



Ordinances

OF THE

Transvaal.

1904.

**With INDEX, TABLES OF CONTENTS (Alphabetical and
Chronological), and TABLE OF LAWS, &c.,
REPEALED or AMENDED by these
ORDINANCES.**

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1904.

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Table of Laws, Volksraad Resolutions, Proclamations and Ordinances *Repealed* or *Amended* by Ordinances, 1904.

NO. OF LAW, &C.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
V.R. 13th Oct., 1868	Ord. 14, Sect. 1	Art 140.	—	—
Law 3 of 1871	Ord. 39, Sect. 2	Art. 11	Ord. 39, Sect. 3	Art. 19, as to marriage fees.
V.R. 22nd May, 1875	Ord. 29, Sect. 4	Art. 114 in so far as it relates to admission fees of doc- tors and apothecaries.	—	—
Law 5 of 1874	—	—	Ord. 30	Generally as to alteration of objects and capital of com- panies.
Law 5 of 1880	Ord. 46, Sect. 1	The whole.	—	—
Law 14 of 1880	Ord. 2, Sect. 4	Arts. 3, 8, 11, 16, 17, 20, 23, 24, 25, 26, 27, 28, 29	Ord. 2, Sect. 1	By definition of word "gaol" and by power to make regula- tions for man- agement of gaols.
Law 14 of 1880	Ord. 20, Sect. 1	Arts. 30, 31.	—	—
Law 12 of 1886	Ord. 29, Sect. 4	The whole.	—	—
F.V.R. 12th Aug. 1886	Ord. 11, Sect. 2	Art. 1422.	—	—
Law 5 of 1888	Ord. 26, Sect. 2	The whole.	—	—
F.V.R. 10th May, 1890	Ord. 43, Sect. 1	Art. 58.	—	—

NO. OF LAW, &C.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
F.V.R. 20th May, 1890	—	—	Ord. 43, Sect. 2	Art. 150 not to apply to railways constructed by consent of Inter-Colonial Council.
Law 4 of 1891	Ord. 6, Sect. 1	The whole.	—	—
Law 2 of 1891	Ord. 6, Sect. 1	The whole.	—	—
Law 7 of 1894	Ord. 19, Sect. 1	The whole.	—	—
F.V.R. 22nd July 1895	Ord. 29, Sect. 4	Art. 695.	—	—
Law 3 of 1897	—	—	Ord. 39, Sect. 3	Art. 14, as to amount of marriage fees.
Law 3 of 1897	—	—	Ord. 39, Sect. 1	Art. 18, substituting new definition of "coloured person."
Law 15 of 1897	Ord. 23 Sect. 1	The whole.	—	—
Law 17 of 1898	Ord. 14, Sect. 1	Art. 45.	—	—
Law 10 of 1899	Ord. 2, Sect. 4	The whole.	—	—
Law 17 of 1899	—	—	Art. 41, Sect. 31	As to right of travelling trader to trade under his license in a municipality.
Town Regulations 1899	Ord. 14, Sect. 1	Arts. 1 and 2.	—	—
Proc. 24 of 1900	—	—	Ord. 4	Sect. 14 by substituting words "Inspector-General" for "Commandant-General."
Proc. 4 of 1901	Ord. 26, Sect. 2	The whole.	—	—
Proc. 7 of 1901	Ord. 19, Sect. 1	The whole.	—	—
Proc. 14 of 1901	Ord. 20, Sect. 1	The whole.	—	—

xii. 1904 ORDINANCES—TABLE OF LAWS, &C., REPEALED OR AMENDED (*contd.*)

NO. OF LAW, &C.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Proc. 16 of 1901	—	—	Ord. IV (Private)	Sects. 5 ⁶ , 6, 19, 21, 30, 38 and 40, and generally by additional powers to Town Council.
Proc. (T'vaal) 3 of 1901	Ord. 20, Sect. 1	The whole.	—	—
Proc. (T'vaal) 15 of 1901	Ord. 26, Sect. 2	The whole.	—	—
Proc. (T'vaal) 1 of 1902	Ord. 29, Sect. 4	The whole.	—	—
Proc. (T'vaal) 7 of 1902	—	—	Ord. 50	By giving Municipality power to acquire and carry on certain undertakings and borrow money
Proc. (T'vaal) 11 of 1902	—	—	Ord. 4	Sect. 49, subsect. (5) (a), by substituting the word "presented" for "protested" where it first occurs.
Proc. (T'vaal) 12 of 1902	—	—	Ord. 40	Sects 13, 14, 16, 17, 24, and Schedule II.
Proc. (T'vaal) 14 of 1902	—	—	Ord. 1, Sect. 1	Sect. 11, by extending powers of Court as to admission of attorneys.
Proc. (T'vaal) 14 of 1902	—	—	Ord. 31	Sect. 11, as to conditions of admission as attorneys. Sects. 20 and 21, as to quorum of Court and appeals.

No. of LAW, &c.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Proc. (T'vaal) 16 of 1902	—	—	Ord. 21	Sect. 12, as to evidence of wife or husband of accused for Crown in bigamy cases.
Proc. (T'vaal) 21 of 1902	—	—	Ord. 12	Sects. 8, 12, 13, 39, 40, 41, 42, and by giving power to Magistrates to issue garnishee orders.
Proc. (T'vaal) 23 of 1902	—	—	Ord. 3	Sects. 7 and 17 by the addition of new sub-sections giving Registrar of Trade Marks power to award costs on oppositions and to correct errors in applications.
Proc. (T'vaal) 30 of 1902	Ord. 20, Sect. 1	Sects. 3 and 4.	—	—
Proc. (T'vaal) 39 of 1902	—	—	Ord. IV. (Private)	Sects. 3 and 4, and generally by additional powers to Town Council.
Ord. 12 of 1902	Ord. 22	The whole.	—	—
Ord. 14 of 1902	—	—	Ord. 40, Sect. 7	Sect. 4, sub-sect. (b).
Ord. 15 of 1902	Ord. 19, Sect. 1	The whole.	—	—
Ord. 23 of 1902	—	—	Ord. 5	Sects. 16, 17, 22, 41, and 50.
Ord. 33 of 1902	Ord. 37, Sect. 43.	The whole.	—	—
Ord. 36 of 1902	Ord. 20, Sect. 1	Sect. 2.	—	—

xiv. 1904 ORDINANCES—TABLE OF LAWS, &c., REPEALED OR AMENDED (*contd.*)

No. OF LAW, &c.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
Ord. 1 of 1903	—	—	Ord. 47	Sect. 24, by addition of new sub-sect. (g), and by provision as to tariff of witness expenses.
Ord. 3 of 1903	—	—	Ord. I. (Private)	Sect. 51, sub-sect. (13) by authorizing further issue of bills by Town Council.
Ord. 3 of 1903	—	—	Ord. IV. (Private)	Sect. 52 sub-sect. (1), by substitution of words "two hundred thousand" for words "ten thousand."
Ord. 10 of 1903	—	—	Ord. 4	Sect. 13, by substitution of "1901" for "1900."
Ord. 24 of 1903	—	—	Ord. 4	Sect. 2, by omitting the word "expedient" when it first occurs.
Ord. 32 of 1903	—	—	Ord. 48, Sects. 2 and 6	Sect. 1, as to definition of Local Authority and repealing Sections 4, 5, 6, 7 and 24 as to constitution of Water Board and substituting new provisions.
Ord. 38 of 1903	—	—	Ord. 4	Sect. 8, by omitting words "section <i>twenty four</i> of."

NO. OF LAW, &C.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
✓ Ord. 38 of 1903	—	—	Ord. 49	By repealing Sects. 24, 56, and 131 and substituting new provisions and amending Sects. 25 and 26.
✓ Ord. 43 of 1903	—	—	Ord. 45	Sects. 6 and 7, and by giving further incidental powers to Local Authorities as to rating.
✓ Ord. 57 of 1903	—	—	Ord. 4	Sect. 8 by substitution of "nine" for "ten." Sect. 15 by substitution of the word "twelve" for "fourteen."
✓ Ord. 58 of 1903	—	—	Ord. 4	Sect. 66, by substituting the words "under section <i>seventy-three</i> of this Ordinance" for the words "under the Urban District Boards Ordinance, 1903."
✓ Ord. 58 of 1903	Ord. 41, Sect. 2	Sects. 73 and 74.	—	—
✓ Ord. 58 of 1903	—	—	Ord. 41	Sects. 6, 30, 34, 37, 40, 41, 42, 45, 58, 59, 72 sub-sects. (1) and (2).

xvi. 1904 ORDINANCES—TABLE OF LAWS, &C., REPEALED OR AMENDED (*contd.*)

NO. OF LAW, &C.	REPEALED BY.	EXTENT OF REPEAL.	AMENDED BY.	EXTENT OF AMENDMENT.
✓ Ord. 60 of 1903	—	—	Ord. 4	Sect. 21, by substituting "tendered" for "rendered." Sect. 36 (3), by substituting "third" for "fifth." Sect. 46, by substituting "seventy-seven" and "seventy-eight" for "eighty" and "eighty-one."
✓ Ord. 66 of 1903	—	—	Ord. 4	Sect. 5 (a), by substituting "Settlers Ordinance 1902" for "Settlers Ordinance, 1903."
✓ Ord. 2 of 1904	Ord. 20, Sect. 1	Sect. 2.	—	—

ORDINANCE

To provide for the admission of certain persons as Attorneys of the Supreme Court.

WHEREAS under the rules regulating the admission of Attorneys in the late South African Republic every male person who had passed the necessary examinations and served during a period of three successive years as clerk to the State Attorney of the late South African Republic or as clerk to any of the Judges or as Registrar Assistant Registrar or Taxing Master of the High Court of the late South African Republic or as Registrar of the High Court of Swaziland was competent to be admitted to practise as an Attorney of the High Court of the late South African Republic;

And whereas certain persons have already under the said rules served in one or other of the capacities aforesaid in such manner as would have entitled them to admission as aforesaid upon completion of the said term of service and upon passing the necessary examinations;

And whereas it is desirable to make special provision relating to the admission of such persons as Attorneys of the Supreme Court of this Colony;

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

I. Any person of full age who produces satisfactory proof that he has served as clerk to the State Attorney of the late South African Republic or as clerk to any of the Judges of the High Court of the said Republic or as Registrar Assistant Registrar or Taxing Master of the said High Court or as Registrar of the High Court of Swaziland for such a continuous period up to and including the 30th day of September 1899 as would when added to the period mentioned in the third proviso to this section make a period of three years

Persons entitled to be admitted under this Ordinance.

**ORD.
No. 1
of
1904.**

in all shall be competent to be admitted and enrolled as an Attorney of the Supreme Court of the Transvaal provided:

- (1) that such person if he had served three consecutive years in the capacities aforesaid and had passed the necessary examinations would formerly have been entitled to admission as an Attorney of the said High Court of the late South African Republic;
- (2) that such person has passed the examination mentioned in sub-section (b) or the examination referred to in sub-section (c) of section *eleven* of the Administration of Justice Proclamation 1902;
- (3) that such person has served with some practising Attorney in this Colony for a period of not less than one year under a contract in writing duly registered with the Registrar of the Supreme Court of this Colony and with the Secretary of the Incorporated Law Society of this Colony.

Title.

2. This Ordinance may be cited as the Attorneys Admission (Amendment) Ordinance 1904.

**ORD.
No. 2
of
1904.**

No. 2 of 1904.]

[Assented to 21 Jan. 1904.]

ORDINANCE

To amend Law No. 14 of 1880.

WHEREAS it is expedient to remove certain doubts which have arisen as to the meaning of the word "Gaol" in Law No. 14 of 1880 and to amend the said Law in other respects;

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

Definition of
gaol.

~~1. The words "Gaol" or "Prison" whenever the same shall occur in this Ordinance or in Law No. 14 of 1880 or in any other Law shall include;~~

~~(a) any place which has already been appointed as a station for the~~

**ORD.
No. 2
of
1904.**

imprisonment detention or confinement of persons convicted of any offence or which shall hereafter by notice in the *Gazette* under the hand of the Attorney-General be appointed to be such station;

- * (b) any building cell or place now used or provided or hereafter to be appointed by the Attorney-General as a place for the detention or confinement of persons liable to detention in custody and all yards or buildings in connection with such building cell or place.

2. All and singular the jurisdiction vested in the Deputy-Governor of the Prison at Johannesburg under and by virtue of the provisions of section four of Proclamation Transvaal No. 30 of 1902 shall be and is hereby vested in the officer placed in charge of any prison in which convicted persons only are confined in respect of offences committed within such prison and the precincts thereof.

Jurisdiction of Officer in charge of places appointed as convict prisons.

† 3. It shall be lawful for the Lieutenant-Governor from time to time to make revoke or vary regulations for all or any of the following purposes;

Power to make regulations.

- (a) for the measuring photographing and the taking of finger impressions or other records of persons confined in any gaol in this Colony or otherwise lawfully detained in custody;
- (b) as to the appointment of and the duties to be performed by any gaoler overseer warder or trade instructor of the gaols of the Colony and the conditions under which they may retire or be removed from office;
- (c) as to the admission of any persons within any gaol other than the officers thereof and the persons who are or may be confined therein;
- (d) for preventing the supply of any intoxicating liquor tobacco narcotics and drugs and regulating the conveyance of letters documents food

* For list of such places appointed by the Attorney-General see Government Notice No. 439 of 1904, *Gazette*, 25 March, 1904, p. 660.

† For such Regulations see Government Notice No. 379 of 1904 (*Gazette*, 18 March, 1904, p. 578).

GAOL LAW AMENDMENT.
TRADE MARKS REGISTRATION AMENDMENT.

**ORD.
No. 2
of
1904.**

- clothing and other articles to persons detained in lawful custody;
- (e) for the visiting and inspection of gaols by Magistrates and other persons appointed for that purpose by the Lieutenant-Governor;
- (f) and generally for the good rule and government of the several gaols of the Colony.

And any such regulations may provide for the imposition of fine or imprisonment or of both fine and imprisonment for the breach thereof provided that no such regulation shall impose a fine exceeding twenty pounds or a term of imprisonment exceeding two months.

Repeal.

* 4. From the date of the publication in the *Gazette* of any regulations made under section *three* of this Ordinance Law No. 10 of 1899 and Articles *three eight eleven sixteen seventeen twenty* and *twenty-three* to *twenty-nine* inclusive of Law No. 14 of 1880 shall be repealed.

Title.

5. This Ordinance may be cited as the Gaol Law Amendment Ordinance 1904 and shall be read as one with Law No. 14 of 1880 and any law amending the same.

**ORD.
No. 3
of
1904.**

No. 3 of 1904.]

[Assented to 28 Jan. 1904.]

ORDINANCE

To amend The Trade Marks Registration Proclamation 1902.

WHEREAS it is desirable to amend in certain respects The Trade Marks Registration Proclamation 1902;

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

Amendment
of section
seven of Pro-
clamation
(Transvaal)
No. 23 of
1902.

1. The Trade Marks Registration Proclamation 1902 shall be and is hereby amended as follows;

- (a) By the addition at the end of section *seven* thereof of the following sub-sections;

* Regulations published in *Gazette*, 18 March, 1904, under Government Notice No. 379 of 1904, p. 578.

**ORD.
No. 3
of
1904.**

“(6) The Registrar shall have power to order that the costs of any proceeding under this section shall be paid by either party thereto in all respects as if the Registrar were a Judge of the Court and such costs shall be taxed by the Taxing Officer and paid and the payment thereof may be enforced in the same manner as if the same were costs allowed by a Judge of the Court.”

“(7) In case the applicant or the opponent is residing abroad or has no fixed property within this Colony then the applicant or the opponent, prior to the hearing of the application or opposition or any appeal, as the case may be, shall have the right to require that security to the satisfaction of the Registrar or the said Court, as the case may be, be lodged by the applicant or opponent for the costs and if such security is not lodged or given the application or opposition or appeal, as the case may be, shall not be taken into consideration by the Registrar or the said Court.”

(b) By the addition at the end of section *seventeen* of the said Proclamation of the following sub-section;

“(e) Correct any error in or in connection with an application for registration of a Trade Mark or any registered Trade Mark in any special circumstances not provided for by the provisions of this Proclamation upon such terms and upon such conditions as the Registrar may think fit.”

2. This Ordinance may be cited as The **Title.**
Trade Marks Registration Amendment
Ordinance 1904.

**ORD.
No. 4
of
1904.**

No. 4 of 1904.]

[Assented to 28 Jan. 1904.

ORDINANCE

To Correct Errors in certain of the Laws in force in this Colony.

WHEREAS it is expedient to make verbal corrections in certain laws in force in this Colony;

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

Correction of
Laws as set
forth in the
Schedule.

1. The laws enumerated in the first column of the Schedule hereto shall be and are hereby amended as from the date of their promulgation to the extent set forth opposite each such law in the second column of the said Schedule.

Title.

2. This Ordinance may be cited as the Correction of Errors in Laws Ordinance 1904.

SCHEDULE OF LAWS AMENDED.

LAWS.	AMENDMENTS.
Proclamation No. 24 of 1900	In section <i>fourteen</i> for the words "Commandant-General" shall be substituted the words "Inspector-General."
Proclamation Transvaal No. 11 of 1902	In section <i>forty-nine</i> sub-section (5) (a) for the word "protested" when it first occurs shall be substituted the word "presented."
Ordinance No. 10 of 1903	In section <i>thirteen</i> for the words "Proclamation No. 6 of 1900" shall be substituted the words "Proclamation No. 6 of 1901."
Ordinance No. 24 of 1903	In section <i>two</i> the word "expedient" when it first occurs shall be omitted.
Ordinance No. 38 of 1903	In section <i>eight</i> by the omission of the words "section <i>twenty-four</i> of"
Ordinance No. 57 of 1903	In section <i>eight</i> for the words "section <i>ten</i> " shall be substituted the words "section <i>nine</i> ."
Ordinance No. 58 of 1903	In section <i>fifteen</i> for the words "section <i>fourteen</i> " shall be substituted the words "section <i>twelve</i> ."
	In section <i>sixty-six</i> shall be substituted the words "under section <i>seventy-three</i> of this Ordinance or under any law establishing Urban District Boards" for the words "under the Urban District Boards Ordinance 1903."

CORRECTION OF ERRORS IN LAWS.
CUSTOMS MANAGEMENT ORDINANCE 1902 AMENDMENT.

Schedule of Laws Amended—Continued.

LAWS.	AMENDMENTS.
Ordinance No. 60 of 1903	In section <i>twenty-one</i> for the word "rendered" the word "tendered" shall be substituted. In section <i>thirty-six</i> sub-section (3) for the word "fifth" the word "third" shall be substituted. In section <i>forty-six</i> for the words "eighty" and "eighty-one" shall be substituted the words "seventy-seven" and "seventy-eight" respectively.
Ordinance No. 66 of 1903	In section <i>five</i> clause (a) for the words "Settlers Ordinance 1903" shall be substituted the words "Settlers Ordinance 1902."

**ORD.
No. 4
of
1904.**

No. 5 of 1904.]

[Assented to 28 Jan. 1904.]

ORDINANCE

To amend the Law relating to Customs.

**ORD.
No. 5
of
1904.**

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

I. The Customs Management Ordinance 1902 is hereby amended ;

Amendment
of Ordinance
No 23 of
1902.

- (a) By inserting in section *sixteen* after the word "keep" the words "within this Colony".
- (b) By adding at the end of section *seventeen* the words "and any person failing refusing or neglecting to produce proof of any of the matters within this section referred to shall be liable to the penalties provided by section *fifty-two* of this Ordinance."
- (c) By substituting for section *twenty* the following;

"Should any goods for which due entry has not been made or in

**ORD.
No. 5
of
1904.**

respect of which there has been a contravention of any regulation framed under the provisions of section *seven* of the Customs Union and Tariff Amendment Ordinance 1903 be found in any store shop structure vehicle or place or in the possession of any person they shall be liable to forfeiture and the importer or person in whose possession or on whose premises or under whose control such goods are found shall be liable to the penalties prescribed by section *fifty-two* of this Ordinance."

(d) By substituting for the words "one hundred" in section *twenty-two* the words "twenty-five."

(e) By substituting for section *forty-one* the following;

"(1) All penalties and forfeitures heretofore or hereinafter incurred under any law relating to the Customs may be recovered either by civil action or criminal prosecution in any Court of competent jurisdiction.

(2) Where any such penalty or forfeiture has been adjudged to be paid upon a criminal prosecution the sum so adjudged may be recovered in manner prescribed by section *two hundred and forty-nine* of the Criminal Procedure Code 1903."

(f) By adding in section *fifty* after the word "document" where it first occurs the words "to be used in connection with the entry of any goods or".

Title.

2. This Ordinance may be cited as the Customs Management Ordinance 1902 Amendment Ordinance 1904.

No. 6 of 1904.]

[Assented to 30 Jan. 1904.

**ORD.
No. 6
of
1904****ORDINANCE****To Consolidate and Amend the Law relating to the
Theft of Stock and Produce.**

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

1. Law No. 4 of 1891 and Law No. 2 of 1894 are hereby repealed. Repeal of
Laws.

2. In the interpretation of this Ordinance the following terms shall have the meanings hereinafter assigned to them that is to say; Interpreta-
tion of terms.

“Circuit Court” includes the Witwatersrand High Court;

“produce” shall include all skins hides horns of stock as defined by this Ordinance as well as wool mohair and ostrich feathers;

“stock” means the male female or young or cross of an animal of any of the following kinds: horse ass kine sheep goat swine or domesticated ostrich; and the carcase or portion of the carcase of any slaughtered stock;

“sufficient fence” when applied to wire fences shall mean a fence of not fewer than four wires and not less than three feet six inches high; in other cases any fence wall or hedge through which no stock could pass without breaking or any natural boundary through or across which no sheep would ordinarily pass;

“police officer” means any member whatever may be his rank of the South African Constabulary Town Police or any other police force lawfully established in the Transvaal;

* “theft” shall embrace besides actual stealing;

(1.) receiving stolen stock or produce knowing it to have been stolen;

(2.) attempting to steal stock or produce;

* Cf Section 35 of Ord. No. 15 of 1904 (post) by which a registered brand is made *prima facie* evidence of ownership of hide or stock; see also Sect. 36 of that Ordinance shifting burden of proof where hide is so mutilated that brand or distinctive mark illegible.

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- (3.) and being or having been in unlawful possession of stock or produce and not being able to give a satisfactory account of such possession;
- (4.) inciting to or counselling or procuring the theft of stock or produce.

Findings under a charge of theft.

3. It shall be lawful for the Courts of Resident Magistrates on the trial of any accused person for theft as defined by this Ordinance to find such accused person guilty of any of the offences embraced in the term theft as so defined although such accused person may not have been originally charged with that particular offence.

Jurisdiction of Courts of Resident Magistrates.

4. Subject to the provisions of the next succeeding section Courts of Resident Magistrates shall respectively have jurisdiction to try summarily cases in which any person may be accused of the theft of any stock or produce and to punish any person convicted of any such theft as follows;

- (a) in the case of a first conviction by imprisonment with or without hard labour for any period not exceeding one year or by corporal punishment in any number of lashes not exceeding twenty-four or by both such first-mentioned imprisonment and such lashes;
- (b) in the case of a second or any subsequent conviction within the space of three years next following a previous conviction for theft of stock or produce whether under this or any other law or under the common law by imprisonment with or without hard labour for any period not exceeding two years or by corporal punishment in any number of lashes not exceeding twenty-four or by both such imprisonment and such lashes.

Magistrate in certain cases empowered to commence preparatory examination.

5. As often as any charge of the theft of stock or produce shall be brought under the notice of any Resident Magistrate which charge shall from its nature or magnitude appear at any stage of the proceeding

to such Magistrate to be unfit to be disposed of under the limited jurisdiction conferred by this Ordinance it shall be lawful for such Magistrate instead of proceeding or continuing to try the case under this Ordinance to take or convert the proceedings into a preparatory examination in manner prescribed by *The Criminal Procedure Code 1903 provided that if the Attorney-General upon consideration of the preparatory examination shall be of opinion that the evidence is such as to require that the prisoner shall be put upon his trial and be of opinion also that the exercise of the jurisdiction conferred by this Ordinance will satisfy the ends of justice then and in that case the Attorney-General may remit the case for trial to the Court of the Resident Magistrate by whom the preparatory examination was taken and such Court shall thereupon proceed to try the same in manner and form prescribed for the trial of remitted cases;† and in case the prisoner shall be convicted such Court may pronounce upon him any sentence to which he might have been subjected under this Ordinance in case he had been tried under this Ordinance without any preparatory examination having been taken; and provided that nothing herein contained shall be deemed to deprive the Attorney-General of any power to remit such cases which may at any time be vested in him by law independently of this section.

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6. (1) It shall be lawful for any Court of Resident Magistrate upon the conviction or committal for trial or sentence of any person on a charge of theft of stock or produce at the request of the owner thereof or of the person authorised in writing by such owner to inquire summarily and without pleadings but in the presence of the accused person into the value of such stock or produce.

Judgment of
compensation
and
damages.

(2) Upon proof made to its satisfaction of the value of such stock or produce and of any damages which the said owner shall have sustained by the loss of such stock or

* Cf Section 65 of Ord. No. 1 of 1903.

† Cf Section 89 of Ord. No. 1 of 1903.

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produce or by the cost of a search for or other endeavour to recover the same the said Court shall give judgment in favour of such owner and against the accused for such value as aforesaid together with such damages if any 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.

(3) No Resident Magistrate shall give any such judgment for any sum exceeding one hundred pounds sterling.

(4) No such judgment for such value shall be given in any case in which such stock or produce shall have been recovered by the owner before the conviction or committal for trial or sentence as the case may be of the accused person.

Execution of
civil judgment:
Security.

7. No such judgment as aforesaid shall be put in execution if the person convicted or committed for trial as the case may be shall give security to the satisfaction of such Court to pay the amount thereof should his conviction be confirmed upon appeal or review or should he be afterwards duly convicted when brought to trial nor shall any such judgment be put into execution unless and until the owner of the said stock or produce shall give security to the satisfaction of the Magistrate to refund in case he shall by law be required so to do any sum of money which shall be levied under or upon such judgment and to make good such damages if any as the accused person shall have sustained by the execution of such judgment.

In case of
acquittal
where security shall
have been
given judgment to be
void.

8. If any conviction of any person who shall have given such security shall afterwards be quashed on appeal or review or if any accused person who shall have given such security shall ultimately be acquitted of the theft in regard to which he was committed then the judgment aforesaid shall be null and void; provided however that nothing in this Ordinance contained shall deprive the owner of the stock or produce aforesaid to any right of civil action which he may by law be entitled to have or maintain notwithstanding the

quashing of such sentence or such acquittal against the person so convicted or committed for trial.

9. As often as such judgment as aforesaid shall have been put into execution and the conviction be quashed on appeal or review or in the case of a committal for trial the person committed be ultimately acquitted or discharged then the Court by or before which the person accused shall have been convicted or committed for trial as the case may be shall upon application of or on behalf of such person give judgment summarily and without pleadings for such sum as shall have been levied under execution and such damages if any as referred to in section *seven* unless it shall be found by such Court upon considering the evidence in the criminal case and any other evidence which may be given by the owner aforesaid and the person acquitted or either of them that upon grounds of law applicable to the decision of civil actions the said owner was and is *prima facie* entitled to have and retain such judgment as aforesaid against the person acquitted notwithstanding such acquittal.

Procedure where civil judgment has been put into execution and conviction quashed or criminal proceedings abandoned.

10. In case the value of any stock or produce with the theft of which any person shall be charged and the amount of such damages as aforesaid shall not sufficiently appear upon the depositions taken on the preparatory examination or at the trial and further proof of such value or such damages shall be tendered on the part either of the owner or of the accused such further proof shall be taken down in writing and shall by such Magistrate be preserved.

Further proof as to value of stolen stock.

11. As often as any charge of theft of stock or produce in regard to which any such judgment as aforesaid shall have been given by any Resident Magistrate shall be tried in the Supreme or any Circuit Court it shall be the duty of the Resident Magistrate who gave such judgment to deliver or cause to be delivered to the Registrar of such Court a copy of such further proof if any of value and damages as such Magistrate

When criminal case tried in Supreme or Circuit Court Magistrate must transmit to Registrar particulars of civil judgment.

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shall have taken over and above the preparatory examination together with a statement of the date and amount of the said judgment as also a statement of the amount if any levied thereupon and the said Registrar shall before during or immediately after the trial lay the same before the presiding judge for his inspection.

Where Magistrate has given no judgment for value of stolen stock such judgment may be obtained from the Judge after conviction.

12. In case any such owner as aforesaid shall not have obtained from the committing Magistrate any such judgment as aforesaid and the prisoner committed for trial or sentence shall be afterwards convicted before the Supreme or any Circuit Court then the Judge before whom such conviction shall have taken place shall upon the like request as that in the *sixth* section of this Ordinance mentioned and in the presence of the prisoner inquire summarily and without pleadings into the value and damages therein referred to and give judgment for the same 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.

Where case is reviewed the particulars as to judgment for value of stolen stock is to accompany record of proceedings.

13. Should any case in which any such judgment as aforesaid shall have been given by any Resident Magistrate be forwarded for review by a Judge of the Supreme Court such Magistrate shall in forwarding the record of the proceedings in such case to the Registrar of the Supreme Court to be laid before a Judge in Chambers for his consideration forward with such record the same particulars regarding such judgment as such Magistrate is under and by virtue of the *eleventh* section of this Ordinance enjoined to deliver or cause to be delivered in cases in which the person accused is tried in the Supreme or any Circuit Court.

Judgment given for value of stolen stock to become void where Attorney-

14. If in any case the Attorney-General upon considering the preparatory examination shall decline to prosecute any person against whom the committing Magistrate shall have given judgment under this Ordinance then such person shall be deemed to be discharged within the meaning of section

nine unless the person in whose favour such judgment shall have been pronounced shall within ten days give security as a private prosecutor to the satisfaction of the Magistrate for the prosecution of the person accused and unless the accused person shall be so prosecuted and convicted within a further time to be fixed by the Magistrate; and if such conviction shall be quashed on appeal or review the provisions of section *nine* shall also apply.

General declines to prosecute unless security for private prosecution is given.

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15. As often as more persons than one shall be convicted of the theft of any stock or produce or committed for trial or sentence on any charge of such theft then any such judgment as may be given for value and damages or either by any Magistrate or Judge against such persons jointly shall be deemed to be joint and several and may be executed against the property of any one or more of the persons who shall have been so convicted or committed for trial or sentence; provided that it shall be lawful to give judgment against any one or more of such persons without including in that judgment any of the other persons convicted or committed for trial or sentence for or in regard of the theft of the same stock or produce; and provided that no person against whom such judgment has been pronounced shall in any case recover under section *seven* or *nine* of this Ordinance more than the amount levied against himself in satisfaction of such judgment together with any damages awarded to him under section *seven*.

Value of stolen stock recoverable from one or more persons concerned in theft

16. Nothing in this Ordinance contained shall be construed so as to oblige any owner of any such stock or produce to apply for any such judgment as aforesaid or to deprive him of any right of civil action which he may have against the accused person for or on account of such stock or produce; nor shall the fact of having obtained from any Resident Magistrate a judgment for the sum of one hundred pounds prevent the owner who obtained such judgment from suing in any competent Court for any damages by him sustained over and above the said sum of

Owner not obliged to apply but may proceed by civil action. If damages exceed £100 owner may sue for excess.

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one hundred pounds; nor shall the fact of judgment under section *seven* or *nine* bar any civil action by the owner who has lost the stock or produce forming the subject of the charge.

Penalty for entry upon enclosed place with intent to steal stock.

* **17.** Any person who enters any farm or part of a farm enclosed on all sides with a sufficient fence or any kraal with intent to steal any stock which is in or upon such farm or part of a farm or kraal shall be liable upon conviction to imprisonment with or without hard labour for a period not exceeding one year or to a fine not exceeding one hundred pounds or to both such fine and such imprisonment.

Presumptive evidence of intent to steal.

* **18.** Any person found within any farm or part of a farm enclosed on all sides with a sufficient fence or within any kraal and who when so found was not proceeding along any road or thoroughfare on such farm or part of a farm shall if charged with a contravention of the last preceding section have the burden imposed on him of proving that he did not enter such farm or part of a farm or kraal with intent to steal the stock if any kept therein.

Person charged with theft may be found guilty of contravention of section *seventeen*.

19. Any person charged with the theft of stock from any such kraal farm or part of a farm may be found guilty under section *seventeen* of this Ordinance.

Suspected person may be apprehended without warrant.

20. If there be reasonable grounds for believing that any person is or has been in unlawful possession of any stock or produce it shall be competent for any Justice of the Peace landholder or police officer to apprehend or cause to be apprehended such person without warrant and convey him or cause him to be conveyed in custody before any Magistrate having jurisdiction and if it be found that he is or had been in possession of any such stock or produce and is not able to give a satisfactory account of such possession to such Magistrate he may be charged with the crime of theft of stock or produce and dealt with accordingly.

* Cf definition of "fence" in Section 1 of Ord. No. 7 of 1904 (post).

21. If any person is reasonably suspected to have in any sack knapsack or other covering any produce it shall be lawful for any Justice of the Peace landholder or police officer to detain or cause to be detained such person and examine or cause to be examined the contents of such sack knapsack or other covering and in case such person shall upon such examination be found to be in possession of any produce it shall be lawful for such Justice of the Peace landholder or police officer to apprehend him or cause him to be apprehended without warrant and to convey him or cause him to be conveyed before any Magistrate having jurisdiction and in case he shall be unable to give a satisfactory explanation of such possession to such Magistrate he may be charged with the crime of theft of stock or produce and dealt with accordingly.

Sacks, &c., of persons suspected to be conveying produce may be searched and persons apprehended without warrant.

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22. Any person who shall under colour of this Ordinance wrongfully and maliciously or without probable cause apprehend any person or cause him to be apprehended shall be liable to pay a fine not exceeding fifty pounds and to pay to the apprehended person such amount not exceeding the sum of one hundred pounds as and for damages as the Magistrate before whom such apprehended person is brought for trial shall award and in default of payment of the fine shall be liable to be imprisoned with or without hard labour for a period not exceeding three months unless such fine shall be sooner paid; provided that nothing in this section contained shall have the effect of depriving any aggrieved person of the right to elect to take any other remedy given him by law in lieu of the remedy by this section given.

Penalty for wrongful arrest.

23. Notwithstanding anything to the contrary in any law it shall be lawful for any Justice of the Peace or for any police officer of such rank as the Lieutenant-Governor may from time to time designate upon being satisfied that there is reason to suspect that any stolen stock or stolen produce is concealed in any building hut kraal or enclosure to search or to grant written

Persons authorised to search buildings &c., for stolen stock or produce.

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authority to any person applying for the same to search such building hut kraal or enclosure at any time during the day or night; provided that any landowner shall in respect of any building or hut upon his own land be entitled to exercise all the powers conferred by this section upon the officers hereinbefore mentioned.

Penalty for malicious exercise of authority to search.

24. (1) Any person who shall under colour of this Ordinance wrongfully and maliciously or without probable cause apply for obtain and act upon such written authority as aforesaid or wrongfully and maliciously or without probable cause exercise the powers of search conferred by the last preceding section shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for any period not exceeding three months and shall also be liable to pay to the person lawfully in occupation of the building hut kraal or enclosure in question when the same was searched such sum not exceeding one hundred pounds for damages as any competent Court may award.

(2) Nothing in this section contained shall have the effect of depriving any aggrieved person of the right to elect to take any other remedy allowed by law in lieu of the remedy under this Ordinance.

Purchase of produce between sunset and sunrise prohibited except at public sales.

25. (1) It shall not be lawful for any person to purchase or sell for purposes of trade any produce between the hours of sunset and sunrise; provided however that this prohibition shall not apply to any person purchasing or selling produce at any public sale.

(2) Any person contravening the provisions of the last preceding sub-section shall upon conviction be liable to a penalty not exceeding fifty pounds or to imprisonment with or without hard labour for a period not exceeding three months.

Not to apply to contract of sale where price not less than £100.

26. The provisions of the last preceding section shall not apply to any contract for the purchase and sale of produce where the purchase price paid or agreed to be paid for the said produce shall amount in value to the sum of one hundred pounds sterling or upwards.

27. If any auctioneer or market master sells any stock which shall be proved to have been stolen he shall be personally responsible to the owner of or person who has any right in such stock for the full value thereof.

Responsibility of auctioneer.

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28. Any person travelling about acquiring stock by purchase barter or in any other way shall obtain a certificate from every person from whom he acquires stock specifying the kind of stock and also the colour marks and number; and the person from whom he has acquired such stock shall furnish him with such a certificate. The person acquiring the stock shall exhibit such certificate when requested to do so by a Justice of the Peace or a police officer.

Stock buyers and traders.

29. No one may acquire stock by purchase barter or in any other way from coloured persons or from persons having no known place of habitation without a certificate from a Justice of the Peace or two residents of substantial means of the neighbourhood in which the transaction takes place certifying that the transferor is entitled to transfer such stock.

Purchase of stock from coloured or unknown person.

***30.** (1) Any person who shall slaughter or cause to be slaughtered any stock for sale shall retain or cause to be retained in his possession the hides taken off such animals with the brands or ear-marks attached thereto without any alteration disfiguration or effacement of the brands or marks on such hides or ears for the period of five days.

Preservation of hides.

(2) Any Justice of the Peace police officer owner of cattle or any other person may within the period of time mentioned in the last preceding sub-section demand an inspection of such hides and upon such demand being made the aforesaid person shall produce the same for inspection of the said Justice police officer owner or other person.

(3) Any person contravening any of the provisions of this or of the last two preceding sections shall be liable upon conviction 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; or to both such fine and such imprisonment.

31. This Ordinance may be cited as The Stock Theft Ordinance 1904.

* Cf Section 22 of Ord. No. 16 of 1904 (post).

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[Assented to 30 Jan. 1904.

ORDINANCE

To regulate the Erection and Maintenance of Dividing Fences.

WHEREAS it is expedient that the erection and maintenance of dividing fences between adjoining properties should be regulated;

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

Interpreta-
tion of terms.

I. In this Ordinance if not inconsistent with the context the expressions in inverted commas shall have the meanings placed opposite to them;

“fence” means a substantial stock proof fence with gates at places where it crosses public or private roads and suitable appliances where it crosses other obstacles. Any such fence shall be deemed to be a sufficient fence within the meaning of the Stock Theft Ordinance 1904;*

“to repair” shall include to trim cut and maintain a fence or ditch or part thereof;

“dividing fence” shall mean a fence as above defined separating the lands of adjoining owners, of specifications which such owners may agree upon or in the event of disagreement which may be settled by the Resident Magistrate situate either along or close to the surveyed line of common boundary;

“owner” shall except for the purposes of the next succeeding section include;

- (a) the person registered as the owner of land in the office of the Registrar of Deeds;
- (b) the lessee or licensee of Crown Land under the Settlers Ordinance 1902 or the Crown Land Disposal Ordinance 1903;

* Cf definition of “sufficient fence” in Section 2 of Ord. No. 6 of 1904 (ante); see also Sections 17 and 18 of that Ordinance.

- (c) the Commissioner of Lands in respect of any portion of Crown Land reserved under section *twelve* of the Crown Land Disposal Ordinance 1903 for agricultural stock or forestry purposes;
- (d) the Commissioner for Native Affairs in respect of any Native Location;
- (e) the Council of any Municipality or Urban District Board in respect of all lands the ownership or use of which is vested in such Council or Board or to which or to the use of which the inhabitants of such Municipality or Urban District have acquired or may hereafter acquire a common right;

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“Commissioner” shall mean the Commissioner of Lands;

“holding” means an area of land not being an erf or stand held under separate grant or deed of transfer and any portion of Crown Land held under a lease or a license issued under the Settlers Ordinance 1902 or reserved under section *twelve* of the Crown Land Disposal Ordinance 1903 for agricultural stock or forestry purposes or used as a native location;

“imprisonment” shall include imprisonment with or without hard labour.

PART I.

2. (1) The provisions of this part of this Ordinance shall be in force in any ward of a district to which the Lieutenant-Governor by Proclamation may apply them; but no such Proclamation shall issue unless and until the resolution hereinafter mentioned shall have been carried in such ward.

Provisions applicable to proclaimed areas.

(2) The Resident Magistrate shall convene a public meeting of all owners of land in any ward in his district registered in the Land Register kept in his office and not included within any Municipality or area under the jurisdiction of an Urban District Board

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when requested to do so by not less than ten of such owners to determine whether Part I. of this Ordinance shall be applied to such ward. Such meeting shall be held at the seat of Magistracy or at such other convenient place in the ward as the Magistrate may appoint.

(3) The notice convening such meeting shall be published by the Resident Magistrate in the *Gazette* and in some newspaper circulating in the district for a period of at least thirty days prior to the date for which such meeting is convened and shall also be affixed to the door of the building in which the Magistrate holds his Court and a copy of such notice in both the English and Dutch languages shall be posted and addressed to every registered owner of land in the ward.

(4) The said notice shall state the day hour and place of meeting and the object for which it is convened.

(5) The Resident Magistrate shall preside at such meeting.

(6) No person shall be allowed to vote at such meeting unless he is such a registered owner of land in the ward as is mentioned in sub-section (2) hereof and resides therein. If at such meeting there shall be at least twenty such voters present and entitled to vote thereat and a majority consisting of two-thirds of such voters shall pass a resolution in favour of putting Part I. of this Ordinance in force in such ward the Lieutenant-Governor may by Proclamation in the *Gazette* declare the provisions of Part I. of this Ordinance in force in such ward; provided always that if at any such meeting such resolution as aforesaid shall not be carried it shall not be lawful for the Resident Magistrate to convene a subsequent meeting for the same or similar object until six months after the date of the last meeting at which such a resolution as aforesaid was not carried.

Arbitration.

3. The Resident Magistrate shall hear and determine all disputes in regard to the erection repair maintenance and specifications of dividing fences in his district in

like manner as if he were the sole arbitrator appointed by the parties thereto under the provisions of the Expropriation of Land and Arbitration Clauses Proclamation 1902.

4. In the absence of any agreement thereto the owner of any holding intending to erect a dividing fence along his boundary or any part thereof along which there is not a fence shall notify the Resident Magistrate and the owner of the adjoining holding of his intention to do so and of the specifications of such intended fence.

Notice to
fence.

If no agreement in respect to the erection thereof be sooner made between the parties and notice to the contrary be not received from the owner of the adjoining holding within six weeks then at the expiration of such period or any time thereafter the owner giving the notice may proceed to erect such dividing fence according to the specifications contained in his notice and shall be entitled to receive one-half the cost thereof from such adjoining owner.

5. The person receiving notice as aforesaid who considers the specifications of fence in such notice for any reason unsuitable may within six weeks after receiving the same give notice to such notifying owner to that effect stating in such notice the specifications he desires instead thereof; and shall within the same period forward a copy of such last mentioned notice to the Resident Magistrate with a request that he shall determine the matter together with the sum of forty shillings towards the cost of the hearing; and in default of sending such notice copy and sum as aforesaid such person shall be deemed to have agreed to the erection of a fence as specified in such first mentioned notice.

Objections to
specifica-
tions.

The Resident Magistrate on receiving such request and deposit of forty shillings as aforesaid or as soon after as may be convenient shall fix a place and day for hearing the matter and shall notify the parties accordingly and shall determine the specifications of such intended fence and thereupon such dividing fence as aforesaid may be erected according to such specifica-

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Natural
barrier.

tions and the cost of such erection shall be divided equally between such adjoining owners.

6. Where a permanent river or other natural obstacle forms an effective natural barrier against the passage of stock the person receiving the notice under the last preceding section may give notice to the notifying owner and Resident Magistrate that he considers the fence specified in the notice received by him or a certain part thereof unnecessary. The Resident Magistrate shall on receipt thereof determine the matter and the specifications of fence if any to be erected.

Give and take
line.

7. The persons between whose holding a dry water course or river (not being of such nature as to form a natural barrier for stock) or range along which it is impractical or inexpedient to fence forms the dividing line may agree on a fair give and take line as a dividing line to be fenced according to the provisions of this Ordinance or in default of such agreement the owner of either holding may apply to the Resident Magistrate who shall cause such fair give and take line to be surveyed at the joint cost of the parties.

Such fair give and take line so agreed upon or so surveyed as aforesaid shall be taken to be the boundary line for the purpose of this Ordinance but shall not otherwise affect the title to the respective holdings.

Payment by
instalments.

8. If the person receiving notice under this Ordinance to join in or contribute to the construction of any dividing fence shall be unable to pay the amount or any part thereof which he shall become liable to pay in respect of such fence and shall within one month after such amount shall have been fixed give notice to the person calling upon him to join in or contribute as aforesaid that he desires to pay such amount in instalments as herein mentioned the amount payable by such person or such part thereof as he shall not be able to pay together with interest thereon at the rate of six per cent. per

annum shall be paid by such person by equal yearly instalments; such instalments shall be so calculated and fixed that the said capital sum and interest shall be wholly paid off in a period of five years reckoned from the date of the last-mentioned notice if such capital amount do not exceed one hundred pounds and of ten years if it exceeds the sum of one hundred pounds as more particularly shewn in the first and second Schedules to this Ordinance; provided that notwithstanding such notice and the payment of any instalment as aforesaid it shall be lawful for any such person at any time during the said period of five or ten years to pay the value at that time of the unpaid instalments in one sum as shewn in the third Schedule to this Ordinance.

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For the purposes of this section a person shall be deemed to be unable to pay the amount he is called upon to contribute towards the construction of a fence if the estimated cost of fencing the whole of his holding exceeds ten per cent. of the value of such holding less the amount of any special mortgage bond thereon.

9. Notice under this Ordinance unless otherwise expressly provided shall if possible be served personally upon the person to whom it is addressed but if the residence of such person is unknown or if he have no known representative in this Colony it shall be sufficient service of such notice if it be sent through the post by registered letter to the last known place of abode or business in this Colony of such person and copy thereof be published once in the *Gazette* and once in some newspaper if any circulating in the district in which the holding which is the subject of such notice is situated and be also forwarded to the Magistrate of the district who shall cause the same to be affixed to the door of his Court.

Notice—how given.

10. Any person along the boundary of whose holding there shall have been a fence erected prior to the date of proclaiming the ward in which such holding is situated under section *two* of this Ordinance

Recognition of fences erected before Proclamation.

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may apply to the Resident Magistrate after such Proclamation to have the same recognised as a dividing fence within the meaning of this Ordinance and the Resident Magistrate shall fix a place and day for considering the application and shall notify the parties interested and may:

- (a) either recognise such fence and order a contribution to the extent of one-half its value at the time of the hearing; or
- (b) may order such additions or alterations in it as in his opinion are requisite to render it a fence within the meaning of this Ordinance and on the same being carried out may allow a claim for contribution under this Ordinance.

Cost of
repairs.

11. When any dividing fence shall be out of repair or become insufficient the occupiers of land on either side thereof shall be liable for the cost of repairing such fence in equal proportions.

Notice to
repair
fence.

12. The occupier of any land separated from any adjoining land by a dividing fence may serve a notice upon the occupier of such adjoining land requiring him to assist in repairing such fence and if such occupier shall refuse or neglect for the space of one week after the service of such notice to assist in repairing such fence it shall be lawful for such first-named occupier to repair such fence and to demand and recover from such occupier his portion of the cost of repairing the same in manner provided in the next succeeding section; provided that if any dividing fence or any portion thereof shall be destroyed by accident the occupier of land on either side may immediately repair the same without notice and shall be entitled to recover as aforesaid his proportion of the cost thereof from the occupier of the adjoining land; provided further that in case such destruction shall be due to the act or default of one of such adjoining occupiers he shall be liable for the whole of such cost of repair as aforesaid.

13. All moneys recoverable under this Ordinance in respect of the construction or repair of any fence may be recovered from the person or from any one of several persons liable to contribute to the cost of such construction or repair and served with notice as hereinbefore prescribed; or from any person who may come in and defend under the provisions of this Ordinance any proceeding consequent on such notice and all such moneys recoverable by any person served with such notice may be recovered from the person serving the same or any person liable to contribute to the construction or repair of such fence.

Mutual rights of recovery of money.

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14. (1) It shall be lawful for any person to whom any amount shall be due by way of contribution in respect of the construction of any dividing fence under the provisions of this Ordinance to call upon the person liable for such amount to pass a mortgage bond upon the land owned by him and separated from the land of the first-mentioned person by the dividing fence in respect of which the said amount is owing; such bond being conditioned to secure payment of the amount so owing or such portion of it as may from time to time be due whether the amount be payable by instalments or otherwise.

Mortgage bond as security for payment of money owing.

(2) If the person called upon to pass such bond as aforesaid shall refuse or fail to do so it shall be lawful for the person calling upon him to do so to notify to the Registrar of Deeds in writing the fact that the amount referred to in the preceding sub-section is owing by the person aforesaid and that no mortgage bond has been passed to secure the same. The Registrar upon receipt of the said notice shall by letter notify to the person named therein the fact of the receipt by him of such notice as aforesaid and the particulars contained in it and shall inform the said person that unless the said amount is objected to within one month from the date of the said letter a note will be made thereof in terms of this section on the folio of the Land Register whereon the ownership of the land affected is registered.

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(3) If no such objection is received within the said period then the Registrar shall note the said amount in the Land Register accordingly and shall deliver to the party to whom the said debt is owing a certificate thereof setting forth the land affected the amount the date and the schedule under which payment thereof is regulated but if any such objection is received within the said period no such note shall be made except with the consent of the said person or upon the order of some competent Court.

(4) From and after the date of the said note it shall not be lawful without the order of a competent Court to transfer or mortgage the land owned by the said person in respect of which the said note was made until such note shall have been deleted by the Registrar of Deeds.

(5) Every notice to the Registrar of Deeds under sub-section (2) shall as far as possible set forth;

- (a) the full name and address of the person liable and the amount for which he is liable and also the full name of the person giving such notice;
- (b) the fact that the said amount has been agreed upon or ascertained according to law;
- (c) the fact that the person liable has been called upon to pass a mortgage bond in accordance with the provisions of sub-section (1) of this section and has failed to do so;
- (d) a clear description of the property in respect of which the said mortgage bond was demanded;

(6) Such note as aforesaid shall be deleted by the Registrar of Deeds as soon as the mortgage bond mentioned in sub-section (1) shall have been passed or upon receipt of written notice from the person to whom the amount as aforesaid is owing that such amount has been paid.

Recovery
from natives
money spent
on fencing
locations.

15. As often as the Commissioner for Native Affairs shall have paid any sum or incurred any expense under this Ordinance for and in respect of the fencing of any Native Location on Crown Lands

the occupiers of huts in such Location shall be jointly liable to contribute to the sum or expense so paid or incurred and the Lieutenant-Governor may by Proclamation direct whether such sums or expense shall be payable in one or more years and if in more years than one then in what instalments. In any year and on such dates as the Lieutenant-Governor shall appoint for such year the amount by such Proclamation fixed and determined shall be payable *pro rata* by the occupier or occupiers of every hut in such location and may be recovered in case of default as though the said amount were a tax due and payable under the provisions of the Natives Tax Ordinance 1902.

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16. After two years from the date when any area has by Proclamation been brought under the provisions of Part J. of this Ordinance no person shall unless at the time his holding be surrounded by a fence ;

- (1) bring an action for trespass committed by stock upon his land other than wilful trespass;
- (2) impound any stock trespassing after the termination of such period upon the said land.

17. When the stock of any class on a holding within a proclaimed area are declared to be infected with any infectious or contagious disease by the proper authority appointed in that behalf then the stock of that class (or of any class which is declared as aforesaid to be capable of carrying such infection) on any holding adjoining or separated from such first-mentioned holding only by a road or outspan or other unfenced holding shall be subject to the same regulations as to quarantine as the stock on such first-mentioned holding unless such adjoining holding is surrounded by a fence which is stock proof in respect of such class or classes of stock.

18. (1) Two or more owners of adjoining portions of the same farm or of divided portions situated on the same farm with an adjoining area thereon held in common may apply to the Resident Magistrate for their holdings to be considered as one for the pur-

Trespass.

Quarantine regulations to apply to unfenced holdings adjoining infected areas.

Certificate of joint ownership for purposes of Ordinance.

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pose of this Ordinance and naming one of them who shall sue and be sued in the name of all.

(2) Upon such owners satisfying the Resident Magistrate that to separate their respective portions by lines of fence would be injurious to their holdings the Resident Magistrate may issue to them a certificate to that effect and may register the person named by them as aforesaid as the representative of all of such owners for the purposes of this Ordinance.

(3) For the purposes of this Ordinance such two or more owners shall be deemed owners of undivided portions in proportion to the extent of their holdings and the two or more holdings shall be regarded as one holding and such owners will have like proportionate claims and liabilities between themselves as though their portions were undivided.

Adjustment
between
joint owners.

19. When there are more owners or occupiers than one of any holding and one of such owners or occupiers is under this Ordinance compelled to pay a contribution in respect to the erection alteration or maintenance of fencing he may in any competent court sue for and recover from such other owners or occupiers as the case may be such proportion thereof as in the opinion of the Court is fairly proportionate to their respective rights and interest.

Holdings
under lease.

20. (1) The lessee of any holding within a proclaimed area having not less than five years of his lease still to run and desiring to erect a fence on any portion of the boundary of such holding shall give notice thereof to the owner of the adjoining holding as well as the owner of such first-mentioned holding in manner similar to that prescribed in section *four* of this Ordinance and such notice shall be replied to by the persons receiving it and shall be dealt with by the Resident Magistrate in the manner prescribed in this part of the Ordinance for replying to and dealing with notices to fence between adjoining owners.

(2) Such lessee shall be entitled to recover against the lessor up to half the value of the fence; provided always that such lessee shall

pay to such lessor during the remainder of the term of his lease a sum equivalent to eight per cent. per annum to cover interest and depreciation on the amount so recovered which payments shall be made with the rent and shall to all intents and purposes form part thereof.

(3) Where a holding held under lease has substantially been enclosed by fences during the term of the lease the lessor shall be entitled to receive from the lessee as from the date when such holding becomes so enclosed as aforesaid a like payment of eight per cent. per annum on any sum or sums he may have paid or contributed to the erection of any portion thereof which payment shall be made with the rent and shall to all intents and purposes form part thereof.

21. When the dividing line between two holdings forms portion of the boundary between two magisterial districts the case shall be heard before and the specified notices given to the Resident Magistrate for the District in which the holding is situate against which the claim is made.

When adjoining holdings are in different districts.

22. It shall be lawful for any person in whom any holding is vested in trust for any other person to raise money by mortgage of such holding for the purposes of this Ordinance in the same way as if such power had been given in the instrument creating such trust.

Trustees.

23. It shall be lawful for the Lieutenant-Governor on the application of any person to grant out of such funds as the Legislative Council may provide loans for the purpose of erecting dividing fences under the provisions of this Ordinance and to frame rules regulating the terms and conditions as to security and otherwise on which such loans shall be granted.

Lieutenant-Governor's power to grant loans.

PART II.

PROVISIONS APPLICABLE TO THE WHOLE COLONY.

24. The provisions of this part of this Ordinance shall be in operation throughout the whole Colony.

Operation of Part II.

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Persons using another's fence to pay interest on half its cost.

25. If the owner or occupier of any holding shall have erected or shall hereafter erect a fence on the boundary of his holding and any other person shall adopt any means by which such fence shall be rendered of beneficial use to himself and shall avail himself of such fence or portion thereof such person shall be liable to pay to such owner or occupier as the case may be interest on half the then value of so much of such fence as such person shall use or avail himself of at the rate of eight pounds per cent. per annum for so long a period as he shall continue to use or avail himself of such fence and shall also so long as aforesaid be liable for one-half the cost of repairs of so much of such fence as aforesaid.

Bush may be cleared for fencing.

26. Where any fence is to be erected on land covered with bush the person erecting such fence shall be entitled to clear the bush for a width not exceeding five feet on each side of such fence and may remove any tree standing in the immediate line of such fence and the cost of such clearing shall be added to and form part of the cost of the erection of such fence and in case the person erecting such fence shall be entitled to recover in respect of such cost of erection from any other person the cost of such clearing shall be apportioned accordingly.

Ditch and bank fence.

27. The owner or occupier of any land may in making a ditch and bank fence dividing his land from any adjoining land make a ditch on such adjoining land and use the soil taken therefrom towards making a bank on his own land or he may make the ditch in his own land and place the bank on such adjoining land.

Where a dividing fence is made of posts and rails or wire or palings the posts of such fence shall as nearly as may be be placed on the boundary line.

Access for persons erecting fence.

28. Any person erecting or repairing a fence under the provisions of this Ordinance along any dividing line shall have reasonable access to the adjoining holdings and to any holdings he may have let on lease for himself his servants horses implements

materials carts or other vehicles employed on the work as he may reasonably require for the convenient erection thereof or bringing materials therefor; provided that nothing herein contained shall authorise the entry for the purposes aforesaid upon any land under cultivation or in or upon any garden plantation or pleasure ground without the consent of the occupier thereof or shall authorise any person to cut down lop or injure any fruit or ornamental trees or shrub without such consent.

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29. For the purpose of making any inspection valuation or survey or performing any act necessary for carrying out the provisions or intention of this Ordinance the Resident Magistrate or any surveyor or other person authorised by him may enter on any lands and value measure survey take grades and levels fell trees cut fences and perform all acts necessary as aforesaid; provided that all damage done shall be as far as possible repaired or compensation paid such compensation to be determined by the Resident Magistrate in the same manner as disputes in respect of the erection or repair of fences are determined by him.

Access to
surveyors
and
inspectors.

30. Any person may intervene and defend any proceeding under this Ordinance against any lessee of his in consequence of which he may ultimately incur any liability and any defence which the person originally proceeded against may set up shall be available to the person so intervening as aforesaid.

Landlord
may defend
proceedings
against
tenant.

31. Proceedings for the recovery of sums of money under this Ordinance may be taken before the Court of the Resident Magistrate of the district in which the defendant resides notwithstanding that the amount claimed shall be beyond the ordinary jurisdiction of such Court and such Court shall have jurisdiction to give judgment for the full amount claimed as aforesaid.

Magistrates
to have
jurisdiction.

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Ordinance
not to affect
agreements
between
occupiers.

32. Nothing in this Ordinance contained shall be deemed or taken to affect any covenant contract or agreement made or hereafter to be made relative to dividing fences between lessor and lessee or between owners or occupiers of adjoining lands provided always that any such agreement made to frustrate the purposes of this Ordinance shall be *ipso facto* null and void.

PART III.

OFFENCES.

Leaving
gates open.

33. Any person who shall open and leave open or finding open shall on passing through neglect to shut and fasten any gate in any fence shall on conviction be liable for the first offence to a fine not exceeding ten pounds and in default of payment to imprisonment for a period not exceeding fourteen days and upon any subsequent conviction to a fine not exceeding twenty pounds and in default of payment to imprisonment not exceeding six weeks.

Persons in-
juring fences
refusing to
give names
and ad-
dresses.

34. Any person who shall injure any fence and on being requested so to do by the owner or occupier of the land on which it is situated or by some person authorised thereto by such owner or occupier shall refuse to give his true name and usual address or shall give an untrue name or address shall upon conviction be liable to a fine not exceeding twenty-five pounds and in default of payment to imprisonment for a period not exceeding three months.

Misapplica-
tion of
material or
money.

35. Any person who shall misappropriate or divert any money advanced under section *twenty-three* to or for any purpose other than that for which it was advanced or shall sell or otherwise wrongfully dispose of all or any of the material so advanced shall be liable on conviction to two years' imprisonment and any sums owing for materials or money advanced with interest if any shall immediately become due and payable in respect thereof.

36. Any person who wilfully injures or removes any fence gate or other appliance or contrivance forming part thereof shall be liable on conviction to a fine not exceeding seventy-five pounds and in default thereof to imprisonment for a period not exceeding six months and shall in addition be ordered by the Court by which he is convicted to pay the amount of damage sustained by the owner of such fence gate or other appliance and such order shall be executed in the same way as a judgment of such Court in a civil case is executed.

Malicious
injury to
fencing.

**ORD.
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of
1904.**

37. Any person who inadvertently or accidentally injures any fence situated on any holding or on a proclaimed road within any holding shall forthwith repair the same and in the event of his being unable to do so shall forthwith report the same to the owner of such holding and deposit such sum as may be reasonably sufficient to cover the cost of repairing the same and he shall be entitled to receive a receipt therefor.

Accidentally
damaging
fencing.

Any person failing to repair such fences or give such notice with such reasonable sum as aforesaid or refusing to give a receipt therefor shall on conviction be liable to a fine of ten pounds and in default of payment to imprisonment for a period not exceeding fourteen days and shall in addition pay such sum or such sum in addition to any already paid as will cover the cost of such repairs by way of damages.

38. A detached Assistant Resident Magistrate may within the area under his jurisdiction exercise all the powers and discharge all the duties conferred by this Ordinance on Resident Magistrates save and except the powers and duties mentioned in section *two* hereof.

Powers of
Assistant
Resident
Magistrate
under this
Ordinance.

39. This Ordinance may be cited as the Fencing Ordinance 1904.

Title.

**ORD.
No. 7
of
1904.**

FIRST SCHEDULE.

Table of equal instalments at the end of each year for five years corresponding to amounts payable under the sixth section of this Ordinance.

Amount payable.				Equivalent amounts payable at the end of each year for five years.		
£				£	s.	d.
1	...	...	...	0	4	9
2	...	...	...	0	9	6
3	...	...	...	0	14	3
4	...	...	...	0	19	0
5	...	...	...	1	3	9
6	...	...	...	1	8	6
7	...	...	...	1	13	3
8	...	...	...	1	18	0
9	...	...	...	2	2	9
10	...	...	...	2	7	6
20	...	...	...	4	15	0
30	...	...	...	7	2	5
40	...	...	...	9	9	11
50	...	...	...	11	17	5
60	...	...	...	14	4	11
70	...	...	...	16	12	4
80	...	...	...	18	19	10
90	...	...	...	21	7	4
100	...	...	...	23	14	10

Yearly instalments for any sum not mentioned in this table such as £89 6s. 8d. may be obtained as follows:—

	£	s.	d.		£	s.	d.
	80	0	0	gives	18	19	10
	9	0	0	"	2	2	9
	0	6	8	or $\frac{1}{3}$ of £1 gives	0	1	7
Therefore	£89	6	8	gives	£21	4	2

SECOND SCHEDULE.

Table of equal instalments at the end of each year for ten years corresponding to the amounts payable under the sixth section of this Ordinance.

Amount payable.				Equivalent amounts payable at the end of each year for ten years.		
£				£	s.	d.
1	...	...	...	0	2	9
2	0	5	6
3	0	8	2
4	0	10	11
5	0	13	7
6	0	16	4
7	0	19	0
8	1	1	9
9	1	4	6

Second Schedule—Continued.

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Amount payable.					Equivalent amounts payable at the end of each year for ten years.
£					£ s. d.
10	...	...	...	...	1 7 2
20	...	...	...	...	2 14 4
30	...	...	...	...	4 1 6
40	...	...	...	...	5 8 8
50	...	...	...	...	6 15 11
60	...	...	...	...	8 3 1
70	...	...	...	...	9 10 3
80	...	...	...	...	10 17 5
90	...	...	...	...	12 4 7
100	...	...	...	...	13 11 9
200	...	...	...	...	27 3 6
300	...	...	...	...	40 15 3
400	...	...	...	...	54 7 0
500	...	...	...	...	67 18 8
600	...	...	...	...	81 10 5
700	...	...	...	...	95 2 2
800	...	...	...	...	108 13 11
900	...	...	...	...	122 5 8
1,000	...	...	...	...	135 17 4
2,000	...	...	...	...	271 14 9
3,000	...	...	...	...	407 12 1
4,000	...	...	...	...	543 9 5
5,000	...	...	...	...	679 6 10

Yearly instalments for any sum not mentioned in this table such as £1,274 5s. may be obtained as follows:—

£ s. d.		gives	£ s. d.
1,000 0 0			135 17 4
200 0 0		"	27 3 6
70 0 0		"	9 10 3
4 0 0		"	0 10 11
0 5 0 or $\frac{1}{4}$ of £1		"	0 0 8
<hr/>			<hr/>
Therefore 1,274 5 0		"	173 2 8

THIRD SCHEDULE.

Aggregate value of unpaid instalments each £100 in amount of which the first is payable at once and subsequently at yearly intervals.

Number of instalments, £100 each.	Aggregate value.	
	£	s. d.
1	...	100 0 0
2	...	194 6 10
3	...	283 6 9
4	...	367 6 0
5	...	446 10 3
6	...	521 4 9
7	...	591 14 8
8	...	658 4 9
9	...	720 19 7
10	...	780 3 5

NOTE.—The aggregate value of instalments of any other amount may be readily obtained from the above table by simple proportion.

**ORD.
No. 8
of
1904.**

No. 8 of 1904.]

[Assented to 8 Feb. 1904.

ORDINANCE

To provide for a Board of Examiners under the Land Surveyors Admission Ordinance 1903.

WHEREAS it is desirable to constitute a Board to discharge the duties imposed on the Board of Examiners mentioned in the Land Surveyors Admission Ordinance 1903;

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

Appointment of Board to discharge duties of Board of Examiners imposed by Ordinance No. 55 of 1903.

1. Until the Board of Examiners of this Colony is constituted the powers and duties conferred and imposed on that Board by the Land Surveyors Admission Ordinance 1903 shall be conferred and imposed on a Board consisting of the Surveyor-General and three other members to be appointed by the Lieutenant-Governor two of whom shall be admitted Surveyors of this Colony.

Appointment of Examiners.

2. It shall be lawful for the said Board to appoint persons to examine in the subjects prescribed for the examination to be passed by candidates desiring to be admitted as Land Surveyors and to pay the said examiners such fees as the Lieutenant-Governor may approve of.

Title.

3. This Ordinance may be cited for all purposes as the Examining Board (Survey Examinations) Ordinance 1904.

**ORD.
No. 9
of
1904.**

No. 9 of 1904.]

Assented to 8 Feb. 1904.

ORDINANCE

To provide for the taking of a Census from time to time.

WHEREAS it is expedient to provide for the taking of a census from time to time;

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

*1. It shall be lawful for the Lieutenant-Governor to appoint from time to time by Proclamation published in the *Gazette* that a census be taken at such time as shall be notified in such Proclamation.

Lieutenant-Governor to appoint taking of census.

**ORD.
No. 9
of
1904.**

†2. It shall be lawful for the Lieutenant-Governor to appoint a fit and proper person to be called the "Commissioner of the Census" to superintend the taking of any census and at any time to appoint some other person in his place or to appoint any person to act temporarily for such Commissioner of the Census.

Lieutenant-Governor may appoint Commissioner of Census.

3. (1) The Lieutenant-Governor may for the carrying out of the purposes of this Ordinance from time to time make rules not inconsistent with the provisions of this Ordinance and rescind revoke amend alter or add to such rules.

Lieutenant-Governor in Council may make rules.

§(2) The rules may prescribe;

- (a) the duties of the census officers;
- (b) the particulars regarding which the persons from whom and the mode in which information shall be obtained for the purposes of the census;
- (c) the form of schedule to be prepared by the Commissioner of the Census for the purpose of being filled up with the particulars so prescribed.

4. The Commissioner may in writing appoint any person as enumerator or supervisor or in such other capacity as may be necessary to take or aid in taking or to supervise the taking of the census within any specified local area and may at any time revoke such appointment.

Appointment of enumerators and supervisors.

5. Every Commissioner of Census and every person appointed under section *two* or section *four* of this Ordinance shall be a census officer within the meaning of this Ordinance.

Who are census officers.

6. Every person occupying any land house enclosure or other place shall allow any census officer such access thereto as he may require for the purpose of the census and as may be reasonable and shall allow him to paint mark or affix on or to the property

Occupier to allow access and permit affixing of numbers.

* See Proclamation No. 19 Admn. 1904 (*Gazette* 25 Mar. 1904 p. 687) appointing a Census for 17th April 1904.

† See Government Notice No. 188 of 1904 (*Gazette* 19 Feb. 1904 p. 336).

‡ For such Rules see Government Notice No. 469 of 1904 (*Gazette* 25 Mar. 1904 pp. 687-702).

**ORD.
No. 9
of
1904.**

Asking of questions by census officers.

Obligation to answer questions.

Schedule to be left at dwelling-houses and filled up by the householders.

Schedules to be delivered to and filled up by keeper of prison, etc.

in the occupation of such person such letters marks or numbers as may be necessary for the purposes of the census.

7. Every census officer may ask all such questions of all persons within the limits of his local area as by rule made in this behalf by the Lieutenant-Governor he may be directed to ask.

8. Every person of whom any question is asked under the last preceding section shall be bound to answer such question to the best of his knowledge and belief.

9. (1) Subject to such rules as the Commissioner of Census may make in this behalf any census officer may leave or cause to be left a schedule in the form prescribed at any dwelling-house within the local area of such census officer for the purpose of its being filled up by the occupier of such house or of any specified part thereof.

(2) When any such schedule has been so left the occupier of the house or part to which it relates shall fill it up to the best of his knowledge and belief so far as regards the inmates of such house or part as the case may be at the time of the taking of census and shall sign his name thereto and when so required shall deliver the schedule so filled up and signed to the enumerator or supervisor appointed for the local area within which the house is situated or to such other person as the Commissioner may direct.

10. (1) Subject to such rules as the Lieutenant-Governor may make any census officer may if so required by the Commissioner deliver or cause to be delivered to:

- (a) every person in charge of a lunatic asylum hospital work-house prison police station reformatory lock-up or of any public charitable religious or educational institution; or to
- (b) every keeper secretary or manager of any hotel boarding-house lodging-house or club;

a schedule in the prescribed form to be filled up in relation to the persons who at the time of the taking of census are under his charge or inmates of his house.

