to avoid dismissal or retires by enforced resignation, he shall forfeit the whole of his contributions and lose all benefits from the Fund; but the Minister may make to him or to his wife or children out of the Fund such grant as he thinks fit, not exceeding the one-half of his contributions without interest if he shall have been a member of the Fund for less than ten years or not exceeding the whole of his contributions without interest if he shall have been a member of the Fund for ten years or more.
30. Whenever the Minister is satisfied, after inquiry, that a railway servant has not rendered satisfactory service, he may order that a pension less than is ordinarily payable to him in accordance with this Act be paid to him; provided that such railway servant shall not receive owing to the exercise of the powers of this section, in the case of an annuity, less than the annual value calculated actuarially of any sum contributed by him, or in the case of a gratuity, less than any actual sum contributed by him under this Act. Diminution of pension in case of unsatisfactory service.
31. Any railway servant to whom an annuity has been granted before he has attained the age of sixty years or, in the case of an engine-driver, fireman, or telegraphist, the age of fifty years, shall, until he has attained the age of sixty or fifty years (as the case may be) be liable to be called upon to resume his duties in his former office or post or to fill any office or post of a rank equal to or higher than that previously held by him; and if, being in a competent state of health, he shall decline or neglect, when called upon to do so, to resume or fill such office or post or to execute the duties thereof satisfactorily, he shall forfeit his right to the annuity granted to him; provided that if such annuity has been continued for a period of five years, no such officer shall be recalled to duty. Recall to duty after pension.

GENERAL.

32. (1) The period of employment in respect of which a pension may be reckoned shall be continuous. Continuity of employment for pension purposes.

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- (2) A continuous period of employment shall be, for the purpose of this Act, the actual service of a railway servant after attaining the age of seventeen in the case of a member who was in the service at the fixed date, and eighteen in the case of other railway servants, and shall include the time spent :
- (a) On actual duty ;
 - (b) On authorized leave of absence otherwise than without pay ;
 - (c) Under suspension followed by re-instatement in the same or another office or post ;
 - (d) In transit from one appointment to another in the service or to or from the service when transferred under competent authority to or from the employment of another administration or Government, or when seconded to the employment of such other administration or Government for a period not exceeding one year.
- (3) A continuous period of employment shall not be regarded as interrupted by authorized leave of absence without pay or by retirement followed by resumption of duty under section thirty-one, or by retirement which in the opinion of the Minister was for the purpose of joining the Civil Service Pension Fund and which was followed within one week by resumption of duty, but the time spent on such leave or on such retirement shall not be reckoned for purposes of pension.

Provision in case pensioned member is re-employed.

33. If any member to whom an annuity is granted under this Act, either before or after superannuation, is thereafter employed in the Public Service of the Cape Colony, or in the Service or Joint Service, such annuity shall cease to be paid for any period subsequent to such appointment if the amount of the emoluments thereby received by such member is equal to or more than the pensionable emoluments of his former office or post at the time of his retirement from the Service, or if not, then the annuity shall be reduced until the amount thereof, plus the emoluments so received, shall become not more than the equivalent to the pensionable emoluments of his former office or post. On the termination of such appointment the annuity granted prior thereto shall again become payable. If the appointment be with the Service or Joint Service the member shall be entitled to contribute to the Fund on the pensionable emoluments (including for the purpose the reduced annuity aforesaid) drawn by him during his second period of employment, and on his ultimate retirement shall be entitled to a further annuity in respect of such further period of employment, calculated in the same manner as if he had first entered the Service at the date of that appointment.

Method of calculating pensions.

34. Pensions under this Act shall be calculated by the year and by the month, but fractional parts of a month shall be disregarded.