(2) The person to whom the schedule is so delivered shall fill up or cause the same to be filled up to the best of his knowledge and belief so far as regards the inmates of such lunatic asylum hospital work-house prison police station reformatory lock-up or public charitable religious or educational institution or such hotel boarding-house lodging-house or club at the time aforesaid and shall sign his name thereto and when so required shall deliver the schedule so filled up and signed to the enumerator or supervisor appointed for the local area within which such building is situated or to such other person as the Commissioner may direct.

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of
1904.**

11. The Commissioner of Census shall obtain by such ways and means as shall appear to him best adapted for the purpose the information required by this Ordinance or by the rules made by the Lieutenant-Governor with respect to;

Enumeration of military forces travellers etc.

(a) any body of men belonging to His Majesty's military forces;

(b) all persons who during the time appointed for taking any census were travelling or for any other reason were not abiding in any house of which account is to be taken by the census officers as aforesaid;

and shall include such information in the abstract to be made by him as hereinafter provided.

12. It shall be the duty of every supervisor to deliver or cause to be delivered to any superintendent or person in charge of any mine or estate on which labourers are employed schedules in the prescribed form to be filled up by such superintendent or person in charge with the particulars required in such schedules.

Schedules to be delivered to superintendents of estates and managers of mines and filled up by them.

13. Every enumerator shall deliver to the supervisor all schedules and all such returns as may be required by the Commissioner of the Census on or before a day to be appointed for the purpose by the Commissioner and it shall be the duty of such supervisor to verify them and to transmit them forthwith to the Commissioner.

Enumerator to deliver schedules and returns to supervisor.

**ORD.
No. 9
of
1904.**

Abstract to be made and forwarded to the Lieutenant-Governor and published.

Penalties for census officers.

14. The Commissioner of the Census shall upon the receipt of the schedule and returns cause an abstract to be made of the same and forward the said abstract to the Lieutenant-Governor within such time as may be appointed by the Lieutenant-Governor and the same shall be printed and published for general information.

15. Any census officer who;

- (a) without sufficient cause refuses or neglects to act as such or to use reasonable diligence and care in performing any duty imposed upon him;
- (b) wilfully puts an offensive or improper question or knowingly makes any false return;
- (c) asks receives or takes from any person other than an authorised officer of the Government any payment or reward;
- (d) divulges any information obtained during the performance of his duty as an officer of the census;

shall be guilty of an offence and be liable to a penalty not exceeding one hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one month or to both such fine and such imprisonment.

Penalties.

16. Any person who;

- (a) refuses to answer to the best of his knowledge and belief any question asked of him by an enumerator which he is legally bound so to answer or wilfully makes a false answer thereto;
- (b) makes signs delivers or causes to be made signed or delivered any wilfully false or incorrect schedule statement or return;
- (c) refuses to allow the enumerator such reasonable access to any land house enclosure or other place as he is required by this Ordinance to allow;
- (d) removes obliterates alters or injures before the expiry of four weeks

NATURALIZATION OF ALIENS AMENDMENT.

from the time of the taking of census letters marks or numbers which have been painted marked or affixed for the purposes of the census;

- (e) refuses or neglects to comply with any provision of this Ordinance or of any rule made thereunder;

shall be guilty of an offence and shall be liable to a penalty not exceeding ten pounds or to imprisonment with or without hard labour for a period not exceeding one month.

17. No entry in any book register or record made by a census officer or by any other person in the discharge of his duty under this Ordinance shall be admissible as evidence in any civil or in any criminal proceeding save and except a prosecution instituted under this Ordinance in respect of such entry against the person who made signed or delivered the same or caused the same to be made signed or delivered anything in any Ordinance contained to the contrary notwithstanding.

Records of census not admissible in evidence.

18. This Ordinance may be cited as The Title.
Census Ordinance 1904.

No 10 of 1904.]

[Assented to 10 Feb. 1904.]

ORDINANCE

To Amend the Naturalization of Aliens Ordinance 1902.

**ORD.
No. 10
of
1904.**

WHEREAS it is desirable to amend in certain respects the Naturalization of Aliens Ordinance 1902;

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

I. Sub-section (1) of section *one* of the Naturalization of Aliens Ordinance 1902 shall be and is hereby repealed and there shall be substituted therefor the following provisions;

Repeal of sub-section (1) of section *one* of Naturalization of Aliens Ordinance 1902 and substitution of new sub-section.

“An alien who has been in the service of the Crown or who within such limited time before making the

**ORD.
No 10
of
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application hereinafter mentioned as may be prescribed by the Lieutenant-Governor either by general order or on any special occasion has resided in the Transvaal for;

- (a) a term of not less than five years; or
- (b) who having resided in the Transvaal for a term of one year immediately before making the application hereinafter mentioned has also resided in any part of His Majesty's Dominions for such period as together with the period of one year aforesaid will make up five years in all;

and who intends when naturalized to reside or to serve under the Crown in the Transvaal may apply for a certificate of naturalization in the form prescribed in the first Schedule hereto."

Recognition in this Colony of certificates of naturalization or certificates of re-admission to British nationality under Naturalization Act 1870 (Imperial.)

2. Notwithstanding anything in the Naturalization of Aliens Ordinance 1902 contained any person who shall have been granted a certificate of naturalization in the United Kingdom under section *seven* of the Naturalisation Act 1870 of the Imperial Parliament or who shall have been granted a certificate of re-admission to British nationality under section *eight* of the said Act and shall not subsequently have divested himself of his status as a British subject shall be entitled in this Colony to all the rights powers and privileges and be subject to all the obligations to which he would be entitled and subject if he had been granted a certificate of naturalization under the provisions of the Naturalization of Aliens Ordinance 1902 or of this Ordinance.

Repeal of form in first Schedule of Naturalization of Aliens Ordinance 1902 and substitution of other form.

3. The form prescribed in the First Schedule to the Naturalization of Aliens Ordinance 1902 shall be and is hereby repealed and there shall be substituted therefor the form set forth in the Schedule to this Ordinance annexed.

4. This Ordinance may be cited for all purposes as the Naturalization of Aliens (Amendment) Ordinance 1904 and shall be read as one with the Naturalization of Aliens Ordinance 1902.

**ORD.
No. 10
of
1904.**

SCHEDULE.

FORM OF APPLICATION FOR CERTIFICATE OF NATURALIZATION.

To the Colonial Secretary of the Transvaal:—

I A.B. do hereby apply for a Certificate of Naturalization in the Transvaal and I declare that the following statements are true and correct in every particular:—

1. Name of applicant in full
2. Married or single.....
3. Names and ages of children (if any).....
4. Present Nationality and whether acquired by birth or naturalization.....
5. If applicant has resided in British dominion other than the Transvaal state place or places and period or periods of such residence.....
6. Names and nationality of parents
7. Birthplace (state fully name of place and country).....
8. Age next birthday.....
9. Occupation
10. Place of residence in Transvaal
11. Period or periods during which and place or places in which applicant has resided in Transvaal giving dates and addresses
12. Length of time during which applicant has been in service of Crown.....
13. Does the applicant if naturalized intend to reside in Transvaal?.....

Declared at.....this.....day of..... 19.....

Signature of Applicant.

Before me.....

..... R.M. or J.P.

No. 11 of 1904.]

[Assented to 10 Feb. 1904.

**ORD
No. 11
of
1904.**

ORDINANCE

To Provide for the Registration of Prospecting Contracts.

WHEREAS it is desirable to repeal the First Volksraad Resolution of the 12th of August 1886 Article 1422;

And whereas doubts have arisen as to the effect of registration of contracts in the Register of Miscellaneous Contracts commonly known as the Register of "Diverse Akten";

And whereas it is also desirable to make further provision for the registration of deeds commonly known as prospecting contracts;

**ORD.
No. 11
of
1904.**

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

Prospecting contract defined.

1. A "prospecting contract" shall mean a notarial deed by which the registered owner of any piece of land grants the right to prospect and seek for any metal mineral oil or precious stone together with the right to purchase either the freehold or any right to metals minerals oil or precious stones on such land or the right to lease any such right.

Repeal of Law.

2. The First Volksraad Resolution of the 12th of August 1886 Article 1422 is hereby repealed.

A Register of prospecting contracts to be opened in Deeds Office.

* **3.** Upon the taking effect of this Ordinance the Registrar of Deeds shall open in the Deeds Office a Register to be called the Register of Prospecting Contracts in which he shall subject to the provisions of this Ordinance and to the Rules and Regulations of the Deeds Office register all prospecting contracts executed after the taking effect of this Ordinance tendered to him for registration.

How prospecting contracts to be registered.

4. In the registration of any such contract the Registrar shall endorse a note thereof in the Land Register on the folio of the piece of land affected.

Effect of registration of a prospecting contract.

5. Subject to the provisions of section *seven* hereof such registration shall make such contract of full force and effect against subsequent purchasers or lessees of the land affected thereby and against all creditors of the grantor except those secured by a mortgage bond registered against the title deed of the land in question prior to the date of the registration aforesaid as well as against the holder of any prospecting contract existing at the date of the taking effect of this Ordinance but not duly registered.

How renewals of prospecting contract to be registered.

6. (1) When in any prospecting contract the rights granted to the holder thereof are for a defined period with the right to such holder at his option to renew the contract for a further period or periods then such registration as aforesaid shall be effective

* For Regulations as to Registration of Prospecting Contracts see Government Notice No. 186 of 1904 (*Gazette* 19 Feb. 1904 p. 336).

**ORD.
No. 11
of
1904.**

only for the defined period; provided that upon tender by the registered holder of such contract of the affidavit in the next succeeding sub-section mentioned the Registrar of Deeds shall note on such contract and in the Register of Prospecting Contracts that the registered holder claims that he has exercised such right of renewal for the period mentioned in such affidavit and such note shall as from the date thereof be effective notice of such claim to all persons affected by the original contract.

(2) Before making any such note as in the last preceding sub-section mentioned the Registrar of Deeds shall require to be lodged with him a sworn affidavit by the registered holder of the contract or his duly authorised agent that he has within the time specified by the contract fulfilled all the conditions thereof which entitle him to a renewal and that he has thereby exercised his right to such renewal.

7. (1) It shall be competent for the holder of any prospecting contract entered into before the taking effect of this Ordinance whether such contract has been registered in the Register of Miscellaneous Contracts (Diverse Akten) or not to bring such contract under the provisions of this Ordinance by tendering the same for registration in the Register of Prospecting Contracts and filing;

Application of Ordinance to existing contracts registered in the Register "van Diverse Akten."

- (a) a sworn affidavit by the holder of such contract or his duly authorised agent to the effect that he has fulfilled all the terms and conditions of such contract and that the same is still of force and effect; provided always that the grantor of such contract is still the registered owner of the land affected thereby at the date of such tender for registration as aforesaid;
- (b) or the written consent signed by the person who at the date of such tender as aforesaid is the registered owner of the property affected by such contract or his duly authorised agent authorising the registration of such contract;

**ORD.
No. 11
of
1904.**

(c) or an order of Court directing the registration of such contract.

(2) Any prospecting contract notarially executed before the taking effect of this Ordinance shall take precedence over any contract executed after such taking effect and registered in the Register of Prospecting Contracts under this Ordinance; provided always that such first mentioned contract shall;

(a) if registered in the Register of Miscellaneous Contracts be registered in the Register of Prospecting Contracts within twelve months from the taking effect of this Ordinance;

(b) if not registered in the Register of Miscellaneous Contracts be registered in the Register of Prospecting Contracts within three months from the taking effect of this Ordinance.

Prospecting
Contracts
containing
ambiguous
words or
phrases.

8. Where a deed purporting to be a prospecting contract contains one or more ambiguous words or phrases which may be interpreted as placing the contract within the category of grants of rights to minerals the Registrar of Deeds may register such Deed as a prospecting contract provided a supplementary explanatory deed by the grantor and grantee or a sworn explanatory declaration by them be filed therewith; and provided always that nothing herein contained shall in any way modify the provisions of the Transfer Duty Proclamation 1902 or any amendment thereof.

Cancellation
by owner of
land of the
registration
of a pros-
pecting con-
tract no
longer in
force.

9. The Registrar of Deeds may upon the request in writing of the registered owner of any piece of land affected by any prospecting contract the registration of which under the provisions of section six of this Ordinance is no longer in force or effect or to the renewal of which no claim has been lodged or if lodged has lapsed by effluxion of time may cause the note in the Land Register and in the Register of Prospecting Contracts of the registration of such contract to be cancelled.

Title.

10. This Ordinance may be cited for all purposes as the Registration of Prospecting Contracts Ordinance 1904.

No. 12 OF 1904.]

[Assented to 18 Feb. 1904.]

**ORD.
No. 12
of
1904.****ORDINANCE****To amend the Magistrates' Court Proclamation 1902.**

WHEREAS it is expedient to amend the Magistrates' Court Proclamation of 1902 in certain respects;

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

1. Section *eight* of the Magistrates' Court Proclamation 1902 shall be and is hereby amended by the addition after the words "Law No. 3 of 1871" in the said section of the words "and shall have and exercise all the powers duties and jurisdiction conferred and imposed upon Landdrosts or Special Landdrosts by Law No. 13 of 1895 and upon Resident Magistrates by the Administration of Estates Proclamation 1902."

Amendment
of section
eight of Pro-
clamation
Transvaal
No. 21 of 1902.

2. Section *twelve* of the said Proclamation shall be and is hereby amended as follows:—

Amendment
of section
twelve of Pro-
clamation
Transvaal
No. 21 of
1902.

(1) by the addition at the end of Clause (1) of sub-section (b) thereof of the words "and in all cases commonly called 'illiquid' for the recovery of the price of any merchandize goods or other moveable property when the amount claimed does not exceed the sum of two hundred and fifty pounds sterling."

(2) by the addition in the proviso of the said section after the word "document" of the words "or in respect of the price of any merchandize goods or other moveable property."

3. Section *thirteen* of the said Proclamation is hereby repealed and the following substituted in lieu thereof;

Arrests and
Interdicts.

"It shall be lawful for a Court of Resident Magistrate:—

"(1) To grant orders for arrests and interdicts against persons and things when the debt or matter in dispute is within the jurisdiction of the Court of Resident Magistrate.

"(2) In any final judgment in a civil case to order the delivery to the plaintiff or to any third party who has intervened

**ORD.
No. 12
of
1904.**

Amendment
of section
thirty-nine of
Proclama-
tion
Transvaal
No. 21 of 1902.

Power to
Supreme
Court to con-
firm set aside
or reduce
sentences of
inferior
Courts on
review or
appeal and
correct pro-
ceedings and
remit to
Magistrate
with instruc-
tions.

Power of
Magistrates
to issue
garnishee
orders.

of any moveable property claimed in lieu of or in addition to damages claimed; provided that the value of such moveable property and the amount of such damages shall not when added together exceed an amount beyond the jurisdiction of a Court of Resident Magistrate."

4. Section *thirty-nine* of the said Proclamation shall be and is hereby amended by the substitution for the words "three months" in the said section of the words "six weeks."

*** 5.** Notwithstanding anything contained in the Magistrates' Court Proclamation 1902 or any other law the Supreme Court when any criminal matter shall come before it or a Judge thereof upon appeal or in review from a Court of Resident Magistrate or other inferior Court may confirm set aside or reduce any conviction or sentence as justice may require and may correct the proceedings of any such Court and when it shall appear necessary or proper may remit such proceedings to such Court with such instructions relative to any further proceedings to be had or taken as the Supreme Court may think fit to give.

6. (1) The Court of a Resident Magistrate of any district on the *ex parte* application of any person who has obtained any judgment for the payment of any money in any Court of a Resident Magistrate upon such evidence as the Magistrate may require that such judgment is still unsatisfied and of the amount still payable thereunder and that any other person living within the jurisdiction of the Court of such Magistrate is indebted to the person against whom such judgment has been obtained (hereinafter called the debtor) may order such other person (hereinafter called the garnishee) to pay to the Messenger of the Court so much of the debt due from him to the debtor as may be sufficient to satisfy the said judgment together with the costs of the garnishee proceedings or failing such payment to appear before the Court on a day to

be named in the said order and show cause why he should not pay such debt.

(2) Such order shall be served on the garnishee by the Messenger of the Court in the same manner as a summons is directed to be served by any Law or Rule relating to the service of summons in civil proceedings in Courts of Resident Magistrates and the service of such order shall operate as an attachment of the said debt in the hands of the garnishee.

(3) If the garnishee does not dispute that the debt is due from him to the debtor nor allege that he has a set off against the debtor or that the debt sought to be attached belongs to or is subject to a lien by some other person or if he shall not appear to shew cause as is mentioned in sub-section (1) of this section the Court may if satisfied by the return of the Messenger of the Court endorsed upon the Order that the same has been duly served further order execution to issue against the garnishee for so much of the debt as may be sufficient to satisfy the said judgment together with the costs of the garnishee proceedings and the process for the execution of such order shall be as nearly as possible in accordance with the laws in force in Courts of Resident Magistrates relative to the process for the execution of judgments of such Courts.

(4) If the garnishee disputes his liability to pay the said debt or alleges that the debt sought to be attached is subject to a set off or belongs to or is subject to a lien by some other person the Court instead of making a further order as in the last preceding sub-section is provided shall subject to the limitations as to jurisdiction imposed on Courts of Resident Magistrates in civil cases proceed to hear and determine the question of such liability or of the rights of such other person and may order such other person to appear and state the nature and particulars of his claim to or upon the said debt; provided always if such other person reside or be for the time being within any

ORD.
No. 12
of
1904.

**ORD.
No. 12
of
1904.**

other district of the Colony such order shall upon endorsement by the Resident Magistrate of the district in which such other person resides or is for the time being be capable of service within such last named district; and every Resident Magistrate is hereby authorised and required on production to him of any such order to endorse the same.

(5) After hearing the garnishee or such other person aforesaid and their witnesses (if any) or in case of the non-appearance after order of such other person the Court may order execution to issue against the garnishee in manner provided by sub-section (3) of this section; and may declare the claim of such other person to be barred or may make such other order as to the Court shall seem meet upon such terms in all cases with respect to the set off lien or charge (if any) of such other person and upon such terms with respect to costs as the Court shall think just and reasonable.

(6) Payment made by or execution levied upon the garnishee under the provisions of this section shall be a valid discharge of the debt due from him to the debtor to the amount paid or levied.

(7) The Clerk of the Court shall keep a book to be called the "Debt Attachment Book" wherein he shall note the names of the parties to garnishee proceedings the dates of any process thereunder and the dates and statements of the amounts recovered; copies of any entries in such book may be obtained by any person on payment of a fee of one shilling.

(8) The costs of any proceedings under the provisions of this section shall be in the discretion of the Court.

(9) The Resident Magistrate shall transmit certified copies of any orders made and a certificate of the amounts paid or levied under this section to the Resident Magistrate of the Court in which the judgment was obtained against the debtor.

False returns
on *nulla bona*.

7. If any person being required by the Messenger of the Court to point out property to satisfy any writ shall;

- (a) falsely declare to the Messenger that he possesses no property or not sufficient property to satisfy such writ; or
- (b) although owning such property shall fail or refuse to point out the same, he shall on conviction be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for any period not exceeding six months.

**ORD.
No. 12
of
1904.**

8. This Ordinance may be cited as the ^{Title.} Magistrates' Court Proclamation Amendment Ordinance 1904 and shall be read as one with the Magistrates' Court Proclamation 1902 and any law amending the same.

No. 13 of 1904.]

[Assented to 10 Feb. 1904.]

**ORD.
No. 13
of
1904.**

ORDINANCE

To confer upon the Supreme Court of the Transvaal Jurisdiction to hear Appeals from the Courts of Swaziland and for other purposes.

WHEREAS by His Majesty's Order in Council dated the 25th day of June 1903 published in the *Government Gazette* of the Transvaal His Majesty by and with the advice of His Majesty's Privy Council has been pleased to confer upon and commit to the Governor of the Transvaal the exercise of certain powers authorities and jurisdictions within the territory known as Swaziland hereinafter referred to as the said territory bounded on the North the West and the South by the Transvaal and on the East by the Colony of Natal and the Portuguese territories;

And whereas the Governor of the Transvaal intends to issue a Proclamation under the aforesaid Order in Council providing that the laws of the Transvaal shall *mutatis mutandis* and as far as they may be applicable be in force in Swaziland and shall be administered as if that territory were a district of the Transvaal;

And whereas it is desirable in order to give proper effect to such proclamation as aforesaid to confer certain powers and jurisdictions on the Supreme Court and on certain of the officials of the Transvaal;

**ORD.
No. 13
of
1904.**

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

Judges of the Supreme Court may act as Judges of Swaziland Circuit Court.

Appeals to and review by Supreme Court from and of decisions of Courts established in Swaziland.

Powers and duties of Transvaal Government Officials as to matters arising in Swaziland.

Legalization of detention of certain persons in this Colony from Swaziland.

1. It shall be lawful for any Judge of the Supreme Court of this Colony to act as a Judge of any Circuit Court established in Swaziland under Proclamation by the Governor of the Transvaal.

2. The Supreme Court of this Colony shall have jurisdiction to entertain hear and determine appeals from any Circuit Court or from any Court of Resident Magistrate established in Swaziland in all respects as if the said territory were a district of the Transvaal and shall likewise have the same jurisdiction in respect of the review of any civil and criminal proceedings of the said Court of Resident Magistrate as it has in respect of such proceedings in inferior *Courts of this Colony; provided that an appeal from any judgment of the Supreme Court shall lie to His Majesty in Council in the same manner and on the same conditions as appeals from the judgments of the said Court in its ordinary jurisdiction as soon as by Order in Council provision has been made for the hearing of such appeals.

3. Every official in the Transvaal on whom by any law of the Transvaal in force in Swaziland any duties are imposed or any powers or jurisdiction conferred shall in respect of matters arising in Swaziland perform the same duties and have and exercise the same powers which such official would be liable to perform or empowered to have and exercise if Swaziland were a district of the Transvaal.

The Supreme Court shall have jurisdiction to order the performance of any duties imposed on such officials by this section.

4. Every person who shall be detained in any prison lunatic asylum or leper asylum in this Colony or in the course of the removal thereto in accordance with the provisions of any law in force in Swaziland relating to criminal procedure prisons lunacy or leprosy shall be deemed to be lawfully detained therein.

* Cf Section 39 of Administration of Justice Proclamation (Tr. No. 14 of 1902).

5. Every act matter or thing which shall have been advised directed or done by any official of the Transvaal Government for the peace order and good government of Swaziland prior to the date of this Ordinance or of any Proclamation issued by the Governor of the Transvaal relating to the government of Swaziland shall be deemed to have been lawfully advised directed or done and no action indictment or legal proceedings whatsoever shall be brought in any of the Courts in this Colony against such officials in respect of such acts matters or things.

Validation of acts of Transvaal officials relating to Swaziland.

**ORD.
No. 13
of
1904.**

6. This Ordinance may be cited for all purposes as the Swaziland Jurisdiction Ordinance 1904 and shall take effect from and after the date of a Proclamation by the Lieutenant-Governor putting it into force.

Title and operation.

No. 14 OF 1904.]

[Assented to 11 Feb. 1904.

ORDINANCE

**ORD.
No. 14
of
1904.**

To regulate the ownership of Town Lands.

WHEREAS it is expedient to make provision as to the ownership of Town Lands;

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

1. Volksraad Resolution Article 140 dated 13th October 1868 Law No. 17 of 1898 section *forty-five* and sections *one* and *two* of Regulations for Towns in the South African Republic published in the *Staats Courant* of 25th October 1899 page 1673 and so much of any other law as may be repugnant to or inconsistent with the provisions of this Ordinance shall in so far as they apply to Town Lands within the limits of any Local Authority be and are hereby repealed.

Repeal of laws.

2. In this Ordinance unless there is something repugnant in the subject or context; "Town Lands" means the lands referred to in the laws mentioned in the pre-

Interpretation of terms.

**ORD.
No. 14
of
1904.**

ceding section as "public town lands of towns" or as "common village or town land" and vested by the said laws in the State;

"Local Authority" means the Council of any Municipality or Urban District Board as the case may be.

Lieutenant-Governor may reserve portions of Town Lands for public purposes.

3. The Lieutenant-Governor may in consultation with the Local Authority reserve out of the Town Lands of any Town such portions thereof as may be required for public purposes; provided that if any Local Authority shall be dissatisfied with the portion or portions so reserved it may appeal by petition to the Legislative Council whose decision on such petition shall be final; and provided further that when any such portion shall for a period of ten years remain unused for public purposes the same shall vest in and become the property of the Local Authority in the same manner as the lands referred to in the next succeeding section.

Remainder of Town Lands to be transferred to Local Authority. Provisions in respect of public diggings proclaimed on Town Lands.

4. (1) All the Town Lands except such as shall have been reserved under the provisions of the last preceding section shall be granted or transferred to and vested in the Local Authority of such town in full ownership without any reservation in the grant thereof of minerals and precious stones in favour of the Crown; provided always that on the proclamation of any public digging under Law No. 15 of 1898 or any amendment thereof or of a mine under the Precious Stones Ordinance 1903 on the land so granted the Local Authority shall be entitled to all the rights of an owner of private land on which a public digging or mine is proclaimed under the said Law or Ordinance; and provided further that the revenues and profits received by such Local Authority arising out of such rights as aforesaid shall be applied to the purposes mentioned in section *six* of this Ordinance; provided that where any Local Authority is indebted to the Government such grant or transfer shall not take place until such Local Authority shall give

satisfactory security for the repayment of the debt.

(2) In case any portion of any Town Lands was proclaimed a public digging prior to the taking effect of this Ordinance the Local Authority shall be entitled to one-half the license moneys in respect of all claims and stands on such digging paid to the Colonial Treasurer from and after the taking effect of this Ordinance.

The license moneys payable on any claims pegged out on any such public digging after the land on which such claims are situated is granted to the Local Authority shall be at the same rate as license moneys on claims situated on proclaimed private land.

5. The provisions of section *forty-one* sub-section (8) of the Municipal Corporations Ordinance 1903 shall apply to all lands granted or transferred under the last preceding section.

Land not to be alienated without consent of Lieutenant-Governor.

6. All moneys derived from the alienation of lands granted or transferred under this Ordinance shall only be applied to purposes sanctioned by the Lieutenant-Governor.

Application of moneys derived from sale of Town Lands.

7. Where erven shall after such grant or transfer be laid out whether by the Local Authority or any person deriving title from such authority upon any portion of the land transferred to any Local Authority under the provisions of section *four* of this Ordinance a number of erven not exceeding one-tenth of the number so laid out shall be reserved by the Local Authority or person as aforesaid for public purposes in such position or positions as may be indicated by Government.

Government to be entitled to one-tenth of erven subsequently laid out.

~~8. All portions of Town Lands which prior to the taking effect of this Ordinance have been allotted by the Crown for occupation by settlers shall so long as they are used for such occupation be excluded from the operation of this Ordinance; provided always that when such portions as aforesaid cease to be used for such occupation they shall become vested in the Local Authority in the same manner and to the same extent as the land mentioned in sec-~~

Exclusion of Town Lands allotted to settlers before taking effect of Ordinance.

**ORD.
No. 14
of
1904.**

TOWN LANDS.
GREAT STOCK BRANDS.

**ORD.
No. 14
of
1904.**

~~tion four hereof; and provided further that so soon as all advances and expenditure made and incurred by the Crown in connection with such settlements have been paid out of the revenue derived therefrom all further revenue from such source shall be paid to the Local Authority.~~

Title.

9. This Ordinance may be cited as the Town Lands Ordinance 1904.

**ORD.
No. 15
of
1904.**

No. 15 of 1904.]

[Assented to 12 Feb. 1904.]

ORDINANCE

To provide for the branding of Great Stock and for the Registration of such Brands.

WHEREAS it is expedient to regulate the branding of great stock and to provide for the due registration of brands:

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

Interpreta-
tion of terms.

1. In this Ordinance unless there is something repugnant in the subject or context:

“brand” shall mean a brand duly registered under this Ordinance and made upon any portion of the hide of any great stock in manner prescribed by this Ordinance;

“branding iron” shall mean the instrument prescribed for imprinting a brand or mark on great stock by this Ordinance or the Regulations made under it;

“branding instrument” shall mean any other instrument or tool by which any mark or symbol can be impressed imprinted or cut on any portion of any horse or cattle.

“Brand Directory” shall mean an authorised list of brands compiled by the Registrar of Brands and published by the Government Printer.

“Native Commissioner” shall include Sub-Commissioner;

**ORD.
No. 15
of
1904.**

- “distinctive mark” shall mean a lawful mark (other than a registered brand) which a native is empowered by this Ordinance to mark upon the dewlap or head of any stock already bearing the brand of the location native family or stad in which such native resides to denote his ownership thereof;
- “great stock” shall mean horses and cattle with their offspring.
- “horse” shall mean any horse mare gelding colt filly ass or mule;
- “cattle” shall mean any bull cow steer heifer or calf.
- “officer of police” shall mean any commissioned officer of the South African Constabulary or any member of the Town Police above the rank of Sergeant.
- “police officer” shall mean any member of the South African Constabulary or Town Police.
- “Inspector” shall mean any person empowered to act as an Inspector of Brands under this Ordinance;
- “imprisonment” shall include imprisonment with or without hard labour.
- “register” shall mean the register book kept in pursuance of this Ordinance containing a list of brands for great stock registered hereunder.
- “Registrar” shall mean the Registrar of Brands;
- “regulations” shall mean the regulations framed by the Lieutenant-Governor under this Ordinance;
- “residence” shall mean the residence house homestead or dwelling of the owner of any brand or great stock;
- “holding” shall mean any farm or other place where great stock is kept.

ADMINISTRATION.

2. This Ordinance shall come into force upon the 1st day of July 1904.

3. It shall be lawful for the Lieutenant-Governor to appoint an officer in the Department of Agriculture who shall be called the Registrar of Brands and whose

Date of
taking effect
of Ordinance.

Registrar
and
Inspectors
of Brands.

**ORD.
No. 15
of
1904.**

office shall be in Pretoria and such persons as he may think fit from time to time to be Inspectors of Brands who shall be under the authority of the Resident Magistrates for the districts for which they are appointed; every Resident Magistrate Assistant Magistrate Native Commissioner and Officer of Police shall be *ex officio* an Inspector of Brands.

Register
Book.

4. The Resident Magistrate shall keep a register in the form in Schedule "A" hereto of all brands allotted within his district under the provisions of this Ordinance.

Application
for brand.

5. On and after the 1st day of July 1904 any person other than a native resident in a native location requiring a brand shall deliver or transmit to the Resident Magistrate an application in the form in Schedule "B" hereto accompanied by the fees prescribed in Schedule "F" for the registration of a brand; if no special combination is applied for the Resident Magistrate if satisfied that such application is in conformity with the provisions of this Ordinance shall allot to such applicant in the order in which his application is received the first unallotted brand standing in the register for the Magisterial District in which the holding is situated on which the brand is to be used and shall register the said brand to such applicant accordingly in the form in Schedule "A" hereto annexed; provided always that it shall be lawful for the Resident Magistrate at the request of the owner as aforesaid to allot another combination standing vacant in the register for the same magisterial district.

Certificate.

6. Upon the registration of any brand as aforesaid the Resident Magistrate shall deliver or transmit to the applicant to whom such brand is allotted a certificate of the registration thereof in the form in Schedule "C" hereof.

Form of
Registered
Brand.

7. Save as hereinafter provided every registered brand shall consist of two letters and one numeral of plain and uniform pattern in an even and regular line and the first of the letters shall indicate the magisterial district or sub-district in which the

holding is situate on which the brand is to be used.

The boundaries of the sub-districts shall be defined by notice in the *Gazette*.

8. One brand and no more shall be allotted to any person in any one magisterial district or sub-district.

The size of the characters branded on great stock shall be not less than one and a quarter inches in height.

Number of brands to be allotted to an applicant.

**ORD.
No. 15
of
1904.**

RULES FOR BRANDING.

9. All brands shall be imprinted on great stock as follows;

How brands are to be imprinted.

(1) in the case of "horses"—

the first brand shall be imprinted either on the near side of the neck or near rump of such "horse" and any second or subsequent brand on that part of such animal herein mentioned at the distance stated in the next succeeding sub-section and next in order as defined in sub-section (2) paragraph (b) (i.) (ii.) (iii.) (iv.) (v.) of this section;

(2) in the case of "cattle"—

(a) the first brand shall be imprinted on the near rump (or thigh) of the animal and every second or subsequent brand shall (where there is space sufficient for the purpose) be imprinted on the same part of such animal and at a distance of not less than one-and-a-half inches from and directly underneath the brand last imprinted according to the table herein set forth;

(b) where there is not sufficient space for the purpose then such second or subsequent brand shall be imprinted on the part of such animal next in order according to the following table;

- (i.) off rump (or thigh);
- (ii.) near shoulder (or top of arm);
- (iii.) off shoulder (or top of arm);
- (iv.) near ribs;
- (v.) off ribs.

**ORD.
No. 15
of
1904.**

Publication
in *Gazette*
of registered
brands.

Annual
Brand
Directory

10. The Registrar shall at the end of each quarter of every year or as soon thereafter as possible from returns sent to him by the Resident Magistrates transmit for publication in the *Gazette* a statement in the form in Schedule "A" hereto of all brands registered under this Ordinance up to the last day of such quarter with the names and addresses of their respective owners and shall cause copies of such *Gazettes* to be sent to every Resident Magistrate Poundmaster and Inspector of Brands in the Colony as soon after publication as possible.

11. From such quarterly publications the Registrar shall as soon as possible after the thirty-first day of December in each year cause a Brand Directory containing all the brands which stand registered up to date to be compiled and published in the form of the said publications; and he shall cause a copy thereof to be forwarded as soon as possible after publication to every Inspector Resident Magistrate District Commandant of the South African Constabulary Deputy Commissioner of the Town Police Poundmaster and Post Master in this Colony.

TRANSFERS.

Transfer of
registered
brands.

12. The person wishing to transfer his right to any registered brand and the person intending to become the transferee thereof shall sign a document in the form in Schedule "D" and shall transmit it to the Resident Magistrate with a fee of ten shillings who may on receipt thereof cancel the registration of the said brand standing in the name of the transferor and register such brand in the name of the transferee and such transferee shall thereafter be deemed to be the person having the exclusive right to use such brand as aforesaid; or the Resident Magistrate may return the fees and decline to register the transfer; provided that on the sale of a holding if the owner does not sell the whole of the stock bearing his brand to the purchaser then the Resident Magistrate shall not transfer the brand to the purchaser of such holding.

**ORD.
No. 15
of
1904.**

The Resident Magistrate shall keep a book in which all transfers surrenders and cancellations of brands shall be recorded and the Registrar shall from returns sent to him by the Resident Magistrates notify the same at the end of every quarter in the *Gazette* immediately following the quarterly statement of brands registered.

13. The owner of any brand may surrender the same and the Registrar shall on receipt of notice thereof cancel the registration. Surrender
of brands.

14. When it appears to the Resident Magistrate upon the Report of an Inspector or otherwise that a registered brand is not in use he may cause notice to be given to the owner thereof calling upon him to show cause why the same should not be cancelled; and if cause is not shown to the satisfaction of the Resident Magistrate within six months after such notice he may cancel the brand. Disused
brands.

15. No brand which has been surrendered or cancelled shall be re-allotted until a period of five years from such surrender or cancellation has elapsed. Interval
before re-
allotment.

**LOCATION BRANDS: BRANDS FOR HEADMEN:
AND DISTINCTIVE MARKS THEREUNDER.**

16. The Resident Magistrate shall allot a brand to every native location established or to be established within his district and shall register the same; and the said brand and no other shall be imprinted on great stock the property of natives who are resident in such location and for so long a time as they remain resident there. Brands for
Locations.

The first character of all such brands shall be a dagger and of the remaining characters the one shall be a numeral and the other shall be the initial letter of the name of the location such dagger numeral and letter shall be not less than one-and-a-quarter inches in height.

17. The Resident Magistrate may on the recommendation of the Native Commissioner for the District allot a brand to the headman of any Native family or stad to be used For head-
men.

**ORD.
No. 15
of
1904.**

Distinctive
marks for
Natives in
Locations.

Notification
by natives of
intention to
use
distinctive
marks.

for the great stock the property of the members of such family or stad.

18. All distinctive marks shall be of such a shape and character as the Resident Magistrate may direct; and such distinctive marks and no others shall be used for the purpose for which they are allotted.

19. Every native in any location or in any family or stad having a common brand may before using any distinctive mark notify his intention of doing so to the Native Commissioner for the district in which such mark is intended to be used. And such Commissioner shall register the said mark in a book to be kept by him for the purpose; but he may in the case of two or more natives notifying the same distinctive marks allot such modification thereof to one or more of such owners as shall render all such marks dissimilar; provided that;

- (1) no distinctive mark shall be allotted to any person who is not resident in a Native Location or in such native family or stad;
- (2) the right to use such distinguishing mark shall lapse with the surrender transfer or cancellation thereof or the removal of the owner of the mark from the location native family or stad.

MISCELLANEOUS.

Lettering of
brands.

20. All brands allotted to natives resident in native locations shall be in Italic or running letters. All other brands shall be in Roman letters.

Government
stock.

21. Nothing in this Ordinance contained shall apply to any great stock the property of the Imperial or Local Military Authorities or the South African Constabulary.

Butchers
and dealers
books.

22. Every butcher poundmaster and auctioneer shall keep a separate book open at all times to inspection by any Inspector of Brands or Police Officer duly authorised in that behalf and shall therein truly enter the brands cut or imprinted on every animal so slaughtered dealt in impounded or sold by him in their proper order according to the provisions of this Ordinance.

* Any such person who shall slaughter or dispose of any animal on whose hide any brand cut or imprinted under the provisions of this Ordinance shall appear to have been altered blotched or defaced without first reporting the matter in writing to the nearest Police Officer or Inspector of Brands and for forty-eight hours thereafter shall on conviction be liable to a fine not exceeding five pounds per head for every animal so unlawfully slaughtered or disposed of or to imprisonment for any term not exceeding three months.

23. Every Inspector or police officer duly authorised in that behalf is hereby empowered to enter on or into any part of any holding or place throughout this Colony where stock are kept and to inspect any stock hides branding iron or brand and compare the same with the brand certificate and diagram which shall be produced to him; and every such Inspector or police officer as aforesaid may seize and impound any stock and any hides in respect of which the owner has committed any breach of this Ordinance and any branding instrument and any certificate in his possession and may where necessary employ any person or persons to assist him in carrying out the provisions of this section.

Inspectors may enter any building or place where stock is kept.

Any person hindering or impeding any Inspector or police officer as aforesaid in the execution of his duty or attempting so to do or refusing to produce any branding iron instrument or certificate or to permit such Inspector or police officer to inspect any stock shall for every such offence on conviction be liable to a fine not exceeding seventy-five pounds or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

24. Every Resident Magistrate Poundmaster Postmaster and Magistrate's Clerk shall keep a copy of the latest issue of the Brands Directory and (save and except the Postmaster) a copy of each *Gazette* containing the quarterly statements of registered brands not included in such Directory and shall on receipt of a fee of one shilling

Magistrates and other officials to keep copies of Brands Directory and *Gazette* containing statements of registered brands.

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No. 15
of
1904.**

The Pound-
master to
notify
owners.

permit search therein at all reasonable hours and every such person failing to comply with the requirements of this section shall on conviction be liable to a fine not exceeding five pounds and in default of payment to imprisonment for a period not exceeding fourteen days.

25. When any stock are in a pound the Poundmaster shall forthwith send notice thereof to the owner of the brand which shall appear last in order according to the table in section *nine* of this Ordinance and also in the case of stock bearing the brand of a location or Native Stad to the Native Commissioner of such district stating in such notice the distinctive marks if any appearing on such stock; but when the Poundmaster has any reason to suppose that such stock belongs to a person other than the owner of the said brand he shall in every such case send notice of the impounding both to the owner of such brand and the supposed proprietor of such stock. Every Poundmaster who shall neglect or delay to send any such notice shall on conviction be liable to a fine not exceeding twenty pounds and in default of payment to imprisonment for any term not exceeding two months.

Pound
Brands.

26. The Resident Magistrate shall allot a brand to every public pound already or hereafter to be established in his district and shall register the same.

The first character of every such brand shall be a diamond and the second the dominant letter of the Magisterial District and the third a numeral; the whole to be in one line; and the Poundmaster shall on sale of any great stock impounded therein brand the same with such brand on the portions and in the order prescribed in this Ordinance to show that the said brand is the last brand at that time imprinted on such stock; and any Poundmaster who shall fail to comply with the provisions of this section shall on conviction be liable to a fine not exceeding seventy-five pounds and in default of payment to imprisonment for any term not exceeding six months.

27. When under the provisions of this Ordinance it may be necessary to give or send any notice the same may be given in any of the following ways;

Notice how given.

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- (1) personally upon the person to whom the notice is addressed;
- (2) by registered letter sent through the post and directed to the last known place of abode or business in this Colony of such person and by inserting in addition the notice once in the *Gazette* and once in some newspaper circulating in the District in which the holding which is the subject of such notice is situated and further by forwarding a copy of such notice to the Resident Magistrate for the Magisterial District or in case of cattle the property of a native to the Native Commissioner or Resident Magistrate for such District where there is no Native Commissioner in which the said holding is situate who shall cause the same to be exhibited outside his office or court.

28. It shall be lawful for the Lieutenant-Governor from time to time to make alter amend or repeal regulations prescribing;

Regulations.

- (1) the shape and size of letters and numerals to be used for registered brands and the arrangement of them;
- (2) the shape and size of brands for pounds;
- (3) the shape and pattern of branding irons and other marking instruments;
- (4) the shape and character of distinctive marks and the conditions under which the same may be granted surrendered and cancelled and used and registered;
- (5) the fees and prices payable and forms to be used and for any object or purpose that may be deemed necessary for the efficient administration of this Ordinance.

IMPOUNDING.

29. Any great stock bearing a brand which shall have been wilfully altered blotched defaced or rendered illegible and

Stock which may be impounded.

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1904.**

all stock upon which the dewlap or head shall have been cut or cropped contrary to this Ordinance shall be deemed and held to be unbranded animals and may be impounded by any Inspector or police officer.

OFFENCES.

Sale of
branding
instruments

30. From and after the passing of this Ordinance any person who shall make or offer for sale any branding instrument or tool adapted for the purpose of imprinting marks on stock except in accordance with this Ordinance and the regulations thereunder and similar to or resembling in pattern and size those prescribed under this Ordinance; and any person who shall use or attempt to use or knowingly permit to be used or have in his possession any branding iron or instrument similar to or resembling in pattern and size those prescribed under this Ordinance other than the branding iron which he is entitled to use as herein provided shall on conviction be liable for every such offence to a fine not exceeding seventy-five pounds and in default of payment to imprisonment for a period not exceeding six months.

Fraudu-
lently brand-
ing the
stock of
other
persons.

31. If any person shall wilfully brand or imprint with his distinctive mark any stock of which he is not the owner or shall wilfully cause direct or permit any stock of which he is not the owner to be branded with his brand such person shall on conviction for every such offence be liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

Using un-
registered
brand and
irregularly
using regis-
tered brand.

32. From and after the passing of this Ordinance any person who shall mark or direct aid or assist in marking or permanently imprinting on any stock or any portion thereof any signs symbols or characters other than those made and registered in accordance with the provisions of this Ordinance shall on conviction for every such offence be liable to a fine not exceeding seventy-five pounds and in default of payment to imprisonment for any

term not exceeding six months; provided that nothing in this section contained shall apply to any brand used by any person at the passing of this Ordinance.

33. Any person who shall wilfully blotch deface or otherwise render illegible or alter any brand or distinctive mark upon great stock or wilfully direct cause or permit any such brand or mark to be blotched defaced or otherwise rendered illegible or altered or be a party thereto or shall wilfully mark or cause direct or permit any great stock to be marked on the dewlap or head by cropping or cutting off the whole or more than one-third thereof shall on conviction before any Resident Magistrate for every such offence be liable to a fine not exceeding seventy-five pounds or to imprisonment for a period not exceeding six months.

Defacing
brands.

34. Any person who

- (a) shall knowingly and unlawfully insert or permit to be inserted any false entry or diagram of any matter relating to any brand in any register certificate brands directory quarterly statement or in any extract from any of them; or
- (b) shall with intent to defraud forge alter offer utter dispose of or put off knowing the same to be forged or altered any such document or extract as aforesaid or which purports to be such; or
- (c) shall with intent to defraud wilfully and unlawfully destroy deface or alter or cause to be destroyed defaced or altered any such document or extract therefrom; or
- (d) shall knowingly and wilfully with intent to defraud use the brand or distinctive mark of any proprietor without his authority

Forged
certificates.

shall on conviction for every such offence be liable to imprisonment with or without hard labour for any term not exceeding three years.

35. On the trial of any person for the theft of any hide or stock or for receiving any such hide or stock or any part thereof knowing the same to have been stolen it shall be competent for the prosecution to

On trial for
theft of stock
brand to be
prima facie
evidence of
ownership.

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give evidence that the brand upon the hide or animal alleged to have been stolen is the brand of the person alleged to have been the owner of such hide or animal or of some person through or from whom such owner derived his right to such animal and a certificate purporting to be under the hand of the Registrar or a copy of the *Gazette* containing the publication of such owner's brand shall constitute *prima facie* proof of the facts therein alleged.

Mutilation so as to remove distinctive marks.

36. In the case of the prosecution of any person for theft of any great stock or hide thereof where the hide is proved to have been mutilated in such a way that any brand or distinctive mark is removed or rendered illegible the onus of proving that he was the proprietor of such animal or hide shall rest on the accused person.

Other offences.

37. Any person wilfully failing to comply with or offending against the provisions of this Ordinance in any case in which no penalty is imposed hereby; and any person failing to comply with or offending against any of the provisions of any regulation made under this Ordinance shall on conviction be liable to a fine not exceeding twenty pounds and in default of payment to imprisonment for a period not exceeding two months.

Title.

38. This Ordinance may be cited for all purposes as The Great Stock Brands Ordinance 1904.

SCHEDULE A.

DISTRICT BRAND REGISTER.

(*The Great Stock Brands Ordinance 1904.*)

Name of Owner in full.	Address.	District for which Brand is required.	Particulars of Brand.		
			Brand Allotted.	No. of Certificate.	Date of Registration.

SCHEDULE B.

APPLICATION FOR BRAND.

(The Great Stock Brands Ordinance, 1904.)

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To the Resident Magistrate,

Herewith I/we enclose the prescribed fees of....., and request that you will allot and register a brand for the holding or place mentioned in the Schedule below.

Name of Applicant(s) in full.	Address.	District for which Brand is required.

Feeshillings.

Signed.....
Applicant(s).

I/We hereby request that the second letter of my/our brand may be the letter.....

Signed.....

SCHEDULE C.

(The Great Stock Brands Ordinance 1904.)

No.....

.....day of.....

I hereby certify that the brand shewn in the diagram at foot hereof was duly registered on the date and as the brand of the person(s) therein set forth in the Schedule hereto.

Owner(s) full name(s).	Address.	District for which Brand is required.	Date of Registration.

Fee paid.....

Signed.....

Diagram of Brand.

Resident Magistrate.

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SCHEDULE D.
MEMORANDUM OF TRANSFER OF BRANDS.

(The Great Stock Brands Ordinance.)

To the Resident Magistrate,

SIR,—I,....., being the registered owner of the brand set forth in the Schedule hereto and desiring to transfer the same to (name in full of transferee) of (name of holding or place where brand will be used and postal address thereof) hereby request you will record the same in your register accordingly and I herewith enclose the fee therefor (..... shillings).

A.B. (Owner).

Address

Witness

C.D. (Transferee).

Address

Witness

Brand.	Name & Address of previous owner of Brand.	District where Brand is registered.	No. of Certificate.	Date of Registration.

SCHEDULE E.

CERTIFICATE OF TRANSFER.

(Great Stock Brands Ordinance, 1904.)

No.....

Date.....

This is to certify that the brand shown in the specimen at the foot hereof was this day transferred from..... of..... to..... of.....

Signed.....

Resident Magistrate.

Fee paid.....

Diagram of Brand.	Transferee's Name and Address.	District where Brand is to be used.	No. of Certificate.	Date of Registration.

SCHEDULE F.**FEEES.***(Great Stock Brands Ordinance, 1904.)*

Payable to the Resident Magistrate:—

- | | |
|--|------|
| 1. For every separate registration of a Brand | 5s. |
| 2. For every separate transfer of a Brand | 10s. |

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No. 15
of
1904.****SCHEDULE G.***(Great Stock Brands Ordinance, 1904.)*BRANDS FOR PERSONS NOT RESIDENT IN LOCATIONS:—
ROMAN LETTERS.

Dominant Letter.	District denoted.	Brand Series.
A.	Pretoria	AA2 and variations. A2A and variations.
B.	Bloemhof <i>(sub-district)</i>	BA2 and variations. B2A and variations.
C.	Carolina <i>(sub-district)</i>	CA2 and variations. C2A and variations.
E.	Ermelo <i>(not including sub-district Carolina)</i>	EA2 and variations. E2A and variations.
F.	Piet Retief <i>(sub-district)</i>	FA2 and variations. F2A and variations.
G.	Middelburg	GA2 and variations. G2A and variations.
H.	Heidelberg	HA2 and variations. H2A and variations.
J.	Johannesburg <i>(Municipality of)</i>	JA2 and variations. J2A and variations.
K.	Krugersdorp <i>(sub-district)</i>	KA2 and variations. K2A and variations.
L.	Lichtenburg	LA2 and variations. L2A and variations.
M.	Marico	MA2 and variations. M2A and variations.
P.	Potchefstroom	PA2 and variations. P2A and variations.
R.	Rustenburg	RA2 and variations. R2A and variations.
S.	Standerton <i>(not including sub-district Bethal)</i>	SA2 and variations. S2A and variations.
T.	Bethal <i>(sub-district)</i>	TA2 and variations. T2A and variations.
U.	Wakkerstroom	UA2 and variations. U2A and variations.
V.	Wolmaransstad <i>(not including sub-district Bloemhof)</i>	VA2 and variations. V2A and variations.
W.	Waterberg	WA2 and variations. W2A and variations.
X.	Witwatersrand District not including the municipal area of Johannes- burg and the Sub-District of Krugersdorp.	XA2 and variations. X2A and variations.
Y.	Lydenburg	YA2 and variations. Y2A and variations.
Z.	Zoutpansberg	ZA2 and variations. Z2A and variations.

NOTE.—Reserved for distribution (if required) all brands with the numerals as dominant: thus—2AA, etc., to 9ZZ.

Permanently reserved; the letters O and I (to be used exclusively as numerals). The letters N and Q are unallotted. The letter D reserved for Government Departments.

ORD.
No. 16
of
1904.

No. 16 of 1904.]

[Assented to 12 Feb. 1904.

ORDINANCE

To Prevent the Introduction and Spread of Insect Pests and Diseases of Plants.

WHEREAS it is expedient to make provision for preventing the spread in this Colony of insect pests and diseases of plants; to regulate the importation of plants into this Colony and to provide for the licensing and inspection of nurseries;

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

Power to make regulations for prevention of disease amongst plants and for other purposes.

1. It shall be lawful for the Lieutenant-Governor from time to time to make alter or repeal regulations for all or any of the following purposes and to provide penalties for the breach thereof;

- (a) for regulating the importation into this Colony of any plant or portion thereof affected or liable to be affected with insect pest or plant disease;
- (b) for preventing the introduction or spread of any insect pest or plant disease to which plants or portions thereof are liable;
- (c) for the licensing and inspection of nurseries or other places in which plants are reared for purposes of sale or other method of disposal;
- (d) for the charging of fees in respect of any licenses issued or inspections or treatment carried out by regulations made under this Ordinance;

provided that no penalty shall be imposed by any such regulation as aforesaid exceeding a fine of fifty pounds or in default of payment of the same imprisonment with or without hard labour for a period not exceeding three months.

Title.

2. This Ordinance may be cited as The Diseases of Plants Prevention Ordinance 1904.

No. 17 OF 1904.]

[Assented to 11 Feb. 1904.]

**ORD.
No. 17
of
1904.****ORDINANCE****To regulate the introduction into the Transvaal of
Unskilled Non-European Labourers.**

WHEREAS it is desirable to make provision for regulating the introduction from outside Africa south of 12 degrees north of the Equator into the Witwatersrand District of unskilled labourers not being of European descent for the exploitation of minerals within the said area;

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

I. In this Ordinance and all rules and regulations made thereunder unless the context otherwise requires the following expressions in inverted commas shall have the meaning placed opposite to them that is to say—

Interpreta-
tion of terms.

“labourer” means a male person belonging to a non-European race other than one of the races indigenous to Africa south of 12 degrees north of the Equator introduced into this Colony under contract of service;

“unskilled labour” means such labour as is usually performed in mines in the Witwatersrand District by persons belonging to the aboriginal races or tribes of Africa south of the Equator.

“importer” means any person introducing labourers into this Colony or any person to whom labourers have been transferred under this Ordinance;

“country of origin” means in the case of any labourer the country from which such labourer is introduced;

“contract” means the contract of service entered into by a labourer as provided in this Ordinance;

“imprisonment” means imprisonment either with or without hard labour;

“Witwatersrand District” shall mean the area within which the Witwatersrand High Court has jurisdiction.

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No. 17
of
1904.**

Superinten-
dent and In-
spectors of
labourers.

General
powers of
Superinten-
dent and In-
spectors.

Power to
summon
witnesses on
enquiry;
penalties for
refusing to
be sworn and
for giving
false
evidence.

**APPOINTMENT OF OFFICERS; THEIR POWERS
AND DUTIES.**

2. The Lieutenant-Governor may appoint a Superintendent of labourers (hereinafter styled the Superintendent) who shall have the general administration of this Ordinance and shall perform such duties and exercise such powers as may be imposed on him by this Ordinance or by regulations made thereunder and the Lieutenant-Governor may likewise from time to time appoint such Inspectors Medical Officers Clerks and other Officers as may be necessary for the proper administration of this Ordinance.

3. The Superintendent or any Inspector may at any time enter upon the premises on which labourers are employed and inspect the condition and general treatment of such labourers and the condition of their housing accommodation and hospital accommodation and may enquire into any complaint which an employer may have against a labourer or which a labourer may have against his employer or any person placed in authority over him by such employer and may require any labourer to be brought before him on any such visit and may either before or after such enquiry as aforesaid make a complaint or lay an information in his own name on behalf of a labourer against the employer or against any other person before the Magistrate of the District.

4. (1) The Superintendent or Inspector may summon any person as a witness whose evidence he considers necessary for the proper determination of any enquiry held by him; such summons shall be served by the person to whom it is directed in the same manner as a summons issued by a Magistrate is required to be served.

(2) Every person on whom such summons has been duly served who without any reasonable excuse refuses or neglects to attend at the time and place mentioned in such summons shall be liable to a penalty not exceeding ten pounds and in default of payment to imprisonment for a period not exceeding one month.

(3) The Superintendent or Inspector shall

require every statement given by any person at an enquiry held by him to be given upon oath and for such purpose he is hereby authorised to administer an oath to every such person.

(4) Every person who refuses to be so sworn when thereto required shall be deemed to have hindered the officer holding the enquiry in the execution of his duty and shall be liable to be punished accordingly.

(5) Every person who after being so sworn wilfully makes a false statement as to anything material to the proper determination of the matter then in question shall be deemed guilty of perjury and shall be liable to be dealt with and punished accordingly.

INTRODUCTION OF LABOURERS.

5. It shall not be lawful for any labourer to enter be or reside in or to be introduced into this Colony unless he shall previously have entered into the contract referred to in section *eight* and until such contract has been registered in the Office of the Superintendent.

Labourers may not enter Colony except under contract of service.

6. No person shall introduce labourers into this Colony or employ such labourers unless he has obtained a license to do so from the Lieutenant-Governor under the next succeeding section nor contrary to the terms of such license; any person contravening this section shall be liable to a penalty of one hundred pounds for every such labourer introduced or employed by him and shall further be bound to refund to the Superintendent any expenses incurred by him in returning such person to his country of origin.

Prohibition of introduction of labourers except under this Ordinance.

7. (1) The Lieutenant-Governor may subject to the provisions of this Ordinance grant a license to any person to introduce labourers into this Colony to perform unskilled labour only in the exploitation of minerals within the Witwatersrand District.

Licenses.

(2) No such license shall be granted until the Lieutenant-Governor is satisfied;

(a) that the Government of the Colony or State in which the port is situated through which such labourers may

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enter South Africa for the purpose of being conveyed to the Transvaal has made adequate provision (1) for the medical examination of such labourers on their landing at such port; (2) for preventing the forwarding of labourers who after such medical examination are found to be insane or suffering from a contagious or infectious disease; (3) for the control of labourers while in transit to this Colony or from this Colony back to their country of origin;

- (b) that suitable accommodation for the housing of such labourers on the premises on which they are to be employed will be ready on their arrival in this Colony;
- (c) that proper security in terms of section *twenty-two* has been given by the applicant.

(3) Every such license shall state the port or ports in South Africa through which such labourers shall be introduced.

(4) No such labourer shall be employed elsewhere in this Colony than in the Witwatersrand District.

Contracts
with
labourers—
how
executed.

8. Every person obtaining a license under the last preceding section to introduce labourers shall prior to such introduction enter into a contract in writing with such labourers in the form prescribed by regulation which contract shall be signed by the labourers to be bound thereby in the presence of some person possessing the qualifications prescribed by regulation who shall before such labourers sign the contract explain to them the provisions thereof as well as the provisions of this Ordinance mentioned in the schedule referred to in the next succeeding section. A certificate shall be attached to the said contract signed by the afore-mentioned person certifying that the provisions of this section have been complied with and such certificate shall be conclusive evidence of the facts therein stated.

Such contract shall be of full force and

affect in this Colony as soon as it is registered in the Office of the Superintendent.

9. The introduction of labourers shall be subject to the following conditions which shall be embodied in the contract between the importer and the labourers;

Introduction of labourers subject to conditions.

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- (a) that so long as the labourer remains in this Colony he shall be employed only on unskilled labour in the exploitation of minerals within the Witwatersrand District and in particular shall not be employed in any of the trades or occupations specified in Schedule I. to this Ordinance except for unskilled labour therein;
- (b) that he shall only serve the person introducing him or any other person who has obtained a license under this Ordinance to introduce labourers and to whom the rights of such first-mentioned person under the contract may be lawfully transferred as provided under section *eleven* hereof for a term of service to be fixed by the contract;
- (c) that on the determination by effluxion of time or otherwise of the contract or a renewal thereof the labourer shall be returned without delay at the expense of the importer to his country of origin;
- (d) that so long as the labourer remains in this Colony he shall be subject to the provisions contained in the Labour Importation Ordinance 1904 and more especially to the provisions contained in sections *fourteen fifteen nineteen twenty twenty-four twenty-five twenty-six twenty-seven twenty-eight* and in subsections (4) and (11) of section *thirty-one* thereof which shall be substantially set forth in a schedule to the contract.

10. (1) No such contract as aforesaid shall be for a longer period than three years but on the expiration thereof it may be renewed on the same terms and conditions as those prescribed in the last preceding section for a further period or periods not exceeding in all three years; no such contract shall be registered at the office of the Superintendent

Period of contracts. No contract to be registered until bond mentioned in section *twenty-two* be entered into.

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which is contrary to the provisions of this section or which does not contain the conditions prescribed in the last preceding section nor until the bond mentioned in section *twenty-two* has been entered into and lodged with the Superintendent.

(2) Any person introducing or employing labourers under a contract not complying with the requirements of sections *eight* and *nine* shall be deemed to be guilty of a contravention of this Ordinance and liable to the penalties prescribed in section *six* hereof.

Transfer of
contracts.

11. Any importer may with the sanction of the Lieutenant-Governor and under regulations made by him transfer in writing his rights under any contract with any labourer to any other person who has obtained a license to import labourers under this Ordinance and has given the security mentioned in section *twenty-two* hereof; and thereupon such labourer and such other person shall be bound by all the terms of such contract as fully as if such other person had been a party thereto originally; provided that the Superintendent is satisfied on such evidence as he may require that no consideration or value has passed or been promised for such transfer beyond the repayment by the transferee of the expenses incurred by the transferor in respect of the introduction of such labourers; and provided further that notice of every such transfer shall be given to the Superintendent and a certified copy of the instrument of transfer shall be registered at his office.

CONTROL OF LABOURERS.

Removal of
Labourer.

12. No importer or other person except in pursuance of a transfer duly registered shall remove a labourer from the place where he is employed without the written permission of the Superintendent, nor employ such labourer elsewhere than on such place without like permission. Any person contravening this section shall be liable to a penalty not exceeding ten pounds for every labourer so removed or employed.

Returns by
importer on
registration
of contract.

13. Every importer shall on the registration of the contract made by him with the

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labourers introduced by him deposit with the Superintendent a return showing;

- (a) the number of labourers introduced by him;
 - (b) the place or places at which such labourers are to be employed;
 - (c) such other particulars as may from time to time be required by regulation;
- and there shall be lodged with such return an abstract of the certificate of some Medical Officer as to the health and fitness for labour of each such labourer.

14. No liquor mining trading general dealer's importer's hawker's or other license whatever shall be granted to any labourer or to any person on behalf of or as agent or trustee for any labourer; nor shall it be lawful for any labourer to acquire lease or hold either directly or indirectly any house land building or fixed property or any mynpacht claim stand or any right whatever to minerals or precious stones either in his own name or in the name of any person on behalf of or as agent or trustee for him.

Labourer not allowed to trade or to acquire lease or hold land.

15. The importer shall on the registration of the contract between him and the labourers introduced by him obtain from the Superintendent for every one of such labourers an identification passport in the form prescribed by regulation which shall contain a complete record by which the holder thereof may be identified and traced and shall in any Court of Law be *prima facie* evidence of the facts therein recorded.

Passport to be issued to every labourer.

Any importer contravening this section shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding six months.

The said passport shall always be carried by the person described therein and shall be renewed on the first day of January of every year. There shall be paid to the Superintendent by the importer on the issue and on every renewal of such passport such sum as may be prescribed by regulation not exceeding two pounds for each year.

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Register to be kept by importer.

16. The importer shall cause a register in the form prescribed by regulation to be kept of all labourers introduced or employed by him and shall enter in the said register all transfers deaths unlawful absences from work and desertions occurring among such labourers and shall cause a return in the form prescribed by regulation to be made to the Superintendent within the first seven days of every month of the number of labourers introduced by him or transferred to him or by him during the preceding month the number of labourers actually employed by him on the last day of that month and the number of transfers deaths unlawful absences from work and desertions which have occurred during such month.

In the case of the death of any labourer a medical certificate shall be forthwith forwarded to the Superintendent as to the cause of death.

Such register shall also contain such other particulars as may from time to time be prescribed by regulation.

Register kept by importer to be open to inspection.

17. The register kept under the last preceding section shall be open at all times to the inspection of the Superintendent or Inspector who shall be entitled to demand from the importer such further information as he may require in respect of the entries in the said register and the returns made under the last preceding section.

Labourers must reside on premises on which they are employed.

18. Labourers shall reside on the premises on which they are employed and shall be provided with accommodation which in the opinion of the Superintendent is sufficient and suitable and shall be in charge of a Manager appointed by the importer and approved of by the Superintendent.

Labourers must be provided with permits in case they be absent from premises on which they are employed.

19. No labourer introduced under this Ordinance shall leave the premises on which he is employed without a permit in the form and containing the particulars prescribed by regulation signed by some person authorised thereto by the importer, provided that no such permit shall authorise the absence of such labourer from such premises for more than forty-eight hours from the time when it was issued.

The said permit shall bear the date and hour on which and the period for which it was issued and also the name of the labourer to whom it was issued with his registered number and shall not authorise the labourer to go outside the Witwatersrand District.

Every person contravening the provisions of this section shall be liable on conviction to a fine not exceeding ten pounds and in default of payment to imprisonment for a period not exceeding one month.

20. (1) It shall be lawful for any Inspector appointed under this Ordinance or for any police officer to demand from any person whom he has reason to suspect is a labourer introduced under this Ordinance the production of the passport mentioned in section *fifteen* and if it appears from such passport on being produced that such labourer is absent from the premises on which he is employed such Inspector or police officer as aforesaid shall demand from him the permit mentioned in the last preceding section.

Production of passport and permit may be demanded from any person suspected to be a labourer by any Inspector appointed under this Ordinance or police officer.

(2) Any person failing to produce his passport or permit when asked to do so under the last preceding sub-section may be arrested without warrant and taken before the nearest Court of Resident Magistrate and on conviction for being without such passport or permit as the case may be he shall be liable to a fine not exceeding ten pounds and in default of payment to imprisonment for a period not exceeding one month.

(3) In a prosecution under the last preceding sub-section of any person not producing a passport when requested to do so it shall be presumed until the contrary is proved that the accused person is a labourer introduced under this Ordinance and on the payment of any fine or expiration of any term of imprisonment imposed on him he shall be sent back by the Superintendent to his employer and in case his employer cannot be found and he refuses to be engaged by any importer as a labourer under this Ordinance he may be forcibly returned to his country of origin by the Superintendent.

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Returns by Superintendent giving certain particulars in respect of labourers.

21. The Superintendent shall at least once during every three months transmit to the Lieutenant-Governor for publication in the *Gazette* a statement shewing among other things:

- (a) the number and particulars of licenses issued and cancelled;
- (b) the number of labourers introduced into this Colony and their country of origin;
- (c) the number of labourers who have been returned to their country of origin and the causes of such return;
- (d) the number of labourers who have died and deserted;
- (e) the number and particulars of families introduced and returned under this Ordinance;
- (f) particulars of any contravention of this Ordinance.

RETURN OF LABOURERS TO THEIR COUNTRY OF ORIGIN.

Bond to be entered into by importer for return of labourers to their country of origin.

22. (1) Every importer shall prior to the introduction by him of labourers into this Colony enter into a bond in the form in Schedule II. hereto annexed undertaking to pay the expenses incurred in connection with the return of such labourers to their country of origin in accordance with their contracts and the provisions of this Ordinance; the said bond shall be secured in such manner as the Superintendent may require.

(2) The amount of such bond shall be fixed by the Superintendent and shall be sufficient to pay for all expenses in connection with the return to their country of origin of all labourers in respect of whom such bond is entered into.

(3) If such bond be not entered into by the importer prior to the introduction of such labourers as aforesaid the license granted to him shall be cancelled and the introduction of the said labourers shall be deemed and taken to be a contravention of section *six* of this Ordinance and the importer shall be liable to the penalties provided in that section.

23. At least thirty days before the expiration of the term of service of any labourer the importer who is responsible for the expenses of such labourer's return to his country of origin shall notify the Superintendent of the date on which such service shall expire and shall take all necessary steps to the satisfaction of the Superintendent for ensuring the immediate return of such labourer to his country of origin and shall carry out and comply with all such directions as may be issued by the Superintendent as to the place from which such labourer shall take his departure and as to his control while in transit. Any importer contravening the provisions of this section shall be liable on conviction to a fine not exceeding one hundred pounds and in default of payment to imprisonment for a period not exceeding six months.

Notice to be given by importer to Superintendent one month prior to termination of service of labourers.

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24. In reckoning the term of service of any labourer for the purpose of ascertaining the time when such term expires all periods of time shall be excluded during which the labourer has been absent from his work for any of the following causes that is to say—

How period of service to be reckoned.

- (a) imprisonment after conviction of any offence;
- (b) desertion;
- (c) unlawful absence from his work duly certified as such by the Superintendent;

provided that no labourer shall be deemed to have been absent from his work within the meaning of this section on account of any desertion unless he has been duly convicted thereof; and provided further that this section shall not apply to any imprisonment desertion or unlawful absence which is not duly recorded in the register required to be kept by the importer under section *sixteen* of this Ordinance and included in the returns made to the Superintendent under the said section.

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Labourer refusing to perform service for which he has contracted may be ordered to be returned to his country of origin.

25. If any labourer who has contracted to serve in this Colony shall on or after his arrival refuse without good and sufficient reason to proceed to the place where his service is to be performed or to perform such service he may at the discretion of the Superintendent and in addition to or substitution for any penalty provided by this Ordinance be ordered to be returned to his country of origin.

Return of labourer to country of origin on conviction of an offence.

26. The Lieutenant-Governor may in the event of any labourer being convicted of any offence and sentenced to imprisonment without the option of a fine order the return of such labourer to his country of origin at any time during the period of such imprisonment or on the expiration thereof; provided that if such order is not given until after such labourer has completed his sentence of imprisonment the importer may take him back into his service for the unexpired portion of the period for which he has contracted in which case such order shall be withdrawn.

The Lieutenant-Governor may likewise order the return of any labourer who has been declared of unsound mind by a competent Court or who has become permanently incapacitated for work by physical infirmity or disease.

How labourers to be returned to their country of origin.

27. In the case of every labourer who under the conditions of his contract or the provisions of this Ordinance is required to be returned to his country of origin the Superintendent shall take all necessary steps for his return at the expense of the importer; provided that where any labourer is ordered to be returned to his country of origin on account of any offence committed by him the importer shall be entitled to deduct the cost of so returning him from any wages then due to him.

28. (1) Any labourer liable under his contract or under the provisions of this Ordinance to be returned to his country of origin who refuses to return may be arrested without warrant and brought before a Magistrate and shall upon conviction be liable to a fine not exceeding ten pounds and in default of payment to imprisonment for a period not exceeding three months.

Penalty if labourer refuses to return to his country of origin.

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(2) If any labourer sentenced to pay a fine or suffer imprisonment under the last preceding sub-section shall after the payment of such fine or expiration of the term of imprisonment as the case may be refuse to return to his country of origin he may be forcibly sent back to his country of origin by the Superintendent.

REGULATIONS.

29. The Lieutenant-Governor may make regulations for any of the following purposes:—

Regulations.

- (1) for the grant refusal or revocation of licenses to importers under section *seven* of this Ordinance;
- (2) for the registration identification and inspection of all labourers and for the issuing and renewing of passports to them and for the fee to be charged thereon;
- (3) for the execution registration and proper enforcement of contracts with labourers and of all transfers renewals or alterations of such contracts;
- (4) for the return of labourers to their country of origin under the provisions of this Ordinance;
- (5) for the introduction repatriation and control of the families of labourers;
- (6) for securing correct returns and the keeping of proper registers under section *sixteen* of this Ordinance; and for the proper inspection of such registers;

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- (7) for the proper control of labourers ;
- (8) for the medical examination of labourers on arrival in this Colony and during their residence therein ; and for such measures as may be necessary to prevent the introduction or spread of infectious diseases ;
- (9) for the proper housing clothing rations and food of labourers and the observance of all requisite sanitary precautions ;
- (10) for the protection of the property and rights of labourers ;
- (11) for the care of sick and injured labourers ;
- (12) for the inspection of the premises on which labourers reside ;
- (13) for preventing desertion from service by labourers ;
- (14) generally for the proper administration of this Ordinance.

(15) See Sec 1 Ord. 12 of 1906

Penalties for breaches of regulations.

30. The Lieutenant-Governor may prescribe the following penalties for the breach of any regulations made by him in virtue of the powers conferred by this Ordinance ;

- (1) in the case of a labourer ;
 - (a) a fine not exceeding twenty pounds ;
 - (b) imprisonment for a period not exceeding six months ;
- (2) in the case of any other person ;
 - (a) a fine not exceeding one hundred pounds ;
 - (b) imprisonment for a period not exceeding one year ;
 - (c) forfeiture of any license granted by virtue of this Ordinance ;
 - (d) disqualification from holding any such license in future.

OFFENCES.

31. The following persons shall be guilty of offences against this Ordinance and shall be liable on conviction to the penalties herein specified in respect of such offences ;

Offences
against this
Ordinance.

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- (1) Any labourer contravening the provisions of section *five* of this Ordinance shall be liable to the penalties provided in section *twenty-eight*.
- (2) Any person who in any way aids abets or assists any labourer directly or indirectly to contravene or evade or to attempt to contravene or evade any of the provisions of this Ordinance shall unless otherwise provided be liable to the penalties provided in section *six*.
- (3) Every person who fails to deposit the returns required under section *thirteen* or fails to keep the register make the returns or give the information required under sections *sixteen* and *seventeen* of this Ordinance or who wilfully keeps a false register or makes a false return or gives false information or who being required under section *eleven* to give notice of the transfer of any contract with a labourer fails to do so shall be liable to a fine not exceeding one hundred pounds and in default of payment to imprisonment for a period not exceeding six months.
- (4) Every importer who unlawfully withholds any wages or portion of wages earned by a labourer shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding three months.
- (5) Any person who employs labourers otherwise than on unskilled labour in the exploitation of minerals in the Witwatersrand District shall be liable to a fine not exceeding five hundred pounds and in default of payment to imprisonment for a period not exceeding two years.

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- (6) Any person who knowingly transfers or attempts to transfer or procures the transfer of any labourer to a person other than one licensed to introduce labourers and any person who shall employ any labourer not imported by or lawfully transferred to him shall be liable to a fine not exceeding five hundred pounds and in default of payment to imprisonment for a period not exceeding two years.
- (7) Any person who shall knowingly sell lease or otherwise transfer or attempt to transfer any house land building or fixed property or any mynpacht claim stand or any right whatever to minerals or precious stones to any labourer or to any person on behalf of or as agent or trustee for any labourer shall be liable to a fine not exceeding five hundred pounds and in default of payment to imprisonment for a period not exceeding two years.
- (8) Any person who shall knowingly hold purchase lease or otherwise acquire or attempt so to do any house land building or fixed property or any mynpacht claim stand or any right whatever to minerals or precious stones or shall carry on any trade or business on behalf of or as agent or trustee for any labourer shall be liable to a fine not exceeding five hundred pounds and in default of payment to imprisonment for a period not exceeding two years.
- (9) Any person who shall obstruct any duly authorised officer in the discharge of his duties under this Ordinance or any regulations made thereunder shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding three months.

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- (10) Any person who shall harbour or conceal any labourer who has deserted from the service of his importer or who has committed any breach of this Ordinance or who shall aid and abet any labourer to desert as aforesaid shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding three months.
- (11) Any labourer who shall desert from the service of his importer or shall refuse to work for him when required to do so or who shall unlawfully absent himself from work or who shall perform any work or carry on any business other than that of unskilled labour in the exploitation of minerals or who shall enter the service of any person other than that of the person importing him or of the person to whom his contract has been lawfully transferred under this Ordinance shall be liable to a fine not exceeding twenty-five pounds and in default of payment to imprisonment for a period not exceeding two months.
- (12) Any importer who neglects forthwith to report to the Superintendent the desertion of any labourer while in his employment shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding three months.
- (13) Any labourer who shall have any interest whether as partner or otherwise in any trade or business shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding three months.
- (14) Any person who shall give or receive any valuable consideration for the

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transfer of any labourer contrary to the provisions of section *eleven* of this Ordinance shall be liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

The foregoing penalties shall be independent of any other punishment to which the offender shall be liable.

MISCELLANEOUS.

Certain laws
not to apply.

32. The provisions of the Masters and Servants Law (No. 13 of 1880) of Law No. 3 of 1885 or any amendment thereof and of sections *two* to *eight* inclusive of the Peace Preservation Ordinance 1903 shall not apply to any labourer introduced under this Ordinance or to any contracts made thereunder.

Families of
labourers.

33. (1) It shall not be lawful for the wife or any member of the family of any labourer or any female belonging to the race or tribe of any labourer and accompanying such labourer to enter or reside in this Colony unless they be respectively introduced by a duly licensed importer under as far as practicable the same conditions and restrictions as are provided in this Ordinance for the introduction of labourers.

(2) The family of any labourer introduced into this Colony by any importer under any regulations made by the Lieutenant-Governor and any children of such labourer born in this Colony shall be returned by the importer to the country of origin of such labourer on the death of such labourer or on the happening of any of the events which under this Ordinance renders such labourer liable to be returned to his country of origin; and such importer as aforesaid shall give the like security for the payment of the expenses incurred in connection with the return of such family as is required under section *twenty-two* of this Ordinance.

34. Nothing in this Ordinance contained shall apply to the introduction into this Colony by the Lieutenant-Governor of British Indians to be employed on the construction of railways sanctioned by the Governor or on other public works; provided always that such introduction shall be subject to such regulations as the Legislative Council may approve of; and provided further that the provisions of this Ordinance in respect of the return of labourers to their country of origin shall *mutatis mutandis* apply to such British Indians.

Introduction of British Indians for employment on railways.

**ORD.
No. 17
of
1904.**

35. This Ordinance may be cited for all purposes as the Labour Importation Ordinance 1904 and shall not take effect unless and until the Governor shall proclaim in the *Gazette* that it is His Majesty's pleasure *not to disallow the same and thereafter it shall come into operation upon such a date as the Governor shall notify by Proclamation.

Title and date of taking effect.

SCHEDULE I.

Amalgamator.	Ironmoulder.
Assayer.	Joiner.
Banksman.	Machine Rock Driller.
Blacksmith.	Machine Sawyer.
Boilermaker.	Machinist.
Brass-finisher.	Mason.
Brassmoulder.	Mechanic.
Bricklayer.	Miller.
Brickmaker Overseer.	Millwright.
Carpenter.	Mine Carpenter.
Clerk.	Mine Storeman.
Coppersmith.	Miner Overseer.
Cyanide Shiftsman.	Onsetter.
Drill Sharpener.	Overseer, in any capacity other than the management and control of labourers.
Driver of Air or Steam Winch.	
Driver of Mechanical or Electrical Machinery.	Painter.
Electrician.	Patternmaker.
Enginedriver.	Pipeman.
Engineer.	Plasterer.
Fireman Overseer.	Platelayer.
Fitter.	Plumber.
Ganger.	Pumpman.

* See *Government Gazette Extraordinary* 14 Mar. 1904 whereby the Governor proclaims that it is His Majesty's pleasure not to disallow this Ordinance which shall come into operation on a day to be hereafter notified by Proclamation.

LABOUR IMPORTATION.

**ORD.
No. 17
of
1904.**

Quarryman Overseer.
Rigger
Sampler
Signaller.
Skipman.
Stonecutter.

Timberman.
Time Keeper.
Tinsmith.
Turner.
Wire Splicer.
Woodworking Machinist.

SCHEDULE II.

Know all men by these presents that A. B. of.....
C. D. of..... and E. F. of.....
are held and firmly bound unto our Sovereign Lord Edward VII. by
the Grace of God of the United Kingdom of Great Britain and Ireland
King Defender of the Faith in the sum of.....for each
labourer imported by the said A. B. under a contract dated.....
made under the provisions of the Labour Importation Ordinance 1904
to be paid to our said Lord the King his heirs and successors to
which payment well and truly to be made we bind ourselves and
everyone of us jointly and severally for and in the whole our heirs
executors and administrators by these presents.

The condition of this obligation is such that if the above bounden
A. B. returns the labourers imported by him under the aforesaid con-
tract when required so to do in accordance with the provisions of the
aforesaid Ordinance then this obligation shall be void otherwise it
shall be of full force and effect.

(Signed).....
.....
.....

In the presence of
.....

No. 18 of 1904.]

[Assented to 5 July, 1904.]

**ORD.
No. 18
of
1904.****ORDINANCE****Regulating the Issue of Titles to Land granted or sold by the Government of the late South African Republic.**

WHEREAS title deeds for certain farms erven and other land sold by the Government of the late South African Republic or granted by the said Government as burgher-rights compensation for burgher-rights or otherwise have not yet been issued;

And whereas it is desirable to empower the Lieutenant-Governor to fix a time after which the right to take out title deeds for such farms erven or other land shall be forfeited;

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

1. All persons to whom any farm erf or other land may either have been sold by the Government of the late South African Republic or have been granted by the said Government as burgher-rights or compensation for burgher-rights or otherwise and who have not taken out title deeds for such land may apply to the Registrar of Deeds for such title deeds. Applications for title deeds.

All applications for such title deeds must be accompanied by sworn declarations and wherever procurable by documentary evidence in support of the claim of the applicants to such land.

- 2.** No title deed shall be issued unless: Conditions to be fulfilled before title deeds issued.
- (a) a diagram of the land approved or confirmed by the Surveyor-General be filed with the Registrar of Deeds which diagram shall in all cases be furnished at the expense of the applicant;
 - (b) all taxes from the date of the sale or grant and all duties which may be due to the Government in respect of the land or the transfer thereof be paid;

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of
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(c) the purchase price together with interest thereon at the rate of six per centum from the date of purchase or from the date on which any instalment became due as the case may be or so much thereof as may be unpaid be paid; provided that no interest shall be payable for the period from the eleventh day of October 1899 to the thirty-first day of May 1902 inclusive.

Date fixed by Lieutenant-Governor up to which applications will be received.

*3. It shall be lawful for the Lieutenant-Governor to fix by Proclamation in the *Gazette* a date after which no application for title deeds to land sold or granted by the Government of the late South African Republic will be received and to declare that all land so sold or granted for the title deeds to which no application shall have been made by the said date shall remain vested in the Government of this Colony as Crown Land; provided that any person who shall between the third day of September 1902 and such date have made application to the Registrar of Deeds for title deeds to any land so sold or granted shall be entitled within such further period as may be allowed by the Lieutenant-Governor to establish his right to and take out title deeds to such land failing which such land shall remain vested in the Government of this Colony as Crown Land; and provided further that no person who shall fail to take out title deeds as aforesaid shall be entitled to claim compensation for any improvements he may have made on the land or to recover any portion of the purchase price or other moneys which he may have paid to the Government of the late South African Republic or to the Government of this Colony.

Ordinance not applicable to land held under Law No. 8 of 1886.

†4. This Ordinance shall not apply to any land granted by the Government of the late South African Republic under the provisions of Law No. 8 of 1886.

Title.

5. This Ordinance may be cited as the Land Titles Ordinance 1904.

* See Proc. No. 45, Admn., 1904 (*Gazette*, 19 August, 1904, p. 383) fixing the 31st December, 1904, as the date mentioned in this section; see also Govt. Notice No. 939 of 1904 (*Gazette*, 19 August, 1904, p. 384) as to form of application for title deeds.

† Cf Ord. No. 2 of 1904.

No. 19 of 1904.]

[Assented to 20 July, 1904.

**ORD.
No. 19
of
1904.**

ORDINANCE

To consolidate the law as to the appointment and jurisdiction of Resident Justices of the Peace and Justices of the Peace.

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

PRELIMINARY.

1. The laws mentioned in the First Schedule hereto shall be and are hereby repealed to the extent set forth in the second column thereof together with so much of any other law as may be repugnant to or inconsistent with the provisions of this Ordinance.

Repeal of
Laws.

RESIDENT JUSTICES OF THE PEACE.

2. The Lieutenant-Governor may from time to time appoint fit and proper persons to be Resident Justices of the Peace and every such Resident Justice of the Peace shall have and exercise the powers jurisdiction and duties conferred and imposed by this Ordinance or by any other law within an area which may be from time to time defined by Proclamation in the *Gazette*. The Lieutenant-Governor may remove any person so appointed from his office.

Power to
Lieutenant-
Governor to
appoint Resi-
dent Justices
of the Peace.

3. Every Resident Justice of the Peace appointed under the provisions of Law No. 7 of 1894 and acting as such at the date of the passing of this Ordinance shall be deemed to have been appointed under this Ordinance and any Proclamation defining the area of jurisdiction of such Resident Justice of the Peace and issued under the said Law shall be deemed to have been a Proclamation issued under the last preceding section.

Resident Jus-
tices of the
Peace ap-
pointed be-
fore passing
of Ordinance
to be deemed
to have been
appointed
under this
Ordinance.

4. Every Resident Justice of the Peace shall hold a Court for the exercise of the jurisdiction by this Ordinance conferred at such fixed place within the area defined as aforesaid as the Lieutenant-Governor may from time to time prescribe and may hold

Places at
which Courts
of Resident
Justices of
the Peace to
be held.

**ORD.
No. 19
of
1904.**

Officers of
Court of
Resident
Justices of
the Peace.

such Court for the exercise of such jurisdiction at places other than such fixed place aforesaid whenever it shall appear necessary or expedient so to do.

5. The Lieutenant-Governor may appoint to any Court of Resident Justice of the Peace a Messenger thereof and whenever it shall appear necessary a Clerk thereof and every such Messenger or Clerk so appointed shall subject to the provisions of this Ordinance have respectively the same powers and be subject to the same duties as are conferred and imposed on Messengers or Clerks of Courts of Resident Magistrates. Any Messenger or Clerk appointed to the Court of a Resident Justice of the Peace established under the provisions of Law No. 7 of 1894 and acting as such Messenger or Clerk at the date of the taking effect of this Ordinance shall be deemed to have been appointed under this Ordinance.

Oaths of
office by
Resident
Justice of
the Peace.

6. Every person appointed a Resident Justice of the Peace shall before exercising any of the functions of his office take the oath of allegiance and oath of office set forth in the Second Schedule hereto before the Resident Magistrate of the district in which his area of jurisdiction is situate; provided always that it shall not be necessary for any person who has been appointed a Resident Justice of the Peace under Law No. 7 of 1894 and who shall be acting as such at the date of the taking effect of this Ordinance to take the oaths prescribed by this section.

Jurisdiction
of Resident
Justice of the
Peace in cri-
minal cases.

***7.** Every Resident Justice of the Peace shall have jurisdiction in respect of the crimes and offences mentioned in the Third Schedule hereto and in respect of no other crime or offence whatever unless jurisdiction to try such crime or offence be specially conferred by any law hereafter enacted; † provided that it shall not be lawful for any Resident Justice of the Peace to punish any offender in any higher or more severe manner than by a fine not exceeding twenty-five pounds or by imprisonment with or without hard labour for a period not exceeding one month or by both such fine and such imprisonment.

* For instance in which special jurisdiction is given to Resident Justice to try other offences and to impose punishments higher than are mentioned in this section, see Ord. 20 of 1904, sect. 5 [post].

8. (1) It shall be lawful for any person who shall be convicted by any Resident Justice of the Peace to appeal against any such conviction and any sentence thereon to the Resident Magistrate of the district in which the area of jurisdiction defined as aforesaid is situate.
- (2) Any such person wishing to appeal as aforesaid shall proceed with such appeal within three days after any sentence imposed upon such conviction by sending to or delivering to such Resident Justice of the Peace a written statement setting forth the grounds upon which such appeal is based.
- (3) Such Resident Justice of the Peace shall forthwith after receipt of such written statement aforesaid forward the same together with the records of the case to the Resident Magistrate of his district.
- (4) Such Resident Magistrate shall as soon as possible proceed to hear and determine such appeal and may confirm set aside alter or reduce any such sentence imposed as aforesaid as justice shall require.
- (5) The execution of any sentence of imprisonment imposed by a Resident Justice of the Peace shall be suspended on the noting of any appeal under this section until the determination thereof if the person sentenced shall give reasonable bail to surrender himself to undergo imprisonment either as originally imposed or as reduced by the Resident Magistrate under the powers of this section in the event of the sentence not being set aside on such appeal.
- (6) The term "Resident Magistrate" in this section shall not include an Assistant Resident Magistrate.

Appeals to Resident Magistrate against convictions or sentences of Resident Justice of the Peace.

**ORD.
No. 19
of
1904.**

9. In the exercise of any jurisdiction conferred upon a Resident Justice of the Peace under this Ordinance or any other law such Resident Justice of the Peace shall save as otherwise expressly provided in this Ordinance observe the provisions of

Procedure by Resident Justices of the Peace as in Courts of Resident Magistrate.

**ORD.
No. 19
of
1904.**

Resident Justice of the Peace to be *ex officio* Justice of the Peace and marriage officer for natives.

the Magistrates' Court Proclamation 1902 and any amendment thereof and any rules made thereunder so far as the same shall be applicable.

10. Every Resident Justice of the Peace shall within the Magisterial district in which his area of jurisdiction is situate be deemed and taken to be a Justice of the Peace appointed under section *eleven* of this Ordinance and shall have and exercise all the powers and duties conferred and imposed on Justices of the Peace by section *twelve* and shall also be deemed to be a person appointed to solemnize marriages between coloured persons under Article *two†* of Law No. 3 of 1897 within the area of his jurisdiction defined as aforesaid. Every such Resident Justice of the Peace shall further have and exercise all powers and duties of an administrative nature conferred and imposed on Resident Justices of the Peace by any law for the time being in force.*

JUSTICES OF THE PEACE.

Appointment of Justices of the Peace.

11. The Lieutenant-Governor may from time to time appoint fit and proper persons to be Justices of the Peace for the whole Colony or for any district of the Colony and may remove any person so appointed from his office.

Powers duties and jurisdiction of Justices of the Peace.

12. Every Justice of the Peace shall be authorized and is hereby required to administer oaths and take solemn declarations in matters where statements upon oath or solemn declarations are required by law or when otherwise requested so to do and further to exercise all powers jurisdictions and duties conferred and imposed on Justices of the Peace by any law which may be in force from time to time.

Justices of the Peace appointed before this Ordinance.

13. Every Justice of the Peace appointed at the date of the passing of this Ordinance under Law No. 7 of 1894 or Proclamation No. 7 of 1901 and acting as such at the said date shall be deemed to have been appointed under this Ordinance and shall be exempt also from the provisions of the next succeeding section.

* For such administrative powers see Law 12 of 1895, sect. 18; Law 17 of 1899, Art. 11; Gaol Regulations (March 1904); Ord. 38 of 1904, sect. 4 (1); Ord. 46 of 1904, sect. 5 [post].

† For fee payable on such marriages see & Ord. 39 of 1904, sect. 5 [post].

14. Every Justice of the Peace shall before exercising any functions of his office take the oath of allegiance set forth in the Second Schedule hereto before the Resident Magistrate of the district in which he shall reside.

Oaths of allegiance and office by Justice of the Peace.

**ORD.
No. 19
of
1904.**

15. This Ordinance may be cited as The Resident Justices of the Peace and Justices of the Peace Ordinance 1904 and shall take effect from and after the first day of September 1904.

Title and operation.

FIRST SCHEDULE.

LAWS REPEALED.	EXTENT OF REPEAL.
Law No. 7 of 1894 ...	... The whole.
Proclamation No. 7 of 1901 ...	... The whole.
Ordinance No. 15 of 1902 ...	... The whole.

SECOND SCHEDULE.

FORM OF OATH OF ALLEGIANCE.

I.....do sincerely promise and swear that I will be faithful and bear true allegiance to His Majesty King Edward VII. His Heirs and Successors according to Law.

SO HELP ME GOD.

FORMS OF OATH OF OFFICE.

Resident Justice of the Peace.

I..... do promise and swear that I will faithfully and diligently execute to the best of my ability the several duties of the office of Resident Justice of the Peace and will be just and equitable in such office and will do right to all manner of people after the Laws of this Colony without fear affection favour or ill will.

SO HELP ME GOD.

THIRD SCHEDULE.

*Contraventions of Law No. 5 of 1880 (Fish Preservation Law) and any amendment thereof.

Contraventions of Law No. 13 of 1880 (Master and Servants Law) and any amendment thereof.

Contraventions of Law No. 15 of 1880 (Forest Preservation Law), and any amendment thereof and any Regulations made thereunder.

Contraventions of Law No. 21 of 1895 (Squatters Law), and any amendment thereof.

Contraventions of Laws relating to Pounds.

Contraventions of any Law for the prevention and suppression of vagrancy.

Contraventions of Game Preservation Ordinance 1902, and any amendment thereof and any Regulations made thereunder.

Contraventions of the Native Pass Laws, and any Regulations made thereunder.

†Contraventions of the Diseases of Stock Ordinance 1902, and any amendment thereof and of any Regulations made thereunder.

* See now Ord. 46 of 1904, [post].

† See Ord. 38 of 1904, [post].

ORD.
No. 19
of
1904.

Third Schedule—continued.

Contraventions of Native Tax Ordinance 1902, and any Regulations made thereunder.

Contraventions of Section 66 of Ordinance No. 32 of 1902.

Contraventions of Natives' Night Passes Ordinance 1902.

Contraventions of any bye-laws or regulations made by any Local Authority or of the Town Regulations 1899.

Assaults where no dangerous wound is given and no dangerous weapon is used.

Thefts of any nature other than Stock Theft where the value of property stolen does not exceed five pounds and any attempt to commit such offence.

Receiving stolen property (other than stock) where the value of the property stolen does not exceed five pounds.

ORD.
No. 20
of
1904.

No. 20 of 1904.]

[Assented to 20 July, 1904.]

ORDINANCE

To consolidate and amend the law as to the trial of certain offences committed in Gaols.

WHEREAS it is desirable to consolidate and amend the law relating to the trial of certain offences committed in gaols :

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

Repeal of
Laws.

1. The laws mentioned in the Schedule hereto shall be and are hereby repealed to the extent set forth in the second column thereof.

Jurisdiction
of Governor
and Deputy-
Governor of
prison at
Johannes-
burg.

2. The Governor and any Deputy-Governor of the prison at Johannesburg shall have jurisdiction to try the following offences :

(a) any offence mentioned in article *twelve* of the Gaol Law 1880 ;

*(b) any contravention of the Regulations made under the Gaol Law Amendment Ordinance 1904 by a prisoner ;

if any such offence shall have been committed :

(i) within the prison at Johannesburg ;

(ii) within any prison in the Witwatersrand District in which convicted prisoners only are confined ;

(iii) outside any such prison if the offender is a person confined therein.

* For such regulations, see Govt. Notice No. 379 of 1904 (*Gazette* 18 March, 1904, p. 578), as amended by Govt. Notice No. 396 of 1904 (*Gazette*, 22 July 1904, p. 1001).

3. The Governor and the Deputy-Governor of the prison at Pretoria shall have jurisdiction to try the offences mentioned in the last preceding section if any such offence shall have been committed :

Jurisdiction of Governor and Deputy-Governor of prison at Pretoria.

- (a) within the prison at Pretoria ;
- (b) outside such prison if the offender be a person confined therein.

4. The jurisdiction conferred upon the Governor and any Deputy-Governor of the prison at Pretoria by the last preceding section shall be and is hereby conferred upon the officer placed in charge of any prison outside the Witwatersrand District in which convicted persons only are confined if the offence which he is hereby given jurisdiction to try be committed within or without such prison by a person confined therein.

Jurisdiction of officers in charge of convict stations.

5. The Resident Magistrate of the district in which any prison (other than such prison as is mentioned in sections *two three* and *four*) is situate shall try in such prison any such offence as is mentioned in section *two* of this Ordinance if it shall have been committed within or without such prison by a person confined therein.

Jurisdiction of Resident Magistrate as to prison offences.

The term "Resident Magistrate" in this and the following sections shall include an Assistant Resident Magistrate and shall also include any Resident Justice of the Peace within whose jurisdiction a prison other than is mentioned in sections *two three* and *four* is situate ; and such Resident Justice of the Peace shall have special jurisdiction to impose any punishment prescribed for any such offence aforesaid.

6. As often as any Governor Deputy-Governor Officer in charge of a Convict Station or Resident Magistrate shall try offences under the jurisdiction by this Ordinance conferred the sentence imposed by any such Governor Deputy-Governor Officer or Resident Magistrate aforesaid shall be subject to review under the same conditions as sentences imposed by a Court of Resident Magistrate are subject to review and the jurisdiction of the Supreme Court or any Judge thereof shall be the same in respect of such sentence on

Review of sentences for prison offences.

**ORD.
No. 20
of
1904.**

Trial of
offences
other than
prison
offences
committed
in prison.

review as in the case of sentences imposed by a Court of Resident Magistrate; no sentence of lashes imposed under the jurisdiction by this Ordinance conferred shall be inflicted until the same shall have been confirmed by a Judge of the Supreme Court.

7. (a) Any person who shall contravene any provision of the Gaol Law 1880 other than an offence mentioned in article *twelve* thereof;

*(b) any person not being a person confined in a prison who shall contravene any Regulation made under the Gaol Law Amendment Ordinance 1904;

(c) any person who shall in a prison commit any offence at common law or against any statute other than the Gaol Law 1880;

shall be brought before the Court of Resident Magistrate of the district to be therein dealt with according to law; provided always that for the trial of any gaoler overseer warden trade-instructor or other subordinate officer of a prison for a contravention of any Regulation* made under the Gaol Law Amendment Ordinance 1904 the Resident Magistrate shall try such officer at the prison at which he is stationed.

Punishment
for offences
committed
by subordinate
officers.

8. Notwithstanding anything in this Ordinance contained if any gaoler overseer warden trade-instructor or other subordinate officer of a prison shall exceed his leave or be intoxicated whether on or off duty within or without a prison or be guilty of any act or omission tending in any way to impair the discipline of a prison or affecting the due performance of his duty he shall be guilty of an offence and may be tried by an officer of the rank of the Governor or the Deputy-Governor having charge of such prison; and such subordinate officer shall be liable on conviction to a deduction from his pay not exceeding five days' pay.

Limit to
numbers of
lashes for
prison
offences.

9. Notwithstanding anything in articles *twelve* and *fourteen* of the Gaol Law 1880 contained no sentence of lashes imposed under the said articles shall exceed twenty-four strokes.

* For such regulations, see Govt. Notice No. 379 of 1904 (*Gazette* 18 March, 1904, p. 578), as amended by Govt. Notice, No. 896 of 1904 (*Gazette*, 22 July, 1904, p. 156).

~~10~~ This Ordinance may be cited as the Title.
Prison Offences (Jurisdiction) Ordinance 1904
and shall be read as one with the Gaol Law
1880 and any law amending the same.

**ORD.
No. 20
of
1904.**

SCHEDULE.

Laws repealed.	Extent of Repeal.
Law No. 14 of 1880 (Gaol Law) ...	Articles 30 and 31.
Proclamation No. 14 of 1901 ...	The whole.
Proclamation (Transvaal) No. 3 of 1901 ...	The whole.
Proclamation (Transvaal) No. 30 of 1902 ...	Sections 3 and 4.
Ordinance No. 36 of 1902 ...	Section 2.
Ordinance No. 2 of 1904... ..	Section 2.

No. 21 of 1904.]

[Assented to 20 July, 1904.

**ORD.
No. 21
of
1904.**

ORDINANCE

**To Amend the Law of Evidence Proclamation
1902.**

WHEREAS it is desirable to amend the Law of
Evidence Proclamation 1902;

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

*1. Notwithstanding anything to the contrary contained in Proclamation No. 16 of 1902 the wife or husband of an accused person shall be competent and compellable to give evidence for the prosecution where the said accused person is charged with the crime of bigamy whether the said crime was committed before or after the passing of this Ordinance.

Wife or husband competent and compellable witness for prosecution on charge of bigamy.

2. This Ordinance may be cited as the Title.
Law of Evidence Proclamation Amendment
Ordinance 1904.

* Cf Section 12 of the Proclamation mentioned.

SUPREME COURT APPELLATE JURISDICTION
EXTENSION (REPEALING).
LEPROSY.

ORD.
No. 22
of
1904.

No. 22 of 1904.]

[Assented to 20 July, 1904.

ORDINANCE

**To Repeal the Supreme Court Appellate Jurisdiction
Extension Ordinance, 1902.**

WHEREAS by the Supreme Court Appellate Jurisdiction Extension Ordinance 1902 jurisdiction was conferred upon the Supreme Court of this Colony to entertain hear and determine appeals from the decisions of the High Court of the Orange River Colony or a Judge thereof;

And whereas the Lieutenant-Governor has been advised of the passing of a law in the Orange River Colony providing for the hearing and determining of such appeals by a Court in the said Colony;

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

Repeal of
Ordinance
No. 12 of
1902.
Title.

1. The Supreme Court Appellate Jurisdiction Extension Ordinance 1902 shall be and is hereby repealed.
2. This Ordinance may be cited as the Supreme Court Appellate Jurisdiction Extension (Repealing) Ordinance 1904.

ORD.
No. 23
of
1904.

No. 23 of 1904.]

[Assented to 28 July, 1904.

ORDINANCE

To amend Law No. 15 of 1897.

WHEREAS it is expedient to amend the Law as to the isolation and detention of persons affected with leprosy:

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

Repeal.

- *1. Law No. 15 of 1897 shall be and is hereby repealed but notwithstanding such repeal all bye-laws and Regulations made under the said law shall so far as the same are not re-

pugnant to the provisions of this Ordinance remain in force till rescinded altered or amended by Regulations made under section *twenty-six* hereof.

**ORD.
No. 23
of
1904.**

2. In this Ordinance unless inconsistent with the context ; Interpreta-
tion of terms.

“leprosy” shall mean all forms of disease caused by the bacillus lepræ of Hansen ;

“asylum” shall mean any building or collection of buildings erected and established under the provisions of section *three* of this Ordinance and used for the treatment or detention of persons affected with leprosy together with the land surrounding such buildings and set apart and defined under the said section for the occupation of such persons ;

*“medical practitioner” shall mean any person duly registered as such under any law of this Colony relating to the admission and registration of medical practitioners ;

“superintendent” shall mean any person appointed under section *fourteen* of this Ordinance or any person appointed before the passing of this Ordinance to take control of any asylum and any person lawfully acting as a superintendent ;

“police officer” shall mean any member of the South African Constabulary or of the Town Police or of any Police Force which may from time to time be established by law ;

“Magistrate” shall mean any Resident Magistrate or Assistant Resident Magistrate of any district of this Colony ;

“the Court” shall mean the Supreme Court or any Judge thereof sitting in chambers the Witwatersrand High Court or any Circuit Court.

* Cf Ord. No. 29 of 1904, [post].

ESTABLISHMENT OF ASYLUMS.

**ORD.
No. 23
of
1904.**

Power to appropriate Crown land and establish leper asylums thereon.

3. (1) It shall be lawful for the Lieutenant-Governor to erect and establish from time to time within the Colony asylums for the detention of persons removed thereto under this Ordinance and for the purpose of acquiring sites for the erection and establishment of asylums to appropriate and set apart any unalienated and unreserved Crown Land and to order the fencing and enclosing of any land so appropriated and set apart.

(2) The establishment of any asylum and boundaries of any land appropriated and set apart for such purpose shall be notified and defined by notice in the *Gazette*.

(3) Any land with the buildings and other erections thereon used at the date of the passing of this Ordinance as an asylum shall be deemed to have been appropriated set apart and defined within the meaning of this section and to have been established as an asylum under this section.

ISOLATION—REMOVAL AND DETENTION
OF LEPEERS.

Duty of all persons to notify suspected cases of leprosy.

4. Whenever it shall come to the knowledge of any person that some other person outside an asylum is affected with or is suspected of being affected with leprosy such first-named person shall forthwith report such fact or suspicion upon oath to the Magistrate of the district in which he is residing. Any person who shall neglect to act in accordance with this section shall be guilty of an offence.

Duty of Magistrate to isolate suspect on notification.

5. Every Magistrate to whom a report is made under the last preceding section shall issue an order requiring a police officer to take steps that the person mentioned in such report be detained in a place of isolation in manner prescribed by Regulations under this Ordinance until he shall have been examined as in the next succeeding section provided.

6. Every Magistrate who shall have issued such isolation order as aforesaid shall cause such person to be examined as soon as possible by two medical practitioners one of whom shall if possible be the District Surgeon and obtain a report from them of such examination.

Duty of Magistrate to cause medical examination to be made of suspect.

7. If such medical practitioners aforesaid shall report that the person alleged to be affected with leprosy is not so affected the Magistrate shall forthwith discharge him from detention in isolation.

Discharge of suspect if not affected.

8. (1) If such medical practitioners aforesaid shall report that the person alleged to be affected with leprosy is so affected or that it is doubtful whether he is so affected or not the Magistrate shall order him as in this section described to be removed to an asylum therein to be detained in accordance with the provisions of this Ordinance.

Issue of interim reception order by Magistrate if medical officers report suspect to be affected and in doubtful cases.

(2) Any such order as is in this section described shall be termed an interim reception order shall be addressed to the superintendent of some asylum and shall be delivered to a police officer.

(3) An interim reception order shall authorize any police officer to conduct the person named therein to the superintendent of the asylum to whom it shall be addressed and shall further authorize the reception and detention of such person in such asylum until the Colonial Secretary shall have transmitted to such superintendent an order of further detention or discharge as hereinafter provided.

9. Any superintendent who has received any person into an asylum under an interim reception order shall forthwith make a medical examination of such person and shall as soon thereafter as possible transmit to the Colonial Secretary by post ;

Duty of superintendent to make medical examination and transmit reports to Colonial Secretary.

- (a) the interim reception order ;
- (b) the reports of the medical practitioners mentioned in section *six* ;
- (c) a report made by himself as to the condition of such person.

**ORD.
No. 23
of
1904.**

Voluntary submission to treatment of persons affected with leprosy.

Issue of detention order by Colonial Secretary when satisfied that person detained under reception order is affected with leprosy.

10. If any person suspects that he is affected with leprosy and shall desire to submit himself to treatment therefor or to be placed in isolation in accordance with the provisions of this Ordinance he may for such purpose present himself to the Magistrate of the district in which he is residing and such Magistrate shall thereupon having ordered such person to be detained in isolation as in section *five* is provided require two medical practitioners (one of whom shall if possible be the District Surgeon) to examine such person; and if such medical practitioners shall report that such person is not affected with leprosy the provisions of section *seven* shall apply in the case of such person; and if such medical practitioners shall report that such person is affected with leprosy or that it is doubtful whether such person is so affected or not the provisions of sections *eight* and *nine* shall apply to such case.

11. (1) Whenever the Colonial Secretary shall be satisfied that any person detained under an interim reception order as aforesaid is affected with leprosy he shall make and sign an order (herein described as a detention order) which shall be addressed to the superintendent of some asylum.

(2) A detention order shall authorize the detention in accordance with the provisions of this Ordinance of the person named therein and shall be in force for one year from the date thereof and no longer unless renewed as hereinafter provided.

(3) One month prior to the expiration of one year from the date of a detention order the superintendent of the asylum in which such person is detained shall transmit to the Colonial Secretary a report as to the condition of the person named in such order and any further information which the Colonial Secretary may require and if on consideration of such report and information the Colonial Secretary shall consider the further detention of such person necessary or expedient he

**ORD.
No. 23
of
1904.**

may renew such detention order for a further period not exceeding three years. The same procedure shall be repeated one month before the expiry of each such further period and such detention order may at the end of each such further period under like circumstances be renewed as aforesaid unless discharge of such person is sooner ordered.

- 12.** (1) Whenever the Colonial Secretary shall not be satisfied that a person detained under an interim reception order is affected with leprosy he shall submit all medical reports transmitted to him under this Ordinance concerning such person to the Medical Officer of Health for the Colony and may direct any further medical examination he may consider necessary of such person.
- (2) If on consideration of the report of such Medical Officer of Health or of the further medical examination (if any) he is satisfied that such person is affected with leprosy he shall make and sign a detention order as in section *eleven* is provided.
- (3) If on consideration of the report of the Medical Officer of Health aforesaid or of the further medical examination (if any) he shall not be satisfied that a person detained under an interim reception order is affected with leprosy he shall transmit an order to the superintendent of the asylum in which such person is detained directing his discharge therefrom.

Procedure by Colonial Secretary when not satisfied that person detained under reception order is affected with leprosy.

13. The Colonial Secretary may notwithstanding anything in this Ordinance contained at any time on sufficient reason to him appearing issue an order to the superintendent of any asylum directing the discharge of any person from detention therein or the removal of any person detained therein to another asylum for detention under this Ordinance.

Power to Colonial Secretary to order discharge from asylum at any time.

MANAGEMENT OF ASYLUMS.

14. The Lieutenant-Governor may appoint from time to time superintendents who shall be medical practitioners and who shall have the direction and management of any asylum

Appointment of superintendents of asylums.

**ORD.
No. 23
of
1904.**

Duty of superintendents to reside at or near asylums.

Intercourse of persons detained in asylums with each other and persons outside.

Suspects and detained lepers to be deemed in lawful custody.

to which they shall respectively be appointed but shall in carrying out their powers and duties be subject to the supervision and directions of the Medical Officer of Health of this Colony. Such Medical Officer of Health may from time to time subject to any Regulations made under this Ordinance appoint attendants guards and other officers to any asylums and remove such officers.

15. It shall be the duty of every superintendent to reside at or near the asylum to which he shall be appointed to inspect from time to time in accordance with regulations made hereunder such asylum and the persons detained therein and to perform all medical offices necessary in respect of such persons to cause proper food and necessary comforts to be supplied to such persons and to cause the premises to be properly and cleanly kept and to perform such other duties and exercise such powers as may be imposed and conferred upon him by this Ordinance or by any Regulations made thereunder.

16. (1) No person shall be permitted to enter any asylum except in accordance with the Regulations to be made in that behalf under this Ordinance.

(2) Male and female persons and white and coloured persons who are detained under this Ordinance shall be kept in separate parts of an asylum; provided that it shall be in the discretion of the superintendent to permit married persons over the age of fifty years both of whom are persons affected with leprosy to live together in any asylum.

(3) Save as in this Ordinance provided and save as may be provided by any Regulations made thereunder no communication or intercourse shall be allowed between persons detained in any asylum and any person not detained therein who is not an officer or attendant thereof.

17. (1) Every person placed in isolation or during the course of removal to or while detained in an asylum under the provisions of this Ordinance shall be deemed

to be in lawful custody until discharged therefrom under this Ordinance and while in such custody shall be subject to the provisions of this Ordinance and any Regulations made thereunder.

- (2) Any person who shall escape from such lawful custody may be pursued arrested without warrant and taken back into custody by any person whomsoever wheresoever he may be found.
- (3) Any person who shall aid or attempt to aid any person detained in lawful custody under this Ordinance in escaping or in attempting to escape from such lawful custody shall be guilty of an offence and shall be liable upon conviction to the penalties hereinafter provided.

18. Every person detained in lawful custody under the provisions of this Ordinance shall be permitted to receive visits from relatives friends or legal advisers at such reasonable times and subject to such restrictions as may be determined by Regulations made under this Ordinance.

Persons detained may receive visits subject to regulations.

19. The costs of the erection establishment and maintenance of asylums of the removal of persons to and of the maintenance of any persons detained therein (save in so far as such costs of maintenance may be otherwise defrayed in accordance with section *twenty* of this Ordinance) the salaries and wages of superintendents attendants or other officers of asylums and of the disinfecting and cleansing of the residence of persons isolated and the maintenance of such persons during the period of isolation shall be defrayed out of the general revenue of the Colony.

Cost of erection and maintenance of asylums to be defrayed out of public revenue.

20. It shall be lawful for the superintendent whenever a person detained under this Ordinance shall be possessed of sufficient means to receive or recover from such person the expense of his maintenance and to allow such person to build for himself or contract to be built a habitation within the limits of an asylum and such superintendent may for such purposes enter into on behalf of the Colonial Secretary special agreements with such person or his lawful representative.

Power to superintendent to allow persons detained to build habitations for themselves and defray cost of maintenance.

**ORD.
No. 23
of
1904.**

Power to Lieutenant-Governor to confer upon super-intendent jurisdiction to try certain offences.

21. (1) It shall be lawful for the Lieutenant-Governor to confer upon any superintendent jurisdiction to try the following classes of crimes and offences if committed within any asylum for which he has been appointed that is to say ;

- (a) such crimes and offences committed by persons detained under this Ordinance which are triable summarily by a Court of Resident Magistrate under its ordinary jurisdiction together with any contraventions of the provisions of this Ordinance or of any Regulation made thereunder by such persons aforesaid ;
 - (b) contraventions of the provisions of this Ordinance or of any Regulations made thereunder by attendants guards and other officers of asylums.
- (2) Any proceedings taken and any judgment or sentence given or imposed by a superintendent under the provisions of this section shall be in all respects in accordance with and subject to the provisions of the Magistrates Court Proclamation 1902 and any law amending the same in the same manner as any proceedings judgment or sentence taken given or imposed in a Court of Resident Magistrate.
- (3) The Lieutenant-Governor may at any time withdraw from any superintendent the jurisdiction which has under this section been conferred upon him.
- (4) Nothing in this section contained shall be deemed to take away the jurisdiction of any Court of Resident Magistrate under any law in respect of the trial of or enquiry into crimes or offences and it shall be the duty of the superintendent whenever any offence shall be committed in any asylum under his charge which he has no jurisdiction to try to report the fact to the Magistrate of the district who is hereby authorised if he shall think fit to hold his Court at such asylum for the trial of or enquiry into such offence.

22. (1) The Court may appoint a curator for the temporary or permanent care and administration of any property of a person removed to an asylum for detention under this Ordinance and the provisions of sections *thirty-six* to *forty-two* inclusive of the Lunacy Proclamation 1902 shall *mutatis mutandis* apply for the purposes of such care and administration of the property of any such person and the Attorney-General shall be *ex officio* the *curator ad litem* of any such person during such detention.

Care and administration of property of persons confined or detained in asylums.

**ORD.
No. 23
of
1904.**

(2) It shall be lawful for the Attorney-General to lay any reports or evidence concerning the removal of a person for detention under this Ordinance together with evidence as to any property possessed by such person before the Court for its consideration and the Court may upon consideration of such reports and evidence appoint a *curator bonis* for the care or custody of the property of any such person aforesaid and where it appears to the Court desirable that temporary provisions should be made for the maintenance or other necessary requirements of such person or any member of his family out of any money or available securities belonging to him in the hands of his bankers or of any other person the Court may authorize such banker or other person to pay to the *curator bonis* such sums as may be deemed necessary and may give directions as to the application thereof for the benefit of such person aforesaid or for the relief of his family or any member thereof.

(3) Notwithstanding anything in this section contained when any person who has been removed to an asylum for detention under this Ordinance possesses property the estimated value of which does not exceed five hundred pounds in respect of the *corpus* thereof or fifty pounds per annum in respect of the income thereof the Master of the Supreme Court may on the application of the official *curator ad*

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litem appoint a curator of the property of such person.

MISCELLANEOUS.

Cleansing and disinfecting of residence of persons isolated.

23. Whenever any person shall have been placed in isolation by order of a Magistrate under section *five* of this Ordinance such Magistrate shall cause the residence of such person to be forthwith cleansed and disinfected in accordance with the advice of the District Surgeon and in accordance with any further directions given in that behalf by the Medical Officer of Health of this Colony.

Photographing of persons confined in asylums.

24. (1) It shall be the duty of every person detained in an asylum under this Ordinance to submit himself to be photographed from time to time as the superintendent shall think fit to enable the course of his disease to be ascertained.

(2) Any such person who shall refuse to allow himself to be photographed as aforesaid or shall obstruct any person entrusted with this duty in the execution of such duty shall be guilty of an offence.

(3) Any person who shall give supply or exhibit any such photograph obtained under this section to any person to whom he is not expressly or by Regulation authorized to give supply or exhibit such photograph shall be guilty of an offence.

Penalties for contravention of Ordinance.

25. Any person guilty of an offence under this Ordinance shall be liable upon conviction to a fine not exceeding fifty pounds or to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and imprisonment.

Power to Lieutenant-Governor to make Regulations and provide penalties for the breach thereof.

26. It shall be lawful for the Lieutenant-Governor to make Regulations and to prescribe the penalties for the breach thereof not exceeding the penalties in the last preceding section mentioned ;

(a) for the isolation examination and removal to asylums of persons affected or suspected of being affected with leprosy ;

(b) for the appointment and duties of superintendents guards attendants and other officers of asylums and the removal of such officers ;

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- (c) for the classification treatment instruction and employment of persons detained in asylums ;
- (d) as to the rations and clothing of persons detained in asylums ;
- (e) as to the intercourse of persons detained in an asylum with each other and with persons not so detained and generally for the discipline and good order of persons so detained ;
- (f) as to the setting apart of places within any asylum for the special confinement and punishment of persons convicted and sentenced by superintendents under section *twenty-one* of this Ordinance or of persons who have been convicted and sentenced for any offence by any competent Court and removed to an asylum under this Ordinance ;
- (g) prescribing forms to be used for the purposes of this Ordinance ;
- (h) generally for the carrying out of the provisions of this Ordinance.

27. Notwithstanding anything in this Ordinance contained the examination and report of one medical practitioner shall suffice for the purpose of an interim reception order under this Ordinance whenever undue delay or inconvenience would result in obtaining an examination and report by two medical practitioners ; provided always that the results of an examination and the report of one medical practitioner be confirmed by another medical practitioner as soon as the same can conveniently be obtained.

Examination and report of one medical practitioner to temporarily suffice where two not available.

28. It shall be the duty of every police officer to execute any lawful order of the Colonial Secretary or Magistrate issued under the provisions of this Ordinance and any person resisting or obstructing any Magistrate medical practitioner or other person charged with a duty under this Ordinance in the execution of such duty shall be guilty of an offence.

Duty of police officer to execute orders made under Ordinance.

29. This Ordinance may be cited as the Leprosy Ordinance 1904 and shall come into operation on the first day of October, 1904.

Title and operation.

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of
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No. 24 of 1904.]

[Assented to 28 July, 1904.]

ORDINANCE

To provide for the Settlement of Differences by Arbitration.

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

PRELIMINARY.

Repeal of
Laws.

1. So much of any law as is repugnant to or inconsistent with the provisions of this Ordinance shall be and is hereby repealed.

Interpreta-
tion of terms.

2. In this Ordinance unless a contrary intention appears:

“submission” means a written agreement to submit present or future differences to arbitration whether an arbitrator is named therein or not;

“Court” means the Supreme Court the Witwatersrand High Court and any Circuit Court hereafter established in this Colony;

“Judge” means a Judge of the Supreme Court;

“official referee” means a referee appointed by the Court or a Judge thereof;

“special referee” means any particular person appointed to be a referee in any particular matter.

REFERENCES BY CONSENT OUT OF COURT.

Effect of a
submission.

3. A submission unless a contrary intention is expressed therein shall be irrevocable except by leave of the Court or a Judge or by consent of all the parties thereto and shall have the same effect in all respects as if it had been made an Order of Court.

Submission
to include
provisions in
Schedule.

4. A submission unless a contrary intention is expressed therein shall be deemed to include the provisions set forth in the Schedule to this Ordinance so far as they are applicable to the reference under the submission.

Official
referee.

5. Where a submission provides that the reference shall be to an official referee any official referee to whom application is made

shall subject to any Order of Court or a Judge hear and determine the matters agreed to be referred.

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6. If any party to a submission or any person claiming through or under him commences any legal proceedings in any Court against any other party to the submission or any person claiming through or under him in respect of any matter agreed to be referred to arbitration any party to such legal proceedings may at any time after appearance and before delivering any pleadings or taking any other steps in the proceedings apply to that Court to stay proceedings and that Court or a Judge thereof if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceedings were commenced and still remains ready and willing to do all things necessary to the proper conduct of the arbitration may make an order staying the proceedings.

Staying of
legal
proceedings.

7. Criminal matters so far as the prosecution or punishment thereof is concerned shall not be submitted to arbitration nor without special leave of the Court shall any of the following matters be submitted to arbitration namely :—

Provision
excluding
arbitration
on certain
matters.

- (a) matters relating to status ;
- (b) matrimonial causes ; or
- (c) matters in which minors or other persons under legal disability may be interested.

8. In any of the following cases :

- (a) where a submission provides that the reference shall be to a single arbitrator and all the parties do not after differences have arisen concur in the appointment of an arbitrator ;
- (b) if an appointed arbitrator fails or refuses to act or is incapable of acting or dies and the submission does not show that it was intended that the vacancy should not be supplied and the parties do not supply the vacancy ;

In what
cases written
notice to
appoint an
arbitrator
may be
served.

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(c) when the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him in any case where such appointment is requisite for the decision of the matters in dispute or the due conduct of the arbitration ;

(d) when an appointed umpire or third arbitrator fails or refuses to act or is incapable of acting or dies and the submission does not show that it was intended that the vacancy should not be supplied and the parties or arbitrators do not supply the vacancy ;

any party may serve the other parties or the arbitrators as the case may be with a written notice to appoint or if agreement be necessary to agree in the appointment of an arbitrator or umpire or third arbitrator.

If the appointment is not made or agreed to as the case may be within seven clear days after the service of the notice the Court or a Judge may on application of the party who gave the notice and upon notice to the other party appoint an arbitrator umpire or third arbitrator who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties.

Supply of
vacancy in
case the
submission
provides for
two
arbitrators.

9. When a submission provides that a reference shall be to two arbitrators one to be appointed by each party then unless the submission expresses a contrary intention :

(a) if either of the appointed arbitrators fails or refuses to act or is incapable of acting or dies the party who appointed him may appoint a new arbitrator in his place ;

(b) if on such reference one party fails to appoint an arbitrator either originally or by way of substitution as aforesaid for seven clear days after the other party having appointed his arbitrator has served the party making default with notice to make the appointment the party who has appointed an arbitrator may appoint that arbitrator to act as

sole arbitrator in the reference and his award shall be binding on both parties as if he had been appointed by consent ; provided that the Court or a Judge may set aside any appointment made in pursuance of this section.

10. Every arbitrator and umpire must be and continue throughout the reference to be disinterested with reference to the matters referred and the parties to the reference and any party to a reference may require any arbitrator or umpire to make a sworn declaration before beginning or continuing his duties as such arbitrator or umpire that he has no interest direct or indirect in the matters referred or in the parties to the reference and knows of nothing disqualifying him from being impartial and disinterested in the discharge of such duties ; provided always that any party may expressly waive any right to object to any arbitrator or umpire on the grounds of interest or the like.

Arbitrators and umpires to be disinterested parties.

11. The Court may at any time upon motion remove any arbitrator or umpire against whom a just ground of recusation is found to exist or who has misconducted himself in connection with the matters referred to arbitration.

Court may remove arbitrator or umpire.

12. The arbitrator or umpire acting under a submission shall unless the submission expresses a contrary intention have power :

Powers of umpire or arbitrator.

- (a) to administer oaths or to take the affirmations of the parties and witnesses appearing ; and
- (b) on the application of either party to appoint a Commissioner to take the evidence of a person residing outside the Colony and forward the same to arbitrators in the same way as if he were a Commissioner appointed by the Court ; and
- (c) to state an award as to the whole or part thereof in the form of a special case for the opinion of the Court ; and
- (d) to correct in any award any clerical mistake or error arising from any accidental slip or omission.

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Party to submission may take out process of Court for witnesses.

Time of making award.

Remission of case to arbitrator or umpire.

Misconduct of arbitrator or umpire.

Award; how to be enforced.

Arbitrators or umpire may appoint place for arbitration if not already provided for.

Official and special referees and officers of Court.

13. Any party to a submission may take out process of the Court for the attendance of witnesses but no person shall be compelled under any such process to produce any document which he could not be compelled to produce on the trial of any action.

14. The time for making an award may from time to time be enlarged by order of the Court or a Judge whether the time for making the award has expired or not.

15. (1) In all cases of reference to arbitration the Court or a Judge may from time to time remit the matters referred or any of them to the reconsideration of the arbitrators or umpire.

(2) When a matter is remitted as aforesaid the arbitrators or umpire shall unless the order of remittal otherwise directs make their award within three months after the date of such order.

16. (1) Where an arbitrator or umpire has misconducted himself the Court may remove him.

(2) Where an arbitrator or umpire has misconducted himself or an arbitration or award has been improperly procured the Court may set the award aside and may award costs against any such arbitrator or umpire personally.

17. An award which has been made a rule of Court may be enforced in the same manner as a judgment or order to the same effect.

18. Where the submission does not provide in what place the arbitration shall be held the arbitrators or umpire may from time to time decide upon such place as may be reasonably accessible to the parties and convenient for the purposes of the reference.

REFERENCES UNDER ORDER OF COURT.

19. (1) Subject to Rules of Court the Court or Judge may refer any question arising in any cause or matter (other than a criminal proceeding) for enquiry or report to any official or special referee or officer of the Court.

- (2) The report of an official or special referee or officer of the Court may be adopted wholly or partially by the Court or a Judge and with or without such amendments as may to the Court or Judge seem meet and if so adopted may be enforced as a judgment or order to the same effect or the Court or a Judge may remit the report for further consideration or make such other order thereon as may be just.

20. In any cause or matter (other than a criminal proceeding);

(a) if all the parties interested who are not under disability consent; or

(b) if the cause or matter requires any prolonged examination of documents or any scientific technical or local investigation which cannot in the opinion of a Court or Judge conveniently be conducted by the Court through its ordinary officers; or

(c) if the question in dispute consists wholly or in part of matters of account; the Court or Judge may at any time order the whole cause or matter or any question or issue of fact arising therein to be tried before an official or special referee or arbitrator agreed on by the parties or failing agreement before any official referee or officer of the Court appointed by the Court.

Matters which may be referred to referees for trial.

21. (1) In all cases of reference to an officer of the Court or to an official or special referee or arbitrator under an order of Court or a Judge in any cause or matter the official or special referee or arbitrator shall be deemed to be an officer of the Court and shall have such authority and shall conduct the reference in such manner as may be prescribed by Rules of Court and subject thereto as the Court or a Judge may direct.

Duty of referee and effect of his report or award.

(2) The report or award of any official or special referee or arbitrator or officer of the Court on any such reference shall unless set aside by the Court or a Judge be equivalent to a finding of fact by the Court.

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Award may
be made a
rule of
Court.

Powers of
Court or
Judge as to
references.

(3) The remuneration to be paid to any official or special referee or arbitrator or officer of the Court to whom any matter is referred by order of the Court or a Judge shall be determined by the Court or a Judge or by Rules of Court.

22. The report or award of any officer of the Court or official or special referee or arbitrator may upon motion by any party after due notice to the other parties be made a judgment or order of the Court.

23. The Court or a Judge shall as to references under order of the Court or a Judge have all the powers which are by this Ordinance conferred on the Court or a Judge as to references by consent out of Court.

GENERAL.

Subpœna or
summons.

24. The issue of a subpœna or summons on a witness to compel his attendance and the production of things or documents before an arbitrator arbitrators umpire officer of the court and official or special referee as the case may be may be procured in the same way and subject to the same conditions as if the matter were an action pending in the Court ;

(a) by any party to a submission or any arbitrator arbitrators or umpire thereunder ;

(b) by the parties to any reference under any order of Court ; or

(c) by any officer of the Court official or special referee hearing any reference under order of Court ;

provided always :

(1) that no person shall be compelled on such subpœna to produce any document or thing the production of which would not be compellable on trial of an action ;

(2) that the Clerk of the Court of any Resident Magistrate may issue such subpœna in the name and on behalf of the Registrar of the Court upon payment of the same fees as are chargeable for the issue of a subpœna in the Magistrate's Court.

25. The Court or a Judge may order the process of the Court to issue to compel the attendance before a special or official referee or officer of the Court or before an arbitrator or umpire of a witness wherever he may be within the jurisdiction of the Court or may order any prisoner to be brought up for examination before such officer referee arbitrator or umpire.

General powers of Court or Judge.

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26. Any such officer referee arbitrator or umpire may at any stage of the proceedings under a reference and shall if so directed by the Court or a Judge state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference.

Special case stated by umpire referee arbitrator or officer.

27. Any order made under this Ordinance may be made on such terms as to costs or otherwise as the authority making the order thinks just.

Costs.

28. Any person who wilfully or corruptly gives false evidence before any such officer referee arbitrator or umpire shall be guilty of perjury in the same way as if the evidence had been given in open Court and may be dealt with prosecuted and punished accordingly.

False evidence.

29. This Ordinance shall not affect any arbitration pending at the date of the taking effect of this Ordinance but shall apply to any arbitration commenced after such date of this Ordinance under any agreement or order made before such date.

Ordinance not to be retroactive

30. Nothing in this Ordinance shall apply to any arbitration under the Expropriation of Lands and Arbitration Clauses Proclamation 1902 unless all the parties to the arbitration shall otherwise agree in writing and then the said Proclamation and this Ordinance shall be read together.

Not to affect arbitration under Expropriation of Lands and Arbitration Clauses Proclamation 1902 except by consent.

31. This Ordinance may be cited as the Arbitration Ordinance 1904.

Title.

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SCHEDULE.

PROVISIONS TO BE IMPLIED IN SUBMISSION.

(a) If no other mode of reference is provided the reference shall be to a single arbitrator.

(b) If the reference is to two arbitrators then for the decision of any question they must both agree but if to more than two then the decision of the majority of arbitrators shall determine all questions.

(c) If the reference is to two arbitrators the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

(d) The arbitrators shall make their award in writing within three months after entering on the reference or after having been called on to act by notice in writing from any party to the submission if the latter be the earlier date or on or before any later day to which the arbitrators by any writing signed by them may from time to time enlarge the time for making the award; provided that such further period shall not exceed four months.

(e) If the arbitrators have allowed their time or extended time to expire without making an award or have delivered to any party to the submission or to the umpire a notice in writing stating that they can not agree the umpire may forthwith enter on the reference in lieu of the arbitrators.

(f) The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award provided that such further time shall not exceed three months.

(g) The parties to the reference and all persons claiming through them respectively shall subject to any legal objection submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute and shall subject as aforesaid produce before the arbitrators or umpire all books deeds accounts papers writings and documents within their possession or power respectively which may be required or called for and to do all other things which during the proceedings on the reference the arbitrators or umpire may require.

(h) The witnesses on the reference shall if the arbitrators or umpire think fit be examined on oath or affirmation.

(i) The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

(j) The cost of the reference and award shall be in the discretion of the arbitrators or umpire who may direct to and by whom and in what manner those costs or any part thereof shall be paid and may tax or settle the amount of costs to be so paid or any part thereof and may award costs to be so paid as between solicitor and client; provided always that if no direction be given as to the scale on which such costs are to be taxed they shall be taxed on the tariff allowed in Magistrates' Courts from time to time if the award is such as a Magistrate might have pronounced as a judgment in his Court but otherwise such costs shall be taxed on the tariff in force from time to time in the Supreme Court.

(k) The oral evidence of witnesses shall be recorded by the arbitrator or arbitrators or umpire before whom it may be given in such manner as may be by him or them from time to time directed if not recorded by the arbitrator arbitrators or umpire themselves.

(l) The umpire shall be at liberty to act upon the evidence recorded before the arbitrators and to make his award without hearing any witnesses or receiving any fresh evidence; provided nevertheless that he shall be entitled if he so think fit to re-hear the witnesses or any of them or to call for further evidence.

(m) The umpire shall be at liberty to sit together with the arbitrators and to hear the evidence given from time to time and shall be entitled then and there to decide any interlocutory matter upon which

the arbitrators disagree; provided however that the umpire shall not unless called upon to give an award or unless the parties have requested him so to sit be entitled to demand remuneration from the parties in respect of his attendance on the reference with the arbitrators.

(n) If the arbitrators where there is more than one or a majority of them cannot agree as to any matter of procedure or any interlocutory question they may refer such matter or question forthwith to the umpire for decision and he shall give his decision thereon forthwith.

(o) The arbitrator arbitrators or umpire shall be at liberty to proceed *ex parte* in case any party after reasonable notice shall at any time neglect or refuse to attend on the reference without having shown previously to them what they may consider good and sufficient cause for omitting to attend.

(p) If any party to the arbitration die the arbitration shall be stayed subject to any order that the Court may make until the appointment of an executor or other proper representative of such deceased party and the time for making an award shall be extended for the same period as may elapse between the death of the party and the appointment of an executor or other proper representative and such executor or other proper representative shall when called upon by the other party or parties to the submission to proceed with the arbitration be subject to the same rules provisions and conditions as the deceased party.

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of
1904.**

No. 25 of 1904.]

[Assented to 28 July, 1904

ORD.

ORDINANCE

Refer to Ord: 15 of 1904
" " Act: 31 of 1907
**No. 25
of
1904.**

To provide for the Occupation of Farms Lots and Erven in the Districts of Zoutpansberg Waterberg and Middelburg.

WHEREAS certain farms were allotted by the Government of the late South African Republic as occupation farms under the provisions of Law No. 8 of 1886 in the District of Zoutpansberg;

And whereas in pursuance of Volksraad Resolutions of 31st July 1883 Art. 982 and of 9th June 1888 Art. 425 certain lots were allotted by the said Government subject to the provisions of the said Law No. 8 of 1886 with regard to occupation in the area known as "Mapoch's Gronden" in the District of Middelburg;

And whereas in pursuance of Volksraad Resolution of 12th May 1888 Art. 71 certain erven were allotted by the said Government in the town of Pietpotgietersrust in the District of Waterberg subject to the said provisions of the said Law No. 8 of 1886;

And whereas in pursuance of Executive Council Resolution of 3rd January 1899 Art. 1 certain erven were allotted by the said Government in the town of Louis

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Trichardt in the District of Zoutpansberg subject to the said provisions of the said Law;

And whereas Commissions have been appointed by the Lieutenant-Governor to inquire whether the provisions of the said Law with regard to the occupation of the said farms lots and erven respectively have been complied with;

And whereas in certain cases deeds of grant have not been issued to the persons to whom the said farms lots and erven were allotted and it is necessary to provide for the issue of deeds of grant in such cases where the provisions of the said Law have been complied with;

And whereas it is also necessary to provide for the occupation of such farms in future and for the issue of freehold titles in respect of such lots and erven;

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

1. In this Ordinance if not inconsistent with the context; Interpreta-
tion of terms.

“Commissioner” shall mean the Commissioner of Lands.

“Occupation farm” shall mean a farm allotted under Law No. 8 of 1886.

“Occupation lot” shall mean land allotted in the area known as “Mapoch’s Gronden” in the District of Middelburg under Volksraad Resolutions of 31st July 1883 Art. 982 and of 9th June 1888 Art. 425 subject to the provisions of Law No. 8 of 1886 with regard to occupation.

“Occupation erf” shall mean an erf allotted in the town of Pietpotgietersrust in the district of Waterberg under Volksraad Resolution of 12th May 1888 Art. 71 and also an erf allotted in the town of Louis Trichardt in the District of Zoutpansberg under Executive Council Resolution of 3rd January 1899 Art. 1 subject to the provisions of Law No. 8 of 1886 with regard to occupation.

2. The Commissioner shall cause to be published in the *Gazette* and in a newspaper circulating in the district in which the land is situated lists in the form of the First Schedule hereto of those persons who have not received title deeds in respect Publication
of lists of
of persons
who have
not received
title deeds.

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to the occupation farms lots or erven allotted to them but who have substantially complied with the provisions of Law No. 8 of 1886 with regard to occupation. Such lists shall be published weekly for three consecutive weeks and a copy of such lists shall be served if possible personally on the persons whose names appear thereon.

3. Any person appearing on any such list shall be entitled on application to the Commissioner within twelve months of the last publication in the *Gazette* of such list to obtain a deed of grant in the form of the Second Third and Fourth Schedules as the case may be in respect to the occupation farm lot or erf allotted to him and to have the said farm lot or erf registered in his name; provided

Such persons may apply for deeds of grant.

- (a) that in the case of a lot or erf or in the case of a farm which has been surveyed a confirmed diagram thereof which shall be prepared at his expense be filed; and
- (b) all arrear taxes prescribed by law from the date on which the said farm lot or erf was allotted to him be paid; and
- (c) the necessary registration or other fees be paid.

If any such person shall fail to apply for a deed of grant within the said period of twelve months it shall be lawful for the Commissioner by notice in the *Gazette* and in a newspaper circulating in the district in which such farm lot or erf is situated to call upon him to do so before the expiration of a further period of three months and should he fail to comply with such notice during such further period such farm lot or erf shall *ipso facto* be forfeited to the Crown.

4. Every occupation farm shall be occupied by the owner personally or by a white male substitute above the age of eighteen years. Such owner or his substitute shall reside on such farm for at least eight months in each year; provided that two or more owners of occupation farms which are contiguous to one another may apply to the Commissioner

Every occupation farm must be occupied by the owner or a substitute who must reside thereon for eight months every year.

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for permission to reside together on one of such farms and during the period for which such permission may be granted residence by an owner on such farm shall be equivalent to residence on his own farm; and provided further that it shall be lawful for the Lieutenant-Governor in cases where it may appear to be necessary ~~owing to the unhealthiness of the locality to suspend for a portion of each year~~ the provisions of this section with regard to residence on such conditions as he may deem fit.

Sub-division of occupation farms etc.

5. On the sub-division of any occupation farm the provisions of this Ordinance with regard to occupation shall apply to each portion into which it shall be sub-divided; provided that where one farm and a portion of an adjoining farm or where two or more portions of the same farm or of adjoining farms are owned by the same person residence on any one piece of land so owned shall with the consent of the Commissioner be equivalent for the purposes of this Ordinance to residence on each piece of land owned as aforesaid.

No transfer to be registered unless certificate that provisions as to occupation ~~have been~~ complied with be produced.

6. Upon application by the owner of any occupation farm the Commissioner if satisfied that such farm has been occupied in accordance with the provisions of this Ordinance shall cause a certificate to that effect to be ~~issued to such owner~~. No transfer or special mortgage of any occupation farm shall be registered by the Registrar of Deeds ~~unless~~ such certificate bearing a date not more than four months prior to such transfer be exhibited to him.

Report by authorised person as to compliance with the provisions with regard to occupation.

7. It shall be lawful for the Commissioner to authorise in writing any fit and proper person to ascertain and report to him whether the provisions of this Ordinance with regard to occupation are being complied with and for the purpose of making such report it shall be lawful for such person at all reasonable times to have free access to any occupation farm and to the buildings thereon and any person obstructing such person in the performance of his duty and any owner or substitute refusing or wilfully neglecting

to answer any reasonable question put to him by such person or making any wilful misstatement to such person in the performance of his duty shall be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for any period not exceeding three months.

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8. (1) If from the report of the person referred to in the last preceding section it should appear to the Commissioner of Lands that reasonable grounds exist for the cancellation of the title to the farm the Land Board constituted under Ordinance No. 57 of 1903 shall call upon the registered owner by a summons in writing served personally if possible on him and where such service cannot be effected then by publishing it four times in the *Gazette* and in a newspaper circulating in the district to appear before it on a given date and at a given place either in person or by an agent appointed in writing by him to show cause why such title should not be cancelled. It shall be competent for the Land Board to hear the registered owner and his witnesses as well as such witnesses as may be called by the Commissioner and for such purposes it shall have and exercise the powers conferred by the Commissions' Powers Ordinance 1902.
- (2) If the Land Board recommends to the Commissioner that the title should be cancelled and the Lieutenant-Governor approves such recommendation the Commissioner shall notify in four issues of the *Gazette* and in four issues of a newspaper circulating in the district the Lieutenant-Governor's intention to cancel such title.
- (3) If within three months of the date of the first publication of such notice the registered owner does not commence proceedings against the Commissioner in the Supreme Court to restrain such cancellation as aforesaid the title to such land may be cancelled by the Lieutenant-Governor without the registered owner having any claim to com-

Cancellation
of title for
non-occupa-
tion.

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pensation for improvements effected on the property.

(4) In any such proceeding as is mentioned in the last preceding sub-section the onus shall lie on the owner of proving that he has occupied the said farm in accordance with the provisions of this Ordinance.

(5) Upon the cancellation of any title to an occupation farm under this section all rights in and over the said farm by way of lease mortgage or otherwise shall *ipso facto* cease and determine.

Notice of
cancellation.

9. The Commissioner shall give notice in four consecutive issues of the *Gazette* and shall also inform the Registrar of Deeds in writing of the cancellation of the title of any farm under the last preceding section. The Registrar of Deeds shall thereupon cancel the entries in his register and the Deeds Office copy of the deed of grant or transfer whereby such farm is held as well as all leases mortgage bonds or other encumbrances registered against such title.

Exchange of
title.

10. The owner of any occupation lot or erf the title to which was issued prior to the taking effect of this Ordinance and which has not been cancelled shall on complying with section *three* hereof be entitled to exchange such title for a title under this Ordinance and shall on receipt of a title under this Ordinance deliver the old title to the Registrar of Deeds for cancellation.

Right to
conduct
water.

11. The holder of a title to any occupation farm lot or erf whether such title shall have been issued before or after the taking effect of this Ordinance may apply to the Commissioner for leave to construct keep in repair and maintain a channel or furrow through any other occupation farm lot or erf for the purpose of conducting water to his own farm lot or erf for domestic stock or irrigation purposes and the Commissioner may order the owner or owners of such farm lot or erf to allow such channel or furrow to be constructed subject to the

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payment of such compensation as may be mutually agreed upon by the parties concerned or failing such agreement as may be determined by arbitration in manner provided by the Expropriation of Lands and Arbitration Clauses Proclamation 1902.