35. (a) Any railway servant who shall after the fixed date have been transferred to the Service from the Service of any South African Government or of the Imperial Government or of any British Colony or possession, and who becomes a member of the Fund under this Act shall be entitled on his ultimate retirement to have his annuity calculated upon the whole period of his continuous employment under the Imperial or other Government and that under the Administration; provided that the Imperial or other Government is prepared to contribute to the annuity thus calculated an amount based on his period of employment under such Government in accordance with any regulation which may be in force in the transferring Service at the time of the transfer. Any liability thereby imposed on the Fund over and above the liability in respect of the member's actual period of membership shall be met out of funds voted by Parliament for the purpose, and similarly Revenue shall receive the benefit of any surplus which may accrue by virtue of this sub-section.
- (b) If the Imperial or other Government is prepared so to contribute but on a period shorter than the whole period of the person's employment under that Government, such shorter period shall in that case be taken to be for pension purposes the member's period of employment under that Government.
- (c) If the Imperial or other Government is not prepared to make any contribution to the pension of a servant transferred as aforesaid, any pension which may under this Act be granted to such member shall be based solely on his period of employment under the Administration.
- (d) Any person who shall after the fixed date have been transferred to the service from the public service of the Cape Government and who at the time of transfer is a contributor to the Cape Civil Service Pension Fund shall be entitled to decide within two months after the date of transfer whether to continue to contribute to that Fund, and in the event of his so deciding, the sums contributed, together with the sum of one pound for every pound so contributed shall be paid by the Administration not less frequently than quarterly to the Civil Service Pension Fund, and such person shall remain entitled to the rights and privileges conferred by being a contributor to the Civil Service Pension Fund, by way of pension, gratuity, refund of contributions, or like benefits.

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 Provision in case of persons transferred from other services after fixed date.

Right of transferred contributor to Civil Service Pension Fund to continue under that Fund.

36. When, after the fixed date a member is, with the consent of the Administration transferred to the public service of the Cape or to the employment of any other South African Government, or Administration, or the Imperial Government, or any British Colony or possession the following provisions shall apply:—

Provision in case of persons transferred to service of another Government after fixed date.

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- (a) If the member's period of membership is less than ten years, his contributions shall be returned to him without interest and he shall have no further claim upon the Fund.
- (b) If the member's period of membership is ten years or more and if the Government to whose service he is transferred agrees to include his period of pensionable employment with the Administration in calculating his pension on his ultimate retirement, his contributions (exclusive of any additional contributions which shall be refunded to him without interest) may be retained in the Fund and, on his reaching the age of superannuation applicable to him if he had remained in the Service, or on his ultimate retirement (whichever event is the later) the Fund shall contribute towards any pension granted by such Government an annuity calculated in accordance with this Act but based on his actual period of pensionable employment under the Administration. If he leaves the employment of such Government for any other cause his contributions shall be returned to him. If he dies, they shall be returned to his legal representative. In the absence of any such agreement or if the member so desires he shall be treated in all respects as if he had voluntarily retired from the Service.

Admission
of females to
the Fund.

37. If it is decided on any date hereafter to admit females as members of the Fund (which the Minister is hereby authorized to do) it may make such special rules and provide such scales of contributions and pensions as may be necessary, provided that any such scales shall be approved by an actuary before adoption.

Power of
Minister to
make regula-
tions.

38. (1) The Minister may from time to time make, alter, or rescind regulations not inconsistent with this Act with respect to all or any of the following matters:—
- (a) The mode of administering the Fund and the form and manner in which the accounts thereof shall be kept;
- (b) The manner in which contributions shall be made to the Fund by its members;
- (c) The method of calculating antedated contributions to the Fund and the arrear instalments thereof;
- (d) The classes of railway servants (other than those in permanent employment) who shall not be eligible for membership of the Fund.
- (e) The method to be adopted in calculating the value of free quarters, rations or other allowances for the purpose of determining pensionable emoluments;
- (f) The forms and period of notice to be given by members of the Fund who are entitled to or claim pensions;

- (g) The mode of payment of contributions and pension; § No. 41—1909.
- (h) The establishment of a Medical Board to examine and report upon any case in which a medical certificate is under this Act required, the form and conditions of medical certificates and the procedure to be observed by railway servants in furnishing the same, in the several circumstances in which they are required ;
- (i) The methods of calculating the proportions of pensions to be recovered from the Imperial Government or the Cape Government or the Government of any other British Possession whenever in the several circumstances described in this Act a railway servant has been or shall be transferred to the Service from pensionable employment under such Government ;
- (j) The methods of calculating the proportion of the contributions to be made by the Fund or the Government (as the case may be) when a railway servant in the several circumstances described in this Act is transferred from the Service to pensionable employment under the Cape or another Government ;
- (k) The medical examination of fitness necessary to qualify for admission to the Fund, in regard to those joining after the fixed date ;
- (l) Generally for the better carrying out of the objects and purposes of this Act.

(2) Every such regulation shall be of force and effect provided it has been published in the *Gazette*.

39. Any member of the fund, or in case of death his legal representative, who is entitled to compensation under the Workman's Compensation Act, 1905, shall have the right to elect whether he will claim a pension or gratuity, as the case may be, under the Superannuation Fund, or compensation under the said Act, but shall not be entitled to claim both such pension or gratuity and such compensation ; but if he secures compensation under the Act he shall in addition to such compensation in case his injuries necessitated his leaving the Service be refunded from the Superannuation Fund the amount of his contributions thereto without interest, and no allowance for such refund shall be made in awarding compensation under the Workman's Compensation Act ; similarly in the event of the injuries resulting in death such member's contributions shall be refunded to his legal representative in addition to the compensation awarded under the Act.

Provision in cases of awards under Workman's Compensation Act.

40. A pension or any balance thereof may, if the Minister so determine, be withdrawn or recovered at any time after the grant, if he be satisfied that during employment in the Service the person to whom the grant was made was guilty of any

Circumstances under which pension, etc., may be withdrawn

- No. 41 1909. misconduct which, if known, would have merited dismissal on the ground of fraud or dishonesty, or if such person shall refuse or neglect to comply with a reasonable request to perform some special duty, or to supply some special information in connection with the affairs of any former office or post held by him.
- Pensions, etc., not assignable or executable. 41. No pension or right to a pension shall be capable of being assigned, transferred, mortgaged or otherwise ceded, pledged or hypothecated, nor shall the same be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, and in the event of the beneficiary attempting to assign, transfer, mortgage, or otherwise cede or hypothecate such pension or right, payment of the same may be withheld, suspended or entirely discontinued if the Minister so determine.
- Pensions to cease on insolvency. 42. (1) If any person in receipt of an annuity becomes insolvent such annuity shall forthwith determine; provided that in any such case the Minister may order that all or any part of the annuity be paid to or for the benefit of all or any of the following persons, namely, such insolvent, his wife or any minor children, or, failing a wife or minor children, to any children or relatives dependent on him for maintenance.
- (2) Whenever an annuity has determined under this section, the Minister may order that it shall be revived on rehabilitation of the insolvent, and that he shall receive an annuity at the same rate, and under the same conditions as before insolvency.
- Pensions to cease on conviction. 43. If any person in receipt of an annuity be convicted before any court in His Majesty's dominions of any crime or offence and be sentenced therefor to death, or to any term of imprisonment with hard labour exceeding twelve months and shall not within two months thereafter receive His Majesty's free pardon, such annuity shall forthwith determine; provided that the Minister may, if he thinks fit, order that such annuity shall be revived if such person at any time after the conviction or sentence receive His Majesty's free pardon; provided further that the Minister may, if he thinks fit, authorize the payment to or for the benefit of such person's wife or minor children, or failing a wife or minor children, to any children or relatives dependent on him, of such portion of the annuity as he may consider necessary for her or their maintenance.

FINANCIAL.

- Accounts of the Fund. 44. (1) The Chief Accountant of the Administration shall cause full and true accounts to be kept showing separately for each division of the Fund:—
- (a) all sums of money received or due and disbursed or payable in respect of members and particulars of the matters and things for which such sums of money have been received or disbursed;

- (b) the time of commencement of membership and amounts and dates of payment of all contributions together with all chronological and other particulars necessary to admit of proper accounts of the divisions of the Fund being kept in accordance with this Act and the regulations and to admit of an actuarial valuation of the Fund to be made at any time;
- (c) all sums of money due to or from other administrations in respect of Joint Service pensions or other pensions partly payable by another administration or Government;
- (d) all amounts due to or from the Government in connection with the Fund;
- (e) all other matters provided for or contemplated in this Act and the regulations.

For the purpose of such accounts, when a member is transferred from one division of the Fund to the other, twice the amount of his contributions accumulated at five per cent. compound interest shall be transferred from the one division to the other, and thereafter any contributions shall be paid into the other division.

- (2) The Chief Accountant shall cause the books and accounts of the Fund to be balanced up to the thirtieth day of June in every year and a balance sheet to be made up showing the assets and liabilities of the Fund at the date when such balance-sheet is framed.
- (3) The balance-sheet shall be signed by the Chief Accountant, and audited, and thereafter countersigned by the person auditing the railway accounts, and shall be distributed among all the members.