12. Occupation farms and erven shall be subject to the same taxes as quitrent (leenings) farms and ordinary town erven respectively and occupation lots shall be subject to an annual tax of fifteen shillings. Taxes.

13. If at any time it is proved to the satisfaction of the Commissioner that the holder of a title to an occupation farm has made permanent improvements on such farm equal at least to the unimproved value thereof at the date of the taking effect of this Ordinance the Commissioner shall cause to be issued to him a freehold title thereto in the form in the Fifth Schedule subject to his filing a confirmed diagram of such farm and subject to the payment of the land tax imposed by law on land held under such tenure. Exchange of title for freehold title.

14. This Ordinance may be cited as the Occupation Farms Ordinance 1904. Title.

FIRST SCHEDULE.

Name of Person.	Name of Farm Lot or Erf.	Registered Number.	Locality Ward or Town.	District.	Date of Allotment.

SECOND SCHEDULE.

In the name and on behalf of His Majesty EDWARD THE SEVENTH by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King Defender of the Faith Emperor of India.

Whereas a certain farm or piece of land named..... situate in the District of..... has been allotted to..... by the Government of the late South African Republic by virtue of..... ;

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Now therefore I the Lieutenant-Governor of the Transvaal hereby grant cede and transfer unto the said.....
the said farm or piece of land named.....
..... containing.....morgen
.....square roods and.....square feet
and represented and described in the diagram hereunto annexed framed by Surveyor.....
dated..... or according to Inspection Report as the case may be with full power and authority henceforth to possess the same in perpetuity.

This grant is made subject to the conditions of Ordinance No..... of 1904 known as the Occupation Farms Ordinance 1904 and further on the conditions that all roads already made over this land by lawful authority shall remain free and unencumbered; that the land shall be subject to an outspan and to grazing for the cattle of travellers to be pointed out by the owner; that the said land shall be further subject to such stipulations as have been established or may hereafter be established by the Legislature; and finally that the owner shall be liable to the prompt payment of an annual tax of.....sterling.

Given under my Hand and the Public Seal of the Colony of the Transvaal at Pretoria this.....day of.....190.....

Lieutenant-Governor.

By His Excellency's Command.

Commissioner of Lands.

Registered in the Register of Farms, District.....
Book....., Folio....., on the.....day
of....., One thousand Nine hundred and.....

Registrar of Deeds.

THIRD SCHEDULE.

Lot No.....

In the name and on behalf of His Majesty EDWARD THE SEVENTH by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King Defender of the Faith Emperor of India.

Whereas Lot No.....situate in "Mapoch's Gronden" in the District of Middelburg in this Colony has been granted to.....
by the Government of the late South African Republic under and by virtue of.....;

Now therefore I the Lieutenant-Governor of the Transvaal hereby grant cede and transfer unto the said.....
the aforesaid Lot No.....situate in "Mapoch's Gronden" in the District of Middelburg in this Colony containing.....morgen
.....square roods and.....square feet and represented and described in the diagram hereunto attached framed by Surveyor.....dated.....
with full power and authority henceforth to possess the same in perpetuity.

The owner of this lot shall be entitled to grazing for cattle under such conditions as shall hereafter be established by regulations on the unallotted or remaining extent of Mapoch's Gronden. This will not however prevent the Government from at any time disposing (in such a manner as it may see fit) of certain pieces of land suitable for town

erven agricultural lands gardens and the building of houses and kraals. The said lot shall be further subject to all obligations and regulations which already exist or may later be established respecting lands granted on similar conditions; and finally the owner shall be liable to the prompt payment of an annual tax of fifteen shillings sterling.

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Given under my Hand and the Public Seal of the Colony of the Transvaal at Pretoria this.....day of.....190.....

Lieutenant-Governor.

By His Excellency's Command.

Commissioner of Lands.

Registered in the Land Register of Mapoch's Gronden kept at Pretoria Book.....folio.....on the.....day of.....
One thousand Nine hundred and.....

Registrar of Deeds.

FOURTH SCHEDULE.

Erf No.....

In the Name and on behalf of His Majesty EDWARD THE SEVENTH by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King Defender of the Faith Emperor of India.

Whereas Erf No..... situate in the town of..... in this Colony has been granted to..... by the Government of the late South African Republic under and by virtue of..... ;

Now therefore I the Lieutenant-Governor of the Transvaal hereby grant cede and transfer unto the said..... the aforesaid Erf No..... situate in..... Street in the town of..... containing..... square roods and..... square feet and represented and described in the diagram hereunto attached framed by Surveyor..... dated..... with full power and authority henceforth to possess the same in perpetuity.

This grant is made on the condition that the land shall be subject to all laws obligations and regulations which already exist or may be hereafter established with reference to land granted on similar conditions and situated within the aforesaid town and that the owner shall be liable to the prompt payment of an annual tax of.....sterling.

Given under my hand and the Public Seal of the Colony of the Transvaal at Pretoria this.....day of.....190.....

Lieutenant-Governor.

By His Excellency's Command.

Commissioner of Lands.

Registered in the Land Register of Erven kept at Pretoria Bookfolio.....on the.....day of.....
One thousand Nine hundred and.....

Registrar of Deeds

OCCUPATION FARMS.
CRIMES.

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FIFTH SCHEDULE.

In the Name and on behalf of His Majesty EDWARD THE SEVENTH by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King Defender of the Faith Emperor of India.

Whereas a certain farm or piece of land named..... situate in the District of..... has been allotted to by the Government of the late South African Republic by virtue of

Now therefore I the Lieutenant-Governor of the Transvaal hereby grant cede and transfer unto the said the said farm or piece of land named containing..... morgen square roods andsquare feet and represented and described in the diagram hereunto annexed framed by Surveyor..... dated.....with full power and authority henceforth to possess the same in perpetuity.

This grant is made on the conditions that all roads already made over this land by lawful authority shall remain free and unencumbered; that the land shall be subject to an outspan and to grazing for the cattle of travellers to be pointed out by the owner; that the said land shall be further subject to such stipulations as have been established or may hereafter be established by the Legislature; and finally that the owner shall be liable to the prompt payment of an annual tax of.....sterling.

Given under my hand and the Public Seal of the Colony of the Transvaal at Pretoria this..... day of..... 190.....

Lieutenant-Governor.

By His Excellency's Command.

Commissioner of Lands.

Registered in the Register of Farms, District
Book..... Folio..... on the.....day
of.....One thousand Nine hundred and.....

Registrar of Deeds.

**ORD.
No. 26
of
1904.**

No. 26 of 1904.]

[Assented to 28 July, 1904.]

ORDINANCE

To declare the Law as to certain Criminal Offences.

WHEREAS it is desirable to more clearly define and declare the law as to certain criminal offences and the punishments which may be imposed for such offences:

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

Preliminary.

1. This Ordinance may be cited as "The Crimes Ordinance 1904" and shall come into operation on the first day of October 1904.

Title and date of taking effect.

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2. The laws mentioned in the First Schedule to this Ordinance shall be and are hereby repealed together with so much of any other law as may be repugnant to or inconsistent with the provisions of this Ordinance.

Repeal.

3. In this Ordinance unless inconsistent with the context:

Interpre-
tation of
terms.

"break" shall mean the obtaining of entrance into or exit from any building by means of force threat fraud stealth or trick or by the unfastening or opening of any door or window or by the removal of any thing used to cover any opening into or within or from such building;

"counterfeit coin" shall mean coin not current but resembling or apparently intended to resemble or pass for current coin and includes current coin prepared or altered so as to resemble or pass for coin of a higher denomination;

"current coin" shall mean any coin used in any place as money and stamped by or under the authority of the Government of such place whether within or without His Majesty's Dominions in order that it may be so used; coins issued by the Mint of the late South African Republic are current coin;

"day time" shall mean the period between sunrise and sunset;

"dwelling" shall mean a building or structure or any part thereof which is for the time being kept by the owner or occupier thereof for the residence therein of himself his family or servants or any of them and whether or not such building or structure be from time to time uninhabited;

"enter" shall mean the insertion of any part of the body of a person or any part of an instrument used by such person within a building;

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“night” shall mean the period between sunset and sunrise;

“police officer” shall mean any officer constable or trooper of the Town Police or of the South African Constabulary or any member of any other police force lawfully established in this Colony;

“premises” shall mean any building or structure or part thereof (not being a dwelling) habitually used as a shop warehouse storehouse bank office school or for divine worship or any outbuilding occupied in connection with a dwelling or premises as herein defined;

“property” shall include everything capable of being the subject of ownership whether animate or inanimate moveable or immoveable corporeal or incorporeal;

“valuable security” shall include any document which is the property of any person and which is the evidence of the ownership of any property or of the right to recover receive or be in possession of any property.

Crimes.

A.—HOUSEBREAKING AND LIKE OFFENCES.

Breaking and entering premises other than a dwelling in the night with intent.

4. Any person who shall break and enter any premises in the night with intent to commit an offence therein shall be liable upon conviction to imprisonment with hard labour for a period not exceeding seven years and if such person is a male to whipping not exceeding twelve strokes in addition to such imprisonment.

Breaking and entering a dwelling in the night with intent.

5. Any person who shall break and enter any dwelling in the night with intent to commit an offence therein shall be liable upon conviction to imprisonment with hard labour for a period not exceeding fourteen years and if such person is a male to whipping not exceeding twenty-four strokes in addition to such imprisonment.

6. Any person who shall enter any dwelling or premises in the night with intent to commit an offence therein shall be liable upon conviction to imprisonment with hard labour for a period not exceeding five years and if such person is a male to whipping not exceeding nine strokes in addition to such imprisonment.

Entering dwelling or premises in the night with intent to commit an offence.

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7. Any person who shall be found by night:

- (a) armed with any dangerous or offensive weapon or instrument with intent to commit any offence mentioned in the preceding sections; or
- (b) having in his possession without lawful excuse (the proof of which excuse shall lie upon such person) any pick lock key crow jack jemmy or other implement of housebreaking; or
- (c) having his face stained or disguised or his person dressed or otherwise disguised with intent to commit any offence mentioned in the preceding sections;

Being found by night armed or disguised or in possession of house-breaking implements with intent.

shall be liable upon conviction to the penalties mentioned in the last preceding section.

8. Any person who shall break and enter any premises or dwelling in the day time with intent therein to commit an offence shall be liable upon conviction to imprisonment with hard labour for a period not exceeding five years and if a male to whipping not exceeding twelve strokes in addition to such imprisonment.

Breaking and entering premises or dwelling by day with intent to commit an offence.

9. Any person who shall enter upon any premises or dwelling or enclosed piece of land attached to or used in connection therewith and shall wrongfully and unlawfully remain therein or thereon after request by the occupier or person for the time being in charge thereof to immediately depart therefrom shall be liable upon conviction to imprisonment with or without hard labour for a period not exceeding six months.

Entering premises or dwelling on ground attached to same and refusing to depart on request.

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Using threats after having broken or entered or unlawfully remained on premises.

Punishment after previous conviction for like offences.

10. Any person who having unlawfully broken into or entered upon or remained upon any premises or dwelling or enclosed piece of ground attached to or used in connection with such premises shall by any threat or conduct put any one therein or thereon in bodily fear shall upon conviction be liable to imprisonment with hard labour for a period not exceeding two years and if a male to whipping not exceeding nine strokes in addition to any penalty to which such person is liable under any law or under any of the preceding sections.

11. If any person shall be convicted of a contravention of any of the preceding sections of this Ordinance after a previous conviction for:—

- (a) a contravention of any such section;
- (b) a contravention of any provision of Law No. 5 of 1888;
- (c) the offence of housebreaking with intent to commit an offence;

the maximum punishment prescribed by any such preceding section hereof may be increased as follows:—

- six months' imprisonment to imprisonment for one year;
- two years' imprisonment to imprisonment for three years;
- five years' imprisonment to imprisonment for seven years;
- seven years' imprisonment to imprisonment for ten years;
- fourteen years' imprisonment to imprisonment for twenty years;

and if on such previous conviction a sentence of whipping was imposed a sentence of whipping of double the number of strokes (not exceeding twenty-four in all) may be imposed on the second or subsequent conviction.

B.—EXTORTION.

Compelling the execution of documents.

12. Any person who by unlawful violence or restraint of the person of another or by threat of violence and with intent to defraud or injure unlawfully compels any person to execute make accept endorse alter or destroy the whole or any part of any valuable security or to write impress or affix any name or

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seal upon any paper or parchment in order that it may be afterwards made or converted into or used or dealt with as a valuable security shall be liable on conviction to imprisonment with hard labour for a period not exceeding twenty years and if such person be a male to whipping not exceeding twenty-four strokes in addition to such imprisonment.

13. Any person who with threats of injury or by the display or pretended display of force demands any property capable of being stolen with intent to steal or obtain unlawful possession of such property shall be liable upon conviction to imprisonment with hard labour for a period not exceeding seven years and if such person be a male to whipping not exceeding twelve strokes.

Demanding property with threats and intent to steal.

14. Any person who knowing the contents thereof sends delivers or utters or directly or indirectly causes to be received any letter or writing demanding of any person with the use of threats and without reasonable or probable cause any property or thing whatsoever shall be liable upon conviction to imprisonment with hard labour for a period not exceeding fourteen years and if such person be a male to whipping not exceeding fifteen strokes.

Demanding property by letter using threats.

15. Any person who knowing the contents thereof shall send deliver or utter or directly or indirectly cause to be received any letter or writing accusing or threatening to accuse any person of any crime or offence with intent to obtain from any person whatever any property or money or other valuable thing shall be liable on conviction to the penalties mentioned in the last preceding section; and if such crime or offence aforesaid be

Sending letter threatening to accuse or accusing of a crime with intent to obtain money, etc.

- (a) an offence punishable with death or any attempt to commit such offence;
- (b) an unnatural offence or an assault with intent to commit rape or an indecent assault;

the penalty for the offence created by this section may be imprisonment with hard labour for twenty years and if such person be a male to whipping not exceeding twenty-four strokes.

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Immaterial from whom the violence or accusation to come.

16. It shall be immaterial in any charge or trial of any person for contravening sections *twelve thirteen fourteen* or *fifteen* of this Ordinance whether the threats in such section mentioned be of violence injury or accusation to be caused or made are to proceed from the accused or from any other person.

Publishing or threatening to publish defamatory matter with intent to extort money.

17. Any person who publishes or directly or indirectly threatens to publish or directly or indirectly proposes to abstain from publishing or directly or indirectly offers to prevent the publication of any defamatory matter concerning any other person with intent to extort any property from such person or any third person or with intent to induce any person to give or confer or procure or to attempt to procure to upon or for any person any property or benefit of any kind shall be liable upon conviction to imprisonment with hard labour for a period not exceeding three years.

C.—COINING.

Counterfeiting current coin.

18. Any person who counterfeits or performs any part of the process of counterfeiting any current coin with intent to make any counterfeit coin pass for or resemble current coin shall be liable on conviction to imprisonment with hard labour for a period not exceeding fourteen years.

Importing buying selling and dealing in counterfeit coin.

19. Any person who imports into this Colony or who buys sells receives or deals with or in any counterfeit coin which he knows to be or has good reason for believing to be counterfeit shall be liable on conviction to imprisonment with hard labour for a period not exceeding seven years.


Exporting counterfeit coin.

20. Any person who without lawful authority or excuse (the proof of which shall lie upon him) exports any counterfeit coin resembling or apparently intended to resemble or pass for any current coin knowing the same to be counterfeit shall be liable upon conviction to imprisonment with hard labour for a period not exceeding two years.

Preparing tools for coining.

21. Any person who without lawful authority or excuse (the proof of which shall lie upon him) makes mends or begins

or proceeds to make or mend or buys sells or disposes of or has in his possession :

- (1) any stamp  mould intended to make the resemblance of both or either of the sides of any current coin or any part thereof knowing the same to be intended as aforesaid;
- (2) any tool instrument or machine intended for marking coin round the edges with marks or figures apparently resembling those on the edges of any current coin knowing the same to be intended as aforesaid ; or
- (3) any coinage press or any machine tool or instrument capable of preparing any material for receiving an impression resembling that on a current coin knowing such press machine tool or instrument to be intended to be used to counterfeit any current coin ;

shall be liable on conviction to imprisonment with hard labour for a period not exceeding fourteen years.

22. Any person who :

- (1) gilds silvers or colours any piece of metal of a fit size or figure to be coined with intent that it shall be coined into counterfeit coin and used or passed as current coin ; or
- (2) makes any piece of metal into a fit size or figure to facilitate the coining therefrom of any counterfeit coin with intent that it shall be used or passed as current coin ;

Preparing metal for coining counterfeit coin.

shall be liable upon conviction to imprisonment with hard labour for a period not exceeding fourteen years ; and any person who buys sells or shall be in possession of any such piece of metal in this section mentioned with such intent aforesaid shall be liable upon conviction to imprisonment with hard labour for a period not exceeding seven years.

23. Any person who files clips sweats or in any way diminishes or lightens any current coin with intent that when so dealt with it may be used or passed as current coin shall be liable upon conviction to

Clipping or sweating coin.

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Uttering or
tendering
counterfeit
coin.

imprisonment with hard labour for a period not exceeding fourteen years.

24. Any person who utters pays passes off tenders offers or otherwise uses as current coin any counterfeit coin which he knows to be counterfeit shall be liable upon conviction to imprisonment with hard labour for a period not exceeding seven years.

Possessing
counterfeit
coin.

25. Any person who has in his possession any counterfeit coin knowing it to be counterfeit and with intent to utter it or to pay it or to pass it off or to tender it or to offer it or otherwise use it as current coin shall be liable upon conviction to imprisonment with hard labour for a period not exceeding seven years.

Possessing
clippings
of current
coin.

26. Any person who without lawful authority or excuse (the proof of which shall lie upon him) has in his possession or disposes of or in any way deals with any filings clippings gold or silver bullion or gold or silver in dust or in solution or in any other state obtained from any current coin knowing the same to have been so obtained shall be liable upon conviction to imprisonment with hard labour for a period not exceeding three years.

Passing
medals
as current
coin.

27. Any person who with intent to defraud utters pays passes off tenders offers or otherwise uses as a current coin any medal or piece of metal which is not current coin knowing that it is not current coin shall be liable upon conviction to imprisonment with hard labour for a period not exceeding one year.

Defacing
coins.

28. Any person who without lawful authority or excuse (the proof of which shall lie upon him) defaces any current coin by stamping thereon any word letter device or mark shall be liable upon conviction to imprisonment with hard labour for a period not exceeding one year.

D.—WITCHCRAFT.

Imputations
of witchcraft.

29. Any person who imputes to another the use of non-natural means in causing any disease in any person or property or in

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causing injury to any person or property or shall name or indicate another as a wizard or witch shall be liable upon conviction to imprisonment with hard labour for a period not exceeding five years.

30. Any person who having named or indicated another as a wizard or witch shall be proved to be by habit or repute a witch doctor or witch finder shall be liable upon conviction to imprisonment for life.

Witch doctor naming another as a wizard or witch.

31. Any person who employs or solicits any witch doctor or witch finder to name or indicate another as a wizard or witch shall be liable upon conviction to imprisonment with hard labour for one year.

Employing a witch doctor.

32. Any person professing a knowledge of so-called witchcraft or the use of charms who shall advise any person applying to him how to bewitch or injure persons animals or other property or who shall supply any person with the pretended means of witchcraft shall be liable to imprisonment with hard labour for a period not exceeding ten years.

Witch doctor supplying advice for witchcraft with intent to injure.

33. Any person who on the advice of a witch doctor or of his pretended knowledge of so-called witchcraft shall with intent to injure use or cause to be put into operation such means or processes as he believes to be calculated to injure any person or property shall be liable upon conviction to imprisonment with hard labour for a period not exceeding ten years.

Persons using witch medicine with intent to injure.

34. Any person who for purposes of gain pretends to exercise or use any kind of supernatural power witchcraft sorcery enchantment or conjuration or undertakes to tell fortunes or pretends from his skill or knowledge in any occult science to discover where or in what manner anything supposed to have been stolen or lost may be found shall be liable upon conviction to imprisonment with hard labour for a period not exceeding one year.

Pretending to use supernatural power for purposes of gain.

E.—MISCELLANEOUS.

35. Any person who shall assault or shall resist or wilfully obstruct a police officer in the execution of his duty shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment of

Penalty for assaulting or resisting or obstructing police officer in execution of his duty.

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of
1904.**

Attempting
or inciting
to offences
defined by
this
Ordinance.

Attempting
to commit
statutory
offences
other than
defined in
this
Ordinance.

Power to
Magistrate to
impose
sentences of
whipping on
first
conviction
for certain
offences.

the same to imprisonment with or without hard labour for a period not exceeding three months or to be imprisoned without the option of a fine and with or without hard labour for a period not exceeding three months; and in case of a subsequent conviction for any such offence within the space of two years such person shall be liable to imprisonment with or without hard labour for a period not exceeding six months without the option of a fine.

36. Any person who attempts to commit or who incites to or attempts to procure the commission of any offence in this Ordinance defined shall be liable upon conviction to the punishment to which an offender convicted of such offence is liable under this Ordinance.

37. Any person who attempts to commit any offence created or defined by statute other than this Ordinance for which attempt no punishment is expressly provided by such statute shall be liable upon conviction to the punishment to which an offender convicted of such offence is by such statute liable.

38. Notwithstanding anything in section *thirty-five* of the Magistrates' Court Proclamation 1902 contained it shall be lawful for a court of a Resident Magistrate to impose a punishment of whipping not exceeding twenty-four strokes on any male offender in the case of a first conviction for any of the crimes and offences mentioned in the Second Schedule hereto whether such conviction be on summary trial by such court of Resident Magistrate or on remittal to such court under section *eighty-eight* of the Criminal Procedure Code 1903.

FIRST SCHEDULE.

Law No. 5 of 1888.
Proclamation No. 4 of 1901.
Proclamation (Transvaal) No. 15 of 1901.

SECOND SCHEDULE.

Assaults of an aggravated nature or with intent to do grievous bodily harm or with intent to commit any other offence.

Robbery.

Any statutory offence for which whipping may be imposed as a punishment unless it is expressly provided that whipping shall only be imposed as a punishment on a second or subsequent conviction.

No. 27 of 1904.]

[Assented to 28 July, 1904.]

**ORD.
No 27
of
1904.****ORDINANCE****For the prevention of the introduction and spread of Rabies.**

WHEREAS it is desirable to prevent the introduction into this Colony of the disease amongst dogs known as Rabies (in this Ordinance described as "the disease") and to make special provisions in the event of the outbreak of such disease for preventing the spread thereof;

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

1. It shall be lawful for the Lieutenant-Governor whenever it shall be reported to the Commissioner of Lands that the disease is prevalent in any adjoining Colony Protectorate or Territory and that there is reason to apprehend the introduction of it into this Colony or that the disease has broken out in this Colony to declare by Proclamation any Magisterial district or portion thereof to be an area subject to Regulations under this Ordinance and the Lieutenant-Governor may annex to such Proclamation Regulations for any of the purposes hereinafter described and may from time to time by further Proclamation suspend alter or amend any such Regulations in any district so proclaimed.

Power to
Lieutenant-
Governor to
proclaim dis-
tricts and
make Regula-
tions.

2. The Regulations made by virtue of the last preceding section may provide for all or any of the following matters:

Regulations ;
subject
matter of.

- (a) the carrying out and enforcing of the said Regulations by the members of the Town Police and the South African Constabulary or any other police force established by any law;
- (b) the powers and duties of Resident and Assistant Resident Magistrates and other officers entrusted with the carrying out of such Regulations;
- (c) the control detention and custody of dogs;

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- (d) the importation or entry of dogs into the Colony or the removal of dogs from one district thereof to another;
- (e) the notification of the disease;
- (f) the destruction of dogs affected or reasonably suspected of being affected with the disease or which have been in contact with other dogs so affected;
- (g) the disposal of the carcasses of dogs so destroyed;
- (h) generally for the prevention of the spread of the disease in this Colony;

and any such Regulations may provide penalties for the breach thereof not exceeding the penalties mentioned in section *four** of this Ordinance.

Exclusion of Municipal bye-laws while Regulations under Ordinance in force.

3. Whenever any such Regulations shall be proclaimed as aforesaid for a Magisterial district or portion thereof in which a Municipality is situate any bye-laws of such Municipality relating to the seizure sale and destruction of ownerless dogs shall *ipso facto* be suspended while such Regulations are in force in such district or portion thereof but such Regulations shall not affect any proceedings pending under the suspended bye-laws at the date of the said Proclamation or be deemed to suspend any bye-law for the licensing of dogs by the Council of the Municipality.

Interpretation of terms.

4. The word "dog" for the purposes of this Ordinance shall include any dog bitch puppy or other canine animal; but it shall be lawful for the Lieutenant-Governor by Proclamation in the *Gazette* to apply the provisions of this Ordinance or any of the Regulations made thereunder to any other animal liable to the disease.

Title.

5. This Ordinance may be cited for all purposes as The Rabies Ordinance 1904.

* Section *four* of the Draft Ordinance introduced created an offence and provided penalties for its breach. In the Committee stage of the Draft, section *four* was deleted, but no corresponding correction was made in the proviso to section *two*.

No. 28 of 1904.]

[Assented to 28 July, 1904.]

**ORD.
No. 28
of
1904.****ORDINANCE****To validate the acts of Local Authorities and of other persons committed in excess of their legal powers.**

WHEREAS certain local authorities in the belief that certain bye-laws made by them severally under the provisions of the Municipal Corporations Ordinance 1903 had been duly published in accordance with the requirements of the said Ordinance have done certain acts under such bye-laws and have instituted prosecutions and recovered penalties from divers persons for contraventions of such bye-laws;

And whereas by virtue of a decision of the Supreme Court of this Colony it has been made to appear that the said bye-laws were not duly published in accordance with the requirements of the said Ordinance;

And whereas it is desirable to validate the acts done by such local authorities and by other persons under the said bye-laws;

And whereas a body of persons known and in this Ordinance described as the "Rand Plague Committee" was constituted and empowered under various Government Notices to carry out in the Witwatersrand District of the Colony certain Regulations made by the Colonial Secretary under section *fifty-eight* of the said Ordinance for the purpose of checking the progress of the disease known as bubonic plague;

And whereas doubts have arisen as to the legality of the acts done or authorised to be done under the said Regulations by the Rand Plague Committee and other persons by its authority and direction and it is desirable to validate such acts and further to make provision for the payment of the expenditure incurred by the said Committee in carrying out the said Regulations;

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

PART I.

1. The publication in the *Gazette* of the Government Notices mentioned in the first column of the First Schedule hereto shall be deemed to have been due publication in accordance with the requirements of section *forty-five* of the Municipal Corporations Ordinance 1903

Certain scheduled notices to be deemed to have been due publication of bye-laws.

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No action to lie against local authority or persons for anything done in exercise of bye-laws not duly published.

of the bye-laws mentioned in the second column of the said Schedule for each of the districts of local authorities set forth in the third column of the said Schedule and to the extent to which they purported to have been published respectively for such districts and from and after the date of such purported publication.

2. No action shall lie against any such local authority aforesaid or any other person for any damages alleged to have been caused by the exercise by any such local authority or by such other person of the powers and duties conferred and imposed by the said bye-laws or for the recovery of any moneys paid into the revenue of any such local authority under the said bye-laws or for the recovery of any moneys paid as and for a penalty for contravening any such bye-law and all sentences of fine or imprisonment imposed by any Court for a contravention of any such bye-law shall be deemed to have been validly imposed.

PART II.

Validation of acts of Rand Plague Committee.

3. All acts done by the Rand Plague Committee constituted by and in the Regulations published under Government Notice No. 420 of 1904 or any addition to or amendment of such Regulations and all acts done in good faith by any persons under the authority of such Committee in the exercise of the powers which any such Regulations purported to have conferred upon it or them shall be deemed to have been lawfully done; and no action shall lie against any member of such Committee or officer thereof or any person acting under the authority or direction of such Committee or of a member or officer thereof by reason of the *bonâ fide* exercise of the powers conferred by the said Regulations and all sentences whether of fine or imprisonment imposed by any Court for contraventions of the said Regulations shall be deemed to have been validly imposed. Such Regulations as are referred to in this section were published under the several Government Notices mentioned in the Second Schedule hereto and every such Regulation shall be deemed to have had the force of law throughout every part of the

Witwatersrand District as and from the date on which it was published in the *Gazette*.

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4. The expenditure incurred by the Rand Plague Committee and any officer thereof in the exercise of the powers conferred by the said Regulations shall be paid in the following manner that is to say : one-half such expenditure shall be borne out of the public revenue of the Colony and one-half such expenditure shall be borne by the local authorities mentioned in the Third Schedule hereto in certain proportions to be determined as hereinafter provided.

Payment of expenditure incurred by Rand Plague Committee.

5. (1) The proportions in which the half share of expenditure which under the last preceding section is to be borne by the said local authorities shall be determined by a qualified accountant after an examination of the accounts of the Rand Plague Committee.

Mode in which proportions of share of expenditure borne by local authorities to be determined.

(2) The appointment of such qualified accountant aforesaid shall be made by all the local authorities mentioned in the Third Schedule hereto ; provided that if each and every such local authority shall not agree upon the appointment of such qualified accountant within three months from the date of any notice or proclamation declaring the Rand Plague Committee to be abolished notice shall be given by the Secretary of the Rand Plague Committee to the Colonial Secretary who thereupon shall appoint a qualified accountant for the purposes of sub-section (1) of this section.

(3) The qualified accountant appointed as aforesaid shall as soon as may be after the date of his appointment prepare and submit to each of the said local authorities a statement showing the amounts which from the said examination of accounts appear to be due from each such local authority and showing also the basis of calculation of such amounts ; and if within one month of the submission of the said statement to any such local authority such local authority shall give notice to the said qualified accountant that it objects to the terms of the said statement

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the said qualified accountant shall on a day to be appointed by him hear any such objection and may after such hearing either amend the said statement or confirm the same and the statement as amended or as confirmed shall be final and conclusive as between the said local authorities as determining the amounts respectively payable by them. For the purposes of the hearing of objections to the said statement the provisions of the Commissions Powers Ordinance 1902 shall *mutatis mutandis* apply as if the said qualified accountant were a Commission to which such Ordinance had been applied.

(4) Such qualified accountant is hereby authorised (if necessary) to recover from any such local authority in any competent Court the amount determined to be payable as aforesaid by it.

(5) The amounts so determined to be respectively payable by such local authorities shall be paid out of the several revenues of such local authorities.

(6) The remuneration of the qualified accountant appointed under this section shall be deemed to be expenditure incurred by the Rand Plague Committee.

Title.

6. This Ordinance may be cited as the Local Authorities and Plague Committee Validation Ordinance 1904.

FIRST SCHEDULE.

Government Notices purporting to publish Bye-laws.	Subject of Bye-laws.	District of Local Authority for which Bye-laws purported to have been published.
No. 1,498 of 1903 ..	Trade Licenses.	Boksburg
No. 93 of 1904
No. 1,498 of 1903	Potchefstroom ..
No. 93 of 1904
No. 1,498 of 1903	Heidelberg
No. 105 of 1904
No. 1,498 of 1903	Klerksdorp
No. 107 of 1904
No. 58 of 1904	Lydenburg
No. 123 of 1904
No. 58 of 1904	Piet Retief
No. 148 of 1904

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Government Notices purporting to publish Bye-laws.	Subject of Bye-laws.	District of Local Authority for which Bye-laws purported to have been published.
No. 58 of 1904 ..	Trade Licenses.	Amersfoort
No. 155 of 1904 ..	" "	"
No. 1,498 of 1903 ..	" "	Pietersburg
No. 161 of 1904 ..	" "	"
No. 58 of 1904 ..	" "	Volkstrust
No. 163 of 1904 ..	" "	"
No. 58 of 1904 ..	" "	Rustenburg
No. 213 of 1904 ..	" "	"
No. 58 of 1904 ..	" "	Machadodorp
No. 244 of 1904 ..	" "	"
No. 58 of 1904 ..	" "	Vereeniging
No. 248 of 1904 ..	" "	"
No. 58 of 1904 ..	" "	Wakkerstroom
No. 285 of 1904 ..	" "	"
No. 58 of 1904 ..	" "	Bethal
No. 289 of 1904 ..	" "	"
No. 58 of 1904 ..	" "	Wolmaransstad
No. 362 of 1904 ..	" "	"
No. 58 of 1904 ..	" "	Amsterdam
No. 481 of 1904 ..	" "	"
No. 58 of 1904 ..	" "	Belfast
No. 581 of 1904 ..	" "	"
No. 279 of 1904 ..	Dog Licenses.	Machadodorp
No. 288 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Amersfoort
No. 306 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Wolmaransstad
No. 312 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Zeerust
No. 315 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Rodepoort- Maraisburg
No. 333 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Vereeniging
No. 334 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Bethal
No. 350 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Ermelo
No. 351 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Nylstroom
No. 355 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Heidelberg
No. 360 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Potchefstroom
No. 375 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Ventersdorp
No. 377 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Boksburg
No. 381 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Germiston
No. 392 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Wakkerstroom
No. 396 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Carolina
No. 419 of 1904 ..	" "	"

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First Schedule—continued.

Government Notices purporting to publish Bye-laws.	Subject of Bye-laws	District of Local Authorities for which Bye-laws purported to have been published.
No. 279 of 1904 ..	Dog Licenses.	Heidelberg
No. 422 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Pietersburg
No. 432 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Belfast
No. 458 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Krugersdorp
No. 467 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Amsterdam
No. 483 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Klerksdorp
No. 501 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Potchefstroom
No. 510 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Springs
No. 546 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Rustenburg
No. 572 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Standerton
No. 597 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Piet Retief
No. 599 of 1904 ..	" "	"
No. 279 of 1904 ..	" "	Lydenburg
No. 600 of 1904 ..	" "	"
No. 192 of 1904 ..	Public Health.	Standerton
No. 207 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Pietersburg
No. 208 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Roodepoort- Maraisburg.
No. 246 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Boksburg
No. 259 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Heidelberg
No. 274 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Volksrust
No. 291 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Roodepoort- Maraisburg.
No. 310 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Krugersdorp
No. 363 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Germiston
No. 388 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Klerksdorp
No. 403 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Potchefstroom
No. 415 of 1904 ..	" "	"
No. 275 of 1904 ..	" "	Zeerust
No. 433 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Potchefstroom
No. 440 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Middelburg
No. 457 of 1904 ..	" "	"
No. 275 of 1904 ..	" "	Amersfoort
No. 424 of 1904 ..	" "	"

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Government Notices purporting to publish Bye-laws.	Subject of Bye-laws.	District of Local Authority for which Bye-laws purported to have been published.
No. 482 of 1904 ..	Public Health	Amersfoort
No. 275 of 1904 ..	" "	Nylstroom
No. 424 of 1904 ..	" "	"
No. 484 of 1904 ..	" "	"
No. 275 of 1904 ..	" "	Bethal
No. 492 of 1904 ..	" "	"
No. 275 of 1904 ..	" "	Machadodorp
No. 544 of 1904 ..	" "	"
No. 410 of 1904 ..	" "	Boksburg
No. 556 of 1904 ..	" "	"
No. 275 of 1904 ..	" "	Springs
No. 424 of 1904 ..	" "	"
No. 568 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Germiston
No. 571 of 1904 ..	" "	"
No. 275 of 1904 ..	" "	Ermelo
No. 424 of 1904 ..	" "	"
No. 595 of 1904 ..	" "	"
No. 457 of 1904 ..	" "	Middelburg
No. 608 of 1904 ..	" "	"
No. 275 of 1904 ..	" "	Piet Retief
No. 424 of 1904 ..	" "	"
No. 609 of 1904 ..	" "	"
No. 192 of 1904 ..	" "	Vereeniging
No. 612 of 1904 ..	" "	"
No. 411 of 1904 ..	" "	Standerton
No. 616 of 1904 ..	" "	"
No. 275 of 1904 ..	" "	Springs
No. 424 of 1904 ..	" "	"
No. 618 of 1904 ..	" "	"
No. 411 of 1904 ..	" "	Krugersdorp
No. 619 of 1904 ..	" "	"
No. 411 of 1904 ..	" "	Heidelberg
No. 620 of 1904 ..	" "	"
No. 275 of 1904 ..	" "	Belfast
No. 424 of 1904 ..	" "	"
No. 623 of 1904 ..	" "	"
No. 281 of 1904 ..	Building.	Pietersburg
No. 382 of 1904 ..	" "	"
No. 281 of 1904 ..	" "	Heidelberg
No. 443 of 1904 ..	" "	"
No. 281 of 1904 ..	" "	Boksburg
No. 512 of 1904 ..	" "	"
No. 281 of 1904 ..	" "	Nylstroom
No. 548 of 1904 ..	" "	"
No. 281 of 1904 ..	" "	Roodepoort
No. 611 of 1904 ..	" "	Maraisburg
No. 150 of 1904 ..	Pounds.	Krugersdorp
No. 197 of 1904 ..	" "	"
No. 150 of 1904 ..	" "	Carolina
No. 211 of 1904 ..	" "	"
(Cancelled by No. 606 of 1904).		
No. 150 of 1904 ..	" "	Amersfoort
No. 212 of 1904 ..	" "	"

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First Schedule—continued.

Government Notices purporting to publish Bye-laws.	Subject of Bye-laws.	District of Local Authority for which Bye-laws purposed to have been published.
No. 150 of 1904 ..	Pounds	Ventersdorp ..
No. 216 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Machadodorp ..
No. 242 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Rodepoort-Maraaisburg ..
No. 245 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Nylstroom ..
No. 251 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Belfast ..
No. 261 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Heidelberg ..
No. 272 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Lydenburg ..
No. 307 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Zeerust ..
No. 308 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Wolmaransstad ..
No. 311 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Ermelo ..
No. 353 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Middelburg ..
No. 358 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Germiston ..
No. 391 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Potchefstroom ..
No. 414 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Vereeniging ..
No. 426 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Bethal ..
No. 434 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Boksburg ..
No. 435 of 1904 ..	"	" ..
No. 216 of 1904 ..	"	Ventersdorp ..
No. 514 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Wakkerstroom ..
No. 537 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Springs ..
No. 547 of 1904 ..	"	" ..
No. 358 of 1904 ..	"	Middelburg ..
No. 559 of 1904 ..	"	" ..
No. 150 of 1904 ..	"	Carolina ..
No. 570 of 1904 ..	"	" ..
No. 514 of 1904 ..	"	Ventersdorp ..
No. 610 of 1904 ..	"	" ..
No. 12 of 1904 ..	Standing Orders.	Standerton ..
No. 34 of 1904 ..	" "	" ..
No. 12 of 1904 ..	" "	Middelburg ..
No. 64 of 1904 ..	" "	" ..
No. 12 of 1904 ..	" "	Heidelberg ..
No. 103 of 1904 ..	" "	" ..
No. 12 of 1904 ..	" "	Zeerust ..
No. 124 of 1904 ..	" "	" ..
No. 12 of 1904 ..	" "	Volksrust ..
No. 145 of 1904 ..	" "	" ..
No. 12 of 1904 ..	" "	Germiston ..
No. 152 of 1904 ..	" "	" ..

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Government Notices purporting to publish Bye-laws.	Subject of Bye-laws	District of Local Authority for which Bye-laws purported to have been published.
No. 12 of 1904 ..	Standing Orders.	Klerksdorp
No. 153 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Amersfoort
No. 156 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Pietersburg
No. 160 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Springs
No. 189 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Wakkerstroom
No. 210 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Ermelo
No. 239 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Vereeniging
No. 247 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Lydenburg
No. 253 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Roodepoort- Maraisburg
No. 270 of 1904 ..	” ”	” ”
No. 12 of 1904 ..	” ”	Wolmaransstad
No. 309 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Nylstroom
No. 332 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Belfast
No. 354 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Potchefstroom
No. 366 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Carolina
No. 378 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Rustenburg
No. 486 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Bethal
No. 494 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Piet Retiet
N.J. 593 of 1904 ..	” ”	”
No. 12 of 1904 ..	” ”	Barberton
No. 613 of 1904 ..	” ”	”
No. 151 of 1904 ..	Native Pass Regulations	Pietersburg
No. 151 of 1904 ..	” ”	Standerton
No. 151 of 1904 ..	” ”	Volksrust
No. 151 of 1904 ..	” ”	Zeerust
No. 151 of 1904 ..	” ”	Amersfoort
No. 209 of 1904 ..	” ”	”
No. 151 of 1904 ..	” ”	Ventersdorp
No. 217 of 1904 ..	” ”	”
No. 151 of 1904 ..	” ”	Pietersburg
No. 227 of 1904 ..	” ”	”
No. 151 of 1904 ..	” ”	Christiana
No. 237 of 1904 ..	” ”	”
No. 151 of 1904 ..	” ”	Machadodorp
No. 241 of 1904 ..	” ”	”
No. 151 of 1904 ..	” ”	Nylstroom
No. 250 of 1904 ..	” ”	”
No. 151 of 1904 ..	” ”	Lydenburg
No. 254 of 1904 ..	” ”	”

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Government Notices purporting to publish Bye-laws.	Subject of Bye-laws.	District of Local Authority for which Bye-laws purported to have been published.
No. 151 of 1904 ..	Native Pass Regulations	Potchefstroom ..
No. 268 of 1904 ..	" "	" " ..
No. 151 of 1904 ..	" "	Belfast ..
No. 286 of 1904 ..	" "	" " ..
No. 151 of 1904 ..	" "	Wolmaransstad ..
No. 314 of 1904 ..	" "	" " ..
No. 151 of 1904 ..	" "	Middelburg ..
No. 357 of 1904 ..	" "	" " ..
No. 151 of 1904 ..	" "	Wakkerstroom ..
No. 418 of 1904 ..	" "	" " ..
No. 151 of 1904 ..	" "	Rustenburg ..
No. 442 of 1904 ..	" "	" " ..
No. 151 of 1904 ..	" "	Amsterdam ..
No. 480 of 1904 ..	" "	" " ..
No. 151 of 1904 ..	" "	Carolina ..
No. 523 of 1904 ..	" "	" " ..
No. 151 of 1904 ..	" "	Bethal ..
No. 540 of 1904 ..	" "	" " ..
No. 151 of 1904 ..	" "	Schweizer Reneke ..
No. 569 of 1904 ..	" "	" " ..
No. 151 of 1904 ..	" "	Piet Retief ..
No. 596 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	Traffic.	Germiston ..
No. 393 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Zeerust ..
No. 431 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Amersfoort ..
No. 459 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Belfast ..
No. 460 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Boksburg ..
No. 497 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Wolmaransstad ..
No. 516 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Volksrust ..
No. 519 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Heidelberg ..
No. 522 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Piet Retief ..
No. 539 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Nylstroom ..
No. 549 of 1904 ..	" "	" " ..
No. 497 of 1904 ..	" "	Boksburg ..
No. 560 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Standerton ..
No. 584 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Klerksdorp ..
No. 592 of 1904 ..	" "	" " ..
No. 322 of 1904 ..	" "	Roodepoort- Maraisburg
No. 617 of 1904 ..	" "	" "
No. 293 of 1904 ..	Places of Public Amusement.	Heidelberg ..
No. 441 of 1904 ..	" "	" " ..
No. 495 of 1904 ..	" "	Johannesburg ..
No. 499 of 1904 ..	" "	" " ..

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Government Notices purporting to publish Bye-laws.	Subject of Bye-laws.	District of Local Authorities for which Bye-laws purported to have been published.
No. 293 of 1904 ..	Places of Public Amusement.	Volksrust
No. 541 of 1904 ..	" "	"
No. 293 of 1904 ..	" "	Pietersburg
No. 558 of 1904 ..	" "	"
No. 293 of 1904 ..	" "	Boksburg
No. 566 of 1904 ..	" "	"
No. 293 of 1904 ..	" "	Standerton
No. 614 of 1904 ..	" "	"
No. 495 of 1904 ..	" "	Heidelberg
No. 622 of 1904 ..	" "	"
No. 202 of 1904 ..	Market Regulations	Ventersdorp
No. 218 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Pietersburg
No. 226 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Christiana
No. 238 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Zeerust
No. 240 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Machadodorp
No. 243 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Nylstroom
No. 249 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Rodepoort- Maraisburg
No. 252 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Heidelberg
No. 273 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Belfast
No. 287 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Volksrust
No. 290 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Boksburg
No. 292 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Wolmaransstad
No. 313 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Ermelo
No. 352 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Middelburg
No. 359 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Standerton
No. 367 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Potchefstroom
No. 376 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Wakkerstroom
No. 395 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Carolina
No. 402 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Vereeniging
No. 425 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Krugersdorp
No. 472 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Rustenburg
No. 487 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Klerksdorp
No. 591 of 1904 ..	" "	"
No. 202 of 1904 ..	" "	Lydenburg
No. 598 of 1904 ..	" "	"

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Government Notices purporting to publish Bye-laws.	Subject of Bye-laws.	District of Local Authority for which Bye-laws purported to have been published.
No. 1,091 of 1903 ..	Kaffir Eating Houses.	Krugersdorp.. ..
No. 135 of 1904 ..	" "	" " " "
No. 1,091 of 1903 ..	" "	Roodepoort- Maraisburg
No. 269 of 1904 ..	" "	" "
No. 321 of 1904 ..	" "	Heidelberg
No. 513 of 1904 ..	" "	" " " "
No. 321 of 1904 ..	" "	Volksrust
No. 538 of 1904 ..	" "	" " " "
No. 321 of 1904 ..	" "	Boksburg
No. 555 of 1904 ..	" "	" " " "
No. 321 of 1904 ..	" "	Pietersburg
No. 557 of 1904 ..	" "	" " " "
No. 321 of 1904 ..	" "	Standerton
No. 615 of 1904 ..	" "	" " " "
No. 321 of 1904 ..	Washing	Heidelberg
No. 513 of 1904 ..	" "	" " " "
No. 321 of 1904 ..	" "	Volksrust
No. 538 of 1904 ..	" "	" " " "
No. 321 of 1904 ..	" "	Boksburg
No. 555 of 1904 ..	" "	" " " "
No. 321 of 1904 ..	" "	Pietersburg
No. 557 of 1904 ..	" "	" " " "
No. 321 of 1904 ..	" "	Standerton
No. 615 of 1904 ..	" "	" " " "
No. 320 of 1904 ..	Fire.	Volksrust
No. 493 of 1904 ..	" "	" " " "
No. 320 of 1904 ..	" "	Heidelberg
No. 511 of 1904 ..	" "	" " " "
No. 389 of 1904 ..	Gambling in Streets.	Heidelberg
No. 621 of 1904 ..	" "	" " " "

SECOND SCHEDULE.

Government Notices publishing Plague Regulations and constituting Rand Plague Committee :—

- No. 420 of 1904.
- No. 421 of 1904.
- No. 465 of 1904.
- No. 507 of 1904
- No. 534 of 1904.
- No. 578 of 1904.
- No. 672 of 1904.

THIRD SCHEDULE.

Names of local authorities contributories to expenses of Rand Plague Committee :—

- Johannesburg Municipality.
- Boksburg Municipality.
- Springs Urban District Board.
- Roodepoort-Maraisburg Urban District Board.
- Krugersdorp Municipality
- Germiston Municipality.

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[Assented to 10 Aug., 1904.

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— Refer to ordinance 18 of 1905 —
ORDINANCE
To make provision for the Registration of Medical Practitioners Dentists Chemists and Druggists Midwives and Nurses and for the better regulation of medical practice and the sale and dispensing of drugs medicines and poisons.

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

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the Title.
Medical Dental and Pharmacy Ordinance 1904.

2. This Ordinance shall take effect on such When Ordinance to take effect.
day as the Lieutenant-Governor shall appoint by Proclamation in the *Gazette* but the *eighth* section hereof shall take effect forthwith after the passing of this Ordinance.

3. In this Ordinance unless inconsistent with Interpretation of terms
the context :—

“ medical practitioner ” shall mean every person lawfully entitled to practise in this Colony as a physician surgeon and accoucheur on the day before the taking effect of this Ordinance and also every person duly qualified by registration under this Ordinance to practise as a physician surgeon and accoucheur within this Colony ;

“ chemist and druggist ” shall mean every person lawfully entitled to practise as a chemist and druggist in this Colony on the day before the taking effect of this Ordinance and also every person duly registered under this Ordinance as a chemist and druggist ;

“ dentist ” shall mean every person lawfully entitled to practise as a dentist or dental surgeon in this Colony either separately or in addition to his practice as a medical practitioner or chemist and druggist on the day before the taking effect of this Ordinance and also every person duly qualified

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by registration under this Ordinance to practise as a dentist within this Colony;

“midwife” shall mean every person duly registered as such under this Ordinance;

“nurse” shall mean every trained nurse registered under this Ordinance;

“Council” shall mean the Transvaal Medical Council established under this Ordinance;

“Board” shall mean the Transvaal Pharmacy Board established under this Ordinance.

Repeal.

4. The Laws and Volksraad Resolutions contained in the First Schedule to this Ordinance are hereby repealed; and so much of any other law as may be repugnant to or inconsistent with the provisions of this Ordinance.

PART II.

**CONSTITUTION AND GENERAL POWERS OF THE
TRANSVAAL MEDICAL COUNCIL AND THE
TRANSVAAL PHARMACY BOARD.**

Establishment of Medical Council and Pharmacy Board.

5. On the day of the taking effect of this Ordinance there shall be established in this Colony:—

(a) a body to be styled the Transvaal Medical Council; and

(b) a body to be styled the Transvaal Pharmacy Board.

Council to consist of eight medical practitioners and two dentists.

6. The Council shall consist of eight medical practitioners and two dentists; of the medical practitioners two shall be nominated by the Lieutenant-Governor the Medical Officer of Health of the Colony being one of them and of the dentists one shall be so nominated; six medical practitioners and one dentist shall be elected by the medical practitioners and dentists of the Colony respectively in manner hereinafter provided. Not more than three of the elected medical practitioners shall be resident in one district.

Board to consist of one member of Council and five chemists and druggists.

7. The Board shall consist of one member of the Medical Council who shall from time to time be deputed by the Council to act upon the Board and of five chemists and druggists of whom two shall be nominated by the Lieutenant-Governor and three shall be elected

by the chemists and druggists of the Colony in manner hereinafter provided.

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***8.** The members of the first Council and the first Board shall be elected in manner following:—

Mode of election of members of first Council or first Board.

(a) on or before a date or dates to be fixed by notice in the *Gazette* under the hand of the Colonial Secretary every medical practitioner (in respect of the election of members of the Council) and every dentist (in respect of the election of the dental member of the Council) and every chemist and druggist (in respect of the election of the members of the Board) may sign and deliver to such person as may be appointed for the purpose by such notice a written paper to the following effect:—

Day of.....190....

Election of member (or members as the case may be) of the Transvaal Medical Council (or Transvaal Pharmacy Board as the case may be)

I vote for

- I..... of.....
- II..... of.....
- III..... of.....
- IV..... of.....
- V..... of.....
- VI..... of.....

to be members of the Transvaal Medical Council (or Pharmacy Board as the case may be) for the period expiring on the.....day of

.....190....

Signed.....

(b) the said written paper may be delivered through the post but no paper shall be accepted or counted which has not been delivered at the place appointed by such notice as aforesaid before four o'clock in the afternoon of the day fixed by that notice and unless the signature to such paper is attested as genuine by some Justice of the Peace;

* See Govt. Notices Nos. 944, 945 and 946 appointing 6th December 1904, as the date on or before which voting papers for the election of the Medical Council and Pharmacy Board may be delivered to the Colonial Secretary's Department: (*Gazette*, 19th August, 1904, p. 355). See also Govt. Notice No. 917 of 1904 as to mode of filling in voting paper.

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(c) any person entitled to vote at such election may vote for as many candidates as there are members to be elected provided that medical practitioners shall vote only for the medical members of the Council and dentists only for the dental member of the Council and chemists and druggists only for members of the Board ;

(d) such person as in sub-section (a) mentioned to whom the written papers are delivered shall open and count the said written papers and the duly qualified person or persons who shall have the greatest number of votes shall upon his certificate addressed to the Colonial Secretary be by notice in the *Gazette* appointed members of the Council or Board as the case may be ;

(e) in case of an equality of votes the Colonial Secretary shall have a casting vote.

Members of Council or Board to hold office for three years. Removal of members by Lieutenant-Governor.

***9.** The members of the Council or Board shall be nominated or elected for a term of three years. The Lieutenant-Governor may at the request of the Council or Board as the case may be if he be satisfied that due cause exists for such removal by notice in the *Gazette* under the hand of the Colonial Secretary remove any member. Any member may resign by letter addressed to the President of the Council or Board as the case may be and upon the removal death or resignation of any member some other qualified person shall be nominated or elected in manner hereinbefore provided to fill the vacancy caused by such removal death or resignation for the residue of the said term but it shall be lawful for the Council or Board as the case may be during such vacancy to exercise the powers hereinafter mentioned.

Day of first meeting fixed by Lieutenant-Governor.

10. The first meeting of the first Council and the first meeting of the first Board shall take place upon a day to be fixed by the Lieutenant-Governor within a month of the election in the notice appointing the elected

* The first Council and first Board respectively hold office as from 1st January, 1905. See Govt. Notices 944, 945 and 946 of 1904 (*Gazette*, 19th August, 1904, p. 385).

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members as aforesaid and at such meeting or adjournment thereof the members of the Council and of the Board respectively then present shall elect from amongst themselves a President of the Transvaal Medical Council and a President of the Transvaal Pharmacy Board and the person elected to either of the said offices shall hold the same during the continuance of his membership of the then existing Council or Board as the case may be. In the case of a vacancy occurring in the post of President of the Council or of the Board the members of the Council or Board as the case may be shall elect from amongst themselves a person to fill such vacancy.

11 The dentists appointed as members of the Council as aforesaid shall be entitled to be present at all meetings of the Council but unless such dentists be also qualified medical practitioners they shall not be entitled to vote upon any question or matter brought before the Council unless by resolution of the majority of the members thereof such question or matter has been decided to relate to dentistry or dental surgery; provided however that such dentists shall be qualified to vote in any election of a President of the Council should such post from any cause become vacant.

Rights of dentists at meetings of Council.

12. The Council or Board respectively may from time to time make rules and regulations to be approved of and published as in this Ordinance is provided regulating the times and places of the meetings of the Council or Board the mode of summoning the same and the general regulation of business; and in the absence of any rule or regulation as to the summoning of meetings the President may summon a meeting of the Council or Board as the case may be at such time and place as to him shall seem expedient by letter addressed to each member.

Council and Board to make rules and regulations for the conduct of the business of meetings

13. At every meeting in the absence of the President some other member present shall be chosen to act as President and all acts of the Council or Board shall be decided by the votes of the majority of the members present at any

Proceedings at meetings.

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meeting the whole number present being not less than four in the case of the Council and three in the case of the Board and at all meetings the President for the time being shall in addition to his vote as a member have a casting vote in case of an equality of votes.

Executive committee.

14. The Council or Board shall have power to appoint an executive committee out of their own body of which the quorum shall not be less than three and to delegate to such committee such powers and duties vested in the Council or Board as the Council or Board shall think fit.

Secretary.

15. The Council or Board may respectively from time to time appoint a Secretary at a reasonable salary and may by resolution remove such Secretary from his office.

Regulation of future elections (after the first).

16. After the first election of members of the Council or Board respectively the provisions of section *eight* of this Ordinance shall *mutatis mutandis* regulate all future elections of a member or members of the Council or Board but the persons entitled to vote at any such future election shall be registered on the register mentioned in section *forty* of this Ordinance. The Secretary of the Council or Board as the case may be may attest as genuine the signature of any elector and the provisions of this Ordinance shall apply to the Council or Board and the members thereof respectively who may hereafter be appointed or elected after such first election.

PART III.

REGISTRATION CERTIFICATES FOR MEDICAL PRACTITIONERS DENTISTS CHEMISTS AND DRUGGISTS MIDWIVES AND NURSES.

Persons lawfully entitled to practise before the taking effect of this Ordinance entitled to continue to practise and to obtain registration certificate.

17. Every person who on the day before taking effect of this Ordinance shall be in this Colony :—

- (a) lawfully entitled to practise as a medical practitioner ; or
- (b) lawfully entitled to practise as a dentist ;
or
- (c) lawfully entitled to practise as a chemist and druggist ;

shall notwithstanding the passing of this Ordinance be entitled to continue to practise or carry on his calling as aforesaid and shall be entitled without charge to the registration certificate referred to in sections *eighteen* and *twenty-three* as the case may be; provided that:—

- (1) the names addresses and qualifications of all such persons shall as soon as may be after the taking effect of this Ordinance be entered in the register referred to in this Ordinance;
- (2) every such person shall on and after the said date be amenable to all the provisions of this Ordinance or of any law relating to medical practitioners dentists or chemists and druggists as the case may be;
- (3) every such dentist as aforesaid shall be placed upon the aforesaid register upon production to the Secretary of the Council within two months after the aforesaid date of a declaration in the form of the Second Schedule to this Ordinance signed by him and setting forth his name and address and his qualification for the practise of dental surgery;
- (4) no omission of or mistake in any entry which should be made in the aforesaid register in accordance with sub-section (1) of this section shall be deemed to prejudice the right of the person in respect of whose name address or qualification such omission or mistake has occurred to practise as aforesaid if lawfully entitled to do so.

18. On and after the day on which this Ordinance takes effect no person (save and except such person as is referred to in the last preceding section) shall be entitled to practise as a medical practitioner or dentist unless he has obtained a registration certificate signed by the Colonial Secretary on the recommendation of the Council on payment of a fee of ten pounds; previously to obtaining such registration certificate such person shall submit his diploma or other certificate of his being duly

After this Ordinance takes effect no person entitled to practise as medical practitioner or dentist unless he has obtained a registration certificate signed by the Colonial Secretary.

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qualified to practise as a medical practitioner or dentist as the case may be for the examination and approval of the Council who may require by sworn declaration before a Justice of the Peace or by other evidence such proof of identity and good character of such person and of the authenticity and present validity of such diploma or certificate as it shall deem fit and any person wilfully making a false statement in such declaration shall be liable to the penalties provided by law for the crime of perjury; provided always that the Colonial Secretary shall if the Council be satisfied with the proof of his identity and good character grant a certificate to every applicant whose name appears in the British Medical Register or who is entitled to be registered in Great Britain and Ireland; and provided further that the Lieutenant-Governor may at any time within six months from the date of the taking effect of this Ordinance, anything in this Ordinance or any other law to the contrary notwithstanding, grant a license to be admitted as a medical practitioner to any person with whose qualification and experience he is satisfied and who shall for a period of twelve years prior to the taking effect of Proclamation (Transvaal) No. 1 of 1902 have been continuously practising as a physician surgeon or accoucheur in this Colony and the name of such person shall thereupon be entered in the register referred to in this Ordinance.

When registration certificate shall not be granted to holder of degree diploma or certificate of a foreign or Colonial University or medical school.

19. No such registration certificate as aforesaid shall be granted to any applicant to practise as a medical practitioner or dentist by virtue of the degree diploma or certificate of a foreign or colonial university or medical school unless it be proved to the satisfaction of the Council that;

- (1) the said degree or diploma entitled the holder to practise as a medical practitioner or dentist as the case may be in the country or state in which it was granted;
- (2) by the laws of the country in which

such degree or diploma was conferred British subjects legally qualified to practise as medical practitioners or dentists in Great Britain and Ireland are afforded privileges equivalent to those granted by registration under this Ordinance ;

- (3) the curriculum and standard of proficiency of examination required for such degree diploma or certificate are not lower than those prescribed by the General Council of Medical Education of the United Kingdom ;

provided always that anything to the contrary notwithstanding in this or any other section of this Ordinance contained any person who shall have been in actual practice as a dentist in the Transvaal prior to the date of the taking effect of Proclamation (Transvaal) No. 1 of 1902 and who was qualified to practise as such dentist under the laws in force prior to such date as aforesaid shall be entitled to a certificate of registration and to have his name entered on the register referred to in this Ordinance.

20. Where the Council has refused to approve of the diploma or certificate submitted in terms of section *eighteen* or *nineteen* by any person desirous of being registered as a medical practitioner or dentist the Supreme Court on application made to it by such person may after notice of such application has been given to the Council order that a registration certificate be issued to the applicant in case it shall be of opinion that the Council has not acted in accordance with the provisions of the said sections and the name of such applicant shall thereupon be entered in the register referred to in this Ordinance.

When Supreme Court may order a registration certificate to be issued.

21. Notwithstanding anything to the contrary contained in this Ordinance any medical officer in His Majesty's military or naval service may exercise his profession in such service but not otherwise without obtaining the registration certificate as aforesaid.

Military or Naval medical officer may exercise his profession in such service without registration certificate.

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Every medical practitioner registered under this Ordinance entitled to dispense medicines on payment of license fixed by law.

Who may obtain a registration certificate to practise as a chemist and druggist.

22. Every medical practitioner registered under this Ordinance shall be entitled to compound and dispense medicines prescribed by himself or any other medical practitioner with whom he is in partnership or with whom he is professionally associated either as a principal or assistant upon payment of the annual license fee required by law to be paid by a chemist or druggist; provided that no medical practitioner shall be required to pay an annual license fee for merely compounding or dispensing medicines prescribed by him for and on behalf of any department of the public service of the Colony; and provided further that the partner principal or assistant of any medical practitioner who has himself paid such license fee as aforesaid shall be entitled without payment of any license fee to compound and dispense in the dispensary of the said medical practitioner medicines prescribed by himself or the said medical practitioner as the case may be.

23. Any person who has attained the age of twenty-one years and has been duly indentured and served an apprenticeship for a period of not less than four years to any regularly licensed chemist and druggist in this Colony, ^{or elsewhere in the Mother or Dominions} or who can produce satisfactory proof that he has been practically engaged in the dispensing of medicines or medical prescriptions under a duly licensed chemist and druggist for a period of not less than four years may on passing an examination to the satisfaction of the Board in any subjects fixed by it with the approval of the Lieutenant-Governor and on payment of a fee of five pounds obtain from the Colonial Secretary a registration certificate which shall entitle him to practise as a chemist or druggist; such examination may be held before the Board or any members thereof appointed by it for the purpose or before such other persons as the Board may appoint as examiners in accordance with regulations made by the Board and approved of and published as in this Ordinance is prescribed; provided that the Board may in accordance with such regulations accept as sufficient proof of proficiency in any subject.

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a certificate to be agreed upon by the Board that the person referred to in such certificate has satisfactorily passed an examination in such subject.

24. No person shall be admitted as a candidate at such examination unless he shall have satisfied the Board that he is entitled to be examined and unless he shall have paid such fee for such examination not exceeding ten pounds as may be prescribed by such rules and regulations as aforesaid.

Candidate to satisfy Board he is entitled to be examined and to pay fee.

25. Any person who holds a certificate or diploma of competency as a chemist or druggist from the Pharmaceutical Society of Great Britain or from any college society or board recognised by the Board under regulations made approved and published as in this Ordinance provided may if otherwise complying with the provisions of this Ordinance and of such regulations without further examination obtain from the Colonial Secretary a registration certificate to practise as a chemist and druggist in this Colony.

Holder of certain certificates may obtain registration certificate without further examination.

26. All registration certificates aforesaid issued to chemists and druggists shall be signed by the Colonial Secretary upon the recommendation of the Board.

Colonial Secretary to sign registration certificates.

27. Persons who have served an apprenticeship of not less than three years to a dentist entitled to be registered under this Ordinance and who are *bona fide* engaged as mechanical assistants to dentists in this Colony at the date of the passing of this Ordinance may register as students within two months thereof and during the next two years may present themselves for examination under rules to be drawn up by the Council and if approved of after such examination by the Council the Colonial Secretary shall grant certificates of registration to such persons under this Ordinance to practise as dentists.

Persons who have served an apprenticeship to a dentist may register as students.

28. The Council in accordance with regulations approved of by the Lieutenant-Governor may grant certificates of competency in midwifery ;

Council may grant certificates of competency in midwifery.

(a) to any female who is the holder of a certificate or diploma of a midwife granted by any one of such examining

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bodies as the Council may from time to time prescribe and define ;

- (b) to any female who may satisfy the examiners thereto appointed by the Council of her competence skill and fitness in and for the practice of a midwife's calling.

Every such certificate shall entitle the holder to practise midwifery according to regulations to be framed by the Council from time to time and shall be signed by the president and secretary of the Council and shall on payment of a fee of one pound be entered in a register kept for that purpose in connection with and as part of the register provided for in this Ordinance.

Midwife causing injury to lying-in woman through negligence liable to penalty.

29. If any person practising as a midwife shall through culpable uncleanness or failure to take ordinary precautions for preventing or safeguarding against puerperal fever or any similar disease cause injury or serious ill health to any lying-in woman such person shall on conviction be liable to a fine not exceeding fifty pounds or failing payment of such fine to imprisonment without hard labour for a period not exceeding three months ; provided that proceedings under this section shall not be pleadable in bar of any civil or criminal proceedings against the same person.

Penalty for falsely pretending to be a certificated midwife

30. Any person practising as a midwife who shall falsely pretend to be a certificated midwife or shall falsely use or adopt any name title or description implying that she is a certificated midwife under this Ordinance shall be liable to a fine not exceeding twenty-five pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Council may withdraw certificate granted to a midwife.

31. The Council may at any time withdraw or cancel a certificate granted to a midwife in terms of section *twenty-eight* of this Ordinance if it shall be proved to the satisfaction of the Council that the holder thereof is incompetent or has been guilty of such improper conduct as in the opinion of the Council renders it inadvisable that she should continue to practise as a certificated midwife.

32. The Council may in accordance with regulations approved of by the Lieutenant-Governor grant certificates of competence as trained nurses ;

Council may grant certificates of competency as trained nurses.

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(a) to any person who is the holder of a certificate as a trained nurse granted by any one of such examining or other bodies as the Council may from time to time prescribe and define ;

(b) to any person who satisfies the examiners thereto appointed by the Council of his or her competence skill and fitness in and for the occupation of nursing and who shall in addition produce proof by certificate or otherwise of having had sufficient training in nursing work under competent supervision.

Every such certificate shall be granted and signed in manner hereinbefore provided in the case of midwifery certificates and shall on payment of a fee of one pound be entered in a register kept for that purpose in connection with and as part of the register provided for in this Ordinance.

33. The Council may at any time withdraw or cancel a certificate granted to a trained nurse if it shall be proved that the holder is incompetent or has been guilty of such improper conduct as in the opinion of the Council renders it inadvisable that he or she should continue to practise as a trained nurse.

Council may withdraw certificates.

Any person who shall falsely pretend to be a trained nurse registered under this Ordinance or who shall falsely use or adopt any name title or description implying that he or she is such a registered trained nurse shall be liable to all the penalties set forth in section *thirty* of this Ordinance.

34. The Council may by regulations approved of by the Lieutenant-Governor and published as in this Ordinance is provided from time to time prescribe the fees which shall be paid to the Council by persons presenting themselves for examination under the provisions of section *twenty-eight* sub-section (b) and section *thirty-two* sub-section (b) of this Ordinance provided that no such fee shall exceed the sum of five pounds.

Council may prescribe the fees to be paid by candidates for midwifery and nursing certificates.

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Council shall publish annually a list of holders of registration certificates.

35. The ~~Council~~ shall in the month of January in each year publish in the *Gazette* a list containing the names of all holders on the thirty-first of December last preceding of registration certificates as

- (a) medical practitioners ;
- (b) dentists ;
- (c) chemists and druggists ;
- (d) midwives ;
- (e) nurses ;

any such list shall wherever possible state the addresses of such holders.

Females not disqualified from practising.

36. No person shall be deemed to be disqualified to be duly registered and lawfully entitled to practise as a medical practitioner dentist or chemist and druggist merely by reason that such person is a female.

No company may carry on the business of chemist and druggist unless the managing director is duly registered as such practitioners.

37. No society or association of persons who are not registered under this Ordinance may use the descriptions or titles provided herein nor may any company incorporated by law carry on the business of chemist and druggist unless the managing director of such company is a duly registered chemist and druggist and unless the name of the assistant who himself must be qualified under this Ordinance managing such shop or other place in which the business is carried on by the company is conspicuously posted in such shop or place ; provided that anything which would be an offence under this Ordinance if committed by an individual shall be an offence by every director of a company if committed by such company ; provided further that nothing in this section shall be held to prevent the employment by any registered dentist or chemist and druggist as the case may be of an unqualified assistant or assistants for the purpose of mechanical dental work or of compounding drugs and dispensing medicines under his personal supervision.

Penalty for procuring registration by false representations

38. Any person who shall wilfully procure or attempt to procure himself or any other person to be registered under this Ordinance by making or producing or causing to be made or produced any false or fraudulent representation either verbally or in writing not amounting to the crime of perjury and every person aiding

or assisting him therein shall on conviction thereof be liable to be imprisoned with or without hard labour for a period not exceeding twelve months.

39. Any person who shall wilfully and falsely pretend to be or take or use the name or title of a physician doctor of medicine licentiate in medicine or surgery bachelor of medicine doctor surgeon general medical practitioner or apothecary or dentist or chemist or druggist or any name title addition or description implying or calculated to lead people to infer that he is registered under this Ordinance or that he is duly qualified to practise as a physician doctor of medicine or surgeon or licentiate in medicine and surgery bachelor of medicine doctor general medical practitioner or an apothecary or a dentist or a chemist and druggist and any person who shall practise or shall do any thing or perform such acts as specially belong to the calling of a medical practitioner dentist or chemist and druggist respectively without such registration as aforesaid shall be liable to a fine not exceeding one hundred pounds for each offence and in default of payment he shall be liable to imprisonment with or without hard labour for a period not exceeding six months unless such fine be sooner paid.

Penalty for falsely pretending to be qualified or for practising without being registered.