45. (1) The Fund shall be valued and reported upon as at the thirtieth day of June next succeeding the expiry of five years from the fixed date and at the expiry of every further period of five years by an actuary appointed by the Minister. The actuary shall report direct to the Minister, and in his report shall indicate such changes (if any) as are necessary to maintain the Fund in a sound financial position. Quinquennial valuation of Fund.

- (2) If the actuary's valuation shall disclose a surplus beyond the requirements likely to arise under this Act or any amendment thereof or regulations made thereunder the benefits shall be increased or the contributions shall be reduced in such manner as the Minister shall direct; but if his valuation shall disclose a deficiency, such deficiency shall be met, if necessary, in such fair and equitable manner, as may appear to the Minister to be reasonable, but no person to whom a pension has been granted shall have the same reduced, or be called upon to refund any amount already received.

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(3) The wishes of all the members shall be ascertained by ballot in such manner as the Minister may determine, before any change is made in the scales of pensions or rates of contribution, or whenever any question arises in connection with the Fund which is, in the opinion of the Minister, of sufficient importance to justify such action being taken.

Cost of administration of Fund to be borne by revenue.

46. The business of the Fund shall be conducted by means of the staff of the Administration and the cost of administering the Fund and of any actuarial investigations and matters incidental thereto shall be borne by the Administration out of funds voted by Parliament for the purpose.

Investment of balance of Fund and payment of interest thereon.

47. (1) The Minister may from time to time invest the moneys of the Fund in the public stock of the Cape of Good Hope, or stock guaranteed by The Cape of Good Hope or Imperial or any British South African Government, in Treasury Bills of the Government of The Cape of Good Hope, The Transvaal or Orange River Colony or Natal, or in Debentures of any Municipality therein which is authorised by law to issue same, or on a fixed deposit with any bank carrying on business in any British South African Colony under the laws thereof and approved by the Government of that Colony.

(2) After the fixed date the Revenue shall be charged, and the Fund shall be credited monthly, with interest at four per cent. per annum on all moneys so invested, Revenue receiving credit for the interest received upon such investments; and upon any such stock or debentures falling due and being paid Revenue shall receive the excess, if any, of the amount paid, over the cost to the Fund of the said investments.

Short Title.

48. This Act may be cited for all purposes as "The Railway Superannuation Fund Act, 1909."

Schedule.

SCHEDULE.

TABLE I.—APPLICABLE TO OFFICERS.

Table showing the percentage of average pensionable emoluments payable as pension to members of the Superannuation Fund in respect of each completed year of contribution.

Age at birthday nearest to date from which contributions paid.	Pensions for each completed year of contribution.
20 and under ...	2·00 of average pensionable emoluments.
21	1·97 " "
22	1·92 " "
23	1·87 " "
24	1·82 " "

TABLE I.—*Continued.*

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Age at birthday nearest to date from which contributions paid.	Pensions for each completed year of contribution.		
25	1·77 of average pensionable emoluments.		
26	1·72	"	"
27	1·67	"	"
28	1·62	"	"
29	1·57	"	"
30	1·53	"	"
31	1·49	"	"
32	1·45	"	"
33	1·41	"	"
34	1·38	"	"
35	1·34	"	"
36	1·31	"	"
37	1·28	"	"
38	1·25	"	"
39	1·23	"	"
40	1·20	"	"
41	1·18	"	"
42	1·15	"	"
43	1·13	"	"
44	1·11	"	"
45 and over	1·09	"	"

TABLE II.—APPLICABLE TO EMPLOYEES.

Table showing the percentage of average pensionable emoluments payable as pension to members of the Superannuation Fund in respect of each completed year of contribution.

Age at birthday nearest to date from which contributions paid.	Pensions for each completed year of contribution.		
24 and under	2·00 of average pensionable emoluments.		
25	1·94	"	"
26	1·87	"	"
27	1·80	"	"
28	1·74	"	"
29	1·68	"	"
30	1·62	"	"
31	1·56	"	"
32	1·51	"	"
33	1·46	"	"

TABLE II.—*Continued.*

Age at birthday nearest to date from which contributions paid.			Pensions for each completed year of contribution.			
34	...	...	1·42 of average pensionable emoluments.			
35	...	...	1·38	”	”	”
36	...	...	1·34	”	”	”
37	...	...	1·30	”	”	”
38	...	...	1·27	”	”	”
39	...	...	1·24	”	”	”
40	...	...	1·21	”	”	”
41	...	...	1·19	”	”	”
42	...	...	1·16	”	”	”
43	...	...	1·14	”	”	”
44	...	...	1·11	”	”	”
45 and over	...	...	1·09	”	”	”

TABLE III.—APPLICABLE TO OFFICERS.

Table showing the percentage of average pensionable emoluments payable as pension to members of the Superannuation Fund in respect of each completed year of contribution under this table for each additional contribution of one per cent.

Age at birthday nearest to date from which contributions paid.			Supplementary pensions for each completed year of contribution under this Table.			
30	...	...	·51 of average pensionable emoluments.			
31	...	...	·50	”	”	”
32	...	...	·48	”	”	”
33	...	...	·48	”	”	”
34	...	...	·46	”	”	”
35	...	...	·46	”	”	”
36	...	...	·44	”	”	”
37	...	...	·44	”	”	”
38	...	...	·42	”	”	”
39	·41	”	”	”
40	·41	”	”	”
41	·39	”	”	”
42	·39	”	”	”
43	·38	”	”	”
44	·36	”	”	”
45 and over	·36	”	”	”

TABLE IV.—APPLICABLE TO EMPLOYEES.

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Table showing the percentage of average pensionable emoluments payable as pension to members of the Superannuation Fund in respect of each completed year of contribution under this table for each additional contribution of one per cent.

Age at birthday nearest to date from which contributions paid.	Supplementary pensions for each completed year of contribution under this Table.
30	54
31	52
32	50
33	50
34	48
35	46
36	45
37	44
38	43
39	41
40	41
41	39
42	39
43	38
44	36
45 and over	36

No. 42—1909.]

[December 7, 1909.

ACT

To Amend the Law relating to the Excise Duty on Spirits and to impose an Excise Duty on Vinegar Extracts and Acids.

[Assented to 3rd December, 1909.]

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

Notwithstanding anything to the contrary contained in the Excise Spirits Act, 1884, Additional Taxation Act, 1904, and the Additional Taxation Act, 1905:

1. The term "Colonial Spirits" for the purposes of this Act, the Additional Taxation Act, 1904 (Part I.), and the Additional Taxation Act, 1905, shall mean spirit distilled from the produce of vines grown in the Cape Colony. Meaning of term "Colonial Spirits."

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Meaning of
"Wine."

2. The term "Wine" when used in connection with "Wine Brandy" shall mean the product solely of the alcoholic fermentation of the juice of most of fresh grapes.

Meaning of
"Stock."

3. The term "Stock" shall include Colonial spirits of every description or foreign spirits, bonded by or in the name of a dealer in or retailer of spirits or of any other person in a duly approved Customs warehouse or stored in any other place with or without the approval of the Controller of Excise, and such dealer in or retailer of spirits or other person shall be liable for the Excise Duty on any deficiencies occurring in stocks so warehoused or stored, and the term "Stock" shall moreover include Colonial and foreign spirits in transit by sea or land, except foreign spirits in transit to the Cape Colony from places outside such Colony. In the case of spirits in transit, such spirits shall be regarded as forming portion of the consignor's stock.

Meaning of
"Wine Brandy."

4. The term "Wine Brandy" as applied in this Act to a class of Colonial spirits shall mean the distillate resulting from the distillation solely of pure wine or must made from grapes grown in the Cape Colony, the volatile constituents of which distillate (except water) are derived entirely from the above-named materials, provided that the alcoholic strength of such wine brandy for the purposes of excise be not lower than twenty-five degrees under proof.

Excise duty
on Wine
Brandy.

5. From and after the 1st day of February, 1910, there shall be payable to the Colonial Revenue on every gallon of Colonial spirits (not being methylated spirits), known as wine brandy, distilled on or after that date, and sold, removed or disposed of by a retail dealer or by a wholesale dealer or by an agricultural distiller, in manner set forth in Act No. 36 of 1904, a duty of excise at the rate of three shillings per gallon if the spirits do not exceed the strength of proof with a proportionate increase or decrease if the spirits be of greater strength or lower strength respectively, with due regard to section eighteen of this Act.

Excise Duty
on other Col-
onial Spirits.