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No person who is charged with a contravention of this section for practising as a dentist or chemist and druggist shall be acquitted by reason of the fact that he is in the employ of or is agent for a person lawfully entitled to practise as aforesaid unless he is under the personal supervision and control of such last mentioned person.

PART IV.

REGISTER OF MEDICAL PRACTITIONERS DENTISTS CHEMISTS AND DRUGGISTS AND CERTIFICATED MIDWIVES AND NURSES.

40. (1) There shall be kept in the office of the Colonial Secretary a correct register of the names addresses dates of registration and qualifications of all ;

Register to be kept in the Office of the Colonial Secretary.

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- (a) medical practitioners ;
 - (b) dentists ;
 - (c) chemists and druggists ;
 - (d) certificated midwives ; and
 - (e) trained nurses ;
- in this Colony ;

which register shall be kept in five corresponding parts and the person appointed by the Colonial Secretary to keep such register shall make entries therein in accordance with information from time to time supplied by the secretary of the Council in respect of medical practitioners dentists certificated midwives and trained nurses and by the secretary of the Board in respect of chemists and druggists and shall from time to time erase the names of all registered persons reported to him by the secretary of the Council or Board or known to him to have died and shall from time to time make necessary alterations in the addresses or statements of qualification of the persons registered under this Ordinance.

(2) To enable the register to be properly kept the secretary of the Council or Board may write and forward a duly registered letter to any registered person addressed to him according to his address on the register and inquire of him whether he has ceased to practise or has changed his residence and if no answer shall be returned to such letter within the period of six months from the posting thereof it shall be lawful to erase the name of such person from the register ; provided always that the same may be restored at the request of the Council or Board as the case may be and provided further that the erasure of such person's name shall not in itself disqualify him from practising the profession or carrying on the calling in respect of which he is duly certified.

Person registered may have qualifications altered in register on payment of fee.

41. Every person registered under this Ordinance who may have obtained any degree or qualification other than the degree or qualification in respect of which he may be registered may with the consent in writing of the Council or Board as the case may be have

such other degree or qualification inserted in the register in substitution for or in addition to the degree or qualification already registered on payment of such fee as may be prescribed by regulations made by the Council or Board as the case may be and approved of and published as in the Ordinance is provided.

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42. No degree or qualification shall be entered on the register either on the first registration or by way of addition to a registered name or as in the last section mentioned unless the Council or Board as the case may be be satisfied by the proper evidence that the person claiming it is entitled to it ; and any entry which shall be proved to the satisfaction of the Council or Board to have been fraudulently or incorrectly made may be erased from the register ; provided that a record of the reason for every such erasure shall be signed by or on behalf of the Colonial Secretary and kept in his office.

No degree or qualification to be registered unless the Council or Board is satisfied that person is entitled to it.

43. The Colonial Secretary shall at the request of the Council or Board as the case may be cause to be erased from the register the name of any person who either before or after the passing of this Ordinance may have been declared disqualified for practice or whose name may have been struck off the roll register or record of the hospital university college or other body in this Colony or elsewhere from which such person received any diploma degree certificate or any other instrument upon the faith of which such person was permitted to practise in this Colony and thereupon such person shall no longer be deemed to be a medical practitioner dentist or chemist and druggist nurse or midwife as the case may be ; provided that the Colonial Secretary before causing the name of such person to be erased shall be satisfied that such person has if possible had an opportunity of showing cause before the Council or Board as the case may be why his name should not be erased from such register.

The name of any person who has been disqualified or whose name has been struck off the roll of his Hospital University or College may be erased from the register.

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The name of any person guilty of unprofessional conduct may be erased from the register by direction of the Colonial Secretary.

44. If any person registered or certificated under this Ordinance shall after due inquiry at which such person shall have an opportunity for being heard be judged by the Council or Board as the case may be to have been guilty of improper or unprofessional conduct the Council or Board as the case may be may reprimand and caution such person in writing under the hand of its President and if such improper or unprofessional conduct be persisted in by such person after due receipt of such reprimand or caution or if the Council or Board as the case may be shall judge such person after such inquiry to have been guilty of infamous or disgraceful conduct in any professional or other respect the Colonial Secretary may on the advice of the Council or Board direct that the name of such person be erased from the register and that his certificate be withdrawn and cancelled. The Council or Board as the case may be shall make such inquiry upon *bona fide* information or complaint made by any member of the public or by the Medical Officer of Health for the Transvaal; provided that the name of such person may be restored thereafter to the register on the request of the Council or Board as the case may be; and provided further that no person whose name shall be erased from the register under this section shall be qualified to practise the profession or carry on the calling in respect of which he was registered until his name shall have been restored as aforesaid.

Counselling any act in respect of which another person shall be convicted of contravening section *thirty-eight* shall be considered unprofessional conduct

45. If any person registered or certificated under this Ordinance shall after due inquiry in manner provided by the last preceding section of this Ordinance be found to have counselled or knowingly been a party to the performance of any act in respect of which any other person shall have been convicted of a contravention of section *thirty-eight* of this Ordinance such first mentioned person shall be dealt with under the last preceding section as a person guilty of improper or unprofessional conduct or of infamous or disgraceful conduct as such Council or Board shall determine; provided that the provision of this section shall

not be deemed to exempt any person from prosecution for any contravention of the said section *thirty-eight* to which he may be liable.

46. Any license or certificate obtained either before or after the taking effect of this Ordinance by means of any false or fraudulent representation or by personation shall be void and any person holding or practising by virtue of any such license or certificate shall be liable to the penalties provided by sections *thirty thirty-three* and *thirty-nine* of this Ordinance for practising without a registration certificate.

License or certificate fraudulently obtained shall be void.

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PART V.

KEEPING AND SALE OF POISONS.

47. The several articles named and described in the Third Schedule to this Ordinance shall be deemed to be poisons within the meaning of this Ordinance and the Council or Board may from time to time by resolution declare that any article in such resolution named ought to be deemed a poison within the meaning of Part I. or Part II. of the said Schedule to this Ordinance and thereupon such resolution shall be submitted through the Colonial Secretary for the approval of the Lieutenant-Governor and if such approval shall be given then such resolution and approval shall be published in the *Gazette* and on the expiration of one month from such publication the article named shall be deemed to be a poison accordingly within the meaning of this Ordinance.

Articles named in the Third Schedule deemed to be poison.

48. All medical practitioners chemists and druggists dentists and veterinary surgeons and all persons under this Ordinance entitled to keep or sell poisons shall label all vessels boxes bottles wrappers or packages in their possession containing articles deemed to be poisons under this Ordinance with the word "Poison" and shall exercise due care and caution in the custody of the same.

All poisons to be labelled "Poison."

49. If any person mentioned in the last preceding section shall contravene the provisions thereof or shall sell or keep for sale by himself or any apprentice servant or agent any medicines or drugs of bad quality he shall be liable to a fine not exceeding seventy-five pounds or in

Penalty for suffering poisons to be kept without due care or for selling drugs of bad quality.

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default of payment to be imprisoned with or without hard labour for a period not exceeding six months unless such fine be sooner paid and shall further become liable to the withdrawal and cancellation of his certificate and to have his name erased from the register if the Colonial Secretary by the advice of the Council or Board as the case may be shall deem it fit to withdraw or cancel the same.

Who may
sell poisons.

50. Poisons within the meaning of this Ordinance shall not be sold by any person other than by a registered medical practitioner dentist chemist and druggist veterinary surgeon or the indentured apprentice or *bona fide* paid assistant of such persons; provided that nothing herein contained shall be deemed to limit the operation of section *twenty-two* of this Ordinance.

Importer or
general
dealer may
obtain certi-
ficate from
Magistrate
and may then
sell poisons
for industrial
purposes.

~~**51.** Notwithstanding anything in the last preceding section contained it shall be lawful for any importer or general dealer upon obtaining a certificate from the Resident Magistrate of the district in which he carries on business as such importer or general dealer that in the opinion of the said Magistrate he is a fit and proper person to deal in poisons under the terms of this section to keep for sale and to sell poisons for any industrial purposes in quantities of not less than one pound weight or in unbroken vials properly corked and sealed and labelled with the name of the article and the word "Poison" and bearing the name of the person or persons by whom such article was in the first instance made up for sale.~~

Poisons not
to be sold
except to
persons pro-
ducing certi-
ficate from
Resident
Magistrate.

~~**52.** No such importer or general dealer as in the last section mentioned shall sell or dispose of any poison except on production of a certificate from a Resident Magistrate or Justice of the Peace stating that he is satisfied that the person desiring to obtain the poison requires it for the destruction of wild animals or vermin or for the treatment of scab or other disease in animals or for mining agricultural or other industrial purposes.~~

Book of sale
of poisons to
be kept.

~~**53.** Every such importer or general dealer as aforesaid shall in regard to every such sale~~

or disposal enter in the book to be kept for that purpose ;

- (a) the date of the sale or disposal ;
- (b) the nature and quantity of the poison disposed of ;
- (c) the name of the purchaser ;
- (d) the purpose for which the poison was required ;

and shall allow the said book to be at any time inspected by the Resident Magistrate of the district or any person authorized by the said Magistrate in writing. Any importer or general dealer ^{etc} contravening the provisions of this or the last preceding section shall be liable to a fine not exceeding fifty pounds.

54. If any person shall keep in his possession or under his control any poison without exercising all due care and caution in the custody of the same he shall be liable to a fine not exceeding ten pounds or in default of payment to imprisonment for a period not exceeding one month.

Penalty for keeping poison without due care.

55. Every medical practitioner dentist chemist and druggist veterinary surgeon and the indentured apprentice or *bona fide* assistant of such persons may in the course of his lawful business or profession sell poison under the following conditions and no other :—

Conditions under which poison may be sold.

- (a) if the box bottle vessel wrapper or cover in which any poison is contained on delivery to the purchaser be in every case of sale of such poison conspicuously labelled with the name of the article and the word "Poison" and the name and address of the seller ;
- (b) if the sale be by wholesale in the ordinary course of trade or business on an order in writing signed by the purchaser ;
- (c) if the sale be on a prescription of a medical practitioner to the person producing it and if an entry be made in a book called the "prescription book" to be kept for that purpose setting forth in separate columns the date of sale the name and address of the purchaser and the ingredients and quantities of the prescription ;

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- (d) if no such prescription of a medical practitioner be produced then if an entry be made in a book called the "poisons book" to be kept for that purpose specifying in lieu of the ingredients and quantities aforesaid a statement of the quantity sold and the purpose for which such poison is stated to be required; and in case the purchaser is not known to the seller and in case the poison sold be a poison now enumerated or hereafter added as aforesaid to the list of poisons named in Part I. of the Third Schedule to this Ordinance if such entry shall be before delivery of the poison signed by the purchaser and also by some person known to the seller who shall have introduced the purchaser to the seller;
- (e) in the case of any contract for the sale of any poison now enumerated or hereafter added as aforesaid to the list of poisons named in Part I. of the Third Schedule to the Ordinance if the seller shall keep the correspondence from the purchaser relative to such sale and shall make such entry of all particulars as aforesaid in the aforesaid book and shall either be acquainted with the signature of the purchaser or shall receive and keep a written attestation by some Resident Magistrate Justice of the Peace or Minister of Religion of the genuineness of such signature;
- (f) if the purchaser be not under age of fifteen except on the prescription of a duly qualified and registered medical practitioner.

Penalty for
contravening
sections *fifty*
and *fifty-five*.

56. Any person convicted of a contravention of any of the provisions of sections *fifty* and *fifty-five* of this Ordinance shall be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two months and every chemist and druggist shall be responsible for every act or default of any apprentice clerk

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servant or agent in his employment other than the person entitled to take out the annual license as a chemist and druggist in respect of the improper sale of any poison in breach of any provision of either of the said sections in case the said act or default was due to negligence on the part of such chemist or druggist in supervising the conduct of such apprentice clerk servant or agent.

57. The book kept by every chemist and druggist in manner provided in sub-section (*d*) of section *fifty-five* of this Ordinance shall be submitted on demand for the inspection of the Secretary of the Board or of any person authorized by him in writing under his hand and any such chemist and druggist who personally or by any apprentice clerk servant or agent employed by himself shall fail forthwith upon demand to produce such book for inspection shall be liable upon conviction to a fine not exceeding twenty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months unless such fine be sooner paid.

Poisons book must be submitted for inspection of Secretary of Board.

58. If any person purchasing any poison within the meaning of this Ordinance shall give false information to the seller in relation to the particulars which the seller is authorized to require or if any person sign as witness to the sale of any such poison to a person unknown to such witness or if any person fail to comply with any provision of this part of this Ordinance for which no specific penalty is provided he shall on conviction be liable to a fine not exceeding twenty pounds and in default of payment of such fine to imprisonment with or without hard labour for a period not exceeding three months.

Penalty on purchaser giving false information to seller.

PART VI.

MISCELLANEOUS.

59. It shall be lawful for the Secretary of the Council or Board as the case may be or any person duly authorised in writing under the hand of the President to take and institute any proceedings civil and criminal on behalf of the Council or Board but nothing herein

Institution of proceedings civil or criminal.

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contained shall be deemed to deprive any person of any right which but for this section he would have to institute any proceedings civil or criminal against any other person.

Certificate of
Colonial
Secretary
primâ facie
proof of
registration.

60. The *Gazette* containing the list mentioned in section *thirty-five* of this Ordinance shall be evidence in all proceedings civil or criminal that the persons whose names appear on such list are registered according to the provisions of this Ordinance; and the absence of the name of any person from such list shall be evidence until the contrary be made to appear that such person is not registered according to the provisions of this Ordinance; provided always that in the case of any person whose name does not appear on such list a certificate under the hand of the Colonial Secretary that the name of such person is entered on the register shall be evidence that such person is registered under the provisions of this Ordinance.

Chemist's
shop.

61. Every chemist's shop shall be conducted under the *bona fide* and personal supervision of a registered chemist and druggist.

British
Pharmacopœia to be
used.

62. All chemists and druggists shall prepare their medicines according to the British Pharmacopœia unless otherwise directed by the prescribing medical practitioner provided that it shall be lawful for the Lieutenant-Governor by Proclamation on the advice of the Council or Board to determine what edition of the British Pharmacopœia shall be used and to authorize such alterations in the preparations mentioned therein as may be found necessary to meet the special conditions of this Colony.

Council concerned with
medical practitioners
dentists midwives and
nurses.
Board concerned with
chemists and
druggists.

63. The Council shall be deemed to be concerned with and interested in matters arising out of and in connection with so much of this Ordinance as deals with medical practitioners dentists midwives and nurses and the Board shall be deemed to be concerned with and interested in matters arising out of and in connection with so much of this Ordinance as deals with chemists and druggists.

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64. All rules and Regulations by this Ordinance authorized to be made by the Council or Board shall be of legal validity only when approved of and published by the Lieutenant-Governor by notice in the *Gazette* and by such Regulations penalties for the breach thereof may be prescribed not exceeding in any case a fine of ten pounds.

Rules and Regulations to be approved of by the Lieutenant Governor.

65. For the purpose of any inquiry by the Council or Board authorized by this Ordinance the Council or Board shall be vested with all the powers jurisdiction and privileges conferred by the Commissions' Powers Ordinance 1902.

Powers of Council or Board at inquiries

66. No person shall be entitled to recover any charge in any Court of Law for any medical or surgical advice attendance or for the performance of any operation as a medical practitioner or dentist or commonly performed only by a medical practitioner or dentist or for any medicine which he shall have prescribed or dispensed unless he shall prove upon the trial that he is registered under this Ordinance.

Only registered practitioners may recover charges in Court of Law

67. No person shall hold any appointment as a physician surgeon or any other medical officer or dentist or dispenser of any medicines in any hospital or in any lunatic asylum convict station prison house of correction or other public establishment or institution or to any friendly or other society for affording mutual relief in sickness infirmity or old age or as a medical officer of health unless he be registered under this Ordinance as a medical practitioner dentist or chemist and druggist as the case may be.

Only licensed and registered person may hold appointment in any hospital or other public establishment.

68. No certificate required by any law now or hereafter in force from any medical practitioner shall be valid unless the person signing the same shall be licensed and registered under this Ordinance.

No medical certificate valid unless signed by licensed and registered person.

69. The Council and the Board shall respectively administer for the purpose of this Ordinance such funds as may be derived from examination fees and fees payable thereunder in respect of the registration of medical practitioners dentists chemists and druggists midwives and nurses which fees shall be paid over to the Council and the Board respectively.

Fees for registration and fines shall be paid to the Council or Board for administration.

FIRST SCHEDULE.

Volksraad Resolution 22nd May 1875 Article 114 (in so far as it refers to the admission fees of doctors and apothecaries.)
Law No. 12 of 1886.
First Volksraad Resolution 22nd July, 1895, Article 695
Proclamation No. 1 of 1902

SECOND SCHEDULE.

I..... residing at..... and holding the qualifications of..... hereby declare that I was *bona fide* engaged in the practice of dentistry at..... at the date of the taking effect of the "Medical Dental and Pharmacy Ordinance 1904."

Dated at this.....day of.....19..
(Signed)

(Witness)

THIRD SCHEDULE.

LIST OF POISONS WITHIN THE MEANING OF THE ORDINANCE
PART I

NOT TO BE SOLD UNLESS the purchaser is known to or is introduced by some person known to the seller ;
also

ENTRY TO BE MADE IN POISON-BOOK of :—

1. Date of Sale ;
2. Name and address of purchaser ;
3. Name and quantity of article ;
4. Purpose for which it is wanted ;

attested by signature ; and

MUST BE LABELLED WITH

1. Name of Article.
2. The word "Poison"
3. Name and address of seller.

Arsenic and its preparations.
Aconite and its preparations.
Alkaloids :—All poisonous vegetable alkaloids and their salts.
Atropine and its preparations.
Cantharides ;
Cocaine and its preparations .
Corrosive Sublimate and its preparations.
Cyanide of Potassium and all metallic cyanides and their preparations.
Emetic Tartar ;
Ergot of Rye and its preparations
Prussic Acid and its preparations.
Savin and its oil.
Strychnine and its preparations.
Vermin Killers if preparations of poisons the preparations of which are in Part I. of this Schedule.

PART II.

Almonds Essential Oil of (unless deprived of Prussic Acid) ;
Belladonna and its preparations,
Cantharides Tincture and all vesicating liquid preparations of
Carbolic Acid and other liquid disinfectants.
Chloroform.
Chloral Hydrate and its preparations.
Morphia preparations of
Nux Vomica and its preparations.
Opium and its preparations and preparations of poppies
Oxalic Acid.
Precipitate Red (Red Oxide of Mercury).
Precipitate White (ammoniated Mercury)
Vermin Killers (see Part I) Compounds containing "Poisons" prepared for the destruction of vermin if not subject to the provisions of Part I. are in Part II

MUST BE LABELLED WITH

1. Name of Article
2. The word "Poison"
3. Name and address of seller.

No. 30 of 1904.]

[Assented to 10 Aug., 1904.]

**ORD.
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of
1904.****ORDINANCE****To amend the Limited Liability Companies' Law
(Law No. 5 of 1874).**

WHEREAS it is desirable to amend the Law relating to the powers of companies registered with limited liability under the Limited Liability Companies' Law (Law No. 5 of 1874):

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

1. In this Ordinance unless inconsistent with the context:

Interpreta-
tion of
terms.

“company” shall mean a company registered in terms of Law No. 5 of 1874;

“Court” shall mean the Supreme Court of the Transvaal or the Witwatersrand High Court as the case may be;

“Registrar” shall mean the Registrar or Assistant Registrar of Companies at Pretoria;

“special resolution” shall mean a resolution of the members of a company which has been passed in manner required by section *fifteen* of this Ordinance.

2. It shall be lawful for any company which is desirous of effecting by means of new or supplementary articles of association:

Powers
granted by
Ordinance.

(a) an alteration of the objects for which the company was originally formed; or

(b) a consolidation sub-division or conversion of its registered capital; or

(c) a reduction of its registered capital; to effect each or any of such purposes in the manner hereinafter provided.

(A) ALTERATION OF OBJECTS.

3. Any company may subject to the provisions hereinafter mentioned by special resolution alter the provisions of its articles of association with respect to the objects of the company so far as may be required for the purposes hereinafter specified but in no case shall any such alteration take effect until confirmed on petition by the Court.

Power for
company
to alter
objects
subject to
confirmation.

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Confirmation
of alteration
by Court.

4. Before confirming any such alteration the Court must be satisfied:

- (a) that sufficient notice has been given to every holder of debentures or debenture stock of the company and any persons or class of persons whose interests will in the opinion of the Court be affected by the alteration; and
- (b) that with respect to every creditor who in the opinion of the Court is entitled to object and who signifies his objection in manner directed by the Court either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined or has been secured to the satisfaction of the Court;

provided that the Court may in the case of any person or class of persons for special reasons dispense with the notice required by this section.

Order of confirmation of alteration.

5. An order confirming any such alteration may be made in such terms and subject to such conditions as to the Court seems fit and the Court may make such orders as to costs as it deems proper.

Objects for which alteration may be made.

6. The Court may confirm either wholly or in part any such alteration as aforesaid if it appears that the alteration is required in order to enable the company:

- (a) to carry on its business more economically or more efficiently; or
- (b) to attain its main purpose by new or improved means; or
- (c) to enlarge or change the local area of its operations; or
- (d) to carry on some business or businesses which under existing circumstances may conveniently or advantageously be combined with the business of the company; or
- (e) to restrict or abandon any of the objects specified in the articles of association.

Court to have regard to the rights and interests of members.

7. The Court shall in exercising its discretion under the above sections *three to five* (inclusive) have regard to the rights and interests of the members of the company

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or of any class of those members as well as to the rights and interests of the creditors and may if it thinks fit adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interest of dissentient members; the Court may give such directions and make such orders as it may think expedient for the purpose of facilitating any such arrangement or carrying the same into effect; provided always that it shall not be lawful to expend any part of the capital of the company in any such purchase.

8. Where a company has altered the provisions of its articles of association with respect to the objects of the company and such alteration has been confirmed by the Court an office copy of the order confirming such alteration together with a true copy of the new or supplementary articles of association embodying such alteration shall be delivered by the company to the Registrar within fifteen days from the date of the order and the Registrar shall register the same and shall certify under his hand the registration thereof and his certificate shall be conclusive evidence that all the requisitions of this Ordinance with respect to such alteration and the confirmation thereof have been complied with and thenceforth the articles of association so altered shall be the articles of association of the company.

Registration of order with articles of association as altered and consequences thereof.

9. If a company makes default in delivering to the Registrar any document required by the last preceding section to be delivered to him the company shall be liable to a penalty not exceeding ten pounds for every day during which it is in default.

Penalty for default.

(B) CONSOLIDATION SUB-DIVISION OR
CONVERSION OF CAPITAL.

10. Any company (if and as authorized so far modify the conditions contained in its articles of association as to:

Power of company to increase consolidate subdivide or convert its capital.

(a) consolidate and divide its capital or

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any part thereof into shares of larger amount than its existing shares or sub-divide its capital or any part thereof into shares of smaller amount than its existing shares; provided that in any consolidation or sub-division respectively of the existing shares the proportion between the amount which is paid and the amount (if any) which is unpaid on each share of increased or reduced amount respectively shall be the same as it was in the case of the existing share or shares from which the share of increased or reduced amount respectively is derived; or

- (b) convert its paid-up shares into stock; or
- (c) re-convert any such stock into paid-up shares of any denomination.

Increased consolidation to be shown in articles of association.

11. Every copy of the articles of association issued after any consolidation conversion re-conversion or sub-division of the capital shares or stock of the company under the last preceding section as the case may be shall have taken place shall show any such consolidation conversion re-conversion or sub-division as the case may be and any company which makes default in complying with the provisions of this section shall incur a penalty not exceeding one pound for each copy in respect of which such default is made; and any director and officer of the company who knowingly or wilfully authorizes or permits such default shall incur the like penalty.

(C) REDUCTION OF CAPITAL.

Power of company to reduce capital.

12. Any company may by special resolution so far modify the conditions contained in its articles of association if authorized so to do by its articles of association as to reduce its capital including therein paid-up capital in such manner as the company may think fit provided always that where the reduction of the capital of a company involves either the diminution of any liability in respect of unpaid capital or the

payment to any shareholder of any paid-up capital no resolution of the company having such effect shall come into operation until an Order of the Court is registered by the Registrar as is hereinafter mentioned.

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13. Every copy of the articles of association of a company issued after the passing of any special resolution for the reduction of the capital of the company which does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid-up capital shall be in accordance with such resolution and if any company makes default in complying with the provisions of this section it shall incur a penalty not exceeding one pound for each copy in respect of which such default is made and every director and officer of the company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Special resolution to be embodied in articles of association

14. Where the reduction of the capital of a company involves either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid-up capital the following provisions shall apply ;

Company to apply to the Court for an order confirming reduction in certain cases

- (a) a company which has passed a special resolution for reducing its capital having such effect as aforesaid may apply to the Court by petition for an order confirming the reduction and on the hearing of the petition the Court if satisfied that with respect to every creditor of the company who under the provisions of this Ordinance is entitled to object to the reduction either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined or has been secured as hereinafter provided may make an order confirming the reduction on such terms and subject to such conditions as it deems fit;
- (b) every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which if that date were the commencement of the

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liquidation of the company would be admissible in proof against the company shall be entitled to object to the proposed reduction and to be entered in the list of creditors who are so entitled to object;

- (c) the Court shall settle a list of all creditors entitled to object under the last preceding sub-section and for that purpose shall ascertain as far as possible without requiring an application from any creditor the names of such creditors and the nature and amount of their debts or claims and may publish notices fixing a certain day or days within which creditors of the company who are not entered on the list are to claim to be so entered or to be excluded from the right of objecting to the proposed reduction;
- (d) where a creditor whose name is entered on the list of creditors and whose debt or claim is not discharged or determined does not consent to the proposed reduction the Court may if it thinks fit dispense with such consent on the company securing the payment of the debt or claim of such creditor by setting apart and appropriating in such manner as the Court may direct a sum of such amount as is hereinafter mentioned: that is to say;
 - (i) if the full amount of the debt or claim of the creditor is admitted by the company or though not admitted is such as the company is willing to set apart and appropriate then the full amount of the debt or claim shall be set apart and appropriated;
 - (ii) if the full amount of the debt or claim of the creditor is not admitted by the company and is not such as the company is willing to set apart and appropriate or if the amount is contingent or not ascertained then the Court may if it thinks fit inquire into and adjudicate upon

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the validity of such debt or claim and the amount for which the company may be liable in respect thereof in the same manner as if the company were being wound up by the Court and the amount fixed by the Court on such inquiry and adjudication shall be set apart and appropriated.

- (e) (i) The Registrar upon the production to him of an order of the Court confirming the reduction of the capital of a company and the delivery to him of a copy of the order and of a minute (approved by the Court) showing with respect to the capital of the company as altered by the order the amount of such capital the number of shares into which it is to be divided the amount of each share and the amount (if any) at the date of the registration of the minute proposed to be deemed to have been paid up on each share shall register the order and minute and on the registration the special resolution confirmed by the order so registered shall take effect;
- (ii) notice of such registration shall be published in such manner as the Court may direct;
- (iii) the Registrar shall certify under his hand the registration of the order and minute and his certificate shall be conclusive evidence that all the requisitions of this Ordinance with respect to the reduction of capital have been complied with and that the capital of the company is such as stated in the minute;
- (f) the minute when registered shall be deemed to be a true copy of new or supplementary articles of association within the meaning of section *seven* of Law No. 5 of 1874 and shall be deemed to be substituted for the corresponding part of the articles of association of the company and shall be of the same validity and subject

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to the same alterations as if it had been originally contained in the articles of association; and subject as in this Ordinance mentioned no member of the company whether past or present shall be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount which has been paid on such share and the amount of the share as fixed by the minute;

- (g) if any creditor who is entitled in respect of any debt or claim to object to the reduction of the capital of a company is in consequence of his ignorance of the proceedings taken with a view to such reduction or of their nature and effect with respect to his claim not entered on the list of creditors and after the reduction the company is unable to pay to the creditor the amount of such debt or claim every person who was a member of the company at the date of the registration of the order and minute relating to the reduction of the capital of the company shall be liable to contribute for the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be liquidated on the day prior to such registration; and on the company being liquidated the Court on the application of such creditor and on proof that he was ignorant of the proceedings taken with a view to the reduction or of their nature and effect with respect to his claim may if it think fit settle a list of such contributories accordingly and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a liquidation; but the provisions of this section shall not affect the rights of the contributories of the company among themselves;

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- (h) a minute when registered shall be embodied in every copy of the articles of association issued after its registration; and if any company makes default in complying with the provisions of this sub-section it shall incur a penalty not exceeding one pound for each copy in respect of which such default is made and every director and officer of the company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty;
- (i) in any case in which the Court thinks fit the Court may require the company to publish in such manner as the Court thinks fit the reasons for the reduction of its capital or such other information in regard to the reduction of its capital as the Court may think fit with a view to the proper information to the public in relation to such reduction and the causes which led thereto;
- (j) if any director or officer of the company wilfully conceals the name of any creditor of the company who is entitled to object to the proposed reduction or wilfully misrepresents the nature or amount of the debt or claim of any such creditor of the company or if any director or officer of the company aids or abets in or is privy to any such concealment or misrepresentation as aforesaid every such director or officer shall be liable to a penalty of not exceeding one hundred pounds.

(D) SPECIAL RESOLUTIONS AND NOTICES.

15. A resolution passed by a company shall be deemed to be special whenever a resolution has been passed by a majority of not less than two-thirds of such members of the company for the time being entitled according to the articles of association of the company to vote as may be present in person or by proxy (in cases where by

Definition of
special
resolution.

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the articles of association of the company proxies are allowed) at any general meeting of which notice specifying the intention to propose a special resolution and the general nature thereof has been duly given and at which meeting members entitled in the aggregate to not less than one-fourth of the total votes of the company shall be present in person or by proxy (in cases where by the articles of association of the company proxies are allowed); provided always that in the event of less than one-fourth of such total votes being present at such meeting in manner aforesaid the meeting shall stand adjourned to the same day in the following week and if such day be a public holiday then to the next succeeding day on which business is ordinarily transacted and at such adjourned meeting it shall be competent for the members present in person or by proxy (in cases where by the articles of association of the company proxies are allowed) to deal with the business for which the original meeting was convened and any resolution passed by a majority of not less than two-thirds of such members shall be deemed to be special notwithstanding that less than one-fourth of such total votes as aforesaid may be present. At any meeting mentioned in this section unless a poll is immediately demanded by a member or members holding not less than one-tenth of the amount of capital represented at the meeting a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the same. Notice of any meeting shall for the purpose of this section be deemed to be duly given and the meeting to be duly held whenever such notice is given and meeting held in manner prescribed by the articles of association of the company. In computing the majority under this section when a poll is demanded reference shall be had to the number of votes to which each member is entitled by the articles of association of the company.

16. In default of any articles of association as to voting every member shall have one vote; and in default of any articles of association as to summoning general meetings a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by section *nineteen*; and in default of any articles of association as to who is to be chairman of such meeting it shall be competent for any person elected by the members present to preside.

Provisions where no regulations as to voting and as to meetings.

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17. A copy of any special resolution that is passed by any company under this Ordinance shall be forwarded to the Registrar and be recorded by him. If such copy is not so forwarded within twenty-one days from the date of the passing of the resolution the company shall incur a penalty not exceeding two pounds for every day after the expiration of such twenty-one days during which such copy is omitted to be forwarded; and every director or officer of the company who shall knowingly and wilfully authorize or permit such default shall incur a like penalty.

Registry of special resolutions.

18. A copy of every special resolution for the time being in force passed by any Company under this Ordinance shall be annexed to or embodied in every copy of the articles of association that may be issued after the passing of such resolution; and if any company makes default in complying with the provisions of this section it shall incur a penalty not exceeding one pound for each copy in respect of which default is made; and every director and officer of the company who shall knowingly and wilfully authorize or permit such default shall incur a like penalty.

Copies of special resolutions.

19. A notice shall be deemed to have been duly served within the meaning of section *sixteen* when it has been served in terms of the following provisions:

Service of notice.

- (a) a notice may be served by the company upon any member either personally or by sending it through the post in a prepaid letter addressed to such member at his registered place

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- of abode or by advertisement in such newspaper or newspapers as the directors may from time to time determine;
- (b) each holder of registered shares whose registered place of abode is not in the Colony may from time to time notify in writing to the company an address in the Colony which shall be deemed his registered place of abode within the meaning of the last preceding sub-section;
- (c) as regards those members who have no registered place of abode in the Colony a notice posted up in the office shall be deemed to have been well served on them at the expiration of twenty-four hours after it is so posted up;
- (d) any notice required to be given by the company to the holder of share warrants shall be given by advertising the same once in a newspaper circulating in the district in which the registered office of the company is situate;
- (e) all notices directed to be given to the members shall with respect to any share to which persons are jointly entitled be given to whichever of such person is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such share;
- (f) any notice if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service it shall be sufficient to prove that the letter containing the notices was properly addressed prepaid and put into the post office.

Validation of
already
registered
bona fide
articles of
association.

20. Any supplementary articles of association of any company which have been prior to the twenty-third day of July 1904 registered in the office of the Registrar and which embody any *bona fide* alteration of the objects for which such company was

originally formed or any *bona fide* consolidation sub-division conversion or reduction of its registered capital shall be and are hereby declared to be of such legal force and effect as if such aforesaid alteration consolidation sub-division conversion or reduction had been duly effected under the provisions of this Ordinance.

**ORD.
No. 30
of
1904.**

21. This Ordinance may be cited as the Title.
Limited Liability Companies' Law Amend-
ment Ordinance 1904.

No. 31 of 1904.]

[Assented to 10 Aug., 1904.]

ORDINANCE

**To Amend the Administration of Justice
Proclamation, 1902.**

**ORD.
No. 31
of
1904.**

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

- 1.** (1) Notwithstanding anything to the contrary contained in section *twenty* of the Administration of Justice Proclamation 1902 it shall be lawful for one Judge of the Supreme Court to hear and determine any action if ;
- (a) both parties to the action consent to its being so heard ; or
- (b) the action is remitted to be so heard by order of the Supreme Court.
- (2) One Judge sitting to hear any such action as is referred to in this section shall be deemed to constitute a Court and such Court shall be styled a Divisional Court.

Trial of by
consent or
order ;
actions before
one Judge of
Supreme
Court styled
a Divisional
Court.

2. Where the parties to an action consent to its being heard by a Divisional Court either party thereto or his attorney shall after the close of the pleadings file with the Registrar of the Supreme Court such consent in writing signed by the parties to the action or their attorneys.

Filing of
consent with
Registrar.

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Remittal to
Divisional
Court by
Supreme
Court.

3. The Supreme Court may after the close of the pleadings on the application of either party to an action or of its own motion remit such action to be heard by a Divisional Court.

Appeal from
decision of
Divisional
Court.

4. (1) It shall be lawful for any person being a party to any action tried in a Divisional Court to appeal to the Supreme Court against any judgment decree or order of such Court.

(2) The provisions of the Administration of Justice Proclamation 1902 relating to appeals from the Witwatersrand High Court shall *mutatis mutandis* apply to appeals from a Divisional Court to the Supreme Court.

Jurisdiction
of Supreme
Court on
appeals to
remit to
Court of first
instance with
further
instructions.

5. The Supreme Court on the hearing of any appeal from the Witwatersrand High Court or a Divisional Court against a judgment decree or order in an action shall have power to remit such action to such Court for further hearing with such instructions as regards the taking of further evidence or otherwise as may be deemed necessary and further shall have all the powers and duties as to amendment and otherwise of the said High Court or Divisional Court together with the power to receive further evidence on questions of fact either orally or on affidavit or by depositions before a Commissioner and it shall further have power to give any judgment or make any order which any such Court might have given or made or to make such further or other order as the case may require.

Appeal to
Supreme
Court against
decision of
one Judge
sitting in
vacation.

6. It shall be lawful for any person being a party to an action which comes before one Judge during vacation under the provisions of section *twenty-one* of the Administration of Justice Proclamation 1902 to appeal to the Supreme Court sitting in term time against any judgment decree or order of such Judge ; and thereupon the provisions of the Administration of Justice Proclamation 1902 relating to appeals from the Witwatersrand High Court shall *mutatis mutandis* apply to such appeals.

7. The period of three years mentioned in paragraph (c) of section *eleven* of the Administration of Justice Proclamation 1902 shall be reduced to a period of one year if the person mentioned in the said paragraph shall satisfy the Court that he was articled to serve and did serve as a clerk for a period not less than three years :—

- (a) to any Attorney or Solicitor of any of the Courts of Record in London or Dublin ;
- (b) to a Writer to the Signet or a Solicitor or Law Agent admitted to practise in Scotland.
- (c) to an Attorney of the Supreme Court of any Colony or Territory now forming any part of British South Africa.

Amendment of section *eleven* of Proclamation Transvaal No. 14 of 1902 to allow period of articles in other British Possessions to be taken into consideration.

8. Section *eleven* of the Administration of Justice Proclamation 1902 shall be and is hereby amended by the addition to sub-section (d) of the said section of the following proviso : “ provided always that no person shall be admitted as an attorney under this sub-section unless for a period of three years preceding the date of his admission as Attorney or Solicitor in a British Colony he was articled to serve and did serve as a clerk to an enrolled Attorney or Solicitor in such British Colony.

Amendment of section *eleven* sub section (d) of Proclamation Transvaal No. 14 of 1902 as to admission of attorneys from British Colonies.

9. The Judges of the Supreme Court may from time to time make alter or rescind rules respecting the authentication or legalisation of the signatures to any document executed out of this Colony and intended for use in any Court or public office in this Colony ; provided always that no such rule shall affect the law of evidence in this Colony as to the proof of any document nor the authentication of any document for which special provision is made by any law.

Power to Judges to make rules as to authentication of documents executed outside Colony for use in Colony.

10. This Ordinance may be cited for all purposes as the Administration of Justice Amendment Ordinance 1904 and shall be read as one with the Administration of Justice Proclamation 1902.

Title.

**ORD.
No. 32
of
1904.**

No. 32 OF 1904.]

[Assented to 10 Aug., 1904.]

ORDINANCE

**To apply a sum of money for the service of the
year ended the 30th day of June, 1903.**

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

Public
revenue to be
charged with
£11,453 4s.
11d.

1. The public revenue of this Colony is hereby charged towards the service of the year ended the 30th day of June 1903 with a sum of eleven thousand four hundred and fifty-three pounds four shillings and elevenpence sterling in addition to the sum mentioned in the Appropriation Ordinance 1903 and the Appropriation Ordinance (No. 2) 1903.

How to be
applied.

2. The money granted by this Ordinance shall be applied to the purposes and services set forth in the schedule annexed hereto.

Not to be
applied
otherwise
than as
granted.

3. The moneys granted by this Ordinance 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 Ordinance.

The
Treasurer
to make
payments
under
warrant of
the Lieut-
enant-
Governor.

4. The Colonial Treasurer being duly authorised thereto by warrant under the hand of the Lieutenant-Governor shall issue and pay from time to time such sums of money as shall be required for the purposes hereinbefore mentioned not exceeding in the whole the sums respectively in that behalf specified and shall in his accounts be allowed credit for all sums paid by him in pursuance of such warrant; and the receipts of the persons to whom such sums shall have been so paid shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

Title.

5. This Ordinance may be cited as The Appropriation Ordinance (No. 1) 1904.

SCHEDULE.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
IV g.	Pretoria Hospital	Medical Superintendent	£ s. d. 152 19 3
IV h.	Government Printing Works	Government Printer	9,047 5 11
IX.	Transport	Accountant-General	1,522 8 0
X.	Exchange and Bank Charges	Accountant-General	493 15 3
XXVI.	Special Payments	Accountant-General	236 16 6
TOTAL ...			£11,453 4 11

No. 33 of 1904.]

[Assented to 10 Aug., 1904.

**ORD.
No. 33
of
1904.**

ORDINANCE

To apply a sum of Money for the service of the year ended the 30th day of June, 1904.

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

1. The public revenue of this Colony is hereby charged towards the service of the year ended the 30th day of June 1904 with a sum of one million and fifty-nine thousand seven hundred and fifty-nine pounds sterling and is further charged towards the service of the Administration of Swaziland for the said year with a sum of twenty-four thousand and seven hundred pounds sterling in addition to the sum mentioned in the Appropriation Ordinance (No. 3) 1903.

Public Revenue to be charged with
£1,084,459.

2. The money granted by this Ordinance shall be applied to the purposes and services set forth in the Schedule annexed hereto.

How to be applied.

3. The moneys granted by this Ordinance 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 Ordinance.

Not to be applied otherwise than as granted.

4. The Colonial Treasurer being duly authorised thereto by warrant under the hand of the Lieutenant-Governor shall issue and pay from time to time such sums of money as shall be required for the purposes hereinbefore mentioned not exceeding in the whole the sums respectively in that behalf specified and shall in his accounts be allowed credit for all sums paid by him in pursuance of such warrant; and the receipts of the persons to whom such sums shall have been so paid shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

The Treasurer to make payments under warrant of the Lieutenant-Governor.

5. This Ordinance may be cited as The Appropriation Ordinance (No. 2) 1904.

Title.

**ORD.
No. 33
of
1904.**

SCHEDULE.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
I.	Pensions and Gratuities	Accountant-General .	£1,807
IV.	Colonial Secretary ...	Assistant Colonial Secretary	8,489
V.	Public Works—Establishment and Maintenance	Secretary for Public Works	87,542
VII.	Education	Director of Education	78,118
X.	Pretoria Hospital ...	Medical Superintendent	2,951
XI.	Government Printing Office	Government Printer	22,673
XII.	Grants-in-Aid	Assistant Colonial Secretary	25,212
XVIII.	Prisons	Director of Prisons	16,878
XXVI.	Customs	Director of Customs	14,595
XXVIII.	Transport and Immigration	Accountant-General	6,245
XXXI.	Land Department ...	Secretary, Land Dept.	970
XXXIV.	Agriculture and Forests	Secretary, Land Dept.	24,285
XXXV.	Census	Commissioner of Census	16,500
XXXVII.	Labour Importation ...	Superintendent ...	3,494
XXXVIII.	Contribution to Inter-Colonial Council	Accountant-General .	750,000
XXXIX.	Swaziland Expenditure	Secretary for Native Affairs	24,700
		Total	£1,084,459

**ORD.
No. 34
of
1904.**

No. 34 of 1904.]

[Assented to 10 Aug. 1904.]

ORDINANCE

To apply a sum of Money for the service of the year ending the 30th day of June 1905.

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

Public Revenue to be charged with
£4,157,564.

I. The public revenue of this Colony is hereby charged towards the service of the year ending the 30th day of June 1905 with a sum of four million one hundred and thirty-two thousand two hundred and eighty-four pounds sterling and is further charged towards the service of the Administration of Swaziland for the said year with a sum

**ORD.
No. 34
of
1904.**

of twenty-five thousand two hundred and eighty pounds sterling.

2. The money granted by this Ordinance shall be applied to the purposes and services set forth in the Schedule annexed hereto.

How to be applied.

3. The moneys granted by this Ordinance 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 Ordinance.

Not to be applied otherwise than as granted.

4. The Colonial Treasurer being duly authorised thereto by warrant under the hand of the Lieutenant-Governor shall issue and pay from time to time such sums of money as shall be required for the purposes hereinbefore mentioned not exceeding in the whole the sums respectively in that behalf specified and shall in his accounts be allowed credit for all sums paid by him in pursuance of such warrant; and the receipts of the persons to whom such sums shall have been so paid shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given.

The Treasurer to make payments under warrant of the Lieutenant-Governor

5. This Ordinance may be cited as The Title. Appropriation Ordinance (No. 3) 1904.

Schedule of Estimated Expenditure for the Year 1904-5.

No. of Vote.	Title of Vote.	Accounting Officer.	Amount.
I.	Inter-Colonial Council	Accountant-General	£1,000,000
II.	Pensions and Gratuities	" "	11,000
III.	H.E. the Lieutenant-Governor	Private Secretary to H.E.	12,362
IV.	Executive and Legislative Councils	Clerk to the Councils	30,465
V.	Colonial Secretary	Assistant Col. Sec.	30,100
VI.	Education	Director of Education	307,742
VII.	Local Government	Assistant Col. Sec. for Local Government	12,189
VIII.	Public Health	Medical Officer of Health	106,690
IX.	Pretoria Hospital	Medical Superintendent	19,300
X.	Printing and Stationery	Government Printer	64,443
XI.	Labour Importation	Superintendent	15,404
XII.	Attorney-General	Sec. to the Law Dep't	23,620
XIII.	Sheriff	" " "	8,970
XIV.	Commissioner of Patents, &c.	" " "	4,770
XV.*	Registrar of Deeds	" " "	12,185
XVI.	Master of the Supreme Court	" " "	10,380

APPROPRIATION (No. 3).
APPROPRIATION (EXTRAORDINARY).

Schedule—(continued).

**ORD.
No. 34
of
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No. of Votc.	Title of Vote.	Accounting Officer.	Amount.
XVII.	Superior Courts	" " "	52,420
XVIII.	Magistrates	" " "	122,864
XIX.	Lunatic Asylum	Medical Superintend't	23,891
XX.	Town Police	Commissioner of Police	330,097
XXI.	Prisons	Director of Prisons	127,886
XXII.	Native Affairs	Sec. for Native Affairs	87,155
XXIII.	Game Preservation	" " "	5,000
XXIV.	Treasury	Accountant-General	16,184
XXV.	Audit	Auditor-General	11,859
XXVI.	Customs	Director of Customs	70,955
XXVII.	Posts and Telegraphs	Postmaster-General	395,276
XXVIII.	Internal Revenue	Accountant-General	18,908
XXIX.	Mines	Sec. to the Mines Dep't	117,720
XXX.	Land	Under Sec. for Lands	26,947
XXXI.	Public Works	Sec. for Public Works	533,857
XXXII.	Surveyor-General	Surveyor-General	27,743
XXXIII.	Agriculture and Forests	Director of Agriculture	99,688
XXXIV.	Irrigation and Water Supply	Director of Irrigation	79,000
XXXV.	Grants-in-Aid (General)	Assistant Col. Sec.	58,434
XXXVI.	Grants-in-Aid to Local Authorities	Assistant Col. Sec. for Local Government	42,100
XXXVII.	Immigration	Assistant Col. Sec.	13,653
XXXVIII.	Volunteers	Commandant	163,303
XXXIX.	Census	Commissioner of Census	25,194
XL.	Miscellaneous	Accountant-General	12,500
		Total	£4,132,284
	Swaziland Expendi- ture	Sec. for Swaziland	£25,230

**ORD.
No. 35
of
1904.**

No. 35 of 1904.]

[Assented to 10 Aug. 1904.

ORDINANCE

**To provide out of Treasury Balances for the Con-
struction of certain Works and other purposes.**

WHEREAS it is desirable to make provision out of balances in the hands of the Treasurer for the construction of certain works and for the eradication of disease among cattle and for other purposes;

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

**ORD.
No. 35
of
1904.**

1. It shall be lawful for the Lieutenant-Governor by warrant under his hand to authorize the Colonial Treasurer to issue and pay from time to time out of any balances remaining in his hands on the thirtieth day of June 1904 and not appropriated by law for any other purpose such sums of money as shall be required for the purposes specified in the Schedule attached to this Ordinance not exceeding the amounts respectively specified for such purposes.

Power of Lieutenant-Governor to authorize issue [and payment of certain balances of moneys unappropriated on 30th June 1904.

2. All sums of money issued under the provisions of this Ordinance shall be applied to the purposes and services set forth in the said Schedule until the same are completed and shall not be used or applied for any other purpose.

Moneys issued under Ordinance to be applied only to purposes set forth in Schedule. Colonial Treasurer to issue moneys specified in warrant of Lieutenant-Governor to persons designated in Schedule.

3. The Colonial Treasurer being duly authorized as provided herein by warrant under the hand of the Lieutenant-Governor shall issue the sums of money specified in such warrants to the persons designated in the Schedule hereto as accounting officers for the respective votes and shall in his accounts be allowed credit for all sums paid by him in pursuance of such warrants; and the receipts of the accounting officers aforesaid shall be to him a full discharge for the sums for which such receipts shall have been given.

4. This Ordinance may be cited as the Appropriation Ordinance (Extraordinary) 1904. Title.

SCHEDULE.

<i>Vote.</i>	<i>Amount.</i>	<i>Accounting Officer.</i>
A.	£160,000.	Secretary of Public Works Department.
PUBLIC WORKS :		
1. Pretoria Lunatic Asylum (amount required for completion of work)	£120,000	
2. Government House, Pretoria	40,000	
	£160,000	

<i>Vote.</i>	<i>Amount.</i>	<i>Accounting Officer.</i>
B.	£27,000.	Postmaster-General.
TELEGRAPH AND TELEPHONE CONSTRUCTION :		
1. Material	£13,000	
2. Labour	14,000	
	£27,000	

<i>Vote.</i>	<i>Amount.</i>	<i>Accounting Officer.</i>
C.	£63,000.	Director of Agriculture.
		Extirpation of Cattle Disease.

**ORD.
No. 36
of
1904.**

No. 36 of 1904.]

[Assented to 10 Aug. 1904.]

ORDINANCE

**To provide for the imprisonment in this Colony of
Criminals sentenced in adjacent Territories.**

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

Lieutenant-Governor authorized to imprison within this Colony Criminals sentenced in other Territories.

1. Every person who has been or may hereafter be sentenced to imprisonment with or without hard labour by any competent Court within any Colony or Territory in South Africa to which the Lieutenant-Governor may under section *three* declare the provisions of this Ordinance to extend or apply may be sent into imprisoned or detained in custody in the Transvaal until the expiration of such sentence or during such portion thereof as may be deemed necessary; and thereupon the said person shall be treated in every respect as if the said sentence had been pronounced by some competent Court within this Colony.

Certificate of Attorney-General to be evidence of sentence.

2. A certificate signed by the Attorney-General of this Colony setting forth that from documents laid before him it appears that any person named in such certificate has been sentenced as in the last preceding section mentioned and for any term named in such certificate shall in all Courts and places whatsoever be deemed and taken to be conclusive evidence at all times during the continuance of such term that any such person is duly imprisoned with or without hard labour (as the case may be) under the provisions of this Ordinance.

How Ordinance to be applied for other Territories.

3. This Ordinance shall take effect so far as concerns any Colony or Territory in South Africa as soon as the Lieutenant-Governor shall by Proclamation declare that such Colony or Territory has made provision for the imprisonment or detention therein of offenders sentenced by a competent Court of this Colony.

Power to Lieutenant-Governor to remove prisoners in this Colony to another

4. Whenever the Lieutenant-Governor shall have so declared by Proclamation that any such Colony or Territory has made such provision as in the last preceding section is mentioned it shall be lawful for the Lieutenant-

Governor by warrant under the hand of the Attorney-General to remove any person who is undergoing sentence of imprisonment imposed by a competent Court in this Colony to any such Colony or Territory mentioned in the said Proclamation for the purpose of detention or imprisonment therein in accordance with the laws of such Colony or Territory until the expiration of his sentence or removal back to this Colony and any such person shall be deemed in lawful custody during the course of such removal.

Colony or Territory for imprisonment or detention.

**ORD.
No. 36
of
1904.**

5. This Ordinance may be cited as the **Title.**
Prisoners Detention Ordinance 1904.

No. 37 of 1904.]

[Assented to 15 Aug., 1904.

ORDINANCE

For the Regulation of Volunteer Corps.

**ORD.
No. 37
of
1904.**

WHEREAS it is expedient that the "Volunteer Corps Ordinance 1902" should be repealed and that provision be made for the formation discipline and maintenance of Volunteer Corps :

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

I. In this Ordinance unless the context otherwise denotes the following expressions in inverted commas shall bear the meanings respectively set opposite them ;

Interpretation of terms.

"volunteer"—any officer warrant officer non-commissioned officer or man belonging to a Volunteer Corps and enrolled under this Ordinance ;

"Commandant"—Commandant of Transvaal Volunteers ;

"active service"—any Volunteer Corps shall be deemed to be on active service when it has been called out for active service by Proclamation under this Ordinance ;

**ORD.
No. 37
of
1904.**

- “commanding officer”—the officer in command of any regiment battery battalion or corps ;
- “corps”—any military body or any portion of the Volunteer Force which may be declared by the Lieutenant-Governor to be a corps for the purposes of this Ordinance ;
- “efficient”—a volunteer who has completed the requirements for efficiency as defined in the Regulations made under this Ordinance ;
- “Government property”—all property movable and immovable belonging to or vested in the Government of the Transvaal and issued or set apart for the use of Volunteers ;
- “corps property”—all property purchased out of the funds of corps or presented to corps ;
- “military service”—volunteers shall be considered to be on military service ;
- (1) when called out by the Lieutenant-Governor under this Ordinance to aid the civil power in the protection of life or property ;
 - (2) when assembled in any camp of training or exercise or when going to or returning from any such camp or while engaged in any military exercise or drill or when carrying out any escort duty or guard of honour or while in uniform at any time or place ;
- “non-commissioned officer”—includes an acting non-commissioned officer ;
- “officer”—any person holding a commission or whose appointment as an officer has been notified in the *Gazette* ;
- “permanent staff”—all officers warrant officers non-commissioned officers drill instructors armourers and storekeepers or any other persons appointed under section *seventeen* of this Ordinance who shall while holding their appointments be deemed to be always on military service ;

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No. 37
of
1904.**

“regiment or battalion”—a combination of guns squadrons companies or corps formed into a body not exceeding the establishment fixed by the Regulations made under this Ordinance for a battery regiment or battalion ;

“Regulations”—Regulations made under the provisions of this Ordinance ;

“reserve volunteers or reserves”—all Volunteers serving in a reserve as provided by this Ordinance ;

“cadets”—all cadets serving in cadet corps or companies subject to the provisions of this Ordinance ;

“the Army Act”—the Act of the Imperial Parliament called “The Army Act 1881” and any Act or Acts amending or in substitution for it including the Articles of War made under the authority of such Act or Acts and for the time being in force.

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

Lieutenant-Governor may accept the services of Volunteer Corps.

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

Lieutenant-Governor may discontinue service of any Volunteer Corps.

4. Every volunteer or Volunteer Corps shall be liable to serve within this Colony or in any part of South Africa subject to the provisions of this Ordinance whenever in the opinion of the Lieutenant-Governor the interests of the Colony may require such service.

Volunteer Corps liable to service wherever required.

5. (1) It shall be lawful for the Lieutenant-Governor in case of actual or apprehended invasion of or rebellion within the Colony by Proclamation in the *Gazette* to call out for active service the whole or any portion of any Volunteer Corps and any member of such force not incapacitated by bodily infirmity who refuses or neglects to

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

**ORD.
No. 37
of
1904.**

assemble or march as ordered shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding one year.

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

Volunteers on active or military service subject to The Army Act.

6. Volunteers when on active or military service shall be subject to the provisions of The Army Act; provided that no volunteer shall under the provisions of the Army Act be detained in custody for an offence committed on military service for a longer period than that for which the corps to which he belongs or any portion thereof shall continue to be on such military service; and further provided that nothing in this Ordinance contained shall be construed to exclude a volunteer at any time from the operation of the provisions of this Ordinance and the Regulations framed thereunder.

Volunteer not liable both under this Ordinance and The Army Act.

7. Notwithstanding the provisions contained in section *six* hereof no volunteer shall be liable to be punished for any offence under the provisions of this Ordinance as well as under the provisions of The Army Act; provided however that dismissal from his corps may be lawfully added to any punishment awarded to a volunteer by virtue of the provisions of The Army Act.

Command of Volunteers on active or military service.

8. Whenever any Volunteer Corps is on active or military service the Lieutenant-Governor may place it under the command of such officer of His Majesty's Forces as he may appoint; provided that the officer so appointed shall be senior in rank to every officer of the corps so placed under his command and that such corps shall be led by its own officers under such command as aforesaid.

9. Every officer of a Volunteer Corps shall be appointed and commissioned by the Lieutenant-Governor.

Officer of
Volunteer
Corps.

**ORD.
No. 37
of
1904.**

10. The Lieutenant-Governor may from time to time make Regulations for all or any of the matters or things following ;

Regulations.

- (1) constitution or formation of establishments and precedence of corps ;
- (2) the appointment promotion transfer resignation and dismissal of officers ;
- (3) the enrolment posting transfer promotion discharge and dismissal of volunteer non-commissioned officers and men and the disbandment of any Volunteer Corps ;
- (4) the appointment and posting of the permanent staff together with rules for their control discipline pay allowances discharge and dismissal or reversion to military duty ;
- (5) the discipline of the force ;
- (6) the assemblage of courts of enquiry with rules regarding the attendance of witnesses ;
- (7) the provision of arms equipment ammunition saddlery and the safe custody and maintenance of the same ;
- (8) the general government and management of Volunteer Corps ;
- (9) dress and clothing ;
- (10) drill and musketry inspection ;
- (11) camps of exercise field days guards of honour and similar duties ;
- (12) the qualifications entitling a volunteer to be deemed efficient ; the earning of capitation grant and horse cycle signalling and other allowances ;
- (13) the expenditure of capitation and other grants and allowances ;
- (14) returns books and correspondence ;
- (15) medals and decorations ;
- (16) rules for reserves and cadet corps ;
- (17) pensions gratuities concessions and compensation for losses sustained by volunteers on duty ;
- (18) rates of pay of the respective ranks when on active or military service.

**ORD.
No. 37
of
1904.**

Liabilities of
volunteers on
dismissal.

11. Every volunteer who has been dismissed by the Lieutenant-Governor or by his commanding officer shall be bound to deliver up in good order (fair wear and tear only excepted) all arms clothing and appointments which are Government or corps property and which have been issued to him and he shall be liable to pay all money due or becoming due by him under the rules of his corps either before or at the time of or by reason of his dismissal.

Penalty for
contraven-
tion of Regu-
lations etc.

12. Every volunteer who shall be guilty of contravening any of the provisions of this Ordinance for which no penalty is specially provided or any of the Regulations shall upon conviction by his commanding officer be liable to a penalty not exceeding ten pounds and to dismissal from his corps or to one or other of these penalties.

Power of
Commandant
to confirm or
reduce
sentence of
Commanding
Officer.

13. The records of evidence taken before a Commanding Officer and the finding and sentence inflicted by a Commanding Officer in the exercise of the jurisdiction conferred on him by section *twelve* hereof shall be submitted forthwith to the Commandant who may quash the conviction or confirm or reduce the sentence and the sentence so confirmed or reduced shall be notified by the Commanding Officer to the Volunteer convicted by means of registered letter and every fine so notified which is not paid within seven days of the date of the posting of such notification may together with any costs incurred by reason of such non-payment be recovered in any Court of Resident Magistrate having jurisdiction on mere production to such Court of a properly authenticated copy of such notification under the hand of such Commanding Officer.

Commanding
Officer may
summon wit-
nesses etc.

14. It shall be lawful for any commanding officer in the exercise of the jurisdiction conferred on him by section *twelve* of this Ordinance to summon in writing any volunteer under his command alleged to have contravened the provisions of this Ordinance or the Regulations and any witnesses alleged to be material to the charge to appear before him and to administer oaths to such witnesses and generally to investigate the charge in such manner

as the Lieutenant-Governor may by Regulation determine ; and any person so summoned as a witness who shall fail to attend at the time and place mentioned in such summons or having attended shall refuse to give evidence shall be liable on conviction before a Resident Magistrate to a fine not exceeding twenty-five pounds or in default of payment thereof to imprisonment with hard labour for one month.

15. Every volunteer enrolled under the provisions of this Ordinance shall be enrolled for a minimum period of one year but he may obtain his discharge at an earlier date subject to such conditions as the Lieutenant-Governor may by Regulation determine.

Period of
enlistment.

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

Provision of
equipment.

17. The Lieutenant-Governor may from time to time constitute for the Volunteer Force a permanent staff consisting of such officers warrant officers non-commissioned officers and men as he may deem fit.

Permanent
staff.

18. It shall be lawful for the Lieutenant Governor to sanction the formation of Volunteer Reserves and of Cadet Corps and to provide out of the funds placed at his disposal for that purpose arms accoutrements and ammunition for the use of such reserves and Cadet Corps the members of which shall serve subject to such conditions as the Lieutenant-Governor may by Regulation determine.

Formation
and regula-
tion of Volun-
teer Reserves
and Cadet
Corps.

19. Every volunteer when in uniform and provided with a pass shall be entitled to travel at half-fares on Government Railways within the Transvaal between the places mentioned in the said pass.

Railway fares
for Volun-
teers in
uniform.

20. Every volunteer when in uniform whose duty it shall be in proceeding to and from any place to pass through any toll-bar or over any ferry at or in respect of which the payment of the toll shall now be or may hereafter be lawfully demanded shall be exempted from payment of any toll in respect of himself and of

Exemption
from pay-
ment of toll.

**ORD.
No. 37
of
1904.**

Detention at
tolls.

Penalty for
impersona-
tion.

Penalty for
receiving
arms, etc.,
from mem-
bers of force
contrary to
orders.

Freedom
from attach-
ment of such
animal and
arms.

Penalty for
disposing of
Government
or corps
property.

any animal and vehicle that may be required for the performance of the duty on which he may be employed.

21. Any person duly authorised to collect tolls who shall wilfully subject any volunteer in uniform when travelling on duty to unreasonable delay or detention shall be liable on conviction to a penalty not exceeding five pounds.

22. If any person not being a volunteer shall represent himself to be a volunteer or if any volunteer not then being on duty shall falsely represent himself to be on duty with the intent to evade the payment of any toll legally payable by him he shall on conviction be liable to a penalty not exceeding seventy-five pounds or in default of payment thereof to imprisonment for a period not exceeding six months unless such fine be sooner paid.

23. If any person shall in consequence of the sale pledge loan or other disposition of any animal arms ammunition accoutrements clothing or equipment made by a volunteer in contravention of this Ordinance or of the Regulations knowingly receive or have any such animal arms ammunition accoutrements clothing or equipment as above mentioned such person shall be liable to a fine not exceeding one hundred pounds in respect of each such animal article matter or thing and in default of payment thereof shall be liable to be imprisoned with or without hard labour for any period not exceeding one year.

24. No animal article matter or thing mentioned in the last preceding section and forbidden by this Ordinance or the Regulations to be sold pledged or otherwise disposed of shall be capable of being seized or attached by or under any writ of execution which may be sued out against any volunteer nor shall the same pass by or under any order made for the sequestration of the estate of any volunteer.

25. Any volunteer who lends pledges sells or contrary to orders or regulations disposes of any Government or corps property shall on conviction be liable to the penalties provided by section *twenty-three* hereof.

26. For the protection of persons acting in the execution of this Ordinance all actions against any person for anything done in pursuance of this Ordinance shall be commenced within four months after the cause for such action shall have arisen and not otherwise and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action and if the verdict shall be given for the defendant or the plaintiff be non-suited or discontinued any such action after issue or if upon exception or otherwise judgment shall be given against the plaintiff the defendant shall recover his full costs as between attorney and client.

Commencement of actions.

**ORD.
No. 37
of
1904.**

27. The Lieutenant-Governor may make Regulations for the billeting and cantoning of Volunteer Forces when on active service; for the furnishing of railway cars engines carriages horses boats and other conveyances for their transport and use; and for requisition from those who possess them of such buildings vehicles and animals together with such provisions forage and other necessaries as shall be needed for the service of such forces and for the adequate compensation therefor and may by such regulations impose a fine not exceeding five pounds for each breach thereof and imprisonment in cases of default of payment of such a fine. And any person contravening any such Regulation may be prosecuted before the Court of the Resident Magistrate in whose district such contravention has been committed.

Lieutenant-Governor may make Regulations for the billeting and cantoning of Volunteers when on active service

28. If a volunteer shall neglect or refuse when thereto required to give up to such person as his commanding officer shall appoint to receive them all or any articles which have been issued to him and which are Government or Corps property it shall be lawful for the commanding officer to direct any such person by order in writing to seize such article wherever found and for that purpose to enter upon and search the dwelling of such member or any premises in which there is reasonable grounds for suspecting that the articles may be found.

Seizure of articles of Government or Corps property by order of commanding officer.

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No. 37
of
1904.**

Rifles or other property wrongfully possessed may be seized.

29. It shall be lawful for the commanding officer of any corps to take possession of or cause to be taken possession of any rifle or other Government or corps property that he may find or ascertain to be in the possession of any person or persons other than the volunteer to whom it was issued.

Punishment for persons not Volunteers wearing uniform.

30. If any person not serving in the Volunteer Forces wears without permission the uniform of any corps or any dress having the appearance or bearing any of the regimental or other distinctive marks of such uniform he shall be liable on a summary conviction before a Magistrate having jurisdiction to a fine not exceeding five pounds.

Liability of Volunteer for loss of Government or corps property

31. Any volunteer who shall injure lose lend pledge sell or contrary to orders or regulations dispose of or retain any Government or corps property shall in addition to any penalty imposed in respect of such loan pledge sale or disposition by virtue of section *twenty-five* be liable to pay a sum of money equal to double the cost price of such property which may be recovered from him with costs in the same manner as penalties imposed for a contravention of the regulations are recoverable; provided that should any damage to or loss of such property be caused by him without any carelessness or fault on his part the proof whereof shall be imposed on him the commandant may upon being satisfied thereof exempt him from such payment or impose the payment of the cost price only of such property.

Punishments for damaging butts.

32. If any person wilfully commits any damage to any butt or target belonging to or lawfully used by any Volunteer Corps or searches for bullets in or otherwise disturbs the soil forming such butt or target he shall for every such offence be liable in addition to making good the damage done to a penalty not exceeding five pounds.

Wilful obstruction of force on march or parade.

33. Any person who shall wilfully obstruct or impede any corps or detachment of Volunteer Forces while on the march or parade shall upon conviction before a Magistrate be liable to a penalty not exceeding five pounds or in default to imprisonment for any period not

exceeding one month with or without hard labour.

34. All money subscribed by or for the use of a corps and all arms stores ammunition musical instruments and other property articles and things whatsoever belonging to or used by any such corps not being the property of any member thereof shall be vested in the commanding officer of such corps in trust for the corps.

Corps funds.

**ORD.
No. 37
of
1904.**

35. Nothing in this Ordinance contained shall prevent any offender from being prosecuted otherwise than under the provisions of this Ordinance in all cases in which he would by law without this Ordinance be liable to such prosecution; but no volunteer convicted or acquitted of any crime or offence under the provisions of this Ordinance or under the Army Act shall be liable to be again tried for the same crime or offence; provided that nothing herein contained shall prevent any volunteer who has been acquitted or convicted from being dismissed from the said force or reduced in rank therein.

Reservations of liberty to prosecution otherwise than under this Ordinance.

36. Whenever it shall be necessary to enforce enactments provisions and Regulations in this Ordinance mentioned in any place situate beyond the borders of this Colony the sentences fines and penalties which shall be pronounced and inflicted for the purpose of such enforcement shall be as valid and effectual and shall be carried into effect in the same manner as if the same had been pronounced in this Colony.

Enforcement of orders in places beyond borders of Colony.

37. The volunteers belonging to any Volunteer Corps may from time to time make rules for the management of the property finances and civil affairs of the corps and for securing the efficiency of the members of the corps and may alter or repeal any such rules; but any such rules shall not have effect unless and until the commanding officer of the corps thinks fit to transmit the same for the Lieutenant-Governor's approval and such approval signified through the commandant is notified to the commanding officer of the corps to be by him forthwith communicated to the corps whereupon the rules so approved shall be binding on all persons.

Rules for Corps management

**ORD.
No. 37
of
1904.**

A copy of the rules in print or writing or partly in print and partly in writing certified under the hand of the commanding officer of the corps as a true copy of the rules whereof His Excellency the Lieutenant-Governor's approval has been notified as aforesaid shall be conclusive evidence of the rules of the corps.

Payment of money due by volunteers.

38. If any person belonging or having belonged to a Volunteer Corps or Regiment neglects or refuses to pay money subscribed or undertaken to be paid by him towards any of the funds or expenses of such corps or regiment or due under any of the rules of such corps and actually payable by him or to pay any fine incurred by him under the rules of such corps such money or fine shall (without prejudice to any other remedy) be recoverable from him with costs at any time within four months after the same becomes due and payable in the same manner as a penalty for a breach of the regulations framed under this Ordinance is recoverable and when recovered shall be applied as part of the general fund of the corps or regiment.

Pensions for disabled members of Volunteer Forces.

39. In the case of any volunteer who shall be temporarily or permanently disabled by reason of any wound or injury received or sickness contracted by him when on active or military service it shall be lawful for the Lieutenant-Governor to award such volunteer such gratuity or yearly pension as to him may seem fit but such gratuity shall not exceed an amount equal to three years' pay of his rank at the date of such injury wound or sickness and such pension shall not exceed one hundred pounds per annum.

Pension not transferable.

40. No pension payable under this Ordinance shall be assignable or transferable nor shall the same be attached arrested or levied upon for or in respect of any debt or claim due by the recipient thereof or his wife.

Pension not matter of right.

41. Nothing in this Ordinance contained shall be construed so as to entitle any volunteer to claim as a matter of right any gratuity or pension as aforesaid.

Widow or family of volunteer; pension to.

42. It shall be lawful for the Lieutenant-Governor to assign to the widow or family of any volunteer who may be killed in action or

VOLUNTEER CORPS.
CATTLE DISEASE (EAST COAST FEVER).

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on active service a pension or allowance not exceeding one hundred pounds per annum.

43. The Volunteer Corps Ordinance 1902 shall be and is hereby repealed and all volunteers serving thereunder at the date of promulgation hereof shall complete their term of service subject to the provisions of this Ordinance.

44. This Ordinance may be cited for all purposes as the Volunteer Corps Ordinance 1904.

**ORD.
No. 37
of
1904.**

No. 38 of 1904.]

[Assented to 15 Aug., 1904.

ORDINANCE

**ORD.
No. 38
of
1904.**

To Make Further Provision for Preventing the Spread of Disease Amongst Cattle known as East Coast Fever.