6. From and after the first day of February, 1910, there shall be forthwith payable to the Colonial revenue on every gallon of Colonial spirits other than wine brandy or methylated spirits, in manner hereinafter set forth, a duty of excise at the rate of six shillings per gallon if the spirits do not exceed the strength of proof with a proportionate increase or decrease if the spirits be of greater or lower strength respectively, with due regard to section eighteen of this Act; always provided that the Treasurer may, in his discretion, accept payment of the duty in instalments in respect of stocks of spirits which forthwith become liable to excise duty under this Act.

(a) By a dealer in spirits, other than a wholesale dealer or distiller (agricultural or otherwise), on all such spirits in his possession on that date and on every gallon of such spirits received by such a dealer from an agricultural distiller after that date:

- (b) By an agricultural distiller, who is not also a wholesale dealer in spirits, on every gallon of such spirits sold, removed or disposed of by him to any person other than a dealer in spirits after that date :
- (c) By a distiller (other than an agricultural distiller who does not rectify or re-distil spirits other than wine brandy) on every gallon of such spirits used by him in distillation or re-distillation :
- (d) By a wholesale dealer on every gallon of such spirits sold, removed or disposed of by him to a retail dealer in spirits or other person not being another wholesale dealer or distiller (other than an agricultural distiller) on or after that date :

7. Any mixture consisting of wine brandy and other Colonial spirits shall be regarded for the purposes of excise as consisting of spirits other than wine brandy, and excise duty on the whole quantity mixed shall be at the rate of six shillings a proof gallon with a proportionate increase or decrease if the spirits be of greater or lower strength respectively, with due regard to section eighteen of this Act, and be forthwith payable.

Excise duty on mixture of wine brandy and other spirits.

8. From and after the first day of February, 1910, there shall be payable to the Colonial Revenue, under such regulations as the Governor in Council may prescribe, an Excise Duty on every gallon of extracts or essences of vinegar, acetic and pyroligneous acid manufactured in this Colony at the rate set forth hereunder, namely:—

Excise duty on Vinegar, acetic acid, etc

If of a strength not exceeding the strength of proof, per Imperial gallon or fraction of an Imperial gallon... 7d.
 And in addition for each degree of strength in excess of the strength of proof, per degree 4d.
 Proof will be held to be equal to six per centum of absolute acid and shall be determined in manner prescribed by the Treasurer.

9. The Governor may frame regulations providing for the conditions under which any distiller, other than an agricultural distiller, may distil wine brandy or other brandy or spirits, or under which an agricultural distiller may distil wine brandy or other brandy or spirits on the same premises, and providing for the conditions under which the several classes of Colonial spirits, Excise duty paid or otherwise, shall be stored, and generally for the purpose of carrying out the provisions of this Act.

Regulations for distillers.

10. The stocks of Colonial spirits in the hands of all dealers in spirits and distillers, including agricultural distillers, or in transit on the 1st February, 1910, shall be regarded as spirits other than wine brandy.

Existing stocks.

11. From and after the first day of February, 1910, every distiller, including an agricultural distiller, shall obtain annually, prior to commencing to distil, from the Excise Receiver of his district or other authorized officer, a licence for the then current

Distillers' licence.

No. 42—1909.

year in a form to be approved of by the Treasurer, authorizing him to distil either wine brandy or other Colonial spirits, and setting forth the place where such distillation shall take place. Every licence so issued shall expire on the thirty-first day of December of the year for which issued, and there shall be payable in respect of each licence issued the sum of two shillings and sixpence if issued to an agricultural distiller, or partnership of agricultural distillers—the names of which partnership shall be disclosed at the time of issue of licence, or the sum of five pounds if issued to any other distiller who distils only the produce of vines grown in the Cape Colony. Separate licences will be required for the distillation of wine brandy and for the distillation of other Colonial spirits.

Board of reference.

12. Should any question arise in the course of the administration of this Act as to the classification of any Colonial spirits, the matter shall be referred to a Board of three persons to be appointed by the Governor, and the decision of the majority of such Board shall be final.

Powers of entry.

13. It shall be competent for any Excise Officer or other officer duly authorized by the Controller of Excise to enter upon the premises of dealers in spirits or distillers (agricultural or otherwise) or vinegar makers and to take account of any spirits or wine brandy, or other liquids subject to a duty of Excise stored upon such premises.

Right to take samples.

14. Any Excise Officer or other officer authorized by the Controller of Excise shall have the right to take samples of any Colonial spirits manufactured or distilled by any distiller, including an agricultural distiller, or other person, and of any vinegar extracts or essences or acetic or pyroligneous acids manufactured in this Colony, and any sample so taken, provided it does not exceed a reputed quart bottle in respect of each consignment or distillation or in respect of each description of Colonial spirits in stock or a reputed pint of any vinegar extracts or essences or acetic or pyroligneous acids manufactured in this Colony, shall be supplied to such officer free of charge and no Excise Duty shall accrue on such samples.

Excise duty on foreign spirits.

15. From and after the first day of February, 1910, the Excise duty on foreign spirits sold, removed or disposed of by a wholesale dealer to a retail dealer or other person not being a wholesale dealer, shall accrue against the wholesale dealer, and shall be forthwith payable, and the Excise duty on any foreign spirits obtained by a retail dealer or any other person from any other source or in the possession of such retail dealer or other person on that date, and on which Excise duty has not been paid, shall accrue against such retail dealer or other person and be forthwith payable; provided that the provisions of this section shall not apply to foreign spirits exported.

Meaning of "Foreign Spirits."

16. The term "Foreign Spirits" shall include any flavouring, sweetening or colouring essences imported into this Colony, and

which contain more than three per centum of proof spirit, and which in the opinion of the Treasurer can be used in the manufacture of any spirits, brandies or cognacs, or are of a potable character; and all essences so imported by or received into the stock of any dealer in spirits or other person shall be regarded as foreign spirits, and the Excise duty on such essences shall be payable immediately on their being entered for consumption. The Excise duty paid on such essences and on any foreign spirits added to other spirits shall not be rebated or refunded on the accrual of Excise duty on the spirits to which added.

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17. For the purposes of the several Acts relating to the imposition and collection of Excise duties in the Colony twenty-four reputed half-pints, twelve reputed pints, six reputed quarts, and four reputed imperial quarts shall be deemed to be not less than one gallon.

Meaning of "gallon" for purposes of Excise duty.

18. For the purposes of assessment of excise duty, all Colonial spirits, the actual strength of which is less than fifteen degrees under proof (15 u.p.) shall be regarded as of that strength, and fractions of a gallon, less than one-tenth, shall be regarded as one-tenth in respect of all spirits.

Colonial spirits less than 15 degrees under proof.

19. Every wholesale dealer or retail dealer in spirits shall be held liable for the excise duty on deficiencies in his stock of Colonial spirits and foreign spirits as if such spirits had been sold, removed or disposed of to consumers, and every distiller (including an agricultural distiller) shall be held liable for the Excise duty on deficiencies in his stock of Colonial spirits as if such spirits had been sold, removed or disposed of to consumers, provided that if he shall prove to the satisfaction of the Treasurer that such deficiencies have occurred through natural ullage or through leakage or through a *bona fide* error in any Excise return or through other circumstances beyond his control, the Treasurer may remit the Excise duty on such deficiencies or any portion thereof as he may deem fit. The duties accruing on such deficiencies shall be payable on demand.

Accounting for deficiency.

20. Should any retail dealer in spirits desire to make payment of the Excise duty on all consignments of wine brandy sent to him by any agricultural distiller or wholesale dealer, or should any wholesale dealer desire to forward to a retail dealer wine brandy as Excise Duty paid, the Treasurer may, under such regulations as he may prescribe, grant the necessary permission, and the Excise Duty shall immediately accrue against such retail dealer or wholesale dealer, respectively, and shall be forthwith payable.

Dealing in Excise duty paid spirits.

21. The term "wholesale dealer" shall for the purposes of Excise include co-operative wineries or other associations of agricultural distillers, with due regard to the licence required by such distillers under section eleven of this Act.

Meaning of "wholesale."

22. Should any dealer in or retailer of spirits or distiller (agricultural or otherwise) or vinegar maker contravene any of

Penalties.

No. 42—1909.

the provisions of this Act he shall, on conviction, 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 twelve months unless such penalty be sooner paid, and should any dealer in or retailer of spirits or distiller (agricultural or otherwise) or vinegar maker contravene any of the regulations framed under this Act he shall be liable, on conviction, 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 unless such penalty be sooner paid.

Short title
and construction
of Act

23. This Act may be cited as the "Excise Duties Amendment Act, 1909," and when not inconsistent with shall be read and construed as one with the Excise Spirits Act, 1884, the Additional Taxation Act, 1904, Part I, and the Additional Taxation Act, 1905, and the powers vested in the Governor, and in the Treasurer and in the Controller of Excise by such Acts shall apply equally to this Act.