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

I. In this Ordinance unless inconsistent with the context :

*Interpreta-
tion of terms.*

“cattle” shall mean any ox bull cow heifer or calf or any animal which the Lieutenant-Governor may by Proclamation declare to be cattle within the meaning of this Ordinance ;

“disease” shall mean the disease known as Rhodesian Redwater or East Coast Fever ;

“district” shall mean any Magisterial district of this Colony ;

“infected area” shall mean an area declared under section *four* to be infected with disease ;

“suspected area” shall mean any farm or land abutting upon an infected area or any farm or land in a proclaimed district suspected on reasonable grounds of having been exposed to infection and declared in manner prescribed by section *four* to be a suspected area ;

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of
1904.**

Power to
proclaim
districts
under
Ordinance.

“Commissioner of Lands” shall include in addition to the person holding that office any person generally or specially authorised by such person to carry out the provisions of this Ordinance.

2. This Ordinance shall except where otherwise expressly provided only be in force in a district in which it is put into force by Proclamation of the Lieutenant-Governor who may withdraw by *Proclamation any such district from the operation of the Ordinance.

PART I.

REMOVAL AND SLAUGHTERING OF CATTLE.

Destruction
of infected
animals.

3. It shall be lawful for the Commissioner of Lands to cause to be destroyed any cattle

(a) which are found to be infected with disease; or

(b) which have been in contact with any cattle infected with disease or have been on any infected or suspected area.

Declaration
of infected
and suspected
areas.

4. (1) Whenever it shall come to the knowledge of any person that the disease has broken out on any farm or land it shall be the duty of such person to forthwith report such fact to the nearest Resident Magistrate Assistant Resident Magistrate Resident Justice of the Peace District Veterinary Surgeon or nearest officer of police and thereupon the Commissioner of Lands may cause an enquiry to be made into such report and if such report be found correct he shall by notice affixed on such farm or land and in a newspaper (if any) circulating in the district notify such farm or land to be infected with disease and may when he is satisfied that such farm or land is free from disease withdraw such notice.

(2) The Commissioner of Lands may by like notices declare any farm or land to be a suspected area if he has reasonable grounds for believing such farm or land to have been exposed to infection and may at any time withdraw such notice.

Removal of
non-infected
cattle from
suspected or
infected
area.

5. The Commissioner of Lands may permit the removal of any cattle not infected with disease which are on a suspected or an infected area to an area which is neither a suspected nor an infected area.

* By Proc. No. 57 Admn. 1904 (*Gazette* 9th Sept. 1904 p. 593) Ordinance to be in force in the districts of Barberton Carolina Ermelo Lydenburg Middelburg Marico Pretoria Piet Retief Rustenburg Waterberg Wakkerström and the Orange Free State.

6. The Commissioner of Lands may cause to be destroyed any cattle whether infected with disease or not which have been brought on to an infected area enclosed by a fence erected under this Ordinance after such enclosure is complete.

Destruction
of cattle on
infected area

**ORD.
No. 38
of
1904.**

7. The Commissioner of Lands shall have all the following powers in addition to the powers conferred by any other section of this Ordinance :

General
powers of
Commissioner
of Lands.

- (a) to cause the carcasses and hides of any cattle which have been destroyed or have died from disease to be buried on any land ;
- (b) to cause any cattle before and after removal from a suspected area under section *five* to be dipped sprayed or otherwise disinfected and to be branded in a manner prescribed by Regulations under this Ordinance ;
- (c) to establish places for the slaughtering of cattle which may be destroyed under the powers conferred by this Ordinance ;
- (d) to prescribe routes on which cattle shall be driven when removed under section *five* and close such routes or to suspend the traffic of cattle within any area to be notified by him in the *Gazette* and by notice posted on the door of the Office of the Resident Magistrate or Assistant Resident Magistrate ;
- (e) to cause the grass on any farm or land within any infected or suspected area to be burned after the destruction or removal of any cattle thereon or therefrom under this Ordinance ;
- (f) to enter upon any land for the purpose of exercising the powers by this Ordinance conferred ;
- (g) to exempt from the operation of sections *five* and *six* 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 the Commissioner.

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of
1904.**

- by section *four* immediately after such fact shall come to his knowledge ;
- (b) shall obstruct or hinder the Commissioner of Lands in the exercise of any powers by this Ordinance conferred ;
- (c) shall bring or cause to be brought any cattle into an infected area or interfere with any cattle which have been removed from an infected or suspected area under section *five* ;
- (d) shall act in contravention of any condition or restriction relating to the keeping or removal of cattle imposed under this Ordinance ;

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 six months or to both such fine and imprisonment.

12. It shall be lawful for any person to remove for slaughter cattle from infected or suspected areas on the written permission of the Commissioner of Lands which shall be given on the following conditions only :—

Temporary provision.

- (a) that such cattle are first sprayed washed or dipped to the satisfaction of the Commissioner of Lands ;
- (b) that such removal be along an approved route to the place of slaughter ;
- (c) that upon reaching the place of slaughter the cattle be securely kept in approved kraals and slaughtered within ten days from date of leaving such area aforesaid.

The provisions of this section shall continue in force in any infected or suspected area for a period of four months only from the date of the notice declaring such area to be infected or suspected.

PART II.

FENCING OF FARMS, ETC.

13. (1) For the purpose of preventing the spread of the disease and notwithstanding anything in the Fencing Ordinance 1904 contained the Commissioner of Lands may cause to be erected fences along the boundaries of any farms within an infected or suspected area

Power of Commissioner of Lands to cause fences to be erected on farms native locations and town lands.

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of
1904.**

or of any native location or of any town lands within such area.

(2) The term "fence" in this and the following sections of this Ordinance shall have the same meaning as is assigned to it in the Fencing Ordinance 1904.

(3) The specifications of any such fence shall be determined by the Commissioner of Lands.

Cost of erection of fences on boundaries of farms and repayment of same by owners.

14. (1) The cost of erecting any fence along the boundaries of any farm shall be in the first instance defrayed out of moneys voted by the Legislative Council; provided that such cost shall be repaid together with interest at the rate of three per cent. per annum by equal yearly instalments commencing two years after the fencing is completed such instalments being so calculated and fixed that the said cost and interest shall be wholly repaid within a period of ten years from the date from which the first instalment becomes due as shown in the First Schedule to this Ordinance.

(2) Such repayments of cost and interest shall be made by the owner of any farm fenced under the last preceding section or if the fence divides the farms of adjoining owners then each such owner shall pay one-half the cost of the part of the fence dividing such farms together with the interest aforesaid.

(3) The term "owner" in this and the following sections shall mean the person registered as the owner in the office of the Registrar of Deeds and the term "farm" shall include any portion of a farm.

Notification to Registrar of Deeds of amount due and noting of such amount in Land Register.

~~**15.** (1) The Commissioner of Lands shall notify in writing to the Registrar of Deeds the amount due by any owner under section *fourteen* and the Registrar of Deeds shall upon receipt of such notification note the said amount in the Land Register and shall deliver to the Commissioner of Lands a certificate setting forth such amount and the date of the note and from and after such date it shall not be lawful without~~

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of
1904.**

~~the order of a competent Court to transfer or mortgage the farm aforesaid until such note shall have been deleted by the Registrar of Deeds.~~

~~(2) Such note shall be deleted by the Registrar of Deeds as soon as a written notice has been received from the Commissioner of Lands stating that the said amount with interest thereon as prescribed by section *fourteen* has been paid.~~

16. Where any such farm aforesaid held under lease has been enclosed by a fence erected under this Ordinance during the term of the lease the lessor shall be entitled to receive from the lessee as from the date when such farm became so enclosed a payment of eight per cent. per annum on any sum he may have paid to the Commissioner of Lands under section *fourteen* and such payment shall be made with the rent of the farm and shall be deemed in law to be part of such rent.

Payment by lessee to lessor of farm fenced under Ordinance.

17. Whenever the Commissioner of Lands shall have incurred any cost in respect of the fencing of a native location under this Ordinance the occupiers of huts in such location shall be liable to contribute *pro rata* to such cost as if such occupiers were owners of farms as mentioned in section *fourteen* save and except that the amounts due by way of yearly instalments and the interest thereon from each such occupier under this section may be recovered in the event of non-payment as if the same were a tax due and payable under the provisions of the Native Tax Ordinance 1902.

Payment of cost of fencing native locations.

18. Whenever the Commissioner of Lands shall have incurred any cost in respect of the fencing under this Ordinance of any town lands which have become vested in any local authority under the Town Lands Ordinance 1904 the cost shall be repayable by such local authority in manner provided by sub-section (1) of section *fourteen* of this Ordinance.

Payment of cost of fencing town lands.

**ORD.
No. 38
of
1904.**

Contributions
in kind
towards
fencing of
farms.

19. Nothing in sections *fourteen to eighteen* inclusive contained shall be deemed to prevent any person liable for the cost of the erection of a fence under this Ordinance from contributing approved material or labour or transport towards the cost of such fence and any such contribution shall be set off against the amounts mentioned in the said sections respectively according to a value to be determined in the absence of agreement by the Resident Magistrate of the district.

Power to
Commissioner
to fence off
roads bound-
aries of
Colony and
areas of
Colony.

20. The Commissioner of Lands may cause to be fenced :

- (1) any roads whether public or private traversing any part of the Colony ;
- (2) any boundaries of the Colony or any area in the Colony marked off from any other part of the Colony ;

and the cost of any fence erected under the powers of this section shall be defrayed entirely out of the moneys voted by the Legislative Council for the purposes of this Ordinance.

Application
of provisions
of Fencing
Ordinance
1904 as to
offences and
as to repairs
of fences.

21. The provisions of sections *thirty-three thirty-four thirty-six* and *thirty-seven* of the Fencing Ordinance 1904 shall be and are hereby incorporated in this Ordinance and shall apply in respect of offences in relation to fences erected under this Ordinance as if the provisions of such sections were set forth herein and the provisions of sections *eleven twelve* and *thirteen* (so far as the last named section relates to the repair of fences) of the said Ordinance shall *mutatis mutandis* apply for the purpose of the repair of fences erected under this Ordinance.

Title.

22. This Ordinance may be cited as the Cattle Disease (East Coast Fever) Ordinance 1904 and the provisions thereof shall be deemed to be additional to and not restrictive of the provisions of any other law for the prevention of disease amongst cattle.

FIRST SCHEDULE.**ORD.
No. 38
of
1904.**

Table of equal instalments at the end of each year for ten years corresponding to the amounts payable under the section *fourteen* of this Ordinance.

Amount payable.	Equivalent amounts payable at the end of each year for ten years.
£	£ s. d.
1	0 2 4
2	0 4 8
3	0 7 0
4	0 9 5
5	0 11 9
6	0 14 1
7	0 16 5
8	0 18 9
9	1 1 1
10	1 3 5
20	2 6 11
30	3 10 4
40	4 13 9
50	5 17 2
60	7 0 8
70	8 4 1
80	9 7 6
90	10 11 0
100	11 14 5
200	23 8 10
300	35 3 2
400	46 17 7
500	58 12 0

Yearly instalments for any sum not mentioned in this Schedule, such as £465 15s. 0d. may be obtained as follows:—

£	s.	d.	£	s.	d.
400	0	0	46	17	7
60	0	0	7	0	8
5	0	0	0	11	9
0	15	0 or $\frac{3}{4}$ of £1.	0	1	9
<hr/>			<hr/>		
£465	15	0	£54	11	9

SECOND SCHEDULE.

Bull, not less than £6 and not exceeding £25.

Cow, including three year old heifers, not less than £5 and not exceeding £20.

Oxen, including 3 year olds, not less than £6 and not exceeding £15.

Two year old Cattle, not less than £5 and not exceeding £10.

One year old Cattle, not less than £2 and not exceeding £6.

Calves, not less than £1 and not exceeding £4.

**ORD.
No. 39
of
1904.**

No. 39 of 1904.]

[Assented to 15 Aug., 1904.]

ORDINANCE

To amend Laws No. 3 of 1871 and No. 3 of 1897.

WHEREAS it is expedient to amend in certain respects the laws relating to the marriages of both white and coloured persons;

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

Repeal of Article 18 of Law No. 3 of 1897. **1.** Article *eighteen* of Law No. 3 of 1897 shall be and is hereby repealed and the following provision substituted therefor:—

“The term ‘coloured person’ in this law shall include any person who is manifestly a coloured person and whose marriage on that account cannot be solemnized under the provisions of Law No. 3 of 1871.”

Repeal of Article 11 of Law No. 3 of 1871. **2.** Article *eleven* of Law No. 3 of 1871 shall be and is hereby repealed.

Amendment of Law No. 3 of 1871 and Law No. 3 of 1897 as to marriage fees. **3.** Article *nineteen* of Law No. 3 of 1871 as amended by Volksraad Resolution Article 117 of Seventh June 1876 and Article *fourteen* of Law No. 3 of 1897 shall be and are hereby repealed and from and after the date of the taking effect of this Ordinance a fee of five shillings shall be paid before the solemnization of any marriage to the Resident Magistrate if the marriage is to be solemnized under Law No. 3 of 1871 or in case the marriage is to be solemnized under Law No. 3 of 1897 to the person who in accordance with Article *two* thereof has been appointed to solemnize marriages between coloured persons.

Title.

4. This Ordinance may be cited as the Marriage Law Amendment Ordinance 1904.

No. 40 of 1904.]

[Assented to 15 Aug., 1904.

**ORD.
No. 40
of
1904.**

ORDINANCE

To further amend the Stamp Duties Amendment Proclamation, 1902.

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

1. (1) Whenever any notarially executed instrument is chargeable with stamp duty under the Stamp Duties Amendment Proclamation 1902 or any other law the stamps denoting such duty shall be affixed at or before execution of such instrument to the original or the first grosse thereof or in the case of any such instrument executed in duplicate or triplicate to such duplicate original or triplicate original and such stamps shall be duly defaced by the notary before whom such instrument aforesaid is executed.

Mode of affixing and defacing of stamps in case of notarially executed instruments.

(2) Whenever any such instrument aforesaid shall be registered in any registration office the original or first grosse or duplicate original (as the case may be) shall be filed with the registration officer bearing the stamps affixed as aforesaid and such registration officer shall endorse on the other grosse or triplicate original (as the case may be) lodged for registration a certificate that the instrument filed with him as aforesaid bears the stamps required by law.

(3) A notarially executed instrument shall for the purposes of this section include also any such instrument as is mentioned in section *thirty-seven* of the Deeds Proclamation 1902.

2. Notwithstanding anything contained in section *thirteen* of the Stamp Duties Amendment Proclamation 1902 or any law amending the same any registration officer or other officer of any department of the Public Service charged with the duty of defacing stamps or any banker may deface the stamps on any instrument in such manner as may be from time to time prescribed by the Colonial Treasurer by *Regulations published under notice in the *Gazette*.

Power to Colonial Treasurer to make rules as to defacement of stamps by registration officers or bankers.

* For regulations made under this section see Govt. Notice No. 994 of 1904 *Gazette*, 9th September, 1904, p. 598.
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**ORD.
No. 40
of
1904.**

Amendment
of section
fourteen of
Proclama-
tion Trans-
vaal No. 12
of 1902.

3. Section *fourteen* of the said Proclamation shall be and is hereby amended :

- (a) by the insertion in sub-section (1) thereof immediately after the word "instruments" of the words "other than notarially executed instruments" ;
- (b) by the omission from sub-section (2) thereof of the words "other than such as are included in the last preceding sub-section."

Amendment
of Proclama-
tion Trans-
vaal No. 12 of
1902 as to
affixing and
cancelling of
stamps on
bills of ex-
change

4. (1) Notwithstanding anything in sections *thirteen fourteen seventeen or twenty-four* of the said Proclamation contained whenever any bill of exchange or promissory note liable to stamp duty has been executed and delivered without being duly stamped or if any stamp affixed thereto has not been duly defaced as required by law such instrument may be duly stamped or any stamp affixed thereto may be duly defaced by the acceptor of such instrument or by any banker within a period of three days after any such instrument shall have come into the hands of such person and such person shall thereupon be deemed to be a person required by law to stamp such instrument and shall be liable to any penalty prescribed by the said Proclamation for any omission or neglect to stamp such instrument or deface the stamps thereon within the period mentioned in this section.

(2) Any such instrument upon which any stamp has been affixed or defaced as in this section mentioned shall thereupon be an instrument duly stamped ; provided that nothing herein contained shall exempt the drawer or maker of any such instrument from the duty imposed by the said Proclamation of duly stamping or duly defacing the stamps upon any such instrument or from any penalty imposed by law for neglect of any such duty.

Amendment
of section
sixteen of
Proclama-
tion Trans-
vaal No. 12
of 1902.

5. Section *sixteen* of the said Proclamation shall be and is hereby amended by the addition of the following proviso to sub-section (3) thereof :—

"provided always that if the amount of such penalty exceeds twenty pounds the Colonial Treasurer may remit any

part of the amount which exceeds the said sum.”

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No. 40
of
1904.**

6. The Second Schedule to the said Proclamation shall be and is hereby amended :

Amendment
of Second
Schedule of
Proclama-
tion Trans-
vaal No. 12
of 1902.

(1) by the repeal of the provisions as to lease of any land building or stand and by the substitution of the following provisions ;
“lease or agreement of lease of any land building or stand for any periods less than twenty-five years

(a) when the lease is for a period not exceeding one year or for an indefinite period terminable at the will of lessor :—

If the rent does not exceed £10 per annum—1s.

Exceeds £10 but does not exceed £20 per annum—2s.

Exceeds £20 but does not exceed £50 per annum—5s.

Exceeds £50 but does not exceed £100 per annum—10s.

Exceeds £100 per annum for every £100 or part thereof—10s. together with duty at the rate of ten shillings for every hundred pounds or part thereof of any sum paid by way of further consideration as is mentioned in paragraph (d) hereof.

(b) when the lease is for a period exceeding one year but not exceeding ten years duty shall be charged at the same rate as in (a) on a sum equal to half the aggregate rents payable during the period of the lease together with any such further consideration as is mentioned in (d) ;

(c) when the lease is for a period exceeding ten years but less than twenty-five years duty shall be charged at the same rate as in (a) on a sum equal to the aggregate rents payable during the period of the lease together with any further consideration mentioned in (d) ;

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of
1904.**

- (d) when in any of the cases mentioned in (a) (b) or (c) a sum of money is paid as further consideration for the lease not being by way of rent such amount shall be added to the amount of rent as aforesaid for the purpose of calculating the duty chargeable ;
- (e) for the purpose of charging duty in any of the above-mentioned cases the period of lease shall be taken to include any period or periods for which the lessee has the right of continuance or renewal and in respect of which the lease in question serves as the agreement or contract between the parties but if in any such case the lease is allowed to lapse in conformity with the terms of the lease by the option or will of the lessee and ceases to be of force or effect the Colonial Treasurer may refund the proportion of duty paid in respect of the remaining period on the claim being proved to his satisfaction ;
- (f) in the case of an amending lease or agreement by which the rent is increased or further consideration paid the duty payable shall be the difference between the duty paid on the pre-existing lease and the duty payable if the increased rent or further consideration had been included therein ;
- (g) where the rent or consideration is stated in kind or produce or otherwise than in money the alternative money value as estimated between the parties shall also be stated for purposes of the duty and duty shall be charged according to such money value ;
- (h) in the case of any lease of land for agricultural or pastoral use and occupation and such use and occupation are expressed as conditions of the lease the stamp duty charge-

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1904.**

- ~~able shall be according to the scale provided under paragraph (a) of this sub-section ;~~
- (i) ~~the word "lease" for purposes of duty shall include a sub-lease or any cession of a lease where such cession is not liable to transfer duty ;~~
- (2) by the repeal of paragraphs (2) (3) and (4) under the head power of attorney and the substitution of the following provisions ;
- “(2) to do or perform any specific act or thing ; if the power is granted by an individual mandant or by two or more mandants necessarily acting together in the performance of such specific act or thing—1s
- (3) to do or perform more than one act (such acts being therein specified) or to act on behalf of two or more mandants not necessarily acting together as aforesaid—5s.
- (4) any special power not herein provided for—5s.
- (5) to act generally for the grantor—£1.
- (6) to act generally for the grantor otherwise than for effecting the transfer or hypothecation of immovable property—10s.
- (7) a power of substitution shall be subject to duty in like manner as a power of attorney.
- (8) The stamps on powers granted by more than one mandant may be cancelled by any one of them.”

7. Section *four* sub-section (b) of the Stamp Duty Further Amendment Ordinance 1902 shall be and is hereby amended by the repeal of the substituted words in the said sub-section and by the insertion of the following in lieu of such words :—

Amendment
of section *four*
of Ordinance
No. 14 of
1902.

“Notarial Instrument or duplicate or triplicate original thereof not being in itself chargeable with stamp duty : or grosse or copy of such Notarial Instrument : or Notarial Attestation of any instrument or of any grosse duplicate or copy thereof—2s. 6d.”

STAMP DUTIES AMENDMENT.
MUNICIPAL CORPORATIONS AMENDMENT.

**ORD.
No. 40
of
1904.**

Exemption
from duty of
Government
instruments

8. No duty or fees payable in stamps shall be chargeable in respect of any instrument or the registration thereof if the duty or fees thereon would be paid and borne by the Colonial Government or by any department thereof and the Colonial Treasurer shall determine in case of dispute whether an instrument is exempt from duty or fees under this section and his decision shall be final.

Interpreta-
tion of terms.

9. In this Ordinance the terms "bill of exchange" and "promissory note" shall have the same meanings as are assigned to them respectively by sections *twenty* and *twenty-one* of the Stamp Duties Amendment Proclamation 1902 and the term "banker" shall include a body of persons whether incorporated or not who carry on the business of banking in this Colony and any manager or deputy-manager or other official in the employ of such body of persons and acting in such capacity.

Title.

10. This Ordinance may be cited for all purposes as the Stamp Duties Amendment Ordinance 1904 and shall be read as one with the Stamp Duties Amendment Proclamation 1902 the Stamp Duties Further Amendment Ordinance 1902 and any law amending the same.

**ORD.
No. 41
of
1904.**

No. 41 of 1904.]

[Assented to 17 Aug., 1904.]

ORDINANCE

**To amend the Municipal Corporations Ordinance
1903 in certain respects.**

WHEREAS it is expedient that certain local authorities heretofore described as Urban District Boards should be constituted Municipalities but elected under special provisions and that the Municipal Corporations Ordinance 1903 be amended accordingly and in certain other respects :

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

1. In this Ordinance the term "principal Ordinance" shall mean the Municipal Corporations Ordinance 1903; and the term "Magistrate" shall mean the Resident Magistrate of a Magisterial district in which a Municipality is situate and in the case of any Municipality being situate within a portion of a Magisterial district for which a Detached Assistant Resident Magistrate has been appointed the term "Magistrate" shall include also such Detached Assistant Resident Magistrate.

Interpreta-
tion of terms.

**ORD.
No. 41
of
1904.**

PART I.

CONSTITUTION OF URBAN DISTRICT BOARDS AS MUNICIPALITIES.

2. Sections *seventy-three* and *seventy-four* of the principal Ordinance shall be and are hereby repealed and all Proclamations issued under the said section *seventy-three* are hereby declared to be no longer of force and effect save as herein provided.

Repeal.

3. Every Urban District Board established by the Lieutenant-Governor under the powers of the said section *seventy-three* and named in the Schedule hereto shall from the date of the passing of this Ordinance be a Council of a Municipality and the town or area for which any such Board has been established shall from the said date be deemed to be an existing Municipality coming under the operation of the principal Ordinance and the provisions of section *four* as well as all other provisions of the principal Ordinance shall apply to such town or area save and except:

Urban
District
Boards
constituted
Municipali-
ties.

- (a) that the members of every such Board and the Chairman thereof then in office shall continue in office under the provisions of Proclamation No. 52 (Administration) of 1903 until the date of retirement as mentioned in section *nine* of this Ordinance;
- (b) that elections hereafter held of the members of Councils of Municipalities constituted by this section shall be conducted as in sections *four* to *twelve* of this Ordinance provided and not as provided by sections *twenty-one* to *fifty-two*

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of
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inclusive of the Municipalities Elections Ordinance 1903 unless the Lieutenant-Governor shall exercise the powers on him conferred by sub-section (d) of this section of this Ordinance ;

- (c) that a Mayor shall not be appointed by the Council of any Municipality constituted by this section but in lieu thereof a Chairman shall be elected by each such Council as in section *fourteen* of this Ordinance is provided unless the Lieutenant-Governor shall exercise the powers on him conferred by section *sixteen* of this Ordinance ; provided always that all duties imposed and all powers privileges and jurisdiction conferred upon a Mayor of a Municipality by the principal Ordinance or by any other law shall be and are hereby imposed and conferred upon a Chairman of a Municipality elected under section *fourteen* of this Ordinance or under Proclamation No. 52 (Administration) 1903 ;
- (d) that no such Municipality as is constituted under this section nor any other Municipality hereafter constituted shall be divided into separate districts or wards unless the Lieutenant-Governor by Proclamation in the *Gazette* shall declare that any such Municipality shall be so divided and thereupon the provisions of section *sixteen* and Chapters V. and VI. of the Municipalities Elections Ordinance 1903 shall apply in a Municipality so divided into separate districts or wards.

Mode of election of Councils of Municipalities constituted under this Ordinance.

4. Elections of Councils of Municipalities constituted under section *three* of this Ordinance shall be held on any day between the twentieth and thirtieth days inclusive of the month of September preceding the day on which the Councilors go out of office as provided by section *nine* of this Ordinance. Such date shall be fixed by the Magistrate and notified as is provided by the next succeeding section for notifying meetings for the nomination of candidates.

5. (1) Not less than fourteen days before the date of election fixed as aforesaid the Magistrate shall issue a notice and publish the same in some newspaper (if any) printed and published in the Municipality and by affixing such notice to the principal door of the Magistrate's Court House and such other public places within the Municipality as he shall deem convenient. Such notice shall summon a public meeting of the persons enrolled upon the voters roll of the Municipality for the purpose of nominating persons for election as Councillors and such meeting shall be held on a date not less than seven and not more than ten days prior to the day fixed for holding the election of members.

Notice of meeting of electors to nominate candidates.

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of
1904.**

(2) Every such notice shall specify the hour and place within the Municipality at which such meeting is to be held and such meeting shall be held at the hour and place specified in the notice.

6. At every such meeting as in the last preceding section mentioned the Magistrate shall attend at the time and place named in the notice thereof and shall preside at such meeting.

Magistrate to preside at meeting.

7. It shall be lawful for any person enrolled upon the voters roll of the Municipality and present at such meeting to nominate some person possessing the qualifications prescribed in section *two* of the Municipalities Elections Ordinance 1903 and every such nomination shall before it is submitted to the meeting be seconded by some other person enrolled upon the voters roll of the Municipality and present at such meeting. If the number of persons nominated as aforesaid be no more than the number of councillors to be elected and if every such person shall at the meeting personally or in writing signify his acceptance thereof the Magistrate shall then and there declare such persons nominated as aforesaid to be elected but if every such person shall not so signify his acceptance or if the number of persons nominated as aforesaid be more than the number of Councillors to be elected such meeting shall then be adjourned to the date fixed for holding the election of councillors.

Nomination of candidates for election.

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of
1904.**

Mode of
holding
election.

8. (1) At every such adjourned meeting the Magistrate shall preside and at or before such meeting it shall be competent for any person nominated and seconded as aforesaid to give written notice to the Magistrate of his intention to withdraw from election. After such withdrawal if in any case there shall remain nominated and seconded no more persons than there are members to be elected such persons shall be declared duly elected but in case more persons shall have been nominated and seconded than the number to be elected the Magistrate shall then and there proceed to take a poll of the enrolled voters in manner hereinafter described.

(2) The Magistrate shall read out to the meeting a list of the persons nominated and seconded as aforesaid. Each voter present at the adjourned meeting shall in turn come to the desk where the Magistrate is sitting and on satisfying the Magistrate that his name is on the voters roll for the Municipality and that he has not already voted at the election then being held shall record on a slip of paper to be handed to the voter by the Magistrate such of the names of the persons nominated for whom he wishes to vote not exceeding the number of persons to be elected. The voter shall then hand in the paper on which his votes are so recorded to the Magistrate and the Magistrate shall perforate the same with a perforating stamp and deposit it in a box provided for the purpose. Such adjourned meeting shall be closed at the expiration of three hours from the hour specified in the notice aforesaid unless there shall be any enrolled voter present who shall not have recorded his vote; in which case the Magistrate shall have power to prolong the meeting until such voter shall have recorded his vote.

(3) The Magistrate shall then open the box and proceed to count the votes so recorded and shall declare the names of the persons who have been elected in order according to the number of votes recorded for them. In the event of the number of votes being found to be equal for any two or more candidates all of whom cannot be declared elected the Magis-

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trate shall by lot determine which shall be declared elected. The Magistrate shall then enclose the voting papers in a sealed packet and shall retain possession of the same and shall after a period of three months destroy the contents of it. The Magistrate shall not at any time disclose the manner in which any voter has recorded his vote.

9. The Councillors who were members of the Urban District Boards mentioned in the Schedule hereto shall go out of office on the day prescribed by Proclamation No. 52 (Administration) 1903 as the date for the retirement of first members and in place of such Councillors so going out of office a like number of other Councillors shall be elected as hereinbefore provided and shall come into and remain in office during the next ensuing two years and at the expiration of such period of two years shall in like manner go out of office and be succeeded by other Councillors elected as hereinbefore provided for a like term of two years and so on; provided always that any retiring Councillor may be re-elected.

Date of retirement of first members and subsequent elections,

10. In case any Councillor shall die or become disqualified from office or shall resign or refuse to accept the office of Councillor or in the case of any casual vacancy occurring in any other manner whatever in such office the Chairman of the Council shall notify such vacancy to the Magistrate and the Magistrate shall except in the circumstances mentioned in the first proviso to this section forthwith summon a meeting of enrolled voters for the Municipality for the purpose of filling up such vacancy in the manner hereinbefore mentioned and the person then elected shall hold office until the next general election of Councillors; provided always that if any such vacancy shall occur within three months prior to the first day of October in the year in which the Councillors go out of office such vacancy shall not be filled but shall continue until the holding of the next general election; provided further that if there shall be more than three such vacancies they shall be filled up at a special election held for the purpose and conducted in manner hereinbefore provided.

Casual vacancies,

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of
1904.**

Provisions
in case of
elections
irregularly
held.

11. (1) It shall be competent for any voter to apply to the Supreme Court or to the Witwatersrand High Court or any Circuit Court (if such High Court or Circuit Court have jurisdiction in the matter) to have any election under this Ordinance set aside on the ground that such election has not been held in accordance with the provisions of this Ordinance; provided that no objection to any election shall be entertained by any such Court unless notice thereof has been lodged with the Magistrate within seven days after such election. Such notice shall state the grounds of the objection.

(2) If any election shall be so set aside or if by reason of any failure or neglect or any other cause whatever any meeting for the election of Councillors shall not be held then and in every such case the Magistrate shall as soon as possible after any such event or failure shall have been notified to him call such meetings of electors for the purposes of nominating and electing a Councillor in manner hereinbefore provided.

Provisions
in case of
failure to
elect
members.

12. If from any cause there shall not be elected the requisite number of Councillors at any such election aforesaid in manner provided it shall be lawful for the Lieutenant-Governor to appoint any person or persons to be a Councillor or Councillors in order to make up the number of members required for the Council.

Fixing the
number of
members.

13. The Lieutenant-Governor may fix and from time to time increase or decrease the number of Councillors of any Municipality the elections whereof are conducted under the provisions of sections *four to twelve* inclusive of this Ordinance and every such increase or decrease shall be notified by Proclamation in the *Gazette*.

Chairman of
the Council.

14. At the first meeting of the Council held after any general election of Councillors under this Ordinance the Councillors present shall elect one Councillor to be Chairman of the Council and he shall forthwith enter upon his office and continue therein until his successor be appointed after the next general election of members unless his office be sooner vacated

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and in case of such vacancy then a successor shall at the next meeting of the Council after such vacancy is notified be chosen by the members present at such meeting from amongst the members of the Council and such successor shall forthwith enter upon his office and continue therein for the remainder of the period for which the vacating Chairman was elected ; provided always that should a Chairman for any reason not be elected at a meeting as herein provided he may be elected at the first ordinary meeting of the Council held thereafter or at a special meeting called for the purpose.

15. At any meeting of the Council at which an election of a Chairman is to be held under the last preceding section the members present at the commencement of such meeting shall elect one of their number to act as Chairman until a chairman be elected as aforesaid. In case of an equality of votes on any election of chairman under the last preceding section the acting chairman shall have a casting vote as well as an original vote.

Acting chairman to be chosen to preside at meeting till chairman elected.

~~**16.** The Lieutenant-Governor may by Proclamation in the *Gazette* ;~~

~~(1) declare that the provisions of sections *fourteen* and *fifteen* shall not apply to any Municipality constituted under section *three* and that in lieu of such sections the provisions of Chapter II. of the Municipalities Elections Ordinance 1903 shall apply to any such Municipality ;~~

Power to Lieutenant-Governor to provide for election of Mayor by Municipalities constituted under section *three* and conversely.

~~declare that the provisions of Chapter II. of the Municipalities Elections Ordinance 1903 shall not apply to a Municipality not constituted under section *three* of this Ordinance and that in lieu of the said Chapter II. the provisions of sections *fourteen* and *fifteen* of this Ordinance shall apply to such Municipality.~~

PART II.

GENERAL AMENDMENTS.

17. Section *thirty* of the principal Ordinance shall be and is hereby repealed and there shall be substituted therefor the following provisions :

“(1) The Auditor shall disallow every payment made without due authority

Power of Auditor to recover payments made without due authority.

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of
1904.**

according to law and surcharge the same on the person or persons making or authorizing it and shall charge against any person responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of that person or of any sum which ought to have been but is not brought into account by that person and shall in every case certify the amount due from such person. Every sum so certified by the Auditor shall be paid by such person to the Town Clerk or other official appointed by the Council within fourteen days after the same has been so certified and if not so paid may be recovered from such person as a debt by the Auditor who shall be paid by the Council his reasonable costs and expenses incurred in such proceedings. Any sum so recovered shall be paid to the Town Clerk or other official appointed by the Council; provided always that it shall be lawful for the Colonial Secretary to remit the whole or any part of any sums surcharged against any person under this section."

"(2) For the purposes of this section the persons against whom any illegal payment may be surcharged shall include all members of the Council or of any Committee thereof who were present at the meeting of the Council or Committee thereof at which such payment was authorized and who did not cause their votes against the resolution authorizing such payment to be recorded in the minutes."

Power to
Lieutenant-
Governor to
alter the
boundaries of
Municipalities.

18. Section *six* of the principal Ordinance shall be and is hereby amended by the addition of the following new sub-sections:—

"(7) to alter from time to time the boundaries of any Municipality ;"

"(8) upon declaring any town or village to be a Municipality or upon the alteration of the boundaries of a Municipality to exempt any part of the area of such Municipality from the provisions of the

Local Authorities Rating Ordinance 1903 ;”

“(9) to confer on any person appointed to enquire into and report upon the advisability of altering the boundaries of a Municipality the powers jurisdiction and privileges of the Commissions Powers Ordinance 1902.”

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of
1904.**

19. Notwithstanding anything in section *thirty-four* of the principal Ordinance contained the Council shall have power with the consent of the Lieutenant-Governor to erect and maintain on any square or other open public place buildings for public purposes or set apart any such open public place or portion thereof for any such buildings.

Power to Council to erect public buildings on squares and open spaces.

The provisions of this section shall apply to every Municipality whether brought under the operation of this Ordinance or not.

20. Section *thirty-four* of the principal Ordinance shall be and is hereby amended by the omission of all words in the said section after the words “if it shall be necessary” and by the substitution for the words so omitted the following words ;

Amendment of section *thirty-four* of Ordinance No. 58 of 1903.

“may carry any sewers drains pipes and water-furrows through and across any private property provided that compensation shall be made by the Council for any damage done thereby the amount of which compensation shall if not mutually agreed upon be determined in manner provided by the Municipalities Powers of Expropriation Ordinance 1903.”

21. Section *thirty-seven* of the principal Ordinance shall be and is hereby amended by the omission from the said section of all words after the words “reside within such locations” and by the addition of the following words to the said section so amended ;

Amendment of section *thirty-seven* of Ordinance No. 58 of 1903.

“The Lieutenant-Governor may from time to time make alter and repeal regulations ;”

“(1) for the proper carrying out of the provisions of this section and the effectual supervision of such locations ;”

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“(2) for the issue of passes to and the carrying of passes by all natives in Municipalities which are not within labour districts and for the fixing of charges for each such pass not exceeding one shilling per month payable in advance by such natives”

Any such regulations made under this section shall be of full force and effect as law within the Municipality on publication of the same in the *Gazette*.

Any bye-laws in force in any Municipality or district of an Urban District Board at the date of the passing of this Ordinance for the purposes described in sub-section (2) of this section shall be deemed to be regulations made by the Lieutenant-Governor under the said sub-section (2).

Power to receive into Municipal pounds animals from without the Municipality

22. The Council shall have the power to receive into any Pound which it has established under the principal Ordinance any animal which may be lawfully impounded under the provisions of Law No. 2 of 1882 outside the limits of the Municipality. The Lieutenant-Governor may from time to time make alter and repeal regulations

- (1) for the management of Pounds by the Council ;
- (2) for fixing and defining the charges payable by the owners of impounded animals ;
- (3) as to the conditions under which impounded animals may be sold by the Council ; and
- (4) as to the transfer of property in such animals on such sale.

Any bye-laws in force in any Municipality or district of an Urban District Board at the date of the passing of this Ordinance for the purposes described in this section shall be deemed to be regulations made by the Lieutenant-Governor under this section.

Amendment of section forty of Ordinance No 58 of 1903.

23. Section *forty* of the principal Ordinance shall be and is hereby amended by the addition thereto of the following sub-sections :—

“(13) bands for musical performances in public places and generally to provide musical entertainments in such places ;”

“(14) telephones subject to the approval of the Lieutenant-Governor.”

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No. 41
of
1904.**

24. Section *forty-one* of the principal Ordinance shall be and is hereby amended by the addition thereto of the following sub-section:

Repeal of section *forty-one* of Ordinance No. 58 of 1903.

“(10) To contribute to any provident or benevolent fund intended for the benefit of the officers and servants of the Council and to grant pensions or gratuities to officers or servants of the Council on their retirement from the Councils service or otherwise.”

25. It shall be the duty of the Council of every Municipality whether brought under the operation of this Ordinance or not to provide for the burial of destitute persons dying within the limits of the Municipality and the Council is hereby authorized and empowered to incur any expenditure necessary therefor.

Duty to bury paupers.

✓ **26.** Section *forty-two* of the principal Ordinance shall be and is hereby amended:

Amendment of section *forty-two* of Ordinance No. 58 of 1903.

(a) by the addition at the end of sub-section (1) of the words “except as regards pounds;”

✓ (b) by the addition to sub-sections (31) and (32) thereof of the words “and for the charging of fees for the examination of any such plans;”

✓ (c) by the addition to sub-section (34) thereof of the words “and for the charging of fees in respect of the holding of such sales;”

(d) by the omission of sub-section (48) therefrom;

(e) by the addition of the following new sub-section (50):—

“prohibiting the use of the sidewalks of any public street by natives not holding letters of exemption issued under the Coloured Persons Relief Proclamation 1901 and by coloured persons who are not respectably dressed and well-conducted;”

(f) by the addition of the following new sub-section (51):—

“for regulating and controlling the use

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No. 41
of
1904.**

Repeal of
section *forty-five*
of
Ordinance
No. 58 of
1903 and
substitution
of new
section.

and erection of any temporary or movable structures whether standing on wheels or otherwise.”

27. Section *forty-five* of the principal Ordinance shall be and is hereby repealed and there shall be substituted therefor the following provisions :—

“(1) After any bye-law has been made or amended by the Council under the provisions of this Ordinance such bye-law or any amendment thereof shall be submitted for the approval of the Lieutenant-Governor who shall be satisfied before approving such bye-law or amendment thereof that the provisions of section *forty-three* have been complied with.”

“(2) If such bye-law or amendment thereof is approved by the Lieutenant-Governor such bye-law or amendment so approved shall be transmitted by the Colonial Secretary to the Town Clerk and a copy of the bye-law or amendment thereof so approved shall be published by a notice in some newspaper circulating in the Municipality or by a notice affixed to the principal door of the offices of the Council and such notice shall be signed by the Mayor or Chairman or two Councillors and by the Town Clerk.”

“(3) Upon the expiration of a period of seven days from the date on which the said notice shall have been published in manner aforesaid such bye-law or amendment thereof shall have the force of law within the Municipality.”

“(4) A copy of any bye-laws made under this Ordinance signed and certified by the Town Clerk to be a true copy and to have been duly approved by the Lieutenant-Governor and published as aforesaid shall be evidence in all legal proceedings until the contrary is proved that such bye-law has the force of law within such Municipality.”

“(5) The original bye-law approved by the Lieutenant-Governor as aforesaid shall

be open to inspection at the offices of the Council at all reasonable hours by any person; and it shall be the duty of the Town Clerk to furnish any person on application therefor a copy of every such bye-law on payment of such sum as may be determined by the Council not exceeding threepence for every hundred words contained in such bye-law or twenty shillings in all."

- (6) Every bye-law in force in any Municipality may be repealed by the Lieutenant-Governor and such repeal shall be notified in such Municipality by the Colonial Secretary by the affixing of a notice to the principal door of the Magistrate's Court House and by publishing in a newspaper circulating in the district a notification of such repeal."

28. Section *fifty-eight* of the principal Ordinance shall be and is hereby amended by the addition after the words "any Municipality" in the said section of the words "whether such Municipality shall have been brought under the operation of this Ordinance or not."

Amendment
of section
fifty-eight of
Ordinance
No. 58 of
1903.

29. Section *fifty-nine* of the principal Ordinance shall be and is hereby amended by the omission from such section of all words after the words "Municipal boundaries" occurring in sub-section (7) thereof to the end of the said section and by the addition of the following paragraph to the said section :

Amendment
of section
fifty-nine
of
Ordinance
No. 58 of
1903.

"all charges due for sanitary or other services shall be recoverable from the owner of the premises in respect of which the services were rendered; provided that the owner shall in the absence of any agreement to the contrary be entitled to recover from the occupier of the said premises for the time being any such charges paid by him in respect of the occupation of the said occupier;"

"all taxes payable under this section to the Council in respect of erven within the Municipal boundaries shall be recoverable as if the same were rates imposed under the Local Authorities Rating Ordinance 1903 and the pro-

**ORD.
No. 41
of
1904.**

**ORD.
No. 41
of
1904.**

visions of that Ordinance shall *mutatis mutandis* apply for the purposes of such recovery ; ”

“ no transfer or cession of any premises shall be passed before any registration officer until a receipt or certificate signed by the Town Clerk or other person authorized by the Council shall be produced to such registration officer showing that all taxes in respect of erven and all moneys due in respect of sanitary services rendered by the Council have been paid to it ; ”

“ the books and registers kept by the Council or any extracts therefrom certified by the Town Clerk shall in any proceedings for the recovery of such taxes and charges for services aforesaid be *prima facie* evidence of the amounts due to the Council in respect thereof.”

Repeal of section *seventy-two* sub-section (1) of Ordinance No. 58 of 1903 and substitution of new provision.

30. Sub-section (1) of section *seventy-two* of the principal Ordinance shall be and is hereby repealed and there shall be substituted therefore the following provisions :—

“ (1) The provisions of Law No. 2 of 1882 Law No. 8 of 1899 Law No. 8 of 1888 Law No. 3 of 1891 and Law No. 13 of 1894 shall not apply to any pound or market established by the Council or to any dogs within the Municipality or to pawnbrokers carrying on business within the Municipality where and as soon as regulations have been made by the Council thereof respectively relating to pounds markets dogs or pawnbrokers.”

“ (2) The terms “ Council ” and “ Municipality ” in this section shall include also a Council of a Municipality or a Municipality not subject to or brought under the operation of this Ordinance.”

Holders of licenses as travelling traders under Law No. 17 of 1899 not entitled to trade thereunder within the Municipality.

31. Notwithstanding anything in Law No. 17 of 1899 or in sub-section (3) of section *seventy-two* of the principal Ordinance contained no license to carry on the business of a travelling trader issued after the taking effect of this Ordinance shall entitle the holder thereof to sell offer or expose for sale within any Municipality any goods wares or mer-

chandise and Law No. 17 of 1899 shall be deemed to be amended accordingly.

32. Sub-section (3) of section *seventy-two* of the principal Ordinance shall be and is hereby amended by the addition of the words "proprietors of wayside hotels" immediately after the words "boarding houses" in the said sub-section.

Amendment of sub-section (3) of section *seventy-two* of Ordinance No. 58 of 1903.

**ORD.
No. 41
of
1904.**

33. The Council may cause any streets roads or public place in the Municipality to be named or any houses or other buildings in any such street road or public place to be numbered by putting up or painting in a conspicuous position such names or numbers as the case may be and may from time to time change or alter any name of a street road or public place or number of a house or building whether or not such name or number was put up or painted by the Council under the powers of this section. Any person who shall destroy pull down or deface any such name or number or put up or paint or cause to be put up or painted any name or number different from that put up by the Council shall be liable on conviction to a penalty not exceeding ten pounds.

Power to name streets and number houses.

~~**34.** All property movable or immovable belonging to or vested in any Committee of Health established under Law No. 12 of 1895 shall be vested in the Council of a Municipality constituted under any law in the area of jurisdiction for which such Committee of Health was appointed.~~

Vesting of property of Health Committees established under Law No. 12 of 1895 in Municipalities.

35. This Ordinance may be cited for all purposes as the Municipal Corporations Amendment Ordinance 1904 and shall be read as one with the principal Ordinance.

Title.

SCHEDULE.

NAMES OF URBAN DISTRICT BOARDS CONSTITUTED MUNICIPALITIES UNDER SECTION THREE.

Amersfoort	Piet Retief
Amsterdam	Potgieters Rust
Bethal	Rooдеpoort-Maraaisburg
Belfast	Rustenburg
Carolina	Schweizer Reneke
Christiana	Springs
Ermelo	Ventersdorp
Komati Poort	Vereeniging
Lichtenburg	Volksrust
Lydenburg	Wakkerstroom
Machadodorp	Wolmaransstad
Nvlstroom	Zeerust

ORD. No. 42 of 1904.]
No. 42
of
1904.

[Assented to 17 Aug., 1904.]

ORDINANCE

To Declare the Law Relating to the Currency of this Colony.

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

Interpreta-
tion of terms.

1. In this Ordinance unless inconsistent with the context ;

“current weight” shall mean the weights specified in the Schedule to this Ordinance or such other weights as may from time to time be declared by Proclamation under section *five* of this Ordinance to be current weights.

Coins of His Majesty's Mint and of the late South African Republic to be legal tender.

2. A tender of payment of money if made in coins which have been issued :

(a) by His Majesty's Mint or any branch thereof in accordance with the provisions of the Coinage Act 1870 of the United Kingdom ;

(b) by the Mint established at Pretoria by the Government of the late South African Republic in accordance with the provisions of Law No. 14 of 1891 now repealed ;

and which have not been called in by any Proclamation under section *five* of this Ordinance and in the case of gold coins specified in subsection (a) of this section have not become diminished in weight by wear or otherwise so as to have less weight than the current weight or in the case of gold coins specified in subsection (b) of this section so as to have less weight than that prescribed in article *eight* of Law No. 14 of 1891 now repealed shall be legal tender ;

(i) in the case of gold coins for a payment of any amount ;

(ii) in the case of silver coins for a payment of an amount not exceeding forty shillings ;

(iii) in the case of bronze coins for a payment of an amount not exceeding one shilling.

**ORD.
No. 42
of
1904.**

3. Any person who knowingly utters or uses any coin or piece of metal which has not been issued as provided by section *two* of this Ordinance with intent that such coin or piece of metal shall be accepted as a coin issued as aforesaid shall be liable upon conviction to a fine not exceeding fifty pounds and in default of payment thereof to imprisonment with or without hard labour for a period not exceeding six months or to such period of imprisonment without the option of a fine.

Prohibition of use of coins not legal tender.

4. Every contract sale payment bill note instrument and security for money and every transaction dealing matter and thing whatever relating to money and involving the payment of or the liability to pay any money which is made executed or entered into done or had shall be made executed entered into done and had according to coins which are legal tender under this Ordinance and not otherwise unless the same be made executed entered into done or had according to the currency of some other part of His Majesty's Dominions or of some foreign State.

Contracts to be made according to coins of legal tender.

5. It shall be lawful for the Lieutenant-Governor from time to time by Proclamation in the *Gazette* ;

Power to Lieutenant-Governor by Proclamation to call in coins and declare least current weights.

- (a) to declare the weight (not being other than the weight specified in the Coinage Act 1870 of the United Kingdom or in any Act of the United Kingdom amending the same) below which a coin diminished in weight whether by wear or otherwise shall not be legal tender ;
- (b) to call in for exchange coins of any date or denomination which are being used as coins or tokens for money or legal tender and prescribe the times places and manner at or in which coins so called in shall be delivered up for exchange ;
- (c) to revoke or alter any Proclamation previously issued.

6. Nothing in this Ordinance contained shall render illegal any payment or tender of payment by means of notes issued by the Bank of England or by any joint stock bank carrying on the business of banking in this Colony if the

Saving as to payment by bank notes if agreed upon.

RAILWAY CONSTRUCTION PROHIBITION LAW AMENDMENT.

**ORD.
No. 42
of
1904.**

Title and date
of taking
effect.

person to whom tender of payment or payment is made shall agree to accept any such notes as and for tender of payment or payment.

7. This Ordinance may be cited as the Coinage Ordinance 1904 and shall not take effect unless and until the Governor shall proclaim in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall come into operation upon such date as the Governor shall notify by Proclamation.

SCHEDULE.

DENOMINATION OF COIN.	LEAST CURRENT WEIGHT.
Gold.	Grains.
Five Pound Piece.	612·500.
Two Pound Piece.	245·000.
One Pound Piece.	122·500.
Half Pound Piece.	61·125.

**ORD.
No. 43
of
1904.**

No. 43 of 1904.]

[Assented to 17 Aug., 1904.]

ORDINANCE

To repeal certain Volksraad Resolutions of the late South African Republic.

WHEREAS it is desirable to amend First Volksraad Resolution Article 58 dated 10th May 1890 and First Volksraad Resolution Article 150 dated 20th May 1890.

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

Repeal of
First
Volksraad
Resolution
Article 58
dated 10th
May 1890.

1. First Volksraad Resolution Article 58 dated 10th May 1890 shall be and is hereby repealed.

Amendment
of First
Volksraad
Resolution
Article 150
dated 20th
May 1890.

2. The provisions of First Volksraad Resolution Article 150 dated 20th May 1890 shall not apply to any railway constructed with the consent of the Inter-Colonial Council under Section XV. of the Inter-Colonial Council South Africa Order in Council 1903.

Title.

3. This Ordinance may be cited as the Railway Construction Prohibition Law Amendment Ordinance 1904.

No. 44 OF 1904.]

[Assented to 17 Aug., 1904.

ORD.
No. 44
of
1904.**ORDINANCE****To provide for the Proclamation and Establishment and Definition of Public Roads within the Districts of Local Authorities.**

WHEREAS all original titles to farms in this Colony as granted by the Government of the late South African Republic are made subject to the condition that all roads leading over such farms made by lawful authority shall remain free and unobstructed;

And whereas it is desirable to define and amend the powers of the Government with reference to the establishment proclamation and definition of public roads over land within the jurisdiction of local authorities in accordance with the aforesaid conditions;

And whereas it is desirable where any public road passes over ground held under a mining title that provision should be made for the closing and diversion of such road for purposes connected with the working of precious and base metals;

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

GENERAL.

1. In this Ordinance unless inconsistent with the context:—

Interpreta-
tion of terms.

“local authority” shall mean the Council of any Municipality;

“public road” shall mean any road vested in any local authority;

“land” shall mean and include land or other fixed property of any tenure and land held under claim license mynpacht or other mining title.

2. Where any notice order or other document is required by this Ordinance to be served on or given to any person it shall either be served personally on such person or left at or sent by post to his last usual place of abode or business; and in case any such person shall be absent from this Colony any such notice order or document shall be served on any agent of such person.

Notices.

3. Any person failing to give or to comply with any such notice or order shall be deemed to have committed a breach of this Ordinance.

Failure to
give or com-
ply with
notice.

**ORD.
No. 44
of
1904.**

Petition to
the Lieuten-
ant-
Governor for
the establish-
ment of
public roads.

Notification
of such
petition to
the public
and persons
concerned.

PART I.

**THE PROCLAMATION AND DEFINITION OF
PUBLIC ROADS.**

4. It shall be lawful for the Lieutenant-Governor upon the petition of any local authority to establish public roads within the area of such authority by a proclamation published in three successive issues of the *Gazette*; provided always that no such public road shall be proclaimed over erven or over building lots or stands in townships shown on plans filed with the Registrar of Mining Rights or over mining stands held under licenses duly registered. Such petition shall contain an accurate description of the course situation and width of the proposed road and shall indicate the general nature of the ground over which it is to run and whether the same consists of arable or grazing land or is cultivated or planted with trees or otherwise improved and what are the interests of the owners lessees or occupiers of such land and shall be accompanied by a diagram or sketch plan showing the course of such road. A copy of the said petition and of the diagram accompanying the same shall be deposited at the offices of the petitioning local authority and shall be open to the inspection of all persons.

5. After the said petition and diagram have been sent to the Lieutenant-Governor and deposited at the offices of the petitioning local authority such authority shall forthwith proceed to notify all persons interested that a petition for the proclamation of a public road has been sent to the Lieutenant-Governor. Such notification shall be:

- (a) by the publication in eight successive issues of the *Gazette* and once a week for eight successive weeks in some newspaper circulating within the area of the local authority of an advertisement which shall set forth the general course and situation of the proposed road and shall refer to the petition and diagram deposited at the offices of the local authority as aforesaid and shall call

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of
1904.**

upon all persons interested to lodge objections to the proclamation of the proposed road in writing in duplicate with the Colonial Secretary and the local authority within one month of the latest publication of the said advertisement; and

- (b) by serving on every owner and lessee of any land through which the proposed road is to run a notice defining the course and situation of such road in so far as the same affects any such owner or lessee.

For the purposes of this sub-section the term "owner" shall with respect to land under mining title mean the holder of such title and with respect to land held under a stand license mean the holder of such license.

6. If no objections are filed in accordance with sub-section (a) of the last preceding section the Lieutenant-Governor may and if any such objections are so filed the Lieutenant-Governor shall upon due proof of the proper advertisements having been published and notices served appoint some person or persons to make an enquiry on the spot into the propriety of the proposed road and the objections thereto and to report to the Lieutenant-Governor on the matters in respect of which such enquiry was directed and on receiving such report the Lieutenant-Governor may proclaim such road with or without such alterations or modifications as he may think fit subject to the payment of such compensation as is provided for in this Ordinance.

Enquiry by the Lieutenant-Governor.

7. All public roads established under the provisions of this part of this Ordinance shall on proclamation thereof vest in the local authority in whose district the same are situated in the same manner and subject to the like provisions and conditions as are provided in section *thirty-four* of the Municipal Corporations Ordinance 1903.

Roads so established vest in the local authority.

8. If at any time it shall appear to the local authority advisable that any public road or portion thereof within its area should be defined such local authority shall deposit a diagram showing the course and

Definition by diagram of public road.

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of
1904.**

situation of such public road or portion thereof and the properties over which it is to pass and accurately defining the width and alignment thereof and shall also deposit a copy of such diagram in the Surveyor-General's office and shall at the same time publish in four successive issues of the *Gazette* and in four issues in four successive weeks of a newspaper circulating within the area of such local authority a description of such public road or portion of a public road together with a reference to the diagram thereof and such road shall thereupon become and remain established according to the course and situation thereof as shown in the said description and diagram subject to the provisions of Part III. of this Ordinance and to the payment of such compensation as is provided for by this Ordinance.

Fencing.

9. No person shall erect or maintain a fence across any portion of a public road without the consent of the local authority anything in Law No. 9 of 1893 or any other law to the contrary notwithstanding.

PART II.

COMPENSATION TO PERSONS DAMAGED BY THE PROCLAMATION AND DEFINITION OF PUBLIC ROADS.

Compensation.

10. The following provisions shall apply with respect to the right to or payment of compensation arising out of the proclamation of any new public road or the definition of any existing public road under the provisions of this Ordinance:—

- (a) compensation shall be payable on the amount of damage or diminution in value caused to any house homestead cultivated ground orchard plantation or other improvement on any land through or over which any such road passes directly and immediately sustained in consequence of the proclamation or definition of such road;
- (b) whenever the land taken for any road exceeds one-twentieth of the whole extent of land held under one title compensation shall be payable for the value of the land so taken as well as

for any depreciation in value caused thereby to the remaining portion of the land held as aforesaid ;

- (c) such compensation shall be payable by the local authority concerned and the amount thereof if not agreed on between the parties interested shall be determined by arbitration in manner hereinafter provided.

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of
1904.**

11. The Supreme Court shall upon application by the local authority appoint three arbitrators in the manner hereinafter provided to whom shall be referred all questions of disputed compensation under this Ordinance in respect of any new or existing public road and the decision of the majority of whom shall be final. At least thirty days before making such application as aforesaid the local authority shall give notice of its intention to do so in the *Gazette* and in one or more daily newspapers circulating within the area of the local authority and shall publish in such notice a list of one or more persons whose names shall be submitted to the Supreme Court for appointment as arbitrators and any other party interested in the arbitration may appear on such application and propose any other person or persons to the Supreme Court as arbitrators and the Supreme Court shall appoint one arbitrator from the list submitted by the local authority and one from among the persons proposed by the other parties interested and the persons so appointed shall select a third arbitrator; provided that if upon such application the local authority or the other parties interested do not propose any fit person or arbitrators or if the arbitrators appointed do not within fourteen days of such appointment select a third arbitrator the Supreme Court shall make the necessary appointments so that the number of arbitrators shall be three and no more; and provided further that in any case in which the compensation claimed shall be under one hundred pounds or in which the local authority and the claimant shall so agree the amount of compensation shall be determined by a single arbitrator to be appointed by the Supreme Court upon

Arbitration

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of
1904.**

Death or incapacity of any arbitrator.

application by the local authority after fourteen days notice in writing to the claimant.

12. If any arbitrator appointed for the purpose of this Ordinance dies or becomes incapable to act or fails to act for fourteen days after his appointment it shall be lawful for the Supreme Court on the application of the party by whom he was proposed after similar notice to that required in the last preceding section to appoint some other person as arbitrator in place of the person so dying or becoming incapable or failing to act as aforesaid.

Hearing by arbitrators.

13. The arbitrator or arbitrators appointed as aforesaid shall immediately upon his or their appointment as the case may be sit for the hearing and determination of all matters referred to him or them respectively and shall continue so to sit with such adjournments as he or they may from time to time deem fit until all matters referred shall have been heard and determined and it shall be in the discretion of such arbitrator or arbitrators as the case may be to arrange the order in which such matters referred to him or them respectively shall be so heard and determined.

Award by arbitrators.

14. An award or decision shall be given by the arbitrator or arbitrators as the case may be in each matter referred and such award shall in each case be given within twenty-one days after the first hearing of evidence in regard thereto or within such extended time (if any) as shall be appointed for that purpose by such arbitrator or arbitrators as the case may be.

Evidence.

15. The said arbitrator or arbitrators may call for the production of any document in the possession or power of either party except any valuation of property or rights expropriated which either party may have made for his own purpose which he or they may think necessary for determining the matter referred and the arbitrator or arbitrators as the case may be may examine the parties or witnesses on oath or affirmation and may administer the oaths necessary for that purpose.

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of
1904.**

16. The provisions of the Commissions' Powers Ordinance 1902 shall *mutatis mutandis* apply to all proceedings before any arbitrator or arbitrators appointed under this Ordinance as if he or they were a Commission appointed by the Lieutenant-Governor for the purpose of enquiring into the matters referred to him or them under this Ordinance; the summonses for the attendance of witnesses or the production of documents may be signed by any arbitrator.

Provisions of Commissions' Powers Ordinance 1902 to apply to proceedings.

17. The arbitrator or arbitrators as the case may be shall give to each party concerned at least five days' notice of the time when and the place where it is intended to hold any sitting for hearing any evidence or arguments in connection with any particular matter referred.

Notice of sittings.

18. Upon all proceedings before any arbitrator or arbitrators each party may appear in person or by counsel solicitor or admitted law agent and may produce such witnesses and documentary evidence as the arbitrator or arbitrators shall allow.

Appearance of parties.

19. The arbitrator or arbitrators as the case may be shall deliver his or their award in writing to the local authority and such local authority shall retain the same and shall within two days furnish a copy thereof to the other party concerned if he can be found and shall at all times on demand produce the said award and allow the same to be inspected or examined by such party or any person appointed by him for that purpose.

Inspection of awards.

20. The award of the arbitrator or arbitrators may be made a rule of the Supreme Court or of the Witwatersrand High Court on the application of either party.

Award may be made a rule of the Supreme Court.

21. All the costs of the arbitration and incident thereto shall be borne by the local authority unless the arbitrator or arbitrators shall award the same or a less sum than shall have been offered by the local authority in which case each party shall bear its own costs and the costs of the arbitrators shall be borne by the local authority. Any costs recoverable by one party from the other shall be taxed by the Taxing Officer of the

Costs.

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Supreme Court or Witwatersrand High Court on the scale of charges allowed in those Courts.

PART III.

THE DIVERSION AND CLOSING OF PUBLIC ROADS FOR MINING PURPOSES.

DEFINITIONS.

Interpreta-
tion of terms.

22. For the purpose of this part of this Ordinance unless inconsistent with the context:—

- (a) "mining ground" shall mean ground held under any mining title;
- (b) as used in connection with any mining ground the word "owner" shall include any person registered as the holder of the title to such mining ground or carrying on operations therein under an agreement with such holder; and for the purpose of service of notices or of prosecutions for contraventions of the provisions of this Ordinance or recovering any damages or other sum under this Ordinance if such holder or person as aforesaid be a firm or partnership all or any one or more of the members of such firm or partnership shall be deemed to be the owner; and in case such holder or person as aforesaid be any public company or any body of persons not being a firm or partnership the secretary or manager of such company or body or should there be no secretary or manager resident within this Colony then any member of the board of directors or managing board or committee of such company or body or the mine manager in the employ of such company or body shall be deemed to be the owner.

Application
to District
Registrar of
Mining
Rights for a
provisional
order to
divert a
public road
running over
mining
ground.

- 23.** (1.) It shall be lawful for the owner of any mining ground to give written notice to any owner of any other mining ground to appear before the District Registrar of Mining Rights upon a day to be fixed by him at least thirty days after the date of the service of such notice as aforesaid and to show cause why such first mentioned owner should not cause any public road to be

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- diverted in such a way that the diversion will pass over the mining ground of such second mentioned owner.
- (2.) It shall be lawful for the Commissioner of Mines on the report of the District Registrar of Mining Rights to grant a provisional order authorizing the said first mentioned owner to cause such diversion as aforesaid to be made subject to the consent of the local authority concerned being obtained as provided in this Ordinance.
 - (3.) No such provisional order as aforesaid shall be granted unless the Commissioner of Mines is satisfied that the working of the mining ground on which such diversion is to be made will not be materially impeded interfered with or obstructed thereby.
 - (4.) The Commissioner of Mines in granting any such provisional order may limit the same by such terms conditions and restrictions as shall appear to him to be required for the protection of the owner of the mining ground on which the diversion is to be made in the proper working thereof.
 - (5.) Nothing in this section contained shall be deemed in any way to prejudice the right of the owner on whose mining ground any such diversion as aforesaid is made to recover from the owner making such diversion damages for any injury which he may prove has been sustained by him by and in consequence of such diversion.

24. No person shall carry on any mining operations which in the opinion of the Government Mining Engineer are likely to cause damage to a public road or to be dangerous to persons using it; provided always that the owner of any mining ground may:—

Mining operations dangerous to public roads.

- (a.) carry any wires electric or otherwise across such road subject to such regulations as may be made by the Government Mining Engineer;

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- (b) lay any railway or tramway lines across such road; provided that the surface of the road between the rails and for two yards on either side thereof shall be maintained hard smooth and level with the top of such rails; and provided further that such owner as aforesaid shall observe such precautions as may be prescribed by regulations made by the local authority for the safety of the public;
- (c) construct any bridge across such road provided that a minimum headway of at least eighteen feet and two clear spans of not less than twenty-two feet six inches each shall be provided for; or to construct any culvert or subway under such road;
- (d) carry on under such road all mining operations which are not in the opinion of the Government Mining Engineer likely to cause damage to such road.

Application for permission to close any public road.

25. Any person who intends to commence any operations in mining ground which may cause danger or damage to any public road shall forward to the Town Clerk of the Local Authority within which such road is situate a written application for the permanent or temporary diversion of such road and shall with such application deposit fifty pounds with the Town Clerk.

Contents of application.

26. With every such application shall be lodged:—

- (a) a description of the proposed operations with an approximate estimate of the period during which any such operations endangering the road will be continued;
- (b) in the case of a proposed diversion the name of the owner or occupier of the land through which such diverted road will pass from the point where it leaves its former course until it rejoins a public road;
- (c) in every case where the proposed diversion will pass over the land of any other person than the applicant the written consent of such person; provided always that in cases where

such land is mining ground a certified copy of a provisional order of the Commissioner of Mines under section *twenty-three* may be substituted for such written consent;

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of
1904.**

- (d) an undertaking by the applicant to pay any sums that may become due under section *forty* hereof guaranteed by two sureties owning rateable property of the value of one thousand pounds each within the area of the local authority;
- (e) a true description of the existing road and of the proposed diversion with a sketch plan thereof;

provided always that the written consent of any person under paragraph (c) shall be without prejudice to any right to compensation that such person may have under this Ordinance and further that no guarantee under paragraph (d) shall be required if security sufficient in the opinion of the local authority to cover any sums that may become due under section *forty* hereof be deposited with the local authority at the time when the application is made. Any part of such security and of the fifty pounds deposited by the applicant as aforesaid that may remain over after complete satisfaction of any claims under section *forty* shall be returned to the applicant.

27. On receiving such application the local authority shall cause the course of the proposed diversion to be inspected and if the local authority shall be of opinion that such diversion will not adequately meet the needs of the public the local authority may by written notice refuse to grant the application.

Inspection of proposed diversion or new or alternative road by local authority.

28. If the local authority is satisfied that the proposed diversion will adequately meet the needs of the public the Town Clerk shall publish a notice in the *Gazette* and in one or more newspapers circulating within such Municipality or Urban District and shall cause a copy of such notice in legible characters to be placed in a conspicuous position at each place where the public road is proposed to be diverted.

Notice in *Gazette*.

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1904.**

Contents of
notice.

29. The notice mentioned in the last preceding section shall contain:—

- (a) the particulars and information mentioned in paragraphs (b) and (e) of section *twenty-six* hereof and an intimation that a plan showing the existing road and the proposed diversion may be inspected upon applying at the offices of the local authority;
- (b) a list showing the names of the owners and occupiers whose written consent to such diversion has been received by the Town Clerk or in respect of whom the provisional order mentioned in section *twenty-three* has been obtained;
- (c) an invitation to all objectors to the proposed diversion or closing to appear before the local authority or a committee thereof duly appointed for the purpose at an hour and date to be named in such notice being not less than fourteen days after the publication thereof;
- (d) an invitation to any person owning or occupying land through which the existing road passes or the diverted road will pass who will suffer damage in respect of such land in consequence of such closing or diversion or any other person aggrieved thereby to send in a claim for compensation within a time to be specified in such notice being not less than three months after the date of such notice.

Compensation.

30. The local authority shall make compensation for any damage occasioned to any person by the diversion or closing of a public road and the amount of such compensation shall in the absence of any agreement thereon be determined by arbitration in manner prescribed by the Expropriation of Lands and Arbitration Clauses Proclamation 1902; provided always that in assessing the amount of compensation payable to any person hereunder any benefits or advantage derived or to be derived by such person by reason of such closing or diversion shall be taken

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into account. No compensation shall be given to any person in respect of any damage unless a claim be sent in within the period of three months mentioned in the last preceding section. No compensation shall be paid by a Local Authority on account of any road closed by reason of the subsidence of such road in consequence of mining operations.

31. At the hour and date mentioned in such notice for such hearing the local authority or committee thereof shall consider such application and the objections thereto; provided always that such local authority or committee may adjourn the hearing from time to time as it thinks fit.

Hearing of application by local authority.

32. If satisfied that the needs of the public will be sufficiently provided for by the proposed diversion and that the applicant has given proper security that he can pay any sums that may become due from him under section *forty* hereof the local authority shall grant the application either simply or subject to such conditions or modifications as it may think fit to impose.

Granting of application.

33. If such application shall not be granted by the local authority within two months after the receipt thereof by the local authority or if it shall be granted subject to such conditions or modifications as the applicant is not willing to accept the applicant may on depositing with the local authority the sum of one hundred pounds as security for costs within fourteen days of the decision by the local authority but not afterwards claim by notice in writing served on the Town Clerk to have such application referred to arbitration and thereupon it shall be so referred and determined in manner provided by the Expropriation of Lands and Arbitration Clauses Proclamation 1902 and the local authority shall refuse or grant such application in accordance with the finding of the arbitrators.

Appeal by applicant.

34. In every case where an application to close any public road or make any diversion therefrom is granted by the local authority either simply or subject to modifications the work of making such diversion or of closing such road shall be effected by the applicant in the manner prescribed by the

Carrying out of the work of closing any public road.

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Permission
to commence
mining
operations.

local authority within a reasonable time or if the applicant and the local authority shall so agree the local authority may itself carry out such work at the applicant's expense.

35. As soon as the said diversion has been completed and opened to the public to the satisfaction of the local authority or immediately after the granting of the application hereinbefore mentioned if such local authority shall consider that any existing road will sufficiently meet the needs of the public in place of the road to be closed the local authority shall close such road and give the applicant a written permission to proceed with the mining operations referred to in his application. Any person commencing such operations before receiving such written permission shall be liable to a penalty not exceeding fifty pounds for every day or portion of a day during which such mining operations are carried on.

Notification
by mine
owners when
dangerous
operations
are no longer
necessary.

36. In case of a temporary diversion as soon as the operations which necessitated the closing of any public road have been completed and there is no longer any reason for keeping the said road closed the owner of the mining ground who caused such diversion shall at once give a written intimation thereof to the local authority. Any person delaying the sending of such intimation shall be liable to a penalty not exceeding one pound for every day or portion of a day during which such delay continues.

Notice
requiring
mine owner
to restore
closed road.

37. Upon receiving such intimation the local authority may give notice to the owner of the mining ground who caused such public road to be diverted requiring him at his own expense to take such steps as may be necessary to make such road secure and to restore it to its former course and condition; provided always that the local authority may at its discretion itself restore the road and recover the expense of doing so from such owner.

Compliance
with notice
to restore
road.

38. Upon receiving such notice the aforesaid owner shall immediately take such steps as may be necessary to comply with such notice to the satisfaction of the Government Mining Engineer and local authority and

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upon the completion of such work shall inform the local authority thereof; provided always that such owner shall in no case be required to put the closed road in a better condition than it was before the diversion.

39. As soon as the closed road has been restored to the satisfaction of the Government Mining Engineer and local authority and re-opened to traffic the diverted road made to take the place of such restored road may be closed.

Closing of diverted or new road.

40. In every case the following expenses shall be borne by the person applying under section *twenty-five* of this Ordinance for the diversion of a public road:—

Expenses to be borne by the applicant.

- (a) the cost of all work in connection with the diversion of any public road or restoring any closed road under this Ordinance;
- (b) any compensation that may be payable by the local authority under section *thirty* hereof;
- (c) the cost and expenses of publishing any notices under section *twenty-seven*.
- (d) all the costs incurred by the local authority in respect of any proceedings under sections *thirty* and *thirty-two* of this Ordinance;
- (e) the costs incurred by the local authority in any arbitration proceedings under section *thirty* of this Ordinance and in addition any costs incurred by the claimant which the local authority may be legally obliged to pay.

41. At the hearing before the local authority and before the officer appointed as aforesaid it shall be lawful for the local authority and any person who has lodged any objection to the application and the applicant to appear either in person or by counsel solicitor or admitted law-agent.

Appearance at the hearing of application or appeal.

42. Any person committing a breach of any of the provisions contained in this Part of the Ordinance shall be liable except where otherwise provided to a penalty not exceeding fifty pounds and in default of payment thereof to imprisonment for a period not exceeding three months.

Penalty.

LOCAL AUTHORITIES ROADS.
LOCAL AUTHORITIES RATING AMENDMENT.

**ORD.
No. 44
of
1904.**

PART IV.

SPECIAL PROVISIONS RELATING TO THE MAIN
REEF ROAD.

- 43.** For the purpose of this Part of this Ordinance "the road" shall mean the road about twenty-eight miles in length running from Roodepoort to Boksburg and known as the Main Reef Road or the Witwatersrand Road.
- 44.** Such portion of the road as may pass through the area of any local authority shall vest in such authority in the same manner and subject to the like provisions and conditions as are prescribed in section *thirty-four* of the Municipal Corporations Ordinance 1903.
- 45.** No local authority shall permit more than a double line of rails to be laid along the road and trams running upon any part thereof shall be propelled by electric power only; provided always that nothing in this Ordinance contained shall affect any right of any person to construct tramways on the said road acquired before the taking effect of this Ordinance.
- 46.** The road shall for every purpose except the above mentioned be deemed to be a public road within the meaning of this Ordinance.
- 47.** This Ordinance may be cited for all purposes as the Local Authorities Roads Ordinance 1904.

Interpreta-
tion of terms.

General
control of
the road.

Only a double
line of tram-
rails to be
laid on
the road.

Public road.

Title.

**ORD.
No. 45
of
1904.**

No. 45 of 1904.]

[Assented to 17 Aug., 1904.]

ORDINANCE

**To amend the Local Authorities Rating Ordinance
1903 in certain respects.**

WHEREAS it is expedient to amend the Local Authorities Rating Ordinance 1903:

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

1. It shall be the duty of every valuer in carrying out the duties imposed upon him by section *seven* of the Local Authorities Rating Ordinance 1903 to deduct in respect of any rateable property any value accruing to such property by reason of the presence of precious stones or precious metals.

Exemption of mineral value from rating.

^{metals or minerals thereon or}
2. Section *six* of the said Ordinance shall be and is hereby amended by the addition of the following sub-section :—

Amendment of section *six* of Local Authorities Rating Ordinance, 1903.

“(6) Any deductions to be made from the rateable value under this Ordinance or any other law.”

3. Section *seven* of the said Ordinance shall be and is hereby amended by the addition at the end of the said section of the following proviso (that is to say) :

Amendment of section *seven* of Local Authorities Rating Ordinance, 1903.

“provided that no lease of land which is not included in the definition of ‘interest in land’ under sub-section (*b*) of section *three* of this Ordinance shall in any manner be taken into account in valuing any rateable property in the land the subject of any such lease.”

4. Notwithstanding anything in the said Ordinance contained it shall be lawful for the local authority from time to time and at any time :

Power to remit rates on buildings not in existence and to cause buildings omitted to be valued and to cause to be made re-valuations corrections and apportionments.

- (a) to remit any rate imposed on any buildings in any case in which such buildings have been demolished since the date of the making of the valuation roll ;
- (b) to cause any buildings omitted from the valuation roll to be valued by a valuer appointed as provided in the said Ordinance and to cause the current rate to be collected in respect thereof ;
- (c) to cause the valuation of any rateable property which is sub-divided after the date when the valuation in respect of such property has become final to be apportioned by such valuer according to the sub-divisions thereof and to cause any rate due in respect thereof to be assessed and collected according to such sub-division ;

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of
1904.**

- (d) to cause any error appearing in the valuation roll from time to time in force to be corrected by such valuer in any case where some clerical error or some error as to the nature of the interest valued has been made in such roll and to cause any rate due in respect thereof to be collected according to the corrected roll;
- (e) where a part only of any rateable property not separately valued in any valuation roll is or may be subject to a special rate under section *sixteen* of the said Ordinance to cause such valuer to apportion the value of such property appearing in such roll as between the part thereof which is or may be subject to any special rate as aforesaid and the remaining part which is not subject to such special rate;

provided that every such valuation re-valuation correction and apportionment shall be subject to any objection made thereto at the next succeeding Valuation Court which may be appointed by the local authority under the said Ordinance; and provided further that in the case of any property which is added to the roll under the provisions in paragraph (a) hereof or the valuation of which is increased under paragraph (d) hereof if at the next succeeding Valuation Court the value of the said property be fixed at a sum less than that on which the last succeeding rate has been levied the owner shall be entitled to a refund of any rate paid by him in excess of that which would have been paid if the rate had been levied on the value as fixed by the said valuation court.

Title.

5. This Ordinance shall be cited as the Local Authorities Rating Amendment Ordinance 1904.

No. 46 OF 1904.]

[Assented to 17 Aug., 1904.]

**ORD.
No. 46
of
1904.****ORDINANCE****For the Protection of Fish in the Transvaal.**

WHEREAS it is expedient to make provision for regulating the killing of fish in the rivers streams dams pools or other waters of the Transvaal;

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

1. Law No. 5 of 1880 shall be and is hereby repealed. Repeal of Law.
2. No person shall fish for capture or destroy in any manner whatsoever any fish between the first day of May and the thirtieth day of September both inclusive. Close season.
3. No person shall at any time by means of dynamite or other explosive or by means of any chemical poisonous or other injurious substance wilfully kill or destroy any fish in any river stream dam pool or other waters in the Colony. Prohibition of use of explosives and chemicals.
4. No person shall take any fish by means of any drag cast stake or other net between the first day of May and the thirtieth day of September both inclusive in or from any river or stream in this Colony and no person shall in such manner take any fish during any other period unless he shall have first obtained a license as hereinafter provided. No such license shall be issued for any net the mesh of which is less than three inches measured from knot to knot. Regulations relative to netting.
5. Every such license shall be obtained from the Resident Magistrate or Assistant Resident Magistrate or Resident Justice of the Peace within whose jurisdiction any river or stream flows. Every application for a license shall state the size of the net and of its mesh and the manner and locality in which it is proposed to be used. For every such license there shall be charged the sum of three pounds and such license shall expire on the last day of the season for which the same is granted. Licenses how obtained.

**ORD.
No. 46
of
1904.**

Temporary prohibition against capturing or destroying trout in rivers or streams of this Colony.

Fly fishing only allowed for trout.

Prohibition of all fishing in certain rivers in certain events.

Penalty clause.

Lieutenant-Governor may alter close season for any fish.

Title.

6. No person shall fish for capture or destroy any trout before the first day of September 1906 in any of the rivers or streams in this Colony.

7. No person shall fish for capture or destroy any trout except by means of rod and line or shall use with intent to such capture or destruction any bait or lure other than artificial fly.

8. Whenever a supply of trout or other fish has been or shall be introduced into any river or stream in the Colony it shall be lawful for the Lieutenant-Governor by Proclamation from time to time to prohibit the fishing for capture or destruction of any such fish in such river or stream or in any part thereof for such period as shall be specified in the said Proclamation.

9. Any person who shall contravene sections *two six* or *seven* of this Ordinance shall be liable on conviction to a fine not exceeding twenty pounds and in default of payment of the same to imprisonment with or without hard labour for a period not exceeding three months.

Any person who shall contravene sections *three* or *four* of this Ordinance shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment of the same to imprisonment with or without hard labour for a period not exceeding six months or to both such fine and imprisonment and in addition upon any conviction for a contravention of section *four* the Court before which such conviction shall take place shall order any net therein referred to to be forfeited and destroyed.

10. The Lieutenant-Governor may from time to time by Proclamation alter the period of the close season for any fish.

11. This Ordinance may be cited for all purposes as the Fish Preservation Ordinance 1904.

No. 47 of 1904.]

[Assented to 17 Aug. 1904.

**ORD.
No. 47
of
1904.****ORDINANCE****To amend the Criminal Procedure Code 1903.**

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

1. Section *twenty-four* of the Criminal Procedure Code 1903 shall be and is hereby amended by the addition thereto of the following sub-section:—

Amendment of Section *twenty-four* of Criminal Procedure Code 1903.

“(g) any person against whom a reasonable suspicion exists that he has been guilty of any such offence as is mentioned in sections *forty-six* *forty-eight* and *fifty-seven* of the Liquor Licensing Ordinance 1902 or in sub-section (7) of section *four* of the Liquor Licensing Further Amendment Ordinance 1903.”

2. It shall be lawful for the Lieutenant-Governor from time to time to make alter or rescind a tariff of allowances which shall be paid out of public moneys to witnesses attending before a Superior Court or a Court of Resident Magistrate in any criminal proceeding to give evidence either for the prosecution or if such payment be ordered by any such Court for the accused and from the date of the publication in the *Gazette* of such tariff Law No. 7 of 1888 as amended by First Volksraad Resolution Article 1040 of the 3rd August 1892 shall be repealed.

Power to Lieutenant-Governor to frame tariff regulating witness expenses in criminal cases.

3. This Ordinance may be cited as the Criminal Procedure Amendment Ordinance 1904 and shall be read as one with the Criminal Procedure Code 1903.

Title.

**ORD.
No. 48
of
1904.**

No. 48 of 1904.]

[Assented to 17 Aug., 1904.

ORDINANCE

To Extend the Powers of the Rand Water Board.

WHEREAS it is expedient to confer further Powers on the Rand Water Board as constituted under the Rand Water Board Incorporation Ordinance 1903 ; and

Whereas it is expedient that the Board shall be empowered to raise money by the issue of stock and otherwise for the purposes of the Board.

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

PRELIMINARY.

Title.

1. This Ordinance may be cited as The Rand Water Board Extended Powers Ordinance 1904 and shall be read as one with the Rand Water Board Incorporation Ordinance 1903.

Amended interpretation of a term in Ordinance No. 32 of 1903.

2. The definition of Local Authority contained in section *one* of the Rand Water Board Incorporation Ordinance of 1903 shall be and is hereby repealed and there shall be substituted therefor the following definition :—

“Local Authority” or “Local Authorities” mean and include the Councils of the Municipalities of Johannesburg Krugersdorp Germiston and Boksburg and the Urban District Boards of the Urban Districts of Roodepoort-Maraisburg and Springs.*

Interpretation of terms.

3. In this Ordinance unless the context otherwise requires :—

“undertaking” means and includes all rights of taking distributing and supplying water and all other rights powers authorities and privileges and all such property movable and immovable reserve funds investments and all other interests and rights in to and out of the property movable and immovable and obligations and things in action including cash balances and book debts and all books accounts and documents relating thereto ; provided that the cash

*Roodepoort—Maraisburg and Springs have been constituted Municipalities under Ord. 41 of 1904, sec. 2 and Schedule (see ante).

balances of the Johannesburg Waterworks Estate and Exploration Company Limited and the book debts of the said Company upon the appointed day shall not be included in the above definition ;

“ water-undertaking ” means and includes all the above property rights powers authorities privileges interests obligations books accounts and documents in so far as the same are connected with the business of taking distributing and supplying water ;

“ the secretary ” means the person from time to time acting in the capacity of secretary to the Board ;

“ Registrar ” means the person for the time being appointed by the Board to have the care and management of the nominal register of inscribed stock hereinafter provided and any person acting in the capacity of such Registrar ;

“ mines ” means gold mines ;

“ Rand Water Stock ” means all stock issued by the Rand Water Board under the provisions of Part IV. of this Ordinance.

4. Where any notice is required by this Ordinance to be served on or given to any person it shall either be served personally on such person or left at his last usual place of abode and in case any such person shall be absent from this Colony any such notice shall be served on any agent of such person whose name and address are registered by him at the offices of the Board and shall also be left with the occupier of any land in respect of which such notice is given or if there be no occupier shall be published in the *Gazette* and left with the Registrar of Deeds.

Service of notices.

5. This Ordinance is divided into five Parts relating to the following subject matters :—

Division of subject matters.

PART I.—CONSTITUTION OF THE BOARD.

PART II.—GENERAL POWERS.

PART III.—TRANSFER OF EXISTING UNDERTAKINGS.

PART IV.—FINANCIAL PROVISIONS AND BORROWING POWERS.

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PART V.—MISCELLANEOUS PROVISIONS.
PART VI.—SPECIAL PROVISIONS.

PART I.

CONSTITUTION OF THE BOARD.

Constitution
of Board.

6. Sections *four five six seven* and *twenty-four* of the Rand Water Board Incorporation Ordinance 1903 shall be and are hereby repealed and there shall be substituted therefor the provisions contained in this section and in the next succeeding section of this Ordinance. The Board shall consist of twenty-one members of whom one shall be a chairman appointed and removable by the Lieutenant-Governor and ten shall be appointed by the Transvaal Chamber of Mines and five shall be appointed by the Town Council of Johannesburg and one shall be appointed by each of the Local Authorities other than Johannesburg. The said Chamber of Mines Town Council of Johannesburg and other Local Authorities are hereinafter collectively referred to as "the constituent authorities" and separately as "the constituent authority."

Appointment
of new
members of
Board.

7. As soon as possible after the passing of this Ordinance each constituent authority shall proceed to appoint as new members of the Board the number of persons it is entitled to appoint under the last preceding section and thereupon the members of the Board existing at the date of this Ordinance shall retire with the exception of the Chairman. The members of the Board so appointed shall hold office until the appointment of their successors in the year 1906. Subsequent members of the Board representing each of the constituent authorities shall be appointed by that constituent authority in the month of January 1906 and in the month of January in every third succeeding year thereafter.

Any members of the Board may or may not be members of the constituent authority appointing them.

Value of
members'
votes.

8. All questions arising at a meeting of the Board shall be decided by a preponderance in the value of the votes cast by the members present at the meeting as hereinafter set forth exclusive of the Chairman of the Board. In the case of an equality in the value of votes

cast as aforesaid the Chairman of the Board shall have a casting vote. At any meeting presided over by the Deputy Chairman of the Board or by a Chairman chosen by the members present such Deputy Chairman or other Chairman as aforesaid shall have an original but not a second or casting vote. Every member of the Board shall be entitled to cast one vote but in counting such votes the chairman shall reckon :

- (a) each vote cast by a member representing a Local Authority other than Johannesburg at a value equal to the number of pounds notified under section *fifty-nine* of this Ordinance as the total valuation of the rateable property within the area of such Local Authority ;
- (b) each vote cast by a member representing the Town Council of Johannesburg at one-fifth of the number of pounds notified as aforesaid as being the total valuation of the rateable property within the municipality of Johannesburg ;
- (c) each vote cast by a member representing the Chamber of Mines at a number equal to the number obtained by dividing the total value of the votes cast by the representatives of Local Authorities present and voting by the number of the representatives of the Local Authorities present and voting ;

provided always that in the case of any Resolution taken at a meeting of the Board at which all members were not present if request is made by members the value of whose votes is equal to not less than one-fourth of the total value of the vote of the Board that such Resolution shall be re-considered at a further meeting of the Board such further meeting shall be convened within seven days at which such Resolution shall be again submitted and the decision of the Board on such Resolution at such meeting shall be final.

9. All meetings of the Board shall be open to the public and press but this section shall not apply to any Committee of the Board or to a Committee of the whole Board.

Meeting of the Board to be public.

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1904.

General
Powers of the
Board

PART II.

GENERAL POWERS.

10. The Board in addition to the powers conferred upon it by the Rand Water Board Incorporation Ordinance 1903 shall have the right to supply water within the limits of supply and for that purpose shall have the following powers :—

- (a) To construct purchase maintain alter or improve offices buildings waterworks reservoirs dams water-courses water-channels pipes conduits cisterns meters water-cocks culverts filter-beds wells shafts pumping and other machinery and appliances roads railway sidings and rolling-stock bridges embankments cuttings and other works incidental to any of the purposes of the Board.
- (b) To purchase lease or exchange voluntarily any land or rights therein or in connection therewith: ~~in respect of which the Board has acquired an option of purchase at the date of this Ordinance.~~
- (c) To ~~purchase~~ acquire by compulsory purchase any land or rights therein or in connection therewith (other than water-rights) reasonably necessary for carrying out and developing any of the undertakings transferred to the Board under Part III. of this Ordinance.
- (d) To sell lease or exchange any property of the Board.
- (e) To lay or carry through over on or across any land public or private and any public road public place or out-span either within or without the limits of supply and from time to time to repair and maintain any pipes for the supply of water with any necessary valves cocks meters or other accessories in connection with the same and to enter upon any such land road or place for such purpose as aforesaid provided that :
 - (i.) At least seven clear days' notice except in the case of urgent repairs shall be given to the authority under whose

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- management or control the said public land or road may be or to the owner or occupier of any private land or road before making any such entry as aforesaid.
- (ii.) On the completion of such works the Board shall forthwith restore the surface of such land road or other place to the same condition as near as may be as it was in before the commencement of such works and in executing the same the Board shall do as little damage as may be to such land road or other place and shall make full compensation for all damage done by it the amount thereof in case the parties differ to be settled by arbitration in manner provided by this Part of this Ordinance.
- (iii.) All proper and necessary precautions shall be taken to prevent injury to the persons or property of all persons using or being upon such land road or place.
- iv.) Any pipe carried or laid through over on or across any such land road or other place shall be at a depth measured from its upper surface of not less than fifteen inches below the surface of the ground except where any such road crosses a bridge or embankment.
- (f) To insure with any company firm or person against any losses damages risks and liabilities of any kind which may affect the Board.
- (g) To appoint and remunerate officers and servants of the Board and to dismiss the same.
- (h) To promote and oppose legislation.
- (i) To do all other works and things necessary or expedient for obtaining storing selling distributing and measuring water and for installing constructing and maintaining a complete system or systems of water-works and water supply.
- (j) To enter into contracts for the carrying out by other persons of any of the things

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Provisions as to exercise of compulsory powers.

Power to Board to satisfy purchase price or liabilities transferred to it in water stock or water bills.

Property of Board not to be rateable.

Supply of water by the Board.

Uniform charge for water to be made to all consumers.

which by this Ordinance the Board is authorised to do.

11. With respect to the exercise of the power to purchase compulsorily any land or rights under the last preceding section of this Ordinance and to the compensation payable thereon the provisions of sections *six* to *twenty-three* inclusive of the Municipalities Powers of Expropriation Ordinance 1903 shall subject to the provisions of this Ordinance apply *mutatis mutandis* and shall be deemed to be incorporated in this Ordinance with the following alterations :—

For “ Council ” shall be substituted “ Board ” for “ councillors ” “ members.”

For “ Municipality ” shall be substituted “ Limits of Supply.”

For “ Town Clerk ” shall be substituted “ Secretary.”

12. The purchase price payable by the Board for any land or rights purchased or acquired either voluntary or by compulsory purchase under the provisions of this Part of this Ordinance may if the Board and the other party so agree be discharged wholly or partly in Rand water stock or water bills on such terms as may be agreed.

13. The property of the Board used for the purposes of this Ordinance shall be deemed not to be rateable property within the meaning of the Local Authorities Rating Ordinance 1903.

14. The Board may supply water in bulk to any local authority and in bulk or in retail to any mines within the limits of supply which may agree to accept the same and may with the consent of any local authority but not otherwise supply water in retail to any consumer of water within the areas of such local authority.

15. The Board shall make an uniform charge for all water supplied by it whether to any local authority or retail customer or mine provided that it shall be lawful for the Board in any case in which it shall think fit to give a discount or rebate to any

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consumer in bulk or in retail who has guaranteed to take from the Board a certain fixed quantity of water for a fixed period of time.

16. The charge for water to be fixed by the Board shall after taking into account any discount or rebate allowed by the Board under the last preceding section never be less than is sufficient in the opinion of the Board to meet annually :

Price for water not to be less than a certain amount.

- (a) the payment of interest on and the payment due for the redemption of loans raised under this Ordinance when the same may become payable out of revenue ;
- (b) the working costs incidental to the carrying on of the undertaking of the Board.

17. If at any time the available water of the Board shall be insufficient to supply the requirements of all the consumers of the Board the Board shall give a preference to its consumers whether local authorities mines or other persons who require water for domestic purposes or for the reasonable preservation of the public health.

Preference to be given to domestic consumption.

18. The Board may let for hire to any Local Authority mine or other consumer of water to whom the Board is entitled to supply water any meter or instrument for measuring the quantity of water supplied and consumed and any pipes or apparatus for the conveyance reception or storage of the water on such terms as may be agreed.

Letting of meters, etc.

19. The Board shall have power to make alter and revoke bye-laws for any of the following purposes :—

Power to make bye-laws.

- (a) For the protection of the property of the Board.
- (b) For preventing the diminution or pollution of any water belonging to or supplied by the Board.
- (c) For regulating the construction maintenance and repair of any cisterns meters cocks valves or other apparatus the property of the Board or of any consumer of water supplied by the Board.

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- (d) For preventing the waste or unlawful use of water supplied by the Board.
- (e) For recovering and enforcing payment of moneys due for water supplied by the Board; provided that no such bye-law shall be made contrary to the provisions of this Ordinance; and provided further that no such bye-law shall come into effect until it has been approved by the Lieutenant-Governor and published in the *Gazette*.

Penalties for breach of bye-laws.

20. The Board may by bye-law impose a penalty for any breach of any bye-law made under this Ordinance and may also impose different penalties in case of successive breaches but no such penalty shall be imposed exceeding the sum of fifty pounds and any bye-law may provide that in addition to any such penalty any expense incurred by the Board in consequence of any breach of such bye-law or in the execution of any work directed by such bye-law 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.

Contracts made by the Board.

21. Every contract made by the Board shall be deemed to be duly executed if signed by the Chairman or by one or more members of the Board thereto authorised by resolution of the Board and all such contracts lawfully made shall bind the Board and its successors and all parties thereto.

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PART III.

TRANSFER OF EXISTING UNDERTAKINGS.

Transfer of undertakings of water companies to Board.

22. (1) Subject to the provisions of this Ordinance as from the appointed day the undertakings mentioned in Schedule E of this Ordinance shall be transferred to and shall vest in the Board and there shall also be transferred from each company therein mentioned to the Board all liabilities with respect to any debentures debenture stock or mortgage debt of such company and all other debts liabilities and obligations of such company then existing in connection with each undertaking.

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(2) The Board shall pay to each company as compensation for the transfer of its undertaking such sum as may be agreed on between the Board and the company or in default of agreement as may be determined by arbitration under this Part of this Ordinance but the sum so payable may if the Board and the company so agree be discharged wholly or partly in Rand water stock.

23. As from the appointed day any debts debentures debenture stock bonds or mortgages secured on the undertaking of any of the said companies or any part thereof shall be by virtue of this Ordinance secured in like manner on the water fund established by this Ordinance and any debts debentures debenture stock bonds or mortgages charged on any specific property of any such company shall remain charged on that property; and the debenture holder mortgagee or other person secured shall have the same rights and remedies as nearly as may be against the Board and the water fund or any specific property charged as he would have had against the company and the undertaking or the specific property charged if this Ordinance had not been passed; provided that any debenture debenture stock bonds or mortgages created by any of the Companies mentioned in Schedule E. of this Ordinance subsequent to the date of the passing of this Ordinance shall be redeemable by the Board if it shall so think fit by the issue to the holders or owners thereof of an amount of Rand water stock not exceeding the par value of such debentures debenture stock bonds or mortgages.

Security for mortgages and other debts transferred to Board.

24. The money or stock to which any of the said companies becomes entitled under this Ordinance in consideration for the transfer of their undertaking shall be paid or issued to the company by the Board within six months after the appointed day or after the ascertainment of the amount thereof whichever date is the later.

Discharge application and distribution of compensation.

25. (1) For the purpose of arbitration under this part of this Ordinance a Court of Arbitration shall be constituted consisting of three Commissioners and Henry Worsley Taylor

Provisions as to arbitration.

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Esquire K.C. William Lumisden Strange Esquire and Richard Currie Esquire shall be the Commissioners and the said Henry Worsley Taylor Esquire K.C. shall be the President of the said Court.

(2) If any vacancy in the Court of Arbitration occurs by reason of death resignation or incapacity or otherwise the Lieutenant-Governor shall appoint a person to fill the vacancy and so on from time to time as occasion requires.

(3) The Court of Arbitration may appoint or supply such number of officers and persons as they may think necessary for the purpose of assisting them in the execution of their duties under this Ordinance and may remove any officer or person so appointed or employed and for the purpose of obtaining any information which the Court may require may direct any Commissioner or any such officer or person to hold an enquiry. But nothing in this Ordinance shall authorise the Commissioners to delegate any of their judicial duties as arbitrators.

(4) There shall be paid to the Commissioners and to any officer or person appointed or employed under this section such salaries or other remuneration as the Lieutenant-Governor may assign and such remuneration and all expenses of the Court of Arbitration incurred with the sanction of the Lieutenant-Governor in the execution of this Ordinance shall be paid by the Board.

(5) The Court of Arbitration may state their award or any part thereof in the form of a special case for decision by the Supreme Court and may at any stage of the proceedings at an arbitration and shall if so directed by the Supreme Court state in the form of a special case for decision by the Supreme Court any question of law arising in the course of the arbitration. No appeal shall lie from any such decision and the Court of Arbitration shall act in accordance with the decision arrived at in any such case.

(6) The Court of Arbitration may act by two of their number notwithstanding any vacancy in their number. Subject as aforesaid the Court may regulate their own pro-

cedure at an enquiry held under this part of this Ordinance.

(7) In fixing the sum to be paid by the Board as hereinbefore provided the Court of Arbitration shall subject to the provisions of the next succeeding sub-section determine the value of the undertaking of each of the said companies as if with the necessary modifications the Expropriation of Land and Arbitration Clauses Proclamation 1902 were applicable to the case: provided that (a) if and in so far as the undertaking of any of the said companies is in the opinion of the Court a going concern the Court shall determine the value of the same on such basis; and (b) if the undertaking of any of the said companies has not been so far developed as in the opinion of the Court to have become a going concern then the Court shall take into consideration all moneys which in their opinion have been reasonably expended in acquiring testing and developing the property together with interest thereon; and (c) the Court shall not make any allowance for compulsory sale and shall not take into account any enhancement or depreciation of the market value of any stock or shares of any of the said companies which in the opinion of the Court was caused by or resulted from the passing or the anticipation of the passing of this Ordinance: but the Court may make such allowance as they think just for recouplement of any loss of interest pending re-investment as well as for the cost of re-investment and for covering any costs charges and expenses (other than costs incurred in any arbitration under this part of this Ordinance) which have been or are likely to be incurred in consequence of the passing of this Ordinance by any of the said companies and which ought in the opinion of the Court to be borne by the Board.

(8) The costs of any of the said companies incurred in an arbitration under this Ordinance shall except so far as the Court of Arbitration otherwise determine be borne by the Board and the costs of any other person attending an arbitration under this Ordinance shall be in the discretion of the Court of Arbitration

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and the Court may order the taxation of any costs by the Master of the Supreme Court according to law. The costs of and incidental to any proceedings in the Supreme Court and the statement of a case under this part of this Ordinance shall be in the discretion of the Supreme Court.

(9) The Court of Arbitration shall commence their sittings within nine months after the passing of this Ordinance and shall proceed with the arbitration so as to make as far as possible all their awards before the appointed day.

The above-mentioned expression "appointed day" means the thirty-first day of December one thousand nine hundred and four or such other day as the Lieutenant-Governor may appoint either generally or with reference to any particular provision of this part of this Ordinance and different days may be appointed for different purposes and different provisions of this part of this Ordinance whether contained in the same section or different sections or for different Companies but no date earlier than the said thirty-first day of December shall be appointed as respects any Company except with the consent of the Company and the Board.

Transfer of pipes reservoirs or other works to Municipality of Johannesburg.

26. All pipes mains service reservoirs or other works belonging to the said companies and used for the distribution of water to consumers within the area of the Municipality of Johannesburg and not used for the supply of water in bulk to the service reservoir shall be transferred by the Board to the Town Council of Johannesburg on terms to be fixed either by agreement or by the arbitrators appointed under section *twenty-five* of this Ordinance or in the absence of any of the aforesaid arbitrators by arbitrators appointed in accordance with the provisions of the Expropriation of Land and Arbitration Clauses Proclamation 1902.

Application of Part II. to arbitration when undertakings transferred.

27. Subject to the provisions of this part of this Ordinance the provisions of Part II. of this Ordinance shall apply to any arbitration proceedings which may be had in respect of the transfer to the Board of the undertakings of any of the said companies.

PART IV.
FINANCIAL PROVISIONS.

A.—*Issue of Stock.*

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28. The Board may from time to time by the issue of stock subject to the provisions of this Ordinance raise moneys in such amounts as the Lieutenant-Governor shall authorise by writing under the hand of the Colonial Secretary for the purpose of :—

Power to
issue Stock.

- (a) repaying any money advanced by the Lieutenant-Governor in accordance with section *twenty-seven* of the Rand Water Board Incorporation Ordinance 1903 ;
- (b) exercising any of the powers rights and privileges which have been or may be hereafter conferred upon it by legislation and the cost of which ought in the opinion of the Colonial Secretary to be spread over a period of years ;
- (c) redeeming any stock issued under the provisions of this section at any time before the date when such stock is redeemable under the provisions of section *thirty* (a) of this Ordinance ; provided that no stock shall be issued for this purpose on terms which in the opinion of the Colonial Secretary are less advantageous to the Board than the terms on which the stock which it is intended to redeem was issued ;
- (d) paying the interest on any stock issued under this section for a period to be fixed by the Colonial Secretary in writing under his hand ; provided that in no case shall such period exceed four years from the date of issue of the stock in respect of which such interest is paid ;
- (e) providing for the purchase price of any land water or water-rights or undertaking purchased or acquired by the Board or for the redemption of any debentures debenture stock mortgage debt or other debt liability or obligation transferred to the Board on any such purchase or acquisition.

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Stock to be created to such amount as will produce actual amount of money raisable.

Provisions as to issue.

29. Every such power to raise money shall be construed to authorize the Board to create such an amount of stock and from time to time to issue such nominal amounts thereof as will in the aggregate according to the price of issue produce the actual amount of money for the time being raisable under such power.

30. In any such issue of stock the following provisions shall be observed that is to say :—

- (a) the stock shall be redeemable within a period fixed by the written authority aforesaid or in default thereof by the resolution of the Board referred to in the next succeeding sub-section determining upon the issue of the stock but so that such period shall not in any case exceed the term of thirty years from such issue ;
- (b) the resolution of the Board determining upon the issue of any stock shall fix subject to the provisions of this Ordinance the rate of interest to be paid in respect of the stock so issued and shall include such subsidiary provisions as may be advisable for the convenient issue of the stock and the service of the same when issued. The provisions of such resolution (hereinafter called the "conditions of issue") shall not be subsequently varied ;
- (c) all such stock shall be entitled to the benefit of the charge and security hereinafter expressed and the Interest and Redemption Funds hereinafter constituted and the provisions for enforcing payment hereinafter contained and no holder of stock shall have any priority or preference by reason of the date of issue of the stock held by him or on any other ground ;
- (d) the stock shall be issued at and for such a price in money as the Board shall resolve and the Board may from time to time by subsequent resolution alter or modify as regards any stock remaining unissued the price fixed by any previous resolution relating thereto ;

- (e) the issue of any stock determined upon shall be in such amounts at such times and payable in such manner whether by instalment or otherwise and upon and subject to such reasonable conditions as the Board shall from time to time by resolution determine and the certificates of stock shall be made out in such sums or amounts as shall be found expedient ;
- (f) the Board may notwithstanding that the whole nominal amount of any particular issue of stock has not been issued resolve with the authority of the Lieutenant-Governor as hereinbefore provided to make a further issue of stock differing from such previous issue as to rate of interest or term or other incidents of redemption ;
- (g) the Board may at any time resolve not to proceed with the issue of any stock which has been authorized under any previous resolution but has not been issued whether the said stock be the whole or a part of the stock so remaining unissued ;
- (h) the Board may out of the proceeds of any stock pay the brokerage commission allowances or other costs or expenses of and incident to the issue of such stock.

31. The stock shall be issued as inscribed stock or as stock to bearer as may be prescribed in the conditions of issue or where there is no express provision in such conditions then in either form according as the applicant therefor shall before the actual issue request in writing. Any stock which has been issued in the one form in the absence of such express provision as aforesaid may be converted into the other form pursuant to the provisions hereinafter contained.

Varieties of stock.

32. In default of such express provision as aforesaid or of such written request from the applicant the stock shall be issued as inscribed stock.

In default of express provision or request stock to be inscribed.

33. The Board shall pay or cause to be paid the interest on the stock as and when such interest shall be due and the principal thereof

Payment of interest on stock.

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at the time fixed for the payment thereof in accordance with the provisions of this Ordinance.

B.—Inscribed Stock.

Certificates
for inscribed
stock.

34. The certificates for inscribed stock shall be in the form set forth in Schedule A hereto with such variations if any as circumstances may require.

Register of
inscribed
stock.

35. The Board shall cause a register (hereinafter called the "nominal register") of inscribed stock to be kept in one or more books and there shall be entered in such register the following particulars arranged under separate headings in respect of each separate issue of inscribed stock namely :—

- (a) the names and addresses of the owners for the time being of any amount thereof;
- (b) a statement of the amount of such stock held by each owner and the date at which the name of any person was entered in the nominal register in respect of such stock.

Register.

36. The nominal register may be in duplicate and shall be kept either under the supervision of the Board at the Board's Office or by such bank or agent as the Board shall from time to time entrust with the keeping of such register or jointly by the Board and by such bank or agent.

Effect of
Register.

37. Such nominal register shall be *prima facie* evidence of the title of any person in respect of stock of which he is entered as owner and of any other matters hereby directed or authorized to be inserted therein.

Inspection.

38. Any person may inspect the nominal register at any reasonable time upon payment of such fee not exceeding two shillings and sixpence as may be fixed by the Board and shall be entitled to obtain from the Secretary or the Registrar copies or extracts of the register certified by him to be true copies or extracts upon payment of such fee as the Board shall fix not exceeding five shillings with the addition of sixpence for every fifty words thereof (three figures to count as one word) and any copy or extract so certified shall be admissible in evidence but without prejudice to the right of any person to disprove the correctness thereof.

39. On demand in writing from a person entitled to inscribed stock paid up in full for which no certificate has been issued the Board shall make out and give to such person free of charge a certificate or certificates thereof in form aforesaid in the name or names either of himself or of such other persons as he shall direct and such certificate or certificates shall be *prima facie* evidence of the title of the person named therein to the stock therein specified.

Issue of
Stock
certificate.

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40. Inscribed stock shall be transferable by the owner for the time being either by entry in the books of the Board or by a deed.

Transfer of
inscribed
stock.

41. The following provisions shall apply in the case of stock transferred by entry in the books of the Board :—

Transfer in
book.

- (a) the Registrar shall keep books (herein referred to as "Inscribed Stock Transfer Books") wherein transfers of inscribed stock so transferred shall be entered ;
- (b) every such entry shall be conceived in proper words for the purpose of transfer and shall be signed by the person making the transfer or if absent by his agent thereunto lawfully authorized by writing under his hand ;
- (c) a fee not exceeding two shillings and sixpence shall be paid to the Registrar upon any such transfer ;
- (d) the Registrar shall enter in the nominal register of inscribed stock a memorial relating to the transfer containing the particulars specified in section *thirty-five* hereof ;³
- (e) the Registrar shall on demand in writing by any person or party to a transfer or his legal representatives or other person thereunto lawfully authorized in writing under his hand give to such person a certificate signed by himself stating the date and other short particulars of such transfer for which certificate a fee not exceeding two shillings and sixpence shall be paid.

42. In the case of the transfer of any inscribed stock by deed the following provisions shall apply :—

Transfer by
deed.

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- (a) the deed of transfer may be either : (1) an instrument separate from the stock certificate or (2) a cession endorsed on the stock certificate ;
- (b) the deed shall in either case be in the form in this behalf set forth in Schedules C. and D. hereto respectively with such variations if any as the circumstances may require and the deed shall relate only to the transfer and shall not contain any recital trust power or proviso whatever ;
- (c) when the deed is a separate instrument the same after due execution shall be delivered to and kept by the Registrar who shall enter in the nominal register of inscribed stock a memorial thereof containing the particulars specified in section *thirty-five* hereof ;
- (d) when the deed is by way of cession endorsed on the stock certificate the person to whom such stock is ceded shall produce the stock certificate to the Registrar who shall thereupon pursuant to section *thirty-five* hereof enter in the nominal register the name of such person as the owner of the inscribed stock comprised in such stock certificate and the other particulars specified in section *thirty-five* hereof ;
- (e) in case of any such transfer as aforesaid the Registrar shall on demand and delivery up of the stock certificate transferred deliver a new stock certificate to the person entitled thereto. A fee of five shillings shall be paid on the registration of any such transfer ;
- (f) until any such transfer has been registered as aforesaid the Board shall not be affected by the same or any notice thereof or any claims or demands purporting to be by virtue thereof.

Investigation
as to transfer.

43. Before any transfer is entered in the register of inscribed stock the Board or the Registrar may if the circumstances appear to make it expedient require proof to its or his satisfaction of the title of any person claiming

a right to make or receive or be entitled to a transfer.

44. The Board may as regards the inscribed stock or any part thereof cause the nominal register of inscribed stock and the inscribed stock transfer books to be closed at such time or times as they may think fit but so that such books be not at any one time kept closed for more than fifteen days. Due notice shall be given of such intended closing by notice published in one or more newspapers circulating in Johannesburg and in any other place where such books may be kept at least fourteen days before the date of such closing. During the period for which such books are closed no transfer of inscribed stock shall be registered.

Closing of the Register.

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C.—Stock to Bearer.

45. The certificates for stock to bearer shall be in the form set forth in Schedule B hereto with such variations as the circumstances may require.

Form of certificate

46. On demand in writing from a person entitled to stock to bearer for which no certificate has been issued the Board shall make out and give to such person free of charge a certificate or certificates thereof in form aforesaid.

Issue of certificate.

47. Annexed to each certificate of stock to bearer shall be coupons for the payment of the interest thereon covering such a period as the Board shall determine. At the end of that period fresh coupons may be issued for such further period as the Board shall determine and so on for successive periods. But the Board may in lieu of issuing fresh coupons in respect of any certificate of stock to bearer give in exchange a fresh certificate with coupons.

Coupons.

48. Stock to bearer and coupons relating thereto shall respectively pass and the title thereto be transferred by delivery of the stock certificate or the coupons as the case may be.

Transfer of bearer stock and coupons.

D.—Changes of Form of Stock.

49. Subject to any express conditions prescribed as provided in section *thirty-one* of this Ordinance—

Change of inscribed stock to bearer stock and *vice versa*.

(a) any person registered as the owner of inscribed stock may on delivering up

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his stock certificate require the Board to issue to him a certificate or certificates of stock to bearer for and in respect of such inscribed stock and such certificate or certificates shall be made and issued accordingly ;

- (b) any person holding a certificate of stock to bearer may on delivering up such certificate with all unpaid coupons there-to belonging require the Board to issue to him a certificate or certificates of inscribed stock and such certificate or certificates shall be made and issued accordingly and such person shall be entered in the nominal register as the owner of such stock ;
- (c) any certificates and coupons delivered up as aforesaid shall be cancelled ;
- (d) all necessary entries shall be made in the proper books to keep a true record of the transactions ;
- (e) a fee not exceeding five shillings shall be paid for each new certificate so issued.

E.—Interest on Stock.

Payment of interest on inscribed stock.

50. The interest on inscribed stock shall be paid at such place or places as the Board may fix in the conditions of issue by cheque or banker's draft to be posted to the registered address for the time being of each registered owner of such stock.

Payment through the post.

51. The posting by or on behalf of the Board of a letter containing a cheque or draft addressed to an owner of inscribed stock at his registered address shall as respects the liability of the Board or of any bank or agent entrusted with the payment of such interest or any official thereof be equivalent to the delivery of the same to such owner himself.

Joint owners.

52. Where more persons than one are registered as the joint owners of inscribed stock a cheque or draft as aforesaid in payment of the interest on such stock may be delivered or posted to any one of them and any one of them may give an effectual receipt for any interest due unless as to either matter notice to the

contrary has been given in writing to the Board or the bank or agent aforesaid.

53. The Board or such bank or agent as aforesaid before allowing the payment of any interest on any inscribed stock may if the circumstances of the case appear to make it expedient require evidence of the title of any person claiming such interest. And in such case the evidence shall be an affidavit of one or more competent persons or of such other nature as the Board or the bank or agent aforesaid may require.

Investigation
of title.

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54. With respect to interest on stock to bearer :—

Interest on
bearer stock.

- (a) each coupon shall state the amount of interest payable in respect thereof and the date of payment ;
- (b) payment to the bearer of a coupon of the amount expressed therein at or after the date named shall be a full discharge to the Board and shall exempt the Board the bank or agent aforesaid and any official thereof from all liability in respect of that coupon and the amount represented thereby ;
- (c) the provisions of the last preceding section shall apply *mutatis mutandis* with regard to coupons and the payment of the interest thereby represented.

F.—Security for Stock.

55. (1) There shall be established a water fund and all receipts of the Board shall be carried to that fund and all payments by the Board shall be made out of that fund subject to the provisions of the next succeeding section.

Establish-
ment of
water fund.

(2) The Board shall from time to time appoint a Finance Committee for regulating and controlling their finance and no order for the payment of any sum out of the water fund whether on account of capital or income shall be made by the Board except in pursuance of a resolution of the Board passed on the recommendation of the Finance Committee and any costs debt or liability exceeding fifty pounds shall not be incurred except upon a resolution of the Board based on an estimate submitted by the Finance Committee.

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Reserve Fund. **56.** The Board may with the approval of the Lieutenant-Governor set aside out of the profits of the undertaking such sum as it thinks proper as a reserve fund to meet contingencies or for equalising the charge for water or for repairing or maintaining the works connected with the business of the Board or any part thereof; and the Board may invest the sum so set apart as a reserve fund upon the securities mentioned in section *seventy-two* of this Ordinance.

Charge
created by
stock.

57. All stock issued under this Ordinance and any interest due or to become due thereon shall be charged indifferently as a first charge on the water fund and the reserve fund and on the whole of the revenues and rents and on all property belonging to the Board and on all rates levied by the Board or by the Court in accordance with the provisions of this Ordinance as hereinafter set forth.

Rating Roll.

58. The Board shall every year prepare a rating roll to be called the Rating Roll of the Rand Water Board in the manner hereinafter set forth and the said roll shall be divided into two sections to be described as the Municipal Section and as the Mining Section respectively.

Rating Roll
Municipal
Section.

59. It shall be the duty of the Town Clerk of each local authority within the limits of supply at some time between the *first* and *thirty-first* day of December in each year to notify to the Secretary in writing the amount of the total valuations of rateable property within the area of such local authority as shown upon the rating roll thereof as upon the first day of the month of July preceding and such amounts shall be described as the Municipal Section of the rating roll of the Rand Water Board.

List of claims
to be sent in
by Commis-
sioner of
Mines.

60. It shall be the duty of the Commissioner of Mines at some time between the 1st and the 31st day of December in each year to forward to the Secretary a list of all claims claim areas or mynpachts situated within the limits of supply stating the name and address of every owner of such claims claim areas or mynpachts as appearing in the records of the Registrar of Mining Rights and the number of each such claim claim area or mynpacht and the name of

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the farm on which the same is situated; provided that in making such statement the area of each such claim area or mynpacht shall be divided into claims and shall for all the purposes of this Ordinance be considered as such, any fraction of a claim greater than one-half being reckoned as a claim. Such statement shall be described as the mining section of the rating roll of the Rand Water Board.

61. No statement contained in any rating roll framed under this Ordinance and no rate based thereon shall be rendered void or be affected by reason of any mistake or variance in the description of any claims claim areas or mynpachts referred to therein or in the name of any owner thereof; and no rating roll compiled in terms of this Ordinance shall be capable of being challenged or set aside by reason of any informality.

Valuation roll not to be challenged or set aside.

62. If at any time the ordinary revenues of the Board together with the reserve fund are insufficient for the purposes of the payment of interest on and the payment due for the redemption of loans raised under this Ordinance the Board may subject as hereinafter mentioned make good the deficiency by levying a rate on the rating roll of the Rand Water Board in the manner hereinafter set forth; provided that no such rate shall be levied except in pursuance of a resolution passed by a majority of two-thirds of the votes of the members of the Board present at a meeting of which at least fourteen days' notice of intention to propose the same has been given; and provided further that no such rate shall be levied until the approval of the Lieutenant-Governor thereto has been obtained.

Rate to be levied by Board.

63. For the purposes of levying any such rate as is referred to in the preceding section the sum to be raised shall be divided into two equal sums to be divided into sum A and sum B respectively.

Method of levying rates.

64. The Board shall apportion Sum A among the several Local Authorities within the limits of supply according to the total valuation of each Local Authority as shown in the Municipal Section of the rating roll of the Rand Water Board and the several Local

Sum A apportioned among Local Authorities.

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Sum B
apportioned
among Mines.

Method of
obtaining
payment of A.

Collection
of B.

Enforcing
payment of
amounts
leviable.

Authorities shall be liable for the payment of the amount so apportioned to each.

65. The Board shall apportion Sum B among the several owners of claims claim areas and mynpachts included in the Mining Section of the rating roll of the Rand Water Board according to the number of claims owned by each and the several owners of claims shall be liable for the amount so apportioned to each.

66. For the purpose of obtaining payments of amounts due under Sum A the Board shall issue their precept to each Local Authority requiring it to pay within the time limited by the precept the amount of Sum A apportioned to it in accordance with section *sixty-four* of this Ordinance and such Local Authority shall comply with the requirements of such precept by paying the said amount out of its revenue ; provided that should the said revenue not be sufficient for the payment of such amount such Local Authority may over and above any powers conferred thereon by the Local Authorities Rating Ordinance 1903 or any amendment thereof impose a special water rate on all rateable property as shown upon the rating roll of such Local Authority in the manner set forth in the said Ordinance or any amendment thereof ; and provided further that the Local Authority shall transfer to its own account any surplus in their hands arising from any special water rate levied in pursuance of this Ordinance above the amount for which the rate was made and such surplus shall go in reduction of the next ordinary rate that may be levied upon the ratepayers for the purpose of defraying the expenses which may be incurred by such Local Authority.

67. For the purpose of obtaining payments of amounts due under Sum B the Board shall issue their precept to each owner of claims requiring him to pay within the time limited by the precept the amount of Sum B apportioned to it in accordance with section *sixty-five*.

68. All amounts due under Sum B shall be paid to enforced and recovered by the Board in the same manner *mutatis mutandis* as if the same were a rate leviable

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under the Local Authorities Rating Ordinance 1903 and all the provisions of sections *eighteen nineteen twenty twenty-one twenty-two twenty-three twenty-four* and *twenty-five* of the said Ordinance with respect to the payment enforcement and recovery of rates and interest thereon to the proceedings for such recovery and to the evidence to be used in such proceedings shall *mutatis mutandis* apply to the said amounts and the Board shall have all the powers of Local Authorities thereunder.

69. In every case in which any contribution requisitioned from any Local Authority by the Board shall be in arrear it shall be lawful for the Magistrate of the Witwatersrand District on application of the Board under the hand of the Secretary to summon the Mayor or Acting Mayor or Chairman of such Local Authority to show cause why such contribution has not been paid and after hearing the complaint preferred under the authority of the Board if the Magistrate shall think fit to declare such Local Authority to be in default. Upon such declaration being made the Board shall be vested with all the powers of the Local Authority vested in such Local Authority under section *sixty-six* of this Ordinance and may impose collect enforce and recover all rates and sums due under the precepts as though the Board were such Local Authority.

Enforcing
payment
against Local
Authority.

G.—Interest and Redemption Funds.

70. For payment of interest on the stock and for redemption and extinction of the stock there shall be created two funds hereinafter called the Interest Fund and the Redemption Fund respectively which shall be maintained applied and dealt with in manner hereinafter provided.

Creation of
Interest and
Redemption
Funds.

71. (1) There shall be paid and transferred to the Interest Fund in each year for the payment of interest on the stock a sum equal to the aggregate amount of all the interest payable in that year on the outstanding stock.

Payments to
Interest Fund
and Redem-
ption Fund.

(2) There shall be paid and transferred to the Redemption Fund the sums specified below as and when they become payable or receivable that is to say :—

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- (a) the net proceeds of any sales of fixed property belonging to the Board ;
- (b) all other incomings of the Board in respect of any sales of rights or interests in the nature of or analogous to fixed property easements or servitudes.
- (c) the income of the investments of the Redemption Fund ;
- (d) the payments mentioned in section *ninety-four* hereof ;
- (e) any payments which may be required under the provisions of sub-section (2) of section *seventy-five* of this Ordinance.

Investment
of Redemp-
tion Fund.

72. The Redemption Fund so far as not immediately required for the purposes in the next section mentioned shall be invested as the Board may direct in one or more of the stocks funds and securities following, namely :

- (a) the stocks funds and securities from time to time styled in the Law of England "Trustee Securities" ;
- (b) the stocks and securities issued or guaranteed by the Government of any Colony or Dependency of the British Empire ;
- (c) the debentures mortgages or debenture stock of any railway tramway dock harbour or waterworks corporation created by special legislative enactment within the British Empire ;
- (d) the Municipal Fund or Town Debt of any town in South Africa constituted by or pursuant to any general or special statute ordinance or statutory enactment ;
- (e) Rand Water Stock : provided that any stock so purchased shall not again be sold.

Application
of Redemp-
tion Fund.

73. The Redemption Fund shall be applied from time to time in redemption of the stock according to the provisions of this Ordinance and may also be applied in the manner and subject to the conditions herein provided :—

- (1) where any power has been conferred on the Board under the provisions of sections *twenty-eight* and *twenty-nine* of this Ordinance to raise money by the issue of stock such power may be exercised either wholly or partially by using

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for this purpose any moneys for the time being standing to the credit of the Redemption Fund ;

- (2) in every case where the Board proposes to use the Redemption Fund for the above-mentioned purpose it shall first pass a resolution authorising the withdrawal of the moneys from the Redemption Fund in accordance with the conditions herein prescribed and specifying the account of the said fund from which the moneys are to be withdrawn and if they are to be withdrawn from more than one of such accounts the amount to be withdrawn from each such account.
- (3) the amount to be withdrawn shall be equal to the sum which is to be raised by this means ;
- (4) immediately on the withdrawal of such moneys as aforesaid the same payments shall be made and the same procedure observed *mutatis mutandis* as if such amount had been raised by an issue of new stock bearing interest at the same rate as the stock represented by the account from which the said amount was withdrawn and repayable at the same date as such stock is repayable ; provided that all sums payable as aforesaid by way of interest on the amount so withdrawn shall be paid into the Redemption Fund to the account from which such amount was withdrawn.

74. The Board shall not create or purport to create any lien or charge upon or against the Redemption Fund or any part thereof or any moneys applicable thereto whether expressed to be subsequent or subject to the sole charge hereinbefore expressed or otherwise.

Redemption Fund not to be pledged.

75. (1) All proper books and accounts shall be kept and entries made to show from time to time the position of the Redemption Fund and in particular the investments thereof. Full and detailed accounts of the Redemption Fund and the investments thereof and of all payments and receipts in connection therewith during the year shall be published yearly with the general accounts of the Board in a form to

Accounts of Redemption Fund.

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be approved by the Colonial Secretary and a copy thereof shall be furnished to the Colonial Secretary.

(2) For the purpose of such accounts the Board shall twelve months after a date to be fixed by the Colonial Secretary in writing under his hand but in no case later than three years from the date of each issue of stock and thereafter once in each year cause a valuation to be made of the Redemption Fund and shall at the same time ascertain what would be the amount at the date of such valuation of a sinking fund constituted by equal annual payments commencing from the said first-mentioned date in respect of such issue of stock sufficient if accumulated with compound interest at the rate of three and a half per centum per annum to redeem the whole outstanding stock of such issue at the expiration of thirty years from the issue thereof or at the expiration of any period being less than thirty years which may have been prescribed for the redemption of such stock. If it shall then appear that the value of the Redemption Fund is less than the amount of a sinking fund so constituted and accumulated as aforesaid the Board shall cause a further payment to be made into the Redemption Fund so that the value thereof shall not be less than the said amount.

The accounts referred to in sub-section (1) hereof shall not be passed by the Board in any year without a certificate from the Auditor appointed under section *ninety-eight* of this Ordinance that he is satisfied both as to the correctness of the accounts and books and as to the maintenance of the Redemption Fund at the amount required by this Ordinance.

Inspection of
books and
accounts.

76. Any owner of stock or person authorised by him in writing may inspect the books and accounts of the Redemption Fund at any reasonable time upon payment of such fee not exceeding two shillings and sixpence as may be fixed by the Board and shall be entitled to obtain from the Secretary copies or extracts of or from the said books and accounts certified by him to be true copies or extracts upon payment of such fee as the Board shall fix not ex-

ceeding five shillings with the addition of sixpence for every fifty words (three figures to count as one word).

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H.—Redemption.

77. The Board may at any time purchase the stock at such price as may be agreed upon. The purchase money may be paid out of any moneys other than the Redemption Fund which may be available for such purpose. The stock purchased shall be immediately cancelled.

Purchase for cancellation.

78. Any stock not previously cancelled shall on the date fixed for redemption by the conditions of issue become payable at the nominal amount thereof and such amount shall together with any interest then due be paid to the owner of any inscribed stock or the bearer of any certificate of stock to bearer.

Redemption.

I.—Enforcing Payment of Stock.

79. If at any time any interest due on any stock remain unpaid for three months after demand therefor in writing has been lodged with the Secretary by the person entitled thereto or his duly authorised representatives proceedings to enforce payment may be instituted and proceeded with subject to the provisions contained in sections *eighty* and *eighty-one* hereof.

Default of payment of interest.

80. The owner of any stock in respect whereof such default has been made may apply to any competent Court for the appointment of a receiver of the assets hereby charged with the payment of the principal and interest of the stock. On the hearing of such application the Court may make such order and give such directions as under the circumstances shall seem expedient for raising and payment of the moneys due. In particular the Court may order and declare that a rate or rates of such amount or amounts as it shall fix be levied upon all rateable property and upon all owners of claims claim areas and mynpachts within the Witwatersrand District by the Receiver in the manner set forth in sections *fifty-seven* to *sixty-nine* inclusive and the proceeds thereof shall be paid into Court or otherwise as the Court shall direct. For the purposes of this section the Receiver shall

Proceedings to enforce payment.

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Further pro-
ceedings.

Default in
payment on
expiration of
period for
redemption.

Regard to
wishes of
stock-
holders.

No Trust or
notice of
interest
recognized.

exercise all the powers to levy rates conferred upon the Board by sections *fifty-seven* to *sixty-nine* inclusive provided always that the exercise of such powers by the Receiver shall not require the sanction of the Lieutenant-Governor.

81. In the event of such default in payment of interest in whole or part being continued for a further period of three months the owner or owners aforesaid may apply to the Court for a declaration that the principal of all the stock for the time being outstanding has become due and the Court shall make such declaration accordingly with all such consequential orders and declarations unless satisfied that in the interest of owners of stock it would be advisable to otherwise deal with the application and in such case the Court may postpone the application and may ultimately make or refuse an order according to the circumstances.

82. In case default shall be made in payment of the principal of any stock which has become repayable for one month then the like proceedings *mutatis mutandis* as specified in sections *eighty* and *eighty-one* may be instituted and proceeded with at the suit or on the application of any owner of stock. The Court may also order a realization of the Redemption Fund or a sale of any assets charged as aforesaid and may make such order as it shall think fit for the due carrying out of such sale or realization and for the application of moneys raised thereby.

83. (1) In making or refusing any order as aforesaid the Court shall have regard to the wishes of the owners of stock as a whole and may order meetings to be held to ascertain such wishes and give all necessary directions as to such meetings and may direct any persons not parties to the proceedings to be made parties and to be served.

(2) Any order made shall be deemed to be made on behalf of and shall inure to the benefit of all the owners of stock interested in or affected by such order.

(J) *Subsidiary Provisions.*

84. The Registrar shall not enter in the nominal register or the inscribed stock transfer books or any other book or document or be

otherwise affected by any notice of any alleged right interest trust power or claim of or by any person in respect of any stock other than a person entered in such books as owner of inscribed stock or lawfully entitled to be so entered in accordance with the provisions of this Ordinance.

85. If any stock certificate or coupon is worn out or damaged the owner on delivery up of the same and payment of a fee not exceeding five shillings may require the Board to cancel it and issue to him a similar certificate or coupon.

Renewal of certificates.

86. If any stock certificate or coupon is lost or destroyed the owner on proof of the same to the satisfaction of the Board and on payment of a fee not exceeding five shillings together with all costs and expenses reasonably incurred by the Board and on giving indemnity to the satisfaction of the Board may require the Board to issue a similar certificate or coupon.

Lost certificates.

87. If the name of any person is without sufficient cause entered in or omitted from the nominal register or the inscribed stock transfer books or if any incorrect or improper entry is made or if default is made or unnecessary delay takes place in making any entry in such nominal register or transfer books any person aggrieved may apply to the Court for an order that the nominal register or transfer books may be rectified. The Court may on such application make such order both with regard to the issue and as to costs as to it may seem fit.

Proceedings to rectify the register.

88. (1) If it shall at any time appear to the Colonial Secretary from the returns to be rendered as hereinbefore required or otherwise that the Board has failed to comply with the requirements of this Ordinance with regard to any payment application or investment in relation to the Stock or Redemption Fund it shall be his duty to bring the matter to the notice of the Board and to request that the default may be made good within a time to be specified.

Proceedings in case of non-compliance with provisions of Ordinance.

(2) If the Board shall fail to comply with such request it shall be competent for the Court

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Meaning of
Court.

on the application of the Colonial Secretary or of any person liable to pay rates under this Ordinance or of any owner of stock to make an order for the due enforcement of the provisions of this Ordinance. The Colonial Secretary shall be awarded the costs of any such application made by him.

89. "The Court" in the two last preceding sections means the Supreme Court of the Transvaal or the Witwatersrand High Court and the jurisdiction hereby given may be exercised in a summary manner in chambers.

Power to
issue bills.

90. Instead of raising for any purposes by the creation and issue of stock money which they are authorized to raise under this Ordinance the Board may if they see fit raise for those purposes such money by means of bills subject to and in accordance with the following provisions :—

- (1) Bills issued by the Board shall be called "Rand Water Board Bills."
- (2) A Rand Water Board Bill shall be a bill in the form prescribed by regulations made in pursuance of this Ordinance for the payment of the sum named therein in the manner and at the date therein mentioned so that the date be not less than three or more than twelve months from the date of the bill.
- (3) Such bills may be offered for purchase by tender in such manner on such conditions and after public advertisement in such manner as the Board determine.
- (4) The bills shall be issued under the authority of a warrant sealed by the Board.
- (5) Each bill shall be for the amount directed by the Board not being less than five hundred pounds.
- (6) Each bill shall be under the seal of the Board.
- (7) A register of the bills issued and renewed by the Board shall be kept by the Secretary or such other person as may be appointed by the Board and such register shall show the amount of each bill the principal money raised by such

- bill the statutory borrowing power in respect of which the bill is issued the date of issue the date when the same falls due and the date of payment thereof. Such register shall at all reasonable times be open to inspection without payment of any fee by any creditor of the Board.
- (8) The Board shall not issue bills payable to bearer.
- (9) The Board shall before issuing any bill under this Ordinance from time to time make regulations with respect to bills subject to and in accordance with this Ordinance and shall furnish to the Colonial Secretary a copy of any regulations so made. Such regulations shall provide :
- (a) for regulating the preparation form mode of issue mode of payment and cancellation of bills ;
 - (b) for regulating the issue of a new bill in lieu of one defaced lost or destroyed ;
 - (c) for preventing by use of counterfoils or of a special description of paper or otherwise fraud in relation to bills ;
 - (d) for the proper discharge to be given upon the payment of a bill.
- (10) The Board may enter into such arrangements with any bank for carrying into effect the provisions of this Ordinance with respect to the issue of bills and to the payment of the principal sum named therein and to all matters relating thereto and for the proper remuneration of such bank with reference thereto as they may think proper. Such remuneration shall be paid out of the general funds of the Board.
- (11) The amount of money received by the Board in respect of a bill shall be deemed to be principal money raised by means of such bill and the difference between the amount payable in respect of a bill and the amount received in respect thereof shall be deemed to be

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- interest on the principal money so raised.
- (12) The Board shall provide from the same source and pay at the appropriate times into the Interest and Redemption Funds created under this Ordinance the same funds for payment of interest and repayment of the principal money so raised as they would have done in respect of the stock in the place of which such bills have been issued.
- (13) The aggregate amount payable on bills current at any one time shall not exceed the sum of one hundred thousand pounds except by the amount payable on bills issued shortly before any other bills fall due in order to pay off those bills.
- (14) The Board may subject to the provisions of the preceding sub-section renew bills at maturity.
- (15) Money raised by the issue of bills shall be employed by the Board for the purposes of the several borrowing powers in respect of which the bills are respectively issued.
- (16) For the repayment of the principal money raised by bills the Board may raise money by the creation of stock or issue of further bills but save as aforesaid the powers given to the Board to raise moneys by the creation of stock shall be suspended to the extent to which moneys have been raised by the issue of bills.
- (17) A Rand Water Board bill shall entitle the holder to payment at maturity of the sum expressed in such bill to be payable and shall be charged on all the revenues of the Board.
- (18) The Secretary shall within twenty-one days after the thirtieth day of June in any year during which any bills have been issued paid off or are outstanding under this section transmit to the Colonial Secretary a return in such form as the Colonial Secretary may prescribe and containing all such particulars as he may require in

regard to the issue and payment of bills by the Board.

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91. (1) It shall be lawful for the Board from time to time as circumstances may require to borrow money by way of overdraft from any bank which for the time being may be acting as the bankers of the Board. No such overdraft shall exceed in amount the sum of fifty thousand pounds or extend for a period of more than ninety days without the sanction of the Lieutenant-Governor.

Overdrafts.

(2) Save as aforesaid it shall not be lawful for the Board to raise or borrow money otherwise than in the manner and under the conditions prescribed in this Ordinance.

92. A person in good faith applying for any stock on the issue thereof or purchasing taking or holding stock once issued or advancing money in good faith to the Board for or on the security of stock issued or to be issued shall not be concerned to enquire or to take notice whether the creation or issue thereof was or was not authorized under the issuing or borrowing powers of the Board or otherwise in accordance with any Ordinance relating to such borrowing powers or whether or not the Board or any meeting thereof was properly constituted or convened or whether or not the proceedings at any meeting of the Board were legal and valid or regular or whether or not the conditions of issue were valid or have been duly observed or to see to any application of any moneys raised by the stock. A certificate of stock valid as to form once issued purporting to be by or on behalf of the Board to a person taking the same in good faith and for good consideration shall be legal and valid for all purposes in the hands of such person and any one taking from or through him notwithstanding any defect informality or illegality in the creation or issue of any of the stock in respect of which such certificate is or purports to be issued or in the making or issue of such certificate or that the amount of stock authorized or resolved on has been or will be exceeded or that such certificate is a duplicate or repetition of any certificate previously issued.

Protection of persons taking stock in good faith.

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Transfer of
stock free of
municipal
taxes.

Unclaimed
interest.

Unclaimed
stock.

Evidence.

93. The stock shall be issued and be transferable free of any municipal rate or assessment: provided that nothing herein contained shall apply to the payment of fees prescribed by this Ordinance.

94. If at any time any interest is not claimed at the time for payment thereof and remains unclaimed for a period of two years thereafter the amount thereof shall be paid into the Redemption Fund without prejudice to the right of any person at any time thereafter to establish his claim to such interest which shall thereupon be paid to him less any costs and expenses of the Board incident to the proof of such claim but without any interest in respect of the period during which any such sum has remained unpaid.

95. (1) If at the end of the period within which any stock is required to be redeemed according to the provisions of this Ordinance the Board shall not be able to redeem any such stock by reason of the owner thereof being unknown or not being forthcoming the Board shall invest in any securities in which the Redemption Fund may be invested a sum equal to the nominal value of such stock and thereupon such stock shall be taken to have been redeemed for the purposes of this Ordinance.

(2) Any sums invested as aforesaid shall unless used to satisfy any legal claim in respect of the stock represented thereby be kept invested as aforesaid for a period of ten years after which time it shall be transferred by the Board to the Colonial Treasurer to be dealt with according to law.

96. In case of any action or other proceeding civil or criminal relating to stock or coupons or the rights or interests of persons alleging claims thereto or alleged offences in respect of stock or coupons copies of entries in or extracts from the nominal register or the Inscribed Stock Transfer Books or any book or document of the Board the Registrar or any bank or agent referred to in sections *thirty-six* or *fifty-one* hereof duly certified as correct by the Secretary or Registrar in writing under his hand shall be admissible in evidence but the Court before whom such action or proceeding is pending may for

good cause order the production of the original of any of the books or documents aforesaid.

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PART V.

MISCELLANEOUS PROVISIONS.

97. The Board shall make to the Colonial Secretary an annual report of their proceedings and this report shall be laid annually before the Legislative Council by the Colonial Secretary. The Board shall also give to the Colonial Secretary such returns statistics and information with respect to the exercise of the powers of the Board as the Colonial Secretary may require. Annual Report.

98. Section *twenty-three* of Ordinance No. 32 of 1903 is hereby repealed and the following sub-sections are substituted therefor : Repeal of section *twenty-three* of Ordinance No. 32 of 1903

“(1) The Lieutenant - Governor shall from time to time appoint one or more persons to examine the Accounts of the Board and the Board shall by the Secretary produce and lay before the person or persons so appointed all books and accounts of the Board with all vouchers in support of the same and all books papers and writings in their power relating thereto. The expenses of and incidental to such audit shall be borne and paid by the Board.”

“(2) For the purposes of any audit under the provisions of the last preceding section it shall be lawful for the auditor to hear receive and examine evidence upon oath (which oath such auditor is hereby empowered to administer) and by summons under his hand to require such persons as he may think fit to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers as may be necessary for such audit. And any person so required who shall without lawful excuse refuse to attend in obedience to such summons or who having appeared shall refuse to be examined on oath or affirmation or

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to take such oath or affirmation or having taken such oath or affirmation to answer such questions as shall be put to him shall be liable to a penalty not exceeding twenty pounds for every act or offence and in default of payment to be imprisoned with or without hard labour for any period not exceeding three months unless such fine be sooner paid; provided that no conviction under this section shall be taken to exempt the person convicted from liability to do or perform the act matter or thing required to be done or performed by him or from being successively convicted and punished for every distinct commission of the same act or offence."

"(3) The auditor shall disallow every payment made without due authority according to law and surcharge the same on the person or persons making or authorising the illegal payment; and shall charge against any person responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of that person or of any sum which ought to have been but is not brought into account by that person and shall in every case certify the amount due from such person. Every sum so certified by the auditor shall be paid by such person to the Secretary or other official appointed by the Board within fourteen days after the same has been so certified and if not so paid may be recovered from such person as a debt by the auditor who shall be paid by the Board his reasonable costs and expenses incurred in such proceedings. Any sum so recovered shall be paid to the Secretary or other official appointed by the Board."

"(4) It shall be the duty of the auditor or auditors appointed as herein provided in addition to the ordinary duties of auditors to certify not less than once in each year whether or not ;

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- (a) the accounts of the Board are in order ;
- (b) the accounts issued present a true and correct view of the financial position of the Board and of its transactions and of the results of trading ;
- (c) due provision has been made for the redemption and repayment of any moneys borrowed by the Board whether in the form of Rand water stock or otherwise ;
- (d) the value of the assets of the Board has been correctly stated ;
- (e) the amounts set aside to meet depreciation and obsolescence of plant are adequate ;
- (f) all his or their requirements and recommendations as auditors have been complied with and carried out.