No. 43—1909.]

[December 7, 1909.

ACT

To Amend "The Cattle Cleansing Act, 1908," and to confer on Local Authorities the power to construct Cattle Dipping Tanks.

[Assented to 3rd December, 1909.]

Preamble.

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

Appointment
of Inspectors.

1. (a) It shall be lawful for the Council of any Division in which "The Cattle Cleansing Act, 1908," has been duly proclaimed to be in force to appoint out of the funds at its disposal one or more inspectors for the purpose of carrying out the provisions of sections four, five, six and eight of the said Act; and upon such appointment every such inspector shall be vested with all the powers conferred by the said sections.

Government
contribution
towards sal-
aries of In-
spectors.

(b) A sum of one-half of any amount which the Council concerned may expend as salary for an inspector or inspectors appointed under the provisions of this Act shall be paid to such Council from and out of the public revenue of the Colony in accordance with regulations to be published in the *Gazette*, provided, however, that in no case the amount so contributed shall exceed £50 per annum.

2. It shall be lawful for any inspector appointed under this Act or for any Field-Cornet, Justice of the Peace, Sheep Inspector or Police Officer to order any tick-infested cattle found by such officer on any main road or on any divisional or municipal road or upon any public outspan or commonage to be cleansed forthwith notwithstanding that the person in charge of the same shall produce the certificate referred to in section four or section seven of Act No. 31 of 1908, and if any such person in charge shall refuse to obey the order of the said inspector to cleanse the cattle he shall be deemed to be guilty of a contravention of the said Act No. 31 of 1908.

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Inspector may order tick-infested cattle on public places to be cleansed forthwith.

3. Notwithstanding anything to the contrary contained in the said Act or this Act, it shall be lawful for the owner or person in charge of any tick-infested cattle to move the same on or along any main, divisional or municipal road or on or across any public outspan or commonage for the purpose of dipping in a dipping tank, provided (1) that the dipping tank in which it is proposed to dip such cattle shall not be more than ten miles from the place whence it is proposed to remove such cattle; (2) that the road or place on, along or across which it is proposed to move such cattle leads to or is in direct line of route to such dipping tank, and (3) that before so moving such cattle such owner or person in charge shall obtain from an inspector under this Act or from any of the persons mentioned in section eight of the said Act a permit setting forth (a) the number and description of such cattle, (b) the place from which it is proposed to move them (c) the locality of the said dipping tank, and (d) the fact that such cattle are being so removed for the purpose of being dipped in such tank.

When tick-infested cattle may be on public places.

4. No person shall, without the written permission of the Resident Magistrate of the District, take or remove any tick off or from any cattle, save for the purpose of immediately destroying such tick, nor shall any person, without the like permission, knowingly remove, carry or convey any tick from any one place to any other; any person contravening any of the provisions of this section shall be liable on conviction to a fine not exceeding £150 or in default of payment to imprisonment with or without hard labour for not exceeding six months, or to both such fine and such imprisonment, or to such imprisonment without the option of a fine; provided that notwithstanding anything to the contrary contained in the said Act or in this Act the provisions of this section shall apply throughout the Colony.

Penalty for unlawfully removing ticks.

5. Notwithstanding anything to the contrary contained in any other law it shall be lawful for the Council of any Division and for any Municipality or Village Management Board to incur from the funds at its disposal expenditure for the purpose of constructing cattle dipping tanks, the sites and structure of which shall first be approved by the Secretary for Agriculture; and to maintain the same and provide the necessary dipping materials

Local authorities may build cattle dipping tanks

5652 THE CATTLE CLEANSING ACT AMENDMENT
ACT, 1909.

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and supervision therefor; and to borrow with the previous approval of the Governor from the Government or from any other source funds for such services, and also to pledge the general revenues of such Council, Municipality or Village Management Board for repayment of any moneys so borrowed.

The additional powers conferred by this section shall apply retrospectively in the case of any Divisional Council, Municipality or Village Management Board which may, previous to the taking effect of this Act, have expended funds for the purposes herein dealt with.

Short Title.

6. This Act may be cited as "The Cattle Cleansing Act Amendment Act, 1909," and shall be read as one with "The Cattle Cleansing Act, 1908."