“ A copy of the auditor’s report shall be sent together with the balance sheet to each of the constituent authorities.”

99. (1) Until the appointed day the undertaking of each Company mentioned in Schedule “ E ” shall be maintained and carried on by the Company as heretofore in the ordinary course of business but if the Board think that any appointment to any office or service of the Company or any Contract with respect to any matter connected with the undertaking or any alteration in the rate of salaries or wages payable to any officer or servant of the Company made by the Company or any obligation incurred by the Company subsequent to the introduction of this Ordinance into the Legislative Council is not reasonably necessary in the ordinary course of the business of the Company they may give notice in writing to the Company to that effect within three months after the appointed day ; provided that if the Board give any such notice it shall be referred to the Courts of Arbitration appointed under Part III. of this Ordinance or in the absence of such Court of Arbitration the arbitrators appointed in accordance with the provisions of Part II. of this Ordinance to determine whether or not the appointment contract alteration or obligation

Maintenance
of under-
takings till
appointed
day.

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was reasonably necessary in the ordinary course of the business of the Company and the arbitrators shall determine whether and to what extent as between the Board and the Company any liability arising in respect thereto is to be transferred to the Board or is to be continued as a liability of the Company.

(2) The accounts and balance sheet of each of the undertakings of the said Companies up to the appointed day shall be made up and audited in like manner and with the like incidents and consequences as nearly as may be as if this Ordinance had not been passed but as soon as practicable after the appointed day and the balance shown on the certified accounts representing profits available for immediate distribution as dividend and legally distributable as such shall in the case of each of such Companies be thereupon paid over by the Board to that Company and the accounts and balance sheet of each such Company after the appointed day shall be audited by auditors appointed by the Company.

(3) In determining the compensation for the transfer of the undertaking of a Company the sum payable to the Company under this section shall not be valued as forming part of the undertaking.

Provisions
enabling
companies to
carry on
business etc.
after the
appointed
day.

100. (1) For the purpose of enabling the said Companies to prepare and conduct their cases for arbitration under this Ordinance and to enter into agreements with the Board and to discharge their liabilities and generally to carry on their business and to wind up their affairs and dissolve ;

- (a) any such Company may after the appointed day temporarily retain for their own use such money offices books accounts and documents and the services of such officers and servants as may be agreed upon between the Board and the Company or failing agreement be determined by the Colonial Secretary ; and
- (b) any officer of and any other person authorized in that behalf by any such Company shall have free access to all the works transferred to the Board from the Company for the purpose of inspect-

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ing those works and to all books accounts and documents of the Company in the possession of the Board for the purpose of inspecting copying and making extracts from the same and shall have all proper facilities for the purposes aforesaid; and

- (c) there shall be paid by the Board to each such Company from time to time on account of the sum ultimately found to be due to the Company from the Board such sums as may be agreed upon between the Board and the Company or failing agreement as may be determined by the Colonial Secretary.

101. Any person authorized in that behalf by the Board shall have free access to the works of any such Companies for the purpose of inspecting those works and to all books accounts and documents in the possession of the said Companies (other than documents prepared for the purpose of an agreement or arbitration under this Ordinance) for the purpose of inspecting and making extracts from the same and shall have all proper facilities for the purpose aforesaid.

Inspection of
works of
companies.

102. (1) The Board shall from and after the appointed day pay interest half-yearly at the rate of six per centum per annum on the amount of compensation payable to each of the said Companies under this Ordinance until such compensation is paid or satisfied or if any such Company shall have paid a dividend in respect of its water undertaking for the two half-years preceding the publication of this Ordinance a sum of money equal to the dividend on the ordinary and preference capital of the Company attributable to such undertaking calculated on the average rate of dividend paid thereon respectively in respect of the two half-years preceding the publication of this Ordinance together with in respect of the reasonable expectations of increasing dividends (if any) such additional sums (if any) as may be agreed on or in default of agreement as may be determined by arbitration under this Ordinance; such sum shall and may be treated by the Companies respectively as profits available for

Payment of
dividends to
companies till
discharge of
compensa-
tion.

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dividend between the shareholders as if this Ordinance had not been passed and may be distributed or dealt with accordingly.

If any instalment of such compensation as aforesaid is in pursuance of an interim award of the Court of Arbitration paid or satisfied to the Company the sums payable under this section shall as from the date of payment or satisfaction be reduced by such an amount as may be specified, in the interim award.

(2) The payments under this section shall until the compensation as aforesaid under this Ordinance is paid or satisfied be payable by the Board at the dates on which the dividend on the ordinary and preference capital would have been distributable by the Company; provided that if on the date at which any such sum is payable to a Company it has not been determined whether any or what additional sum is payable to the Company the additional sum (if any) shall be paid as soon as the amount thereof has been so determined.

(3) In this section the expression "ordinary and preference capital" means in the case of each Company all the capital of the Company in stock or shares whether ordinary or preference as the case may be existing on the appointed day.

Pending proceedings and existing contracts.

103. Subject to the provisions of this Ordinance and without prejudice to any remedy over by the Board against any of the said Companies;

- (a) if on the appointed day any proceeding or any cause of action is pending or existing by or against any such Company the same shall not abate be discontinued or be in any way prejudicially affected by reason of the transfer to the Board of the undertaking of the Company or of anything in this Ordinance but the proceeding or cause of action may be continued prosecuted and enforced by or against the Board as it might have been by or against the Company if this Ordinance had not been passed but not further or otherwise; and
- (b) all contracts deeds bonds agreements and other instruments subsisting im-

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mediately before the appointed day and affecting any such Company shall be of as full force and effect against or in favour of the Board and may be enforced as fully and effectually as if instead of

- the Company the Board had been a party thereto.

104. All bye-laws rules regulations and scales of water charges made or enforceable by any of the said Companies shall so far as they are consistent with the provisions of this Ordinance continue in force with respect to the undertaking to which they relate until repealed altered or superseded.

Saving for bye-laws.

105. Subject to the provisions of this Ordinance every officer and servant exclusively employed upon or in connection with the undertaking of the Johannesburg Waterworks Estate and Exploration Company Limited immediately before the appointed day and mentioned in a list deposited with and signed by the Colonial Secretary shall as from the appointed day become an officer or servant of the Board and shall hold his office or situation by the same tenure and upon like terms and conditions under the Board as he would have held the same under the Company if this Ordinance had not been passed ; provided that no obligation shall be imposed on the Board in respect thereof for a period exceeding six months from the appointed day.

Existing officers and servants Johannesburg Waterworks Estate and Exploration Company Limited.

PART VI.

SPECIAL PROVISIONS.

106. (1) The rights of one George Henry Goch under a notarial contract of the 17th September, 1892, between him and the joint owners of the farm Wonderfontein situated in the district of Potchefstroom under which the said owners ceded to the said George Henry Goch all their rights in respect of the taking and conducting of the water from the said farm granted to them by the Government of the late South African Republic under a deed of agreement dated the 2nd March 1891 together with the rights of the said George Henry Goch under all other notarial con-

Cession to Lieutenant-Governor of contracts in respect of water on farm Wonderfontein.

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tracts between him and the said owners in respect of the said water shall be and are hereby vested in and shall be formally ceded by the said George Henry Goch or his legal representatives to the Lieutenant-Governor in trust for the Government of the Transvaal and the said Board jointly subject to the terms and conditions stated in the said contracts.

(2) There shall be refunded to the said George Henry Goch or his legal representatives in consideration for such cession as aforesaid all moneys with interest thereon at six per cent. *bona fide* expended or which have become due by him in connection with the acquisition maintenance and exploitation of the rights granted under the said contracts.

(3) The amount to be refunded in pursuance of the last preceding sub-section shall be determined by the Colonial Treasurer and shall within three months after such determination be paid to the said George Henry Goch or his legal representatives in equal shares by the said Treasurer and the Board.

(4) Any payments becoming due to the owners of the said farm Wonderfontein after the taking effect of this Ordinance under the contracts ceded to the Lieutenant-Governor by the said George Henry Goch as mentioned in sub-section (2) of this section and all costs incurred in connection with such cession and in connection with the registration against the title deeds of the aforesaid farm of such cession or contracts as may hereafter be so registered shall be paid in equal shares by the Colonial Treasurer and the said Board.

(5) It shall not be lawful for the Lieutenant-Governor or the said Board either separately or jointly to exercise or deal in any way with the rights ceded as aforesaid by the said George Henry Goch or his legal representatives under sub-section (1) of this section unless and until legislation has been passed authorizing them so to do.

**ORD.
No. 48
of
1904.**

~~107.~~ (1) It shall not be lawful for the Board to pump more than ten million gallons of water per day in the aggregate from the properties comprised in the undertakings referred to in Schedule E and any properties or rights which may be acquired by the Board under sub-section (b) of section *ten* of this Ordinance nor shall it be lawful for the Board to pump any underground water contained in the dolomite formation from any other property not so comprised as aforesaid which may be acquired by it for the purpose of carrying out its objects.

Maximum quantity of water supplied by Board from dolomite formation.

(2) The Board shall keep proper books of account of the quantity of water drawn by it daily from each of the undertakings in Schedule E and the said books shall be open to the inspection at all reasonable times of such person or persons as may be appointed thereto by the Lieutenant-Governor

(3) If the Board shall commit or cause to be committed any act in contravention of sub-section (1) of this section it shall for every such act forfeit a sum of five hundred pounds sterling which may be recovered by action brought by the Attorney-General in any Court of competent jurisdiction.

108. Nothing in this Ordinance contained shall exempt the Board from any liability in respect of the diminution of the water of any fountain or stream consequent upon its operations for which it would were it not for this Ordinance have been liable.

Liability of Board in respect of appropriation of water.

Schedule A.

Form of Inscribed Stock Certificate.

Rand Water Board.

No..... £.....

This is to certify that..... is the proprietor of..... pounds of Rand Water Board Stock subject to Ordinance No..... of 1904 relating thereto, and to the conditions of issue.

Signed on behalf and by authority of the Rand Water Board atthis..... day of..... 19....

ORD.
No. 48
of
1904.

Schedule B.

Form of Bearer Stock Certificate.

Rand Water Board.

No..... £.....

This is to certify that the Bearer of this Certificate is entitled to pounds of Rand Water Board Stock with interest thereon at the rate of..... per cent. per annum subject to Ordinance No..... of 1904 relating thereto, and to the conditions of issue.

The Coupons attached to this Certificate are payable at.....

When the Coupons are exhausted, this Certificate will be exchanged on presentation at..... for a new Certificate with fresh Coupons attached.

Signed on behalf and by authority of the Rand Water Board atthis.....day of.....19....

Schedule C.

Deed of Transfer.

Rand Water Board Stock.

I, for consideration received, do hereby transfer unto.....of.....the sum of.....pounds, Rand Water Board Stock, part of the Stock standing in my name in the Books of the Rand Water Board subject to the several conditions on which I hold the same as the execution thereof.

Signed at.....this.....day of.....19....

Witness :

Schedule D.

Cession by Endorsement on Certificate.

I hereby transfer the within stock unto.....of.....subject to the several conditions on which I hold the same at the execution thereof.

Signed at.....this.....day of.....19....

Witness :

Schedule E.

Existing Undertakings.

The water undertakings of the Braamfontein Company, Limited.

The whole undertaking of the Johannesburg Waterworks Estate and Exploration Company, Limited.

The whole undertaking of the Vierfontein Syndicate, Limited.

No. 49 of 1904.]

[Assented to 12 Oct., 1904.]

**ORD.
No. 49
of
1904.****ORDINANCE****To amend the Municipalities Elections Ordinance, 1903.**

WHEREAS it is necessary to amend the Municipalities Elections Ordinance 1903 and to rectify certain errors and omissions therein contained;

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

I. Section *twenty-four* of the Municipalities Elections Ordinance 1903 (hereinafter referred to as the principal Ordinance) shall be and is hereby repealed and there shall be substituted therefor the following provisions which shall be deemed to have been in force from the date of the taking effect of the principal Ordinance in lieu of the provisions of the said section *twenty-four* that is to say:—

Repeal of section *twenty-four* of Ordinance No. 38 of 1903 and substitution of new provisions therefor.

“The first election of councillors under
 “this Ordinance shall take place in
 “manner hereinafter prescribed on
 “such date as may be notified by the
 “Lieutenant-Governor by Proclama-
 “tion in the *Gazette* when in case the
 “election of councillors is by wards
 “three councillors shall be elected for
 “each ward. One of such councillors
 “(being the one who stands first on
 “the poll) shall continue in office until
 “the day of the third annual election held
 “in accordance with the provisions of
 “section *twenty-five* and no longer
 “and one of such councillors (being
 “the one who stands second on the
 “poll) shall continue in office until
 “the day of the second of such annual
 “elections and no longer and the
 “remaining councillor (being the one
 “who stands third on the poll) shall
 “continue in office until the day
 “of the first of such annual
 “elections and no longer; and in case
 “there are two or more candidates
 “who have received an equal number

**ORD.
No. 49
of
1904.**

Poll at annual election to take place last Wednesday in October in each year other than 1904.

Duration of office of councillors elected at annual elections.

Repeal of section *fifty-six* of Ordinance No. 38 of 1903 and substitution of new provisions therefor.

“of votes at the said poll or in case “there is no poll the returning officer “shall determine by lot which of such “candidates shall be elected for a “period terminating on the day of the “first second and third of the said “annual elections respectively.”

2. Whenever at any annual election mentioned in section *twenty-five* of the principal Ordinance subsequent to the annual election for the year 1904 a poll is required to be taken such poll shall be taken on the last Wednesday in the month of October. For the purposes of sections *one three* and *four* of this Ordinance the said day or in the case of any annual election for 1904 the day fixed as the polling day and if no such day be fixed then the day of nomination shall be the day of the annual election.

3. The councillors elected at every annual election to fill the vacancies caused by the retirement of councillors owing to the expiration of the period of office for which such last named councillors were elected shall continue in office until the day of the third annual election next ensuing notwithstanding anything contained in sub-section (1) of section *twenty-six* of the principal Ordinance.

4. Section *fifty-six* of the principal Ordinance shall be and is hereby repealed and there shall be substituted therefor the following provision which shall be deemed to have been in force from the date of the taking effect of the principal Ordinance in lieu of the provisions of the said section *fifty-six* that is to say:—

“At such first election as aforesaid one-
“third of the councillors elected
“being those who stand highest on
“the poll shall continue in office
“until the day of the third annual elec-
“tion held in accordance with the
“provisions of section *twenty-five* and no
“longer and one-third of the councillors
“elected who stand next highest on
“the poll shall continue in office
“until the day of the second such
“annual election and no longer
“and the remaining third of the coun-

“cillors elected shall remain in office
 “until the day of the first such
 “annual election and no longer;
 “provided always that in any case
 “in which any candidates who have
 “received an equal number of votes
 “cannot on that account be placed
 “in the first second or third divisions
 “of councillors as aforesaid or in
 “case there be no poll it shall be
 “determined by lot which candidates
 “are elected for a period terminating
 “on the day of the first second or
 “third annual elections respectively.”

ORD.
No. 49
of
1904.

5. Section *one hundred and thirty-one* of the principal Ordinance shall be and is hereby repealed and there shall be substituted therefor the following provision:—

Repeal of section *one hundred and thirty-one* of Ordinance No. 38 of 1903 and substitution of new section.

“If through any error accident or omission
 “anything required by law to be done
 “in the preparation of any voters roll
 “or in the conduct of any election is
 “omitted to be done or is not done
 “in the manner or within the time
 “fixed by law the Lieutenant-Governor
 “may order all such steps to be
 “taken as may be necessary to rectify
 “any such error accident or omission
 “or may validate anything which may
 “have been irregularly done in matter
 “or form so that the intent and
 “purpose of this Ordinance may have
 “effect. The provisions of this section
 “shall apply to any such error accident
 “or omission in the conduct of elections
 “held in accordance with sections *four*
 “to *twelve* inclusive of the Municipal
 “Corporations Amendment Ordinance
 “1904.”

6. This Ordinance may be cited for all purposes as the Municipalities Elections Amendment Ordinance 1904 and shall be read as one with the principal Ordinance. Title

**ORD.
No. 50
of
1904.**

No. 50 of 1904.]

[Assented to 12 Oct., 1904.]

ORDINANCE

To extend the Powers of the Council of the Municipality of Pretoria.

WHEREAS it is expedient to extend the powers of the Council of the Municipality of Pretoria;

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

Application of sections *thirty-six* and *sixty-five* of Ordinance No. 58 of 1903 to Municipality of Pretoria.

1. The provisions of sections *thirty-six* and *sixty-five* of the Municipal Corporations Ordinance 1903 shall apply to the Council of the Municipality of Pretoria in the same manner as if the said Council were the Council of a Municipality which had come under the operation of the said Ordinance.

Title.

2. This Ordinance shall be cited as the Pretoria Municipality Extended Powers Ordinance 1904 and shall be read as one with the Pretoria Municipal Proclamation 1902 and the Pretoria Municipal Proclamation Amendment Ordinance 1902.

No. I. (Private) of 1904.] [Assented to 10 Feb., 1904.

ORD.
No. I.
(Private)
of
1904.

*** ORDINANCE.**

**To Add to and Further Amend the Johannesburg
Municipality Borrowing Powers Ordinance 1903.**

WHEREAS it is desirable to extend the limit of the aggregate amount which may under the provisions of the Johannesburg Municipality Borrowing Powers Ordinance 1903 the Johannesburg Municipality Special Borrowing Powers Ordinance 1903 and of the Johannesburg Municipality Borrowing Powers Amendment Ordinance 1903 be raised by the Town Council of Johannesburg hereinafter called "the Council" by the issue of bills;

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

1. The Johannesburg Municipality Borrowing Powers Ordinance 1903 amended as to section *fifty-one* sub-section (13) by the Johannesburg Municipality Borrowing Powers Amendment Ordinance 1903 shall be and is further amended as follows;

Amendment
of Johannes-
burg
Municipality
Borrowing
Powers
Ordinances.

At the end of the said amended sub-section the following words shall be read in and added;

"provided that it shall be lawful and competent for the Town Council after giving fourteen days' notice by advertisement in a local newspaper of its intention so to do anything to the contrary in this or any other Ordinance notwithstanding to raise by means of bills such further sum or sums over and above the limit fixed by this or any other Ordinance as the Lieutenant-Governor may sanction."

2. This Ordinance may be cited as the Johannesburg Municipality Borrowing Powers Further Amendment Ordinance 1904 and shall be read as one with the Johannesburg Municipality Borrowing Powers Ordinance 1903 and the Johannesburg Municipality Borrowing Powers Amendment Ordinance 1903

Title.

* See also Ord. IV (Private) sect. 8 (post).

ORD. No. II. (Private) of 1904.] [Assented to 10 Aug., 1904.

**ORD.
No. II.
(Private)
of
1904.**

ORDINANCE

**To Provide for the Incorporation of the Institute of
Land Surveyors.**

WHEREAS provision has been made for the admission of persons to practise as Land Surveyors in this Colony ;

And whereas it is expedient for the maintenance and advancement of the science of surveying for correct and uniform practice and discipline amongst the members of the profession of Land Surveyors and for promoting the formation of a Library and the collection of information relating to the science of surveying to establish and incorporate an Institute of Land Surveyors for the promotion of the said objects ;

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

Incorporation of the Institutes of Land Surveyors of the Transvaal as a body corporate.

1. A Society consisting of a President Vice-President a Council and members is hereby established in the Transvaal. The said Society shall include only Land Surveyors duly admitted and authorised to practise as such in the said Colony and shall be a body corporate by the name of the "Institute of Land Surveyors of the Transvaal" and by such name shall have perpetual succession and may adopt and have a common seal and shall be capable both of purchasing and holding property movable and immovable and of selling mortgaging transferring leasing or otherwise disposing of any such property and of suing and being sued in its corporate capacity and of doing all matters and things incidental or appertaining to a body corporate ; provided that it shall not be lawful for the said Institute to sell mortgage transfer lease or otherwise dispose of any immovable property to which it may become entitled without the concurrence of two-thirds of the members present at a general meeting.

**Object of
Institute.**

2. The objects for which the Institute is established are *inter alia* as follows :—

- (a) To support and protect the character and interests of the profession of land surveying.
- (b) To promote honourable practice to repress malpractice and to decide all questions of professional usage and courtesy between or amongst Land Surveyors.
- (c) To control and exercise discipline over the conduct of members of the profession.
- (d) To consider all questions affecting the interests of the profession and to initiate and watch over and if necessary to petition the Lieutenant-Governor the Legislative Council or any other competent body or person in relation to general measures affecting the profession; to procure changes of law or practice; and the promotion of improvements in the principle and administration of the law as may be considered desirable and expedient.
- (e) To circulate information either orally or by means of printed matter of scientific discovery and advancement in the mathematical and exact sciences in so far as the interests of the profession may be thereby advanced.
- (f) To hold meetings of members of the profession and other persons possessing knowledge which it may be advantageous to the members of the profession to possess and to discuss any subjects thereat which the general body of members may consider advisable.
- (g) To print publish and circulate minutes of the proceedings at such meetings and of all papers read thereat or contributed thereto.
- (h) To acquire by purchase donation or otherwise a library suitable for the purpose of the Institute and from time to time to add thereto.
- (i) To provide rooms and other facilities for the holding of meetings of the Institute and other purposes; for the sale of any property thereof which it has been

**ORD.
No. II.
(Private)
of
1904.**

**ORD.
No. II.
(Private)
of
1904.**

Admitted
Land Sur-
veyors to be
members of
the Institute.

Election of a
President
Vice-Presi-
dent and
Council.

decided by the members to dispose of and other like matters.

- (j) To acquire by purchase take on lease or otherwise lands buildings and all other property real or personal which the Institute for the purposes thereof may from time to time think proper to acquire and which may be lawfully held by it.

3. Every person who is now or shall hereafter be admitted as a land surveyor in the Transvaal shall *ipso facto* be a member of the Institute and shall receive from the Council thereof a certificate of membership. No charge for the issue of such certificate shall be made to land surveyors admitted prior to the promulgation of this Ordinance but a fee of two pounds two shillings shall be payable to the Council for every such certificate issued to persons admitted subsequent to such promulgation.

4. (1) The Council of the said Institute including a President and Vice-President shall consist of eleven members to be elected by vote of the members of the Institute at a General Meeting thereof which meeting shall be held at Johannesburg within one month after the promulgation of this Ordinance. The President shall be elected at such General Meeting by the members and a Vice-President and Secretary shall be elected by the members of the Council from amongst their number.

(2) The First General Meeting of the Institute shall be convened by W. K. Tucker Esquire C.M.G. who shall act as temporary President thereof till the election of a permanent President and by E. W. Ferguson Esquire who shall act as temporary Secretary till the election of a permanent Secretary.

(3) The said W. K. Tucker and E. W. Ferguson shall give due notice by letter to each Member of the Institute and by publication of a notice in the *Gazette* not less than ten clear days before the

holding of the general meeting mentioned in the preceding sub-section. Such notice shall state the time place and date of meeting and it shall be sufficient for the notice by letter to be posted to the last known address of each member.

**ORD.
No. II.
(Private)
of
1904.**

5. A General Meeting shall be held once a year as nearly as may be twelve months after the preceding General Meeting. Such General Meeting shall be convened by the President for the time being and the Secretary shall issue notices of such meeting to each member giving the date time and place thereof at least fourteen clear days before such date. It shall be sufficient to post such notices to the addresses given to the Institute by the members.

Annual
General
Meeting.

6. (1) The Council shall have control over the conduct and behaviour of the members of the Institute and over the funds and affairs of the Institute generally in so far as such control may be committed to it by a vote of a General Meeting and shall submit for the approval of a General Meeting rules or bye-laws dealing therewith which rules and bye-laws shall then be binding upon all members of the Institute.

Powers of
the Council.

(2) It shall be entitled to exercise the following powers without such a vote ;

- (a) to hire and take on lease for any period not exceeding five years any stands erven lands buildings rooms or any other immovable property and to pay rent for the same ;
- (b) to sell any movable property of the Institute ;
- (c) to let any of the immovable property of the Institute for any period not exceeding five years upon such terms and conditions as may be desirable ;
- (d) to take the necessary steps to obtain the suspension of members from practice and their expulsion from the Institute for any of the causes assigned in the said bye-laws.

**ORD.
No. II.
(Private)
of
1904.**

Offences.

7. The following acts and practices whether of commission or omission upon the part of any Land Surveyor being a member of the Institute shall be offences under the provisions of this Ordinance and if found guilty by the Supreme Court of having committed or engaged in any one or more of such acts or practices he shall be liable to be suspended from practice for any period that may be decided upon by the Court or to be expelled from the Institute as the Court may direct.

- (a) Agreeing to share fees or entering into partnership in any work requiring the special qualifications of a Land Surveyor with any person not admitted to practice as a Land Surveyor; provided that nothing herein contained shall prevent a Land Surveyor from entering into partnership with a Civil Mining or Hydraulic engineer holding a diploma to the satisfaction of the Council.
- (b) Signing diagrams purporting to represent any survey work performed by himself which work shall not have been carried out under his personal supervision and direction.
- (c) Directly or indirectly paying any person a commission for bringing him work or giving any person monetary or other valuable consideration as a remuneration for bringing him work or inducing other persons to give him work.
- (d) Improperly obtaining or attempting to obtain survey work.
- (e) Performing a survey in connection with rights which are the subject of dispute or litigation upon condition that only in the event of dispute or litigation ending favourably for the party for whom the survey is performed shall payment be made for the survey.
- (f) Executing a survey with gross carelessness and not providing checks sufficient for a proper determination of the points to be located and for the purpose of testing the accuracy of his calculations whereby an incorrect diagram is passed for registration

**ORD.
No. II.
(Private)
of
1904.**

- (g) Not making enregistering and carefully preserving a record of all observations field work calculations and draughting in connection with or resulting from any work performed by him as a Land Surveyor.
- (h) Making or enregistering any records or calculations which are fictitious and untrue in connection with any surveys performed or alleged to have been performed by him.
- (i) Conducting himself dishonourably in connection with the performance of any work by him as a Land Surveyor.
- (j) Wilfully refusing or neglecting to carry out and perform any Order or Bye-law lawfully adopted and established by the Institute in meeting assembled regarding any point of professional practice ; but the receipt of a fee lower than that provided for under any tariff fixed by any bye-law, shall not in itself be an offence against professional practice.
- (k) Wilfully refusing or neglecting to produce any field books records calculations diagrams or other documents in his possession when required so to do by the Council.
- (l) Engaging in any practices or performing any acts similar to or having a tendency to end in a result similar to the practices and acts prohibited in the foregoing sub-sections.

8. For the purpose of enquiring into and exercising control over the conduct and behaviour of the members of the Institute a quorum of the Council in meeting assembled shall be empowered to summon members of the Institute as witnesses to appear before it ; to hear and take evidence and to order the production of any field books records calculations diagrams and documents or writings in the possession of such members. All evidence so taken shall be recorded in writing and the Chairman of the meeting aforesaid shall be and is empowered to administer oaths to the witnesses present and giving evidence before the Council at such proceedings. Any member of

Quorum of Council may hold enquiries into the conduct of members may summon members to give evidence order production of documents and administer oaths.

**ORD.
No. II.
(Private)
of
1904.**

Suspension
of members
for
contraven-
tion of
bye-laws
etc. issued
under
Ordinance.

Suspended
members to
cease to be
members of
Institute.

Council may
frame bye-
laws and
regulations.

Title.

the Institute whose conduct is being enquired into shall be cited to appear before the Council to answer to any charge made or to defend himself against any proceedings taken against him and shall be entitled to produce evidence and call witnesses on his behalf.

9. In the event of any member of the Institute being in the opinion of the Council guilty of any act or omission prohibited by this Ordinance or offending against any bye-law or regulation framed thereunder the Council may determine to cause such member to be cited before the Supreme Court of this Colony to answer any charge made against him and to show cause why a sentence of suspension from practice should not be pronounced against him by such Court. All such proceedings shall be taken in the name of the Council of the Institute. Upon the hearing of any such matter the Court may suspend such member from practice or make such other order as may seem fitting and may further make such order as to costs as may seem meet.

10. In case any member of the Institute shall in consequence of the Order of Court be suspended from or rendered incapable of practising as a Land Surveyor in this Colony such person shall during such time as he is suspended from practice cease to be a member of the Institute.

11. The Council may from time to time subject to the approval of the Lieutenant-Governor frame alter amend and administer bye-laws and regulations for carrying into effect the objects and purposes of the Institute and for regulating its proceedings. Such bye-laws and regulations shall when adopted at a General Meeting of the Institute and approved by the Lieutenant-Governor and published in the *Gazette* have the force of law and shall be binding upon all members of the Institute in practice in so far as the same be not in conflict with the terms of this Ordinance.

12. This Ordinance may be cited as the Institute of Land Surveyors' Incorporation Ordinance 1904.

No. III. (Private) of 1904.] [Assented to 15 Aug., 1904.]

**ORD.
No. III.
(Private)
of
1904.**

ORDINANCE

To provide for the Registration of Accountants in the Transvaal.

WHEREAS it is expedient to provide for the registration of persons publicly practising or entitled to practise publicly as Accountants in the Transvaal so as to distinguish qualified from unqualified persons:

And whereas it is necessary to provide a qualification for admission to the Register of Accountants:

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

1. After the passing of this Ordinance no person shall describe himself or hold himself out as an Accountant or as a Public Accountant or as an Auditor or use any name title addition or description or letters indicating that he is an Accountant by profession or a Public Accountant or an Auditor whether by advertisement by description in or at his place of business or residence by any document or otherwise unless he is registered as a Public Accountant in pursuance of this Ordinance; provided always that this section shall not prevent any person employed exclusively at a salary on accounts and not carrying on business on his own account from describing himself as an "Accountant" in respect of or in relation to his occupation.

User of title
of Public
Accountant
restricted.

2. Any person not registered as a Public Accountant in pursuance of this Ordinance and describing himself or holding himself out as an Accountant or as a Public Accountant or as an Auditor so as to contravene any of the provisions of section *one* hereof shall be liable to a fine not exceeding one hundred pounds for each offence and in default of payment to imprisonment for a period not exceeding three months.

Penalty for
infringement.

3. The persons registered as hereinafter provided are hereby constituted and incorporated into one body corporate by the name of "The Transvaal Society of Accountants"

Incorporation of the
Transvaal
Society of
Accountants.

**ORD.
No. III.
(Private)
of
1904.**

Appointment
of the
Provisional
Council.

with perpetual succession and the right to use a common seal and to sue and be sued in its corporate capacity and the said body corporate shall be capable in law of taking and holding any real or personal property for the benefit and purposes of the Society with power to dispose thereof but so that the Society shall apply its profits or other income in promoting the objects of the Society and shall not at any time pay any dividend to its members.

4. Upon the passing of this Ordinance there shall come into existence a Provisional Council consisting of the following persons namely :

Alexander Aiken
Robert Baikie
James Alexander Boyd
John Gordon Carter
John Dougall
Frederick Richard Lynch
John Hastings Muir
Howard Pim
Frank Raleigh
Charles Stuart
Samuel Thomson
Thomas Watson

who shall be the first members of the Transvaal Society of Accountants and shall forthwith cause their names to be entered upon the register thereof. The Provisional Council shall subject to the provisions of this Ordinance exercise all the powers of the Society until the Council hereinafter mentioned shall come into office and shall fill any casual vacancies in their number subject to the approval of the Lieutenant-Governor.

Proceedings
of the
Provisional
Council.

5. Upon a day to be fixed by the Lieutenant-Governor but not later than one month from the passing of this Ordinance the Provisional Council shall meet at Johannesburg and shall at such meeting elect a Chairman.

In the absence of the Chairman at any meeting the members of the Provisional Council present shall elect one of their number to preside.

At any meeting of the Provisional Council five members personally present shall constitute a quorum and a majority of the mem-

bers present shall decide every question to be decided by such meeting except admission to the Register which shall require a majority of the whole Council and twenty-one days' notice shall be given of all meetings at which the admission of members is to be dealt with.

Subject to the provisions of this Ordinance the Provisional Council are hereby empowered to regulate the proceedings at their meetings and the mode of carrying on the business of the Society and shall remain in office until six months from the date of the passing of this Ordinance.

The Provisional Council shall have power to appoint a clerk or registrar and such other officers as they may deem necessary for the purposes of this Society.

6. The Provisional Council shall open a Register in which every person shall be entitled to be registered as a Public Accountant in pursuance of this Ordinance who proves to the satisfaction of the Provisional Council within six months next after the passing of this Ordinance that at the date of the passing of this Ordinance he was resident in the Transvaal and (a) was a member of the Transvaal branch of the Society of Accountants and Auditors of England or the Society of Accountants in Edinburgh incorporated by Royal Charter 1854 or the Institute of Accountants and Actuaries in Glasgow incorporated by Royal Charter 1855 or the Society of Accountants in Aberdeen incorporated by Royal Charter 1867 or the Institute of Chartered Accountants in England and Wales incorporated by Royal Charter 1880 or the Institute of Chartered Accountants in Ireland incorporated by Royal Charter 1888 or the Society of Accountants and Auditors England incorporated 1885 ; or (b) was publicly and *bona fide* practising as a Public Accountant in the Transvaal at the date of the passing of this Ordinance ; or (c) shall make written application to be placed on the register and shall be considered by a majority of the Provisional Council a fit person to be admitted to the Register by virtue of his position and past experience.

Persons
entitled to be
registered by
the
Provisional
Council.

**ORD.
No. III.
(Private)
of
1904.**

**ORD.
No. III.
(Private)
of
1904.**

Persons
entitled to be
registered by
the Council.

7. Upon the expiration of six months from the date of the passing of this Ordinance no person shall be entitled to be registered as a Public Accountant unless he shall prove to the satisfaction of the Council hereinafter mentioned that at the date upon which his application for registration is made he is resident in the Transvaal and (a) is a member of any Society or Institute of Accountants whose membership is declared to be sufficient by the bye-laws of the Society for the time being in force or (b) shall have produced a certificate from the Council that he has passed the examinations from time to time prescribed by the bye-laws and shall have satisfied the Council that he has had such practical experience in the business of a Public Accountant as under the bye-laws of the Society renders him admissible for registration.

Election of
the Council.

8. On such day during the currency of the sixth month next after the date of the passing of this Ordinance as the Provisional Council shall appoint the Provisional Council shall convene a meeting in Johannesburg of all persons whose names appear upon the register at the date on which the notices convening such meeting are issued and at such meeting the persons present shall proceed to elect in manner to be provided by the Provisional Council a Council of twelve members which shall come into office upon the expiration of six months from the date of the passing of this Ordinance and thereupon the Provisional Council shall cease to exist. The Council shall hold office until the date of the Annual General Meeting following upon which date the members of the Council shall retire from office but shall be eligible for re-election.

Registration
fees.

9. No person shall be placed upon the register until he has paid such registration fees as shall be fixed by the Provisional Council or Council as the case may be.

Offences.

10. The following acts and practices whether of commission or omission upon the part of any Public Accountant or Auditor shall be offences under the provisions of this Ordinance and if found guilty by the Supreme Court of having committed or engaged in any one or

more of such acts or practices the said Public Accountant or Auditor shall be liable to be suspended from practice for any period that may be decided on by the said Court or to have his name removed from the Register as hereinafter provided :

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- (a) Allowing any person not being a member of the Society or in partnership with himself as a Public Accountant to practice in his name as a Public Accountant.
- (b) Directly or indirectly allowing a solicitor broker auctioneer or other principal or agent not being his partner to participate in the profits of his profession or directly or indirectly accepting any share of the profits from the professional work of a solicitor broker auctioneer or other principal or agent not being his partner or any commission or bonus thereon ; provided that nothing in this Ordinance shall be construed to prevent a registered Public Accountant from carrying on any other business in addition to that of accountancy.
- (c) Signing accounts statements reports or other documents purporting to represent any accountancy work performed by himself which work shall not have been carried on under his personal supervision or direction.
- (d) Directly or indirectly paying any person a commission for bringing him work giving any person monetary or other consideration as a remuneration for bringing him work or inducing other persons to give him work.
- (e) Improperly obtaining or attempting to obtain work.
- (f) Performing any accountancy work in connection with any matter which is the subject of dispute or litigation upon condition that only in the event of the said dispute or litigation ending favourably for the party for whom the work is performed shall payment be made for such work.

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of
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- (g) Conducting himself dishonourably in connection with any work performed by him as a Public Accountant or Auditor.
- (h) Wilfully refusing or neglecting to carry out and perform any Bye-law or Order lawfully adopted and established by the Society regarding any point of professional practice.
- (i) Engaging in any practices or performing any acts similar to those practices and acts prohibited in the foregoing subsections.

Enquiries by Council into conduct of members.

11. For the purpose of enquiring into and exercising control over the conduct and behaviour of the members of the Society the Council in meeting assembled shall be empowered to summon members of the Society and others as witnesses to appear before it; to hear and take evidence and to order the production of any books documents and papers in the possession of such members. All evidence so taken shall be recorded in writing and the Chairman of the meeting aforesaid shall be empowered to administer oaths to the witnesses called to give evidence before the Council at such proceedings. Any member of the Society whose conduct is being enquired into shall be cited to appear before the Council to answer to any charge made or to defend himself against any proceedings taken against him and shall be entitled to produce evidence and call witnesses on his behalf.

Proceedings for suspension and removal of members.

12. In the event of any member of the Society being in the opinion of the Council guilty of any act or omission prohibited by this Ordinance or offending against any bye-law or Regulation framed thereunder the Council may call upon such member to show cause to the Supreme Court of this Colony why he should not be prohibited from practising as a Public Accountant and why his name should not be removed from the Register. All such proceedings shall be taken in the name of the Council of the Society. Upon the hearing of any such matter the Court may suspend such member from practice either permanently or temporarily and remove his name from the

Register or make such other order as may seem fitting and may further make such order as to costs as may seem fit.

13. In case any member of the Society shall in consequence of the Order of Court be suspended from or rendered incapable of practising as a Public Accountant in this Colony such person shall during such time as he is suspended or is incapable cease to be a Member of the Society. Penalties.

14. No claim against the assets of the Society shall exist in the case of or be made by any person whose name has ceased to appear upon the register of the Society or the executors administrators heirs or assigns of such person. Persons having no claim against the assets of the Society.

15. Every person whose name appears upon the register shall be entitled to style himself Registered Public Accountant (Transvaal). Title allowed to member of the Society.

16. The Council shall upon being elected to office forthwith frame rules and regulations for regulating the examinations or equivalents thereto which shall be required of applicants for registration in pursuance of section *seven* of this Ordinance. Rules and regulations for examinations.

17. The Council shall have power to do each and all of the following acts ; Powers of the Council.

- (a) to manage and superintend the affairs of the Society ;
- (b) to appoint and remove any officers and servants of the Society and to determine the duty salary and remuneration of the same ;
- (c) to accept or refuse for good cause any application for registration made in pursuance of this Ordinance ;
- (d) to hold examinations for applicants for registration and to grant certificates to such persons as have satisfied the examiners in such examinations ;
- (e) generally to exercise all the powers of the Society except such powers as are expressly reserved by this Ordinance to the Society in general meeting.

18. There shall be held once in each year a General Meeting of the Society whereat every Accountant upon the register who is not in arrear with any subscription or sum payable by him to the Society shall be entitled General Meetings.

**ORD.
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to be present and to vote. The quorum for such General Meeting shall be fixed by the bye-laws.

Any question to be decided at such meeting shall be decided by a majority of the members present thereat.

The Council shall prepare as at the thirty-first December in each year an account of all moneys received and expended by the Society and submit such account duly audited to the Society at such General Meeting for discussion and approval. The officers of the Society shall be elected annually at this meeting.

It shall be lawful for any member or members of the Society at such meeting to move any resolution which is not inconsistent with the purposes and provisions of this Ordinance provided that no member or members shall have the right to introduce to such meeting or submit for discussion by such meeting any act done by the Council in pursuance of the power conferred by sections *eleven twelve* and *seventeen* sub-sections (c) and (d) of this Ordinance.

Meeting to
pass bye-laws

19. The Provisional Council shall forthwith prepare draft bye-laws for the Society and shall convene on due notice a Special General Meeting of the Society in Johannesburg to be held not later than six months from the date of this Ordinance for the purpose of considering and if approved adopting the said bye-laws. The notice convening such meeting shall be sent to the registered address of each member of the Society not later than twenty-one days before the day appointed for such meeting and shall be accompanied by a copy of the proposed bye-laws.

A majority of the members personally present at such meeting shall be sufficient to determine all matters to be decided thereat and the non-receipt of the said notice or copy of the proposed bye-laws by any member or members shall not invalidate the proceedings at the said meeting provided that twelve members be present thereat.

Purposes for
which bye-
laws may be
made.

20. The Society may from time to time subject to the approval of the Lieutenant-Governor make bye-laws for any of the following purposes provided such bye-laws be not in-

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- consistent with the provisions of this Ordinance ;
- (a) for regulating the conditions and mode of admission to the register of the Society ;
 - (b) for fixing the registration and other fees and the times for payment of the same ;
 - (c) for regulating the time mode and place of summoning and holding Ordinary and Special General Meetings and the quorum to be present thereat and the mode of voting and the conduct of proceedings at any such meetings and the regulations for the adjournment thereof ;
 - (d) for regulating the meetings of the Council and the quorum to be present thereat ;
 - (e) for regulating the number of members of the Council and their periodical retirement and the mode of nomination of members of the Society for election thereto and the mode of filling casual vacancies thereon ;
 - (f) for regulating the service under articles of clerks of members of the Society and the forfeiture of such articles for misconduct or other sufficient cause ;
 - (g) for regulating the times and places for holding examinations of applicants for registration and the subjects and the manner of conducting or holding any such examinations and for fixing a reasonable fee to be paid by applicants and others and the conditions on which the examiners shall hold office and the remuneration ;
 - (h) for regulating the mode of election or appointment of the President and two Vice-Presidents of the Council ;
 - (i) and generally such bye-laws as from time to time seem to the Society requisite for the better execution of this Ordinance and the furtherance of the objects of the Society.

Such bye-laws and regulations shall when adopted at a General Meeting of the Society and approved by the Lieutenant-Governor and published in the *Gazette* have the force of law and shall be binding upon all

ACCOUNTANTS.
JOHANNESBURG MUNICIPALITY.

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of
1904.**

Alteration of
Bye-laws.

members of the Society in so far as the same are not in conflict with the terms of this Ordinance.

21. No alteration in the bye-laws as adopted at the Special General Meeting referred to in section *nineteen* shall be made save by a majority of two-thirds of the members present at Special General Meeting convened for the purposes of sanctioning such alteration. Notice of such meeting and of the alteration or alterations to be proposed thereat shall be sent by post to the registered address of each member of the Society at least twenty-one days before the date fixed for the meeting but the non-receipt of such notice by any member or members shall not invalidate the proceedings thereat.

Title.

22. This Ordinance may be cited for all purposes as the Accountants Ordinance 1904.

**ORD.
No. IV.
(Private)
of
1904.**

No. IV. (Private) of 1904. | [Assented to 17 Aug., 1904.]

ORDINANCE

**To confer further powers on the Municipality of
Johannesburg.**

WHEREAS it is desirable to add to and amend the Johannesburg Municipal Statutes 1901 to 1903 ;
Be it enacted by the Lieutenant-Governor of the Transvaal with the advice and consent of the Legislative Council thereof as follows :—

PRELIMINARY.

Title.

I. This Ordinance may be cited as the Johannesburg Municipal Ordinance 1904 and shall be read as one with The Johannesburg Municipal Statutes 1901 to 1903 and this Ordinance and the Johannesburg Municipality Borrowing Powers Further Amendment Ordinance 1904 and the Johannesburg Municipal Statutes 1901 to 1903 may be cited together as the Johannesburg Municipal Statutes 1901 to 1904.

AMENDMENTS AND ADDITIONS TO THE
JOHANNESBURG MUNICIPAL STATUTES 1901 TO
1903.

**ORD.
No. IV.
(Private)
of
1904.**

A—AMENDMENTS.

2. Section *five* of the Johannesburg Municipal Proclamation 1901 shall be and is hereby repealed and the following section shall be substituted therefor :—

Repeal of section *five* of Johannesburg Municipal Proclamation 1901 and substitution of new section.

“ The Council shall from time to time appoint a Town Clerk Town Treasurer and Town Engineer for the Municipality and such other officials as it may consider necessary and pay such salaries and allowances to such officials as it may determine ; and unless it shall be stipulated otherwise in the contract with or in the appointment of an employee the Council may at any time remove such employee upon notice of not less than one month or in case of misconduct immediately without notice.”

3. Section *six* of The Johannesburg Municipal Proclamation 1901 as amended by the Johannesburg Municipality Amendment Proclamation 1902 shall be and is hereby further amended by adding at the end thereof the following words “ provided that nothing in this section shall apply to any Committee of the Council or to a Committee of the whole Council.”

Amendment of section *six* of Johannesburg Municipal Proclamation 1901.

4. Section *twenty-one* of the Johannesburg Municipal Proclamation 1901 as amended by section *three* of the Johannesburg Municipality Amendment Proclamation 1902 shall be and is hereby further amended ;

Amendment of section *twenty-one* of the Johannesburg Municipal Proclamation 1901.

(1) by adding after the word “ control ” in the sub-section commencing with the words “ for enabling the Council to establish maintain and control locations ” the words “ within or without the limits of the Municipality ” and by adding at the end of the said sub-section the words “ and to erect and maintain buildings in such locations or townships for the housing of such persons provided that no such location or township shall be established within the area of any other

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No. IV.
(Private)
of
1904.**

Amendment
of section
thirty of the
Johannesburg
Municipal
Proclamation
1901.

- Municipality save with the consent of the Council of such Municipality ;”
- (2) by adding at the end of the said section the following sub-sections that is to say ;
- “for regulating the manufacture of chemicals ;”
- “for regulating and licensing pedlars hawkers and pawnbrokers.”
- “for regulating and controlling the use and erection of any temporary or movable structures whether standing on wheels or otherwise.”

5. Section *thirty* of the Johannesburg Municipal Proclamation 1901 as amended by section *four* of the Johannesburg Municipality Amendment Proclamation 1902 shall be and is hereby further amended by the insertion at the end thereof of the following additional sub-sections that is to say ;

“To incur all expenditure necessary for the carrying out of any purpose of the Johannesburg Municipal Statutes 1901 to 1904 or any amendment thereof or of any Municipal purpose which shall include a reasonable amount for public entertainment and for travelling and personal expenses of members and officers on business of the Council.”

“To contribute to any provident or benevolent fund intended for the benefit of the officers and servants of the Council and to grant pensions or gratuities to officers or servants of the Council on their retirement from the Councils service or otherwise.”

Amendment
of section
thirty-eight of
the Johan-
nesburg
Municipal
Proclamation
1901.

6. Section *thirty-eight* of the Johannesburg Municipal Proclamation 1901 as amended by the Johannesburg Municipality Amendment Proclamation 1902 shall be and is hereby further amended by adding at the end of the said section the words “provided that the Council may authorise any of its officers to sign contracts on behalf of the Council involving a liability of not more than five hundred pounds sterling.”

~~7.~~ Section *forty* of the Johannesburg Municipal Proclamation 1901 as amended by the Johannesburg Municipality Amendment Proclamation 1902 shall be and is hereby further amended by deleting therefrom the words "either from the occupier" down to the end of the section and by substituting therefor the words "from the owner of the premises in respect of which the services were rendered provided that the owner shall in the absence of any agreement to the contrary be entitled to recover from the occupier of the said premises for the time being any such charges paid by him in respect of the occupation of the said occupier. No transfer or cession of any such premises shall be passed before any Registration Officer until a receipt or certificate signed by the Town Clerk or other person authorised by the Council shall be produced to such officer showing that all moneys due in respect of such services have been paid."

Amendment
of section
forty of the
Johannesburg
Municipal
Proclamation
1901.

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(Private)
of
1904.**

~~8.~~ Sub-section (1) of section *fifty-two* of the Johannesburg Municipality Borrowing Powers Ordinance 1903 shall be and is hereby amended by substituting for the words "ten thousand pounds" the words "two hundred thousand pounds" and by the deletion therefrom of the words "or extend" to the end of the said sub-section.

Amendment
of sub-section
(1) of section
fifty-two of
the Johannes-
burg Muni-
cipality Bor-
rowing
Powers
Ordinance
1903.

B—ADDITIONS.

~~9.~~ (1) The Auditor or Auditors appointed under section *nineteen* of the Johannesburg Municipal Proclamation 1901 or under this Ordinance shall disallow every payment made without due authority according to law and surcharge the same on the person or persons making or authorising the illegal payment; and shall charge against any person responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of that person or of any sum which ought to have been brought into account by that person and shall in every case certify the amount due from such person. Every sum so certified by the Auditor shall be paid by such person to the Town Clerk or other official

Auditors
power to
surcharge.

**ORD.
No. IV.
(Private)
of
1904.**

appointed by the Council within fourteen days after the same has been so certified and if not so paid may be recovered from such person as a debt by the Auditor who shall be paid by the Council his reasonable costs and expenses incurred in such proceedings. Any sum so recovered shall be paid to the Town Clerk or other official appointed by the Council.

(2) For the purposes of this section the persons against whom any illegal payment may be surcharged shall include all members of the Council or any Committee thereof who were present at the meeting of the Council or Committee thereof at which such payment was authorized and who did not cause their votes against the resolution authorizing such payment to be recorded in the minutes.

Numbering
of houses and
naming of
streets.

10. (1) The Council may from time to time cause the houses buildings or erections fronting upon all or any of the streets roads thoroughfares footpaths sidewalks squares and open spaces to be marked with numbers as it thinks fit and may cause the name by which any street road thoroughfare footpath sidewalk square or open space is to be known to be put up or painted on a conspicuous part of any house building fence wall or place fronting thereon and may further at its discretion change or vary any such number or name as aforesaid whether such number or name existed before the date of this Ordinance or not.

(2) Any person destroying pulling down or defacing any such number or name or putting up any number or name different from the number or name put up by the Council without its permission shall be liable on conviction to a penalty not exceeding ten pounds for every such offence.

No officer or
servant of
Council to be
interested in
any bargain
or contract of
the Council.

11. Officers or servants of the Council shall not in any wise be concerned or interested in any bargain or arrangement whatsoever made by or with the Council. If any officer or servant is so concerned or interested or under cover of his office or employment exacts or accepts any promise fee or reward whatsoever other than

**ORD.
No. IV.
(Private)
of
1904.**

his proper salary wages or allowances he shall be incapable of afterwards holding or continuing in any office or employment under the Council and 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. Any profit fee or reward which may have accrued to such officer or servant or which may accrue to him by reason of such bargain contract or arrangement may be recovered by the Council.

12. No matter or thing done or omitted to be done and no contract entered into by the Council and no matter or thing done or omitted to be done by any member or officer or servant or other person acting under the direction of the Council shall if the matter or thing were done or omitted to be done or the contract was entered into *bona fide* for the purpose of executing the Johannesburg Municipal Statutes 1901 to 1904 or any bye-law in force thereunder subject any such person personally to any action liability claim or demand whatsoever; and any expense incurred by the Council or any such person as aforesaid shall be paid by the Council out of the funds applicable to the general purposes of the Council; provided that nothing in this section shall exempt any such person from liability to be surcharged with the amount of any payment which may be disallowed by the Auditor in the accounts of the Council and which such member authorised or joined in authorising.

Exemption of servants and members of the Council from personal liability.

13. Any officer of the Council in uniform or bearing a visible badge of office authorised thereto in writing by the Council shall have power to arrest without warrant any person who shall in his presence commit any offence against The Johannesburg Municipal Statutes 1901 to 1904 or any bye-law in force thereunder and detain such person until he can be delivered into the custody of a constable or police officer to be dealt with according to law; provided that no person shall be arrested or detained without warrant unless there shall exist reasonable ground for believing that except by the arrest of the person offending he could not be found

Power to arrest.

ORD.
No. IV.
(Private)
of
1904.

Limitation of
actions.

Additional
Auditors to
be appointed
by Council.

Duty of
Auditors
appointed
under this
Ordinance.

or made answerable to justice without delay
trouble or expense.

14. All actions against the Council shall be brought within six months of the time when the causes of such actions arose and all such costs charges and expenses as the Council shall be put to or become chargeable with by reason of the prosecution or defence of any suit or action or under any judgment of the Court shall be paid out of the revenue of the Council.

15. In addition to the Auditor or Auditors appointed under section *nineteen* of the Johannesburg Municipal Proclamation 1901 the Council may appoint an Auditor or Auditors in the manner following that is to say; any member of the Council may prior to a date to be fixed by the Council nominate one or more duly qualified persons to act as Auditor or Auditors of the accounts of the Municipality; all such nominations shall be referred to a Committee consisting of not less than five members of the Council who shall report thereon to the Council and the Council shall not less than fourteen days after the date fixed as aforesaid proceed to elect by ballot one or more persons out of the names nominated or in the event of there being no such nominations one or more duly qualified Auditors; such election shall be for a period of three years and the Council shall fix the remuneration to be paid to such Auditor or Auditors at the time of their election. The Auditor or Auditors elected as aforesaid shall have all the powers conferred upon the Auditor or Auditors appointed under section *nineteen* of the Johannesburg Municipal Proclamation 1901 whether under the said Proclamation or this Ordinance.

16. It shall be the duty of the Auditor or Auditors appointed as provided in the last preceding section in addition to the ordinary duties of Auditors to certify not less than once in each year whether or not;

- (a) the accounts of the Municipality are in order;
- (b) separate accounts of all trading undertakings have been kept;
- (c) the accounts issued present a true and correct view of the financial position of

- the Municipality and of its transactions and of the results of trading (if any);
- (d) due provision has been made for the redemption and repayment of any moneys borrowed by the Council whether in the form of Municipal stock or bills or otherwise;
 - (e) the value of the assets of the Municipality has been fairly stated;
 - (f) the amounts set aside to meet depreciation and obsolescence of plant are adequate;
 - (g) all his or their requirements and recommendations as Auditors have been complied with and carried out.

**ORD.
No. 1V.
(Private)
of
1904.**

17. The books and registers of the Council and any extracts therefrom certified by the Town Treasurer shall in any proceedings for the recovery of any sanitary fees or any charges for the supply of gas water or electricity or for any other Municipal service be *prima facie* evidence of the amounts due for the same.

Books of Council to be *prima facie* evidence of sums due.

No. V. (Private) of 1904.]

[Assented to 17 Aug., 1904.

ORDINANCE

**ORD.
No. V.
(Private)
of
1904.**

To provide for the continuance extension and government of the Townships of Germiston and Georgetown in the Witwatersrand Area.

WHEREAS a Company, known as the Simmer and Jack Proprietary Mines Limited has laid out and established on a certain portion of the farm Elandsfontein No. 147 in the Witwatersrand District of which the said Company is the freehold owner a township known as the Township of Germiston and has sold leased or otherwise dealt with the same as stands for building and residential purposes;

And whereas a Company known as the Consolidated Goldfields of South Africa Limited has laid out and established on a certain portion of the farm Driefontein No. 148 in the Witwatersrand District of which the said Company together with the Company known as the Transvaal Lands and Mines Proprietary Syndicate

ORD. Limited and a firm called or known as Messrs. S.
No. V. Neumann & Co. are the freehold owners of a town-
(Private) ship known as the Township of Georgetown and have
of sold leased or otherwise dealt with the same as
1904. stands for building and residential purposes;

And whereas the Mining Rights in and under the said Townships of Germiston and Georgetown respectively are vested as to the said Township of Germiston in three Companies, known as the South Rose Deep Limited the Simmer and Jack East Limited and the Rose Deep Limited and as to the Township of Georgetown in a Company known as the Simmer and Jack East Limited under and by virtue of certain Mynpachts granted by the late Government of the South African Republic;

And whereas the rights of the Simmer and Jack Proprietary Mines Limited and the Consolidated Goldfields of South Africa Limited to lay out and establish or to permit to remain laid out and established the said townships on the said ground and also the rights to mine under the ground on which the said townships are situated have been called into question and it is desirable that the validity of such rights shall be finally established;

And whereas it is desirable to provide for the extension of the Township of Germiston;

And whereas the freehold title on which the proposed extensions of the said township are situate is vested in the Simmer and Jack Proprietary Mines Limited;

And whereas two plans have been prepared one showing the Township of Germiston and Georgetown as constituted and established at the date of the passing of this Ordinance and referred to herein as the plan No. 1 and the other showing the extensions of the said Township of Germiston as provided for in this Ordinance and referred to herein as the plan No. 2;

And whereas the Simmer and Jack Proprietary Mines Limited and the Consolidated Goldfields of South Africa Limited have in consideration of the provisions contained in this Ordinance agreed to execute certain works and to make certain reservations of land and contributions of money to and in favour of the Municipality of Germiston:

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

GENERAL.

1. In this Ordinance unless the context otherwise requires:—

Interpretations.

**ORD.
No. V.
(Private)
of
1904.**

“The Council” means and includes the Council of the Municipality of Germiston;

“The Goldfields Company” means and includes the Consolidated Goldfields of South Africa Limited and any other companies whether gold mining or others and whether existing or hereafter to be formed under the chief control or management of the Goldfields Company;

“The Proprietary Company” means and includes the Simmer and Jack Proprietary Mines Limited and any other companies whether gold mining or otherwise and whether existing or hereafter to be formed under the chief control or management of the Proprietary Company;

“The Land Syndicate” means the Transvaal Land and Mines Proprietary Syndicate Limited.

“The Freeholders” means the Proprietary Company and the Goldfields Company and the Land Syndicate and Messrs S. Neumann & Co. and their assigns.

PART I.

PRESENT TOWNSHIPS OF GERMISTON AND GEORGETOWN.

2. The said plans Nos. 1 and 2 shall be forthwith deposited in the office of the Registrar of Mining Rights and shall be binding on the Council and the Freeholders and all other persons having rights and interests within the Townships of Germiston and Georgetown and the extensions of the Township of Germiston called West Germiston East Germiston and North Germiston as shown on the said plans or who may be otherwise affected by the provisions of this Ordinance.

Plans.

3. Subject to the provisions of this Ordinance the Townships of Germiston and Georgetown as laid out and established at the date of the passing of this Ordinance

Townships of Germiston and Georgetown legalised.

**ORD.
No. V.
(Private)
of
1904.**

and shown on the said plan No. 1 shall be deemed to be for all purposes lawfully so laid out and established and shall remain and be the property of the Proprietary Company the Goldfields Company the Land Syndicate and Messrs. S. Neumann & Co. and their assigns respectively anything in Law No. 15 of 1898 or any other law to the contrary notwithstanding provided that all transfers and leases made or granted by any of the said companies or firm and all agreements entered into by them or any of them with any person whereby any rights or privileges were or purported to be acquired in over or with reference to the said townships or any stands or lots therein or portions thereof shall remain of full force and effect notwithstanding anything contained in this Ordinance.

Protection of
Township
Owners
against
actions at law.

4. No action or proceedings shall be brought or maintained in any of the Courts of this Colony at the suit of the Government or any other person against the Freeholders or any of them by reason of their having established the Townships of Germiston and Georgetown respectively on ground held under mining title or by reason of their having sold stands on such ground or by reason of any other matter whatsoever of or connected with the laying out establishing dealing with or continuance of the said townships respectively.

Proceeds of
rents accruing
or to accrue
in respect of
existing
townships of
Germiston
and
Georgetown.

5. The Freeholders shall be respectively entitled to collect receive and apply to their own use respectively all rents already accruing or hereafter to accrue in respect of the existing Townships of Germiston and Georgetown as shown on the said plan No. 1 and may sell lease or otherwise deal with in such manner as they may respectively think fit such part of the said Townships as are shown on the said plan No. 1 as laid out in stands and at present unsold.

Undermining
rights under
Germiston
and George-
town secured.

6. The right of mining under the ground now occupied by the said Township of Germiston as had and possessed by the South Rose Deep Limited the Simmer and Jack East Limited and the Rose Deep Limited and the right of mining under the ground now occupied by the said Township of

Georgetown as had and possessed by the Simmer and Jack East Limited under Law No. 15 of 1898 or any other law relating to the mining for precious minerals shall be and is hereby reserved to the South Rose Deep Limited the Simmer and Jack East Limited and the Rose Deep Limited their successors and assigns respectively subject always to the payment of such license or other moneys as may from time to time be due under the said laws provided that nothing herein contained shall be taken to modify or affect any special contract or agreement entered into or any right lawfully acquired by or against the Goldfields Company the Proprietary Company the South Rose Deep Limited the Simmer and Jack East Limited or Rose Deep Limited or any one or more of such companies with reference to such mining as aforesaid or with reference to the compensation payable in the event of damage by reason of any mining operations or any other matters incidental thereto.

**ORD.
No. V.
(Private)
of
1904.**

PART II.

ADMINISTRATION AND CONTROL.—PRESENT TOWNSHIPS AND EXTENSIONS.

7. The administration and control for all public and Municipal purposes of the said two townships and of the extensions of the Township of Germiston referred to in section *eight* of this Ordinance shall subject to the provisions of this Ordinance be vested in the Council provided always:—

Administra-
tion of
Germiston
Georgetown
and exten-
sions.

- (a) That no alteration or deviation in any watercourse spruit storm-ditch or public drain by means of which any water is led into any reservoir dam or pond owned by or used by the Freeholders or any of them shall be effected or carried out by the Council save with the consent in writing of the Freeholders or such one or more of them as may be affected thereby.
- (b) That the Freeholders shall forthwith place in proper repair (providing for a proper and satisfactory gradient) maintain and keep free from deposits of silt or mud the storm-ditch running

**ORD.
No. V.
(Private)
of
1904.**

through the said townships and the extensions thereof as shown on the plans hereinbefore referred to at their sole cost and expense; provided however that the proper cleansing from time to time of the said storm-ditch shall devolve upon the Council at its sole cost and expense; and provided further that the Freeholders shall notwithstanding anything contained in this Ordinance be and remain responsible and liable for any loss or damage which may be caused by storm-water through any breach of the said storm-ditch.

- (c) That the Freeholders shall in consideration of this Ordinance subject however to the provisions thereof be relieved from all liability (if any) now imposed or incumbent on them in respect of the construction maintenance repair or alterations of any street thoroughfare square open space park sewer drain water-course bridge culvert or other Municipal work or in respect of the general Municipal or public administration of the said townships and extensions saving always the right of the Council to impose rates under the Local Authorities Rating Ordinance 1903 or any amendment thereof on the property or rights of the Freeholders.
- (d) That the grant dated thirty-first July 1897 whereby the late Government of the South African Republic granted to the Proprietary Company certain rights in respect of the fixing of poles and carrying of electric wires in and over the said townships and the land adjacent thereto shall remain of full force and effect subject to the provisions and conditions contained in the said grant.

PART III.

EXTENSIONS OF GERMISTON.

Extensions of Germiston. **8.** Notwithstanding anything to the contrary contained in Law No. 15 of 1898 or any other law relating to the sale and

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disposal of stands on proclaimed gold fields or to the occupation thereof it shall be lawful for the Lieutenant-Governor subject to the provisions of this Ordinance to proclaim stand townships to be called or known as West Germiston East Germiston and North Germiston respectively on the following pieces of ground:—*

- (a) The piece of ground held under mining title by the South Rose Deep Limited bounded on the north-east side thereof by the present boundary of the Township of Germiston on the east side thereof by the present boundary line of the Township of Georgetown on the south side thereof by certain ground held under claim license by a company known as the Rand Victoria East Limited on the west and north-west side thereof by the old fence of the Central South African Railways Cape and Natal Railway Line and on the north and north-east sides thereof by certain ground belonging to Phenie Clark situated on the ground held under mining title by the South Rose Deep Limited as the same is delineated and shown on the said plan No. 2 and thereon coloured pink.
- (b) The piece of ground situate to the north-east of the existing Township of Germiston held under mining title by the Simmer and Jack East Limited bounded on the south-western side and southern side thereof by the present boundary of the Township of Germiston on the eastern and south-eastern side thereof by the present boundary line of the Township of Georgetown and on the northern or north-eastern side thereof by ground held under mining title by the Simmer and Jack East Limited the surface rights of which were recently acquired compulsorily by the Central South African Railways as the same is delineated and shown on the said plan No. 2 and thereon coloured blue.

*The stand townships of East Germiston and West Germiston were proclaimed and their respective boundaries defined by Proc. No. 82 (Admn.) 1904. (*Gazette*, 21 Oct., 1904, p. 100.)

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- (c) The piece of ground situated to the north of the existing Township of Germiston held under mining title by the Rose Deep Limited bounded on the north and east by the Central South African Railway Line and New Primrose Freehold the south by claim ground of the Rose Deep Limited and freehold of the New Primrose Gold Mining Co. Limited and on the west by claim ground of the Rose Deep Limited as the same is shown on the said plan No. 2 and thereon coloured green.

Provided that it shall not be lawful to issue or hold any trading licenses in respect of any stand in or portion of the said extensions West Germiston East Germiston and North Germiston before and until the expiry of ten years reckoned from the date of the first public sale of stands in the said extensions respectively.

And provided that any lessee of any stand or portion of a stand in the said extensions West Germiston East Germiston and North Germiston shall have the right at any time during the continuance of his lease to capitalise the rent or stand license moneys and so free himself from further liability to pay rent or stand license by paying the Proprietary Company the sum of One Hundred Pounds (£100) sterling in respect of each such stand or portion of a stand such sum to be divided equally between the Proprietary Company and the Government and provided further that nothing in this or Law No. 15 of 1898 or any other law contained shall be taken to limit or prohibit in any manner whatsoever the rights to mine under the said extensions as had and possessed by the South Rose Deep Limited the Simmer and Jack East Limited and the Rose Deep East Limited their successors or assigns on payment of such license or other moneys as may be due under Law No. 15 of 1898 or any other law dealing with precious metals.

9. (a) The Proprietary Company shall reserve to the Government the pieces of ground within the extension called West Germiston and marked on the said plan No. 2 as reserved for public buildings and for the Education Department and the perpetual right of use and occupation of the surface thereof shall be and is hereby vested in the Government without any further transfer or conveyance.
- (b) The Proprietary Company shall further immediately on the passing of this Ordinance reserve to the Council the perpetual right of use and occupation for Municipal buildings and such other public purposes as the Council may deem fit of the surface of certain twelve stands being Nos. 211 to 222 both inclusive situate in the extension described herein as West Germiston which right shall be and is hereby vested in the Council without any further transfer or conveyance.
- (c) The Proprietary Company shall further reserve to the Council for the purpose of a public park the perpetual right of use and occupation of the surface of that portion of the extension described herein as West Germiston in extent not less than four and a quarter acres forming one continuous whole shown on said plan No. 2 provided that no action shall be brought or maintained in any of the Courts of this Colony against the Freeholders by reason of the cancellation or extinction of what was commonly considered to be or known or on any plans of the Township of Georgetown shown as a Park and provided always that nothing contained in this section or any sub-section thereof shall affect or modify the right of mining under such pieces of ground as are reserved in sections *six* and *eight* of this Ordinance.

Reservation of
ground to
Government
Municipality
and Public
Park.

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of
1904.**

**ORD.
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Proceeds of sales in Extensions accrue to Proprietary Company plus half stand rents ; remaining half accrues to Government.

10. The Proprietary Company may sell lease or otherwise deal with such parts of the said extensions as are shown on the said plan No. 2 as laid out in stands other than and except the pieces of ground reserved for and vested in the Government or the Council under the preceding section in such manner and on such terms and conditions as may be approved by the Lieutenant-Governor and the proceeds of any such sale and any premium moneys payable in respect of any lease or grants of any such ground shall belong to the Proprietary Company and may be applied by them in such manner as they may think fit and of the rents or stand license moneys that may be payable on any such leases or grants one-half shall be payable by the Proprietary Company to the Government and the remaining half shall belong to the Proprietary Company provided that the Government's share of such rents as aforesaid as may have been received shall be payable to the Government on the first day of August and first day of February for each preceding half year or in such other manner as the Government and the Freeholders may mutually agree.

Freeholders' contributions towards construction of bridges and roads.

11. The Goldfields Company and the Proprietary Company shall jointly and severally be liable and responsible to the Council for payment to the latter of the sum of Twelve Hundred Pounds (£1,200) sterling for and in respect of the construction of bridges across the storm-ditch hereinbefore referred to and also for the sum of Three Thousand Pounds (£3,000) sterling for and in respect of the construction of roads and streets in the said extensions West Germiston and East Germiston payment of which sums shall take place when actually needed by the Council for the said purposes.

Works to be executed by Freeholders.

12. The Freeholders shall when called upon by the Council make and macadamise to the satisfaction of the Council and at their own expense the roads in the extension marked green and called North Germiston as shown on said plan No. 2

and thereafter the said roads shall be maintained by the Council.

13. It shall be lawful for the Council forthwith on the passing of this Ordinance to impose rates on the stands in the said extensions under the Local Authorities Rating Ordinance 1903 or any amendment thereof as if they were stands not situated on ground held under mining title.

Council may impose rates on stands in extensions.

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(Private)
of
1904.**

PART IV.

TRADING RIGHTS.

14. Under and by virtue of this Ordinance it shall be lawful to hold trading licenses in terms of the laws of this Colony relative thereto in respect of all or any stand or stands in the townships of Germiston and Georgetown as shown on the said plan No. 1 hereinbefore referred to and after the prescribed period of ten (10) years as provided for in section *eight* of this Ordinance also in respect of all or any stand or stands in the extensions West Germiston East Germiston and North Germiston above referred to anything contained in Law No. 15 of 1898 or any amendment thereof notwithstanding.

Trading rights legalised.

PART V.

CONCLUSION.

15. Nothing in this Ordinance contained shall in any way affect the rights of His Majesty the King His Heirs and Successors or of any person except such as are mentioned in this Ordinance and those claiming by from and under them.

Rights of the Crown.

16. This Ordinance may be cited for all purposes as the Germiston and Georgetown Ordinance 1904.

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JOHANNESBURG TOWN COUNCIL

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